

NATICK SELECT BOARD

AGENDA

Edward H. Dlott Meeting Room, Natick Town Hall,
13 East Central Street, Natick, MA 01760 and via
Zoom

Wednesday, January 24, 2024

6:00 PM

Host Natick is inviting you to a scheduled Zoom
meeting. Topic: SELECT BOARD MEETINGS

Time: This is a recurring meeting Meet anytime

Join Zoom Meeting

[https://zoom.us/j/91200224901?](https://zoom.us/j/91200224901?pwd=N1B1NVFjRUJxNUtuZkVyRkVJUSltZ09)

pwd=N1B1NVFjRUJxNUtuZkVyRkVJUSltZ09

Meeting ID: 912 0022 4901 Passcode: 920750

One tap mobile

+13017158592,,91200224901#,,,,,0#,,920750#

US (Washington D.C)

+13126266799,,91200224901#,,,,,0#,,920750#

US (Chicago)

Agenda Posted Thursday, January 18, 2024, at 4:30PM, Amended January 22, 2024 at 1:00 PM

(Times listed are approximate. Agenda items will be addressed in an order determined by the Chair.)

1. 6:00PM OPEN SESSION, Call to Order

6:05PM Roll Call Vote to Enter Executive Session

2. 6:05PM EXECUTIVE SESSION

This portion of the meeting is not open to the public.

- A. Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to collective bargaining or litigation where an open meeting will have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares: Andrew Watkins v. Town of Natick Case No. G2-23-170 (Civil Service Commission)
- B. Pursuant to M.G.L. c. 30A, section 21(a)(3), to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares - Springfield Water and Sewer, et al. v. Massachusetts DEP, No. 2384CV00443 (Suffolk Superior)
- C. Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to litigation where an open meeting will have a detrimental effect on the litigating position of the public body and the chair so declares: Linda Valentin, et al v. Town of Natick, et al, Docket No. 21- CV-10830 (D. Mass.)
- D. Pursuant to M.G.L. ch30A s. 21 (a)(2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel: Town Administrator

3. 7:10PM RECONVENE OPEN SESSION

4. 7:15PM ANNOUNCEMENTS

- A. Open seat on the Contributory Retirement Board

5. 7:20PM PUBLIC SPEAK

Any individual may raise an issue that is not included on the agenda and it will be taken under advisement by the Board. There will be no opportunity for debate during this portion of the meeting. This section of the agenda is limited to 15 minutes, and any individual addressing the Board during this section of the agenda shall be limited to five minutes.

6. 7:40PM SELECT BOARD UPDATES

7. 7:45PM DISCUSSION AND DECISION

- A. Natick Center Cultural District's 2023 year-end update
- B. Continuation of Public Hearing from January 10, 2024: Grant of Location - Summer Street
- C. Hearing: Amvets Post 79, Inc. - Failure to be in compliance with the requirements of Massachusetts General Laws, Ch. 138
- D. Public Hearing: California Pizza Kitchen, Inc.
 - 1. Change of Officers and Directors and Change of Stock Interest
- E. Water and Sewer Abatement Appeal
 - 1. Daniel Katz, 63 Eliot Hill Road
- F. Certify New Electronic Voting Equipment Purchase
- G. Referral of Zoning Articles for Spring Annual Town Meeting
- H. Consideration of Select Board Sponsorship of Town Meeting Warrant Articles
- I. Special Town Meeting - scheduling

8. 9:10PM CONSENT AGENDA

- A. Approve Meeting Minutes:
 - 1. May 3, 2023
 - 2. May 17, 2023
 - 3. May 31, 2023
 - 4. October 4, 2023
 - 5. October 16, 2023
 - 6. December 12, 2023
- B. Approve Change of Manager - California Pizza Kitchen, Inc.
- C. Approve Change of Manager - Open World Entertainment, LLC, d/b/a Level 99
- D. Approve Natick Center Cultural District's Request to hang a Farmers' Market banner across Main Street for the week of April 29th through May 5th 2024
- E. Approve letters designating Morgan Griffiths as representative to the MWRTA Advisory Board and MBTA Advisory Board
- F. Vote to uphold Terri Evans' reappointment to the Open Space Advisory Committee from July 1, 2023 through June 30, 2026

G. Approve the Boston Athletic Association's Request for a parade permit for the 128th Boston Marathon on April 15, 2024

9. [INSERT TIME] TOWNADMINISTRATOR NOTES

10. [INSERT TIME] SELECT BOARD'S CONCERNS

11. [INSERT TIME] CORRESPONDENCE

12. [INSERT TIME] ADJOURNMENT

Agenda posted in accordance with Provisions of M.G.L. Chapter 30, Sections 18-25

Meeting recorded by Natick Pegasus

ITEM TITLE: Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to collective bargaining or litigation where an open meeting will have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares: Andrew Watkins v. Town of Natick Case No. G2-23-170 (Civil Service Commission)

ITEM SUMMARY:

ITEM TITLE: Pursuant to M.G.L. c. 30A, section 21(a)(3), to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares - Springfield Water and Sewer, et al. v. Massachusetts DEP, No. 2384CV00443 (Suffolk Superior)

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
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ITEM TITLE: Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to litigation where an open meeting will have a detrimental effect on the litigating position of the public body and the chair so declares: Linda Valentin, et al v. Town of Natick, et al, Docket No. 21- CV-10830 (D. Mass.)

ITEM SUMMARY:

ITEM TITLE: Pursuant to M.G.L. ch30A s. 21 (a)(2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel: Town Administrator

ITEM SUMMARY:

ITEM TITLE: Open seat on the Contributory Retirement Board
ITEM SUMMARY:

ITEM TITLE: Natick Center Cultural District's 2023 year-end update

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Request to give update	1/18/2024	Cover Memo
2023 yearly report	1/18/2024	Cover Memo
2024 NCCD Events	1/18/2024	Cover Memo



Natick Center Cultural District
8 Court Street
Natick, MA 01760
508.650.8848
www.natickcenter.org

January 11, 2024

Natick Select Board
Natick Town Hall
13 East Central Street
Natick, MA 01760

RE: Natick Center Cultural District Yearly Report

Dear Natick Select Board,

The Natick Center Cultural District is kindly requesting to be placed on the Select Board agenda to share the Natick Center Cultural District's end of year report and provide information on our plans for the year ahead.

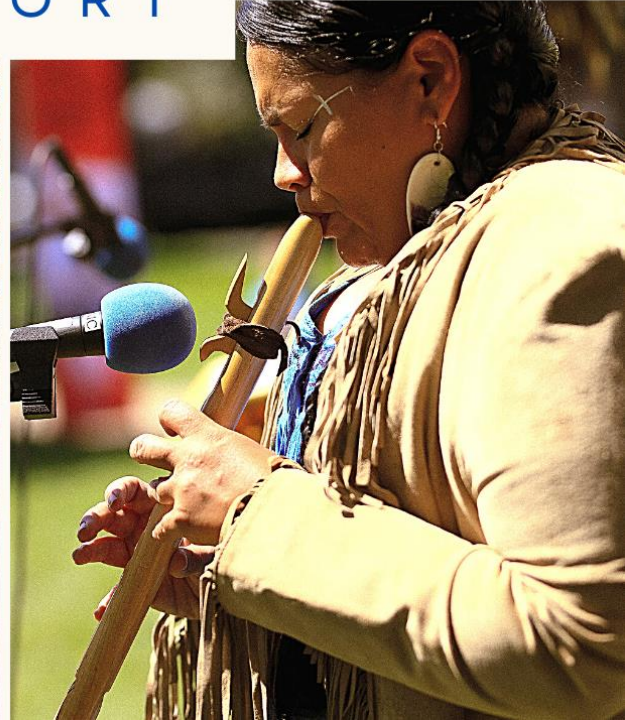
Thank you for your consideration in the matter and I look forward to presenting this information to the Board.

Sincerely,

Athena Pandolf
Executive Director
Natick Center Cultural District
8 Court Street
Natick, MA 01760



2023 ANNUAL REPORT



2023 Yearly Report

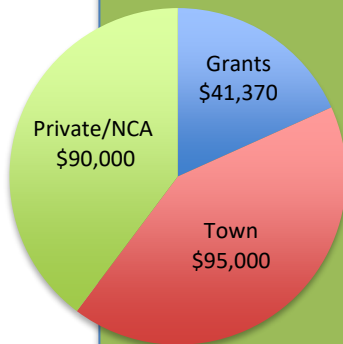
Highlights

- Art in Lights
- Earth Day
- Holi Festival
- Natick Nights & ArtWalk
- Juneteenth Festival
- Multicultural Day
- PorchFest
- Natick Artist Open Studio
- Holiday Stroll

Sponsored Programs

- Art Across the Globe (5 sessions)
- W.E. Love Natick (Women's Entrepreneur Event)
- Business Networking Events
- Adirondack Chair Program
- Traffic Calming Public Art
- Year-Round Farmers' Markets
- Small Business Saturday
- 2 -Hour Free Holiday Parking

Revenue



Expenses



Partnered Programs

- Natick Days
- Concerts on the Common
- Spooktacular
- Holiday Stroll
- Downtown Flower program with NGC.



Natick Center Cultural District Guiding Principles and Goals

Values

We believe that supporting arts and culture is pivotal to creating a **sustainable economic engine** in Natick Center, and that the success of the Natick Center Cultural District will improve the downtown area for **everyone's benefit**.

Vision

Natick Center will be a **cultural hub** of MetroWest, serving as a regional destination for arts, culture, dining, shopping, business, special events and community gatherings **for residents and visitors** alike.

Mission

To cultivate a **lively and diverse downtown neighborhood** by enhancing the cultural, economic and social life of our community.

We are led by an **innovative partnership** of public, private, non-profit and cultural voices.

STRATEGIC GOALS

Culture

Develop programs & events...foster creative partnerships

Community

A popular destination...connect as a community

Economic Development

Catalyst for attracting new businesses

Governance

Alliance of landlords, merchants, artists & government

2023 ACHIEVEMENTS

- Focused support on the small business community and the opening of the HIVE on Main Street.
- Expanded Natick Nights event including Adams & Court St.
- Additional accessible options at events while forming an Accessibility Advisory Committee as part of the district.
- Worked with the Town of Natick to install and design the Soofa sign downtown.
- Updated the NCCD website with a focus on accessibility.



2024 YEARLY EVENTS

<p>January</p> <p>15 - MLK Day Event 27 - Art Across the Globe - Kalighat Patachitra from India*</p>	<p>February</p> <p>24 - Art Across the Globe - Odisha Patachitra*</p>	<p>March</p> <p>8 - W.E. Love Natick. Women Entrepreneur's Event</p> <p>23 - Art Across the Globe - Tikuli Art*</p>
<p>April</p> <p>15 - Boston Marathon 20 - Art Across the Globe - Midnapur Patachitra* 27 & 28 - Earth Day</p>	<p>May</p> <p>4 - Opening Day Farmers Market 4 & 5 - Art in Bloom 18 - Holi Festival 11 - Art Across the Globe - Gond Art*</p>	<p>June</p> <p>6 & 20 - Natick Nights 19 - Juneteenth Event</p>
<p>July</p> <p>4 - Natick Nights 18 - Natick Nights Artwalk 20 - Natick Center Sidewalk Sale</p>	<p>August</p> <p>1, 15 and 29 - Natick Nights 24 - Multicultural Day</p>	<p>September</p> <p>7 - Natick Days 21 - PorchFest</p>
<p>October</p> <p>19 & 20 - NAOS 26 - Spooktacular</p>	<p>November</p> <p>30 - Small Biz Sat.</p>	<p>December</p> <p>1 - Holiday Stroll 18 - 24 - Holiday Hustle</p>

ITEM TITLE: Continuation of Public Hearing from January 10, 2024: Grant of Location - Summer Street

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Public Hearing Notice	1/3/2024	Cover Memo
Grant of location plans and documents	1/3/2024	Cover Memo

Natick Select Board

PHONE 508-647-6410

EMAIL: selectboard@natickma.org

Bruce T. Evans, Chair

Kathryn M. Coughlin, Vice Chair

Richard Sidney, Clerk

Paul R. Joseph

Kristen L. Pope

LOCATED AT

Town Hall

13 East Central Street

Natick, Massachusetts

01760

Town of Natick • Select Board Office

PUBLIC HEARING NOTICE TOWN OF NATICK SELECT BOARD GRANT OF LOCATION – SUMMER STREET

In conformity with the requirements of Section 70, Chapter 164 of the General Laws, notice is hereby provided that the Select Board of Natick will conduct a public hearing on Wednesday, January 10, 2024, at 6:30 PM, at the request of NSTAR Electric Company d/b/a Eversource Energy and VERIZON for obtaining a Grant of Location to install one (1) new pole #178/3A and one (1) anchor guy at pole 178/3A on Summer Street, Natick, MA. This work is necessary to provide electric service to #21 Summer Street, Natick, MA. Plans are on file in the Town Administrator's Office.

The hearing will be held both in-person and remotely. Anyone wishing to be heard in this matter can participate in-person or in the virtual meeting being held through Zoom. Login instructions will be published on the January 10, 2024, Select Board agenda.


Richard Sidney, Clerk

Dated: December 20, 2023

TOWN OF NATICK
DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION

William E. McDowell, PE

Town Engineer, Engineering Division Supervisor

PHONE 508-647-6550 ext. 2015

EMAIL wmcdowell@natickma.org

LOCATED AT

Department of Public Works

75 West Street

Natick, Massachusetts

01760

John Digiacomo, PE

Assistant Town Engineer

PHONE 508-647-6550 ext. 2064

EMAIL jdigiacomo@natickma.org

November 16, 2023

Bruce T. Evans, Chairman

Natick Select Board

13 East Central Street

Natick, MA 01760

Re: Eversource Electric – Grant of Location Summer Street

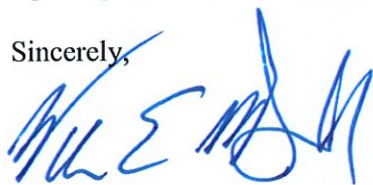
Mister Chairman & Members of the Board:

Eversource has requested a Grant of Location to install one (1) new pole (#178/3A) and one (1) anchor guy at pole #178/3A. This work is necessary to provide electric service to #21 Summer Street.

As stated in Article 78 in the Natick Town Bylaws, no utility shall be permitted to install, construct, upgrade or replace any poles, overhead wires or associated overhead structures upon, along or across any public way or ways located within Natick unless the Select Board grants special permission. Summer Street is a Town accepted way.

The Engineering Division has reviewed the request and inspected the location for the proposed pole and anchor guy. The Division does not object to the proposed work if placed in accordance with the plans dated October 11, 2023 accompanying the petition with the following comment: Due to the time of year for this grant of location request, any work associated with this installation cannot be performed until after the Winter Street Opening moratorium ends in April 2024.

Sincerely,



William E. McDowell, P.E.

Town Engineer

cc: Director of Public Works



200 Calvary Street
Waltham, Ma 02453

November 4, 2023

John Digiacomio
Dept. of Public Works
75 West Street
Natick, MA 01760

RE: Summer Street
Natick, MA
W.O. #13326780

Hearing Required

Dear Mr. Digiacomio:

The enclosed petition and plan are being presented by the NSTAR ELECTRIC COMPANY d/b/a as EVERSOURCE ENERGY and VERIZON for obtaining a Grant of Location to install one (1) new pole #178/3A and one (1) anchor guy at pole #178/3A in Summer Street, Natick.

This work is necessary to provide electric service to #21 Summer Street, Natick.

If you have any further questions, contact Chris Cosby @ (508) 305-6989.
Your prompt attention to this matter would be greatly appreciated.

Very truly yours,

Richard M. Schifone

Richard M. Schifone
Rights and Permits, Supervisor

RMS/sky
Attachments

**ORDER FOR JOINT OR IDENTICAL LOCATIONS FOR POLES
Town of NATICK, Massachusetts**

WHEREAS NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY and VERIZON NEW ENGLAND, INC. have petitioned for joint or identical locations for the erection or construction of poles to be owned and used in common by them upon, along and across the public way or ways of the town hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

It is ORDERED that NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY and VERIZON NEW ENGLAND, INC. be and hereby are granted joint or identical locations for the erection or construction of poles, to be owned and used in common by them, and for such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line upon, along and across the following public way or ways of said town:

Summer Street – Southerly side approximately 345± feet west of Main Street

- Install one (1) pole #178/3A
- Install one (1) anchor guy at pole #178/3A

Hearing Required

All construction work under this Order shall be in accordance with the following conditions: Poles shall be of sound timber and located as shown on plans made by K. Rice dated October 11, 2023, on file with said petition. There may be attached to said poles by said NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY and by said VERIZON NEW ENGLAND, INC. wires and cables necessary for the conduct of their business. All such wires and cables shall be placed at a height of not less than eighteen feet from the ground at crossings of other ways and at not less than fourteen feet from the ground elsewhere.

Select Board of
the town of
NATICK

CERTIFICATE

We hereby certify that the foregoing Order was adopted after due notice and a public hearing as prescribed by Section 22 of Chapter 166 of the General Laws (Ter.Ed.), and any additions thereto or amendments thereof, to wit: after written notice of the time and place of the hearing mailed at least seven days prior to the date of the hearing by the Select Board to all owners of real estate abutting upon that part of the way or ways upon, along or across which the line is to be constructed under said Order, as determined by the last preceding assessment for taxation, and a public hearing held at _____ in said town on _____ day of _____, 2023 at _____ P.M.

Select Board of
the town of
NATICK

CERTIFICATE

I hereby certify that the foregoing are true copies of the Order of the Select Board of the town of NATICK Massachusetts, duly adopted on the _____ day of _____ 2023, and recorded with records of location Orders said town, Book _____, Page _____ and of the certificate of notice of hearing thereon required by Section 22 of Chapter 166 of the General Laws (Ter.Ed.), and any additions thereto or amendments thereof, as the same appear of record.

Attest: _____
Clerk of the Town of NATICK, Massachusetts

**PETITION OF NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY AND OTHER
COMPANIES FOR JOINT OR IDENTICAL LOCATIONS FOR POLES**

To the Select Board of the Town of Natick, Massachusetts:

Respectfully represent **NSTAR ELECTRIC COMPANY dba Eversource Energy** and **VERIZON NEW ENGLAND, INC.** companies subject to Chapter 166 of the General Laws (Ter.Ed.), that they desire to construct a line upon, along and across the public way or ways hereinafter specified.

WHEREFORE, your petitioners pray that after due notice and hearing as provided by law the **Select Board** may by Order grant your petitioners joint or identical locations for the erection or construction of poles, to be owned and used in common by them, and for such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line, said poles to be located, substantially as shown on the plans made by **K. Rice on October 11, 2023** and filled herewith, upon along and across the following public way or ways of said town:

Summer Street – Southerly side approximately 345± feet west of Main Street

- Install one (1) pole #178/3A
- Install one (1) anchor guy at pole #178/3A

Hearing Required

Also, for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for making connections with such poles and buildings as each of said petitioners may desire for distributing purposes. Your petitioners agree to reserve space for one Crossarm at a suitable point upon each of said poles for the telephone, fire and police signal wires owned by the town and used for municipal purposes.

**NSTAR ELECTRIC COMPANY
dba EVERSOURCE ENERGY**

By: *Richard M. Schifone*
Richard M. Schifone
Rights and Permits, Supervisor

VERIZON NEW ENGLAND INC.

By: *Albert E. Bessette Jr.*

Dated this _____ day of _____ 2023

Town of NATICK, Massachusetts

Received and filed _____ 2023

WO# 13326780
SUMMER ST
NATICK, MA

43-0000388B
33 SUMMER ST
NATICK 01760
N/A
NATICK INHAB OF THE TOWN
13 EAST CENTRAL ST
NATICK, MA 01760

43-00000380
21 SUMMER ST
NATICK 01760
N/A
STONEGATE 21 SUMMER STREET 2020
LLC
235 WEST CENTRAL STREET, FLOOR 2
NATICK, MA 01760

43-00000350
42 SUMMER ST
NATICK 01760
N/A
MIDDLESEX SAVINGS BANK
36 SUMMER ST
NATICK, MA 01760

43-00000349
26 SUMMER ST
NATICK
N/A
CONNELL ALFRED L
88 MAIN ST
NORTHBOROUGH, MA 01532

ITEM TITLE: Hearing: Amvets Post 79, Inc. - Failure to be in compliance with the requirements of Massachusetts General Laws, Ch. 138

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Hearing Notice	1/17/2024	Cover Memo

TOWN OF NATICK SELECT BOARD

Bruce T. Evans, Chair
Kathryn M. Coughlin, Vice Chair
Richard Sidney, Clerk
Paul R. Joseph
Kristen L. Pope
EMAIL: selectboard@natickma.org

January 11, 2024

By Certified and First-Class Mail

Kevin Uhlman, Commander
Amvets Post 79, Inc.
79 Superior Drive
Natick, MA 01760

Dear Commander Uhlman,

You are hereby notified that the Natick Select Board pursuant to M.G.L. c.138, Section 23, will hold a hearing on Wednesday, January 24, 2024 in the Edward Dlott Meeting Room at Natick Town Hall, 13 East Central Street, Natick, MA to consider whether to modify, suspend, revoke or cancel the Liquor License issued to Amvets Post 79, Inc., 79 Superior Drive, Natick, Ma 01760.

Chapter 138 of the Massachusetts General Laws requires all holders of liquor licenses to have approved managers on the premises, and a manager is not considered to be approved until he/she is approved by both the local licensing authority and the Alcohol Beverage Control Commission (ABCC).

The reason for the hearing is that you have failed to be in compliance with the requirements of Massachusetts General Laws. Chapter 138.

Your presence is requested at the above-referenced hearing and you have the right to be represented by counsel if you so choose.

Sincerely,



Bruce T. Evans, Chair

ITEM TITLE: Public Hearing: California Pizza Kitchen, Inc.
ITEM SUMMARY: 1. Change of Officers and Directors and Change of Stock Interest

ATTACHMENTS:

Description	Upload Date	Type
Public Hearing Notice	1/22/2024	Cover Memo
Application	1/22/2024	Cover Memo
Police Recommendation	1/22/2024	Cover Memo
DUA Certificate of Good Standing	1/24/2024	Cover Memo
DOR Certificate of Good Standing	1/24/2024	Cover Memo

TOWN OF NATICK SELECT BOARD

Bruce T. Evans, Chair
Kathryn M. Coughlin, Vice Chair
Richard Sidney, Clerk
Paul R. Joseph
Kristen L. Pope
EMAIL: selectboard@natickma.org

TOWN OF NATICK

PUBLIC HEARING NOTICE

The Select Board will hold a public hearing on Wednesday, January 24, 2024 at 6:30 p.m. upon the application for a transfer of stock and a change in officers/directors for a S12 on premise license held by California Pizza Kitchen, Inc. located at 1245 Worcester Street. The hearing will be held in the Edward Dlott Meeting Room, 13 East Central Street as well as remotely. Anyone wishing to be heard in this matter can participate in person or through Zoom. Log in instructions will be published on the 1/24/2024 Select Board agenda.

All persons interested in this application may appear and be heard at the time and place mentioned above or may submit written comments to the Select Board at 13 East Central Street, Natick, MA 01760, selectboard@natickma.org by December 6, 2023.

Richard Sidney, Clerk



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for:

☐ **CHANGE OF CATEGORY**

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Category Application
Vote of the Entity Board
Advertisement*
Abutter's Notification*

☐ **CHANGE OF LICENSE TYPE**

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Change of License Type Application
Vote of the Entity Board
Advertisement*

CHANGE OF CORPORATE STRUCTURE



\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Corporate Structure Application
Vote of the Entity Board
Business Structure Documents
If Sole Proprietor, **Business Certificate**
If partnership, **Partnership Agreement**
If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

CHANGE OF CLASSIFICATION



\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Classification Application
Vote of the Entity Board
Abutter's Notification*
Advertisement*



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☒ **CHANGE OF OFFICERS/DIRECTORS/LLC MANAGERS**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **CHANGE OF OWNERSHIP INTEREST (e.g. LLC Members, LLP Partners, Trustees etc.)**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Financial Statement

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

Purchase and Sale Agreement

Supporting Financial Records

Advertisement*

☒ **CHANGE OF STOCK INTEREST (e.g. New Stockholders or Transfer or Issuance of Stock)**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Financial Statement

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

Purchase and Sale Agreement

Supporting Financial Records

Advertisement*

**If abutter notification and advertisement are required for transaction, please see the local licensing authority.*



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐ **CHANGE OF CORPORATE NAME OR DBA**

\$200 fee via [ABCC website](#) and Payment Receipt (Corporate Name Only)

Monetary Transmittal Form

DOR Certificate of Good Standing (Corporate Name Only)

DUA Certificate of Compliance (Corporate Name Only)

Change of Corporate Name/DBA Application

Vote of the Entity Board

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **CHANGE OF PLEDGE OF LICENSE, STOCK OR INVENTORY**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Pledge of License, Stock or Inventory Application

Vote of the Entity Board

Pledge documentation

Promissory note

CHANGE OF MANAGER

☒ **CHANGE OF MANAGER**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

Change of Manager Application

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Proof of Citizenship. Passport, birth certificate, voter registration, or naturalization papers will be accepted.



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐

CHANGE OF LOCATION

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Alteration of Premises/Change of Location Application
Vote of the Entity Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*

☐

ALTERATION OF PREMISES

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Alteration of Premises/Change of Location Application
Vote of the Entity Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*

☐

MANAGEMENT AGREEMENT

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Management Agreement Application
Management Agreement
Vote of the Entity Board
CORI Forms for all listed in Section 8A and attachments

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

Non-Profit Club's ONLY

e.g. Veteran's Club

☐ **Non-Profit Club CHANGE OF OFFICERS/DIRECTORS**

DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Officers/Directors Application
Vote of the club signed by an approved officer
Business Structure Documents-Articles of Organization from the Secretary of the Commonwealth
Monetary Transmittal Form
\$200 fee via [ABCC website](http://www.abcc.mass.gov) and Payment Receipt

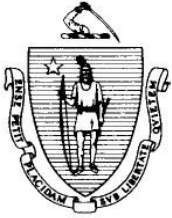
☐ **Non-Profit Club CHANGE OF MANAGER**

\$200 fee via [ABCC website](http://www.abcc.mass.gov) and Payment Receipt
Monetary Transmittal Form
Change of Manager Application
Vote of the club signed by an approved officer
CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Updated Officers and Directors*

*Please ensure to update your officers and directors **simultaneously** or **PRIOR** to applying for a change of manager. It will be returned with no action taken if the officers and directors do not match ABCC records.

Proof of Citizenship. Passport, birth certificate, voter registration, or naturalization papers will be accepted.



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

APPLICATION FOR MULTIPLE AMENDMENTS

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.**

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE
PAYMENT RECEIPT**

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

00030-RS-0768

ENTITY/ LICENSEE NAME

California Pizza Kitchen

ADDRESS

575 Anton Blvd Ste. 100

CITY/TOWN

Costa Mesa

STATE

Ca

ZIP CODE

92626

For the following transactions (Check all that apply):

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input checked="" type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input checked="" type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA |

**THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS
APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL**

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

1. BUSINESS ENTITY INFORMATION

Entity Name

Municipality

ABCC License Number

Caifornia Pizza Kitchen Inc.

Natick

00030-RS-0768

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

change of Corporate Officers/Directors, Change of Stock Interest and Change of General Manager

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name

Title

Email

Phone

Cindy Block

Authorized Agent

cindy@liquorlicense.com

213.417.2320

2. AMENDMENT-Change of License Classification

☐ **Change of License Category**

All Alcohol, Wine and Malt,
Wine Malt and Cordials

Last-Approved License Category

Requested New License Category

☐ **Change of License Class**

Seasonal or Annual

Last-Approved License Class

Requested New License Class

☐ **Change of License Type***

i.e. Restaurant to Club

*Certain License Types

CANNOT change once issued*

Last-Approved License Type

Requested New License Type

3. AMENDMENT-Change of Business Entity Information

☐ **Change of Corporate Name**

Last-Approved Corporate Name:

Requested New Corporate Name:

☐ **Change of DBA**

Last-Approved DBA:

Requested New DBA:

☐ **Change of Corporate Structure**

LLC, Corporation, Sole
Proprietor, etc

Last-Approved Corporate Structure

Requested New Corporate Structure

4. AMENDMENT-Pledge Information

☐ **Pledge of License**

To whom is the pledge being made:

☐ **Pledge of Inventory**

☐ **Pledge of Stock**

5. AMENDMENT-Change of Manager

☒ Change of License Manager

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name Date of Birth SSN

Residential Address

Email Phone

Please indicate how many hours per week you intend to be on the licensed premises Last-Approved License Manager

B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?* ☒ Yes ☐ No *Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime? ☐ Yes ☒ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition
N/A			

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
9/9/2021	current	Asst. Manager	California Pizza Kitchen	Braulio Godinho
8/1/2019	3/4/2020	Cook/MIT	Movie Tavern	Pernell Campbell

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ☐ Yes ☒ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature Date

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

☒ **Change of Officers/Directors** ☐ **Change of Ownership Interest (LLC Managers/LLP Partners, Trustees)** ☒ **Change of Stock (E.g. New Stockholder/ Transfer or Issuance of Stock)**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Avenue, Nashville, TN 37205	[REDACTED]	1/4/1961

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd, Los Angeles, CA 90064	[REDACTED]	10/31/1987

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
CFO/Executive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Corporate Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	4/25/1974

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W, Ponte Verde, FL 32082	[REDACTED]	3/17/1956

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Danial Kokini	155 E 76th Street, Apt 7E, New York, NY 10021	[REDACTED]	12/3/1984

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Additional pages attached? ☒ Yes ☐ No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

☒ Yes ☐ No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.

☐ Yes ☒ No

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

6B. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
N/A		
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☒ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
California Pizza Kitchen	S12	01361-RS-0116	Boston
California Pizza Kitchen	S12	00005-RS-0130	Braintree

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

7. AMENDMENT-Change of Premises Information

☐ **Alteration of Premises:** (must fill out attached financial information form)

7A. ALTERATION OF PREMISES

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

N/A

PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage	<input type="text"/>	Seating Capacity	<input type="text"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text"/>	Number of Exits	<input type="text"/>	Number of Floors	<input type="text"/>

☐ **Change of Location:** (must fill out attached financial information form)

7B. CHANGE OF LOCATION

Last-Approved Street Address

Proposed Street Address

DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage	<input type="text"/>	Seating Capacity	<input type="text"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text"/>	Number of Exits	<input type="text"/>	Number of Floors	<input type="text"/>

OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

☐ Yes ☒ No

8. AMENDMENT-Management Agreement

☐ **Management Agreement:** (must fill out all pages in section 8)

Are you requesting approval to utilize a management company through a management agreement?
If yes, please fill out section 8.

☐ Yes ☒ No

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

8A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name	Address	Phone
N/A		

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☐ No

8B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 8A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

8. AMENDMENT-Management Agreement

8C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 8A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
N/A			

8D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 8A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement
N/A			

8E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 8B, 8C or 8D ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation
	N/A		

8F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee?

Yes ☐ No ☐

b. Will the licensee retain control of the business finances?

Yes ☐ No ☐

c. Does the management entity handle the payroll for the business?

Yes ☐ No ☐

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

☐ \$ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☐ % of overall sales (indicate percentage)

☐ other (please explain)

ABCC Licensee Officer/LLC Manager

Signature:

Title:

Date:

Management Agreement Entity Officer/LLC Manager

Signature:

Title:

Date:

9. FINANCIAL DISCLOSURE

Required for the following transactions:

- Change of Officers, Stock or Ownership Interest (E.g. New Stockholder/Transfer or Issuance of Stock)
- Change of Premises Information
- Pledge of License, Inventory or Stock

Purchase Price(s):

N/A

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
N/A	
Total:	

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
N/A			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

N/A

APPLICANT'S STATEMENT

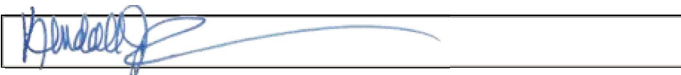
I, Kendall Jones the: ☐ sole proprietor; ☐ partner; ☒ corporate principal; ☐ LLC/LLP manager
Authorized Signatory
of California Pizza Kitchen
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date:

12/1/2023

Title:

Kendall Jones

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

California Pizza Kitchen Inc. is publicly traded. Please see attached for your reference:

1. Organization Chart
2. CORI Forms for all officers and entities
3. Beneficial Interest Disclosure
4. Letter re: Passive Shareholders
5. Annual Report
6. Articles of Incorporation for each entity
7. Secretary's Certificate
8. Certificate of Incumbency
9. Receipt for Filing Fees Paid
10. Certificate of Good Standing (DOR)
11. Certificate of Good Standing (DUA)



February 3, 2023

RE: California Pizza Kitchen
Shareholders of CPK's ultimate parent company, CPK Parent Inc.

To Whom It Concerns:

As we have previously disclosed, California Pizza Kitchen, Inc. is wholly owned by CPK Holdings Inc., which is in turn wholly owned by CPK Parent Inc.

CPK Parent is owned by about 90 shareholders, the overwhelming majority of which are investment funds, most of which reluctantly found themselves as shareholders of the company after we emerged from bankruptcy in November 2020.

I have attached to this letter a list of all shareholders who own 1% or more of the outstanding shares of CPK Parent Inc. All of these are passive shareholders who have zero engagement or involvement in the operations of the company. The address for all of these shareholders should be our corporate office.

Please let me know if you have any questions.

Sincerely,

Kendall Jones
General Counsel
Direct: 310-342-5027
KJones@CPK.com

CPK Parent Inc. Shareholders owning 1.0% or more of Outstanding Shares
As of February 3, 2023
In Alpha Order

<u>Name of Shareholder</u>	<u>% of O/S</u>
400 CAPITAL CREDIT OPPORTUNITIES MASTER FUND LTD	1.43
ALCOF II NUBT LP	3.91
AMZAK CAPITAL MANAGEMENT LLC	4.79
ANTARES HOLDINGS LP	1.00
APEX CREDIT CLO 2015-II LTD	1.03
ARMORY FUND LP	1.93
ATLAS SENIOR LOAN FUND XIII LTD	1.26
BLACKWELL PARTNERS LLC-SERIES A	2.52
BOFA SECURITIES INC	3.47
CASTLEKNIGHT MASTER FUND LP	1.00
CHATHAM CAPITAL MANAGEMENT IV LLC NOT INDIVIDUALLY BUT AS AGENT	1.16
CRESCENT CAPITAL HIGH INCOME FUND B L P	1.57
IGAL NAMDAR	2.93
JEFFERIES LLC	1.61
JFIN CLO 2014 LTD	1.72
JFIN PARENT LLC	3.55
LIVELLO CAPITAL SPECIAL OPPORTUNITIES MASTER FUND LP	2.39
MONROE CAPITAL CORPORATION	2.25
MONROE CAPITAL MML CLO 2016-1 LTD	1.61
NEUBERGER BERMAN SPECIAL SITUATIONS MASTER FUND II LP	15.69
PETRUS YIELD OPPORTUNITY FUND L P	2.37
PHILOSOPHY CAPITAL PARTNERS LP	2.99
SEAPORT GLOBAL ASSET MANAGEMENT V3 LP	5.29
SEAPORT OPPORTUNITY FUND LLC	1.46
SPECIAL ASSET EQUITY HOLDINGS SERIES LLC SERIES M	4.60
STAR V PARTNERS LLC	1.53
THE SEAPORT GROUP PROFIT SHARING PLAN	1.91



Alcoholic Beverages Control Commission
239 Causeway Street
Boston, Massachusetts 02114
Telephone: (617) 727-3040
Fax: (617) 727-1510

Jean M. Lorizio, Esq.
Chairman

BENEFICIAL INTEREST DISCLOSURE EXEMPTION REQUEST

Applicant Name: California Pizza Kitchen Inc.

Primary Contact Person for Applicant:

Name: Jorge Paico, Jr. / Cindy Block

Telephone Number: 213-296-5961 / 213-417-2320

Email Address: jorge@liquorlicense.com / Cindy@liquorlicense.com

The Applicant is seeking an exemption from disclosure under M.G.L. c. 138, §§ 15A & 23, for the following individuals and/or entities (use additional pages if necessary):

Name	% ownership in license	Control over operation of license?
Neuberger Berman Special Situations Master Fund II LP	14.54 (of CPK Parent Inc.) %	Yes / <input checked="" type="checkbox"/> No
Multiple individuals that hold no majority interest	of CPK Parent Inc. %	Yes / <input checked="" type="checkbox"/> No
	%	Yes / No
	%	Yes / No
	%	Yes / No

The Applicant is seeking an exemption from disclosing to the Licensing Authorities the following regarding the above-named individuals and/or entities (check all that apply):

X Criminal Offender Record Information ("CORI") Authorization Forms

X Personal Information Forms

X Identity of Individuals and/or Entities

Please explain why an exemption from the disclosure requirements of M.G.L. c. 138, §§ 15A & 23, is being sought, including, but not limited to, a description of the hardship(s) posed in obtaining the required information from the individuals and/or entities, and any other information that the Applicant believes would be of assistance to the Commission in considering whether to grant an exemption to the disclosure laws (use additional pages if necessary):

There are numerous shareholders who do not have control over the business/licensee California Pizza Kitchen Inc.

It would be impossible task to obtain CORI forms for all individuals involved.

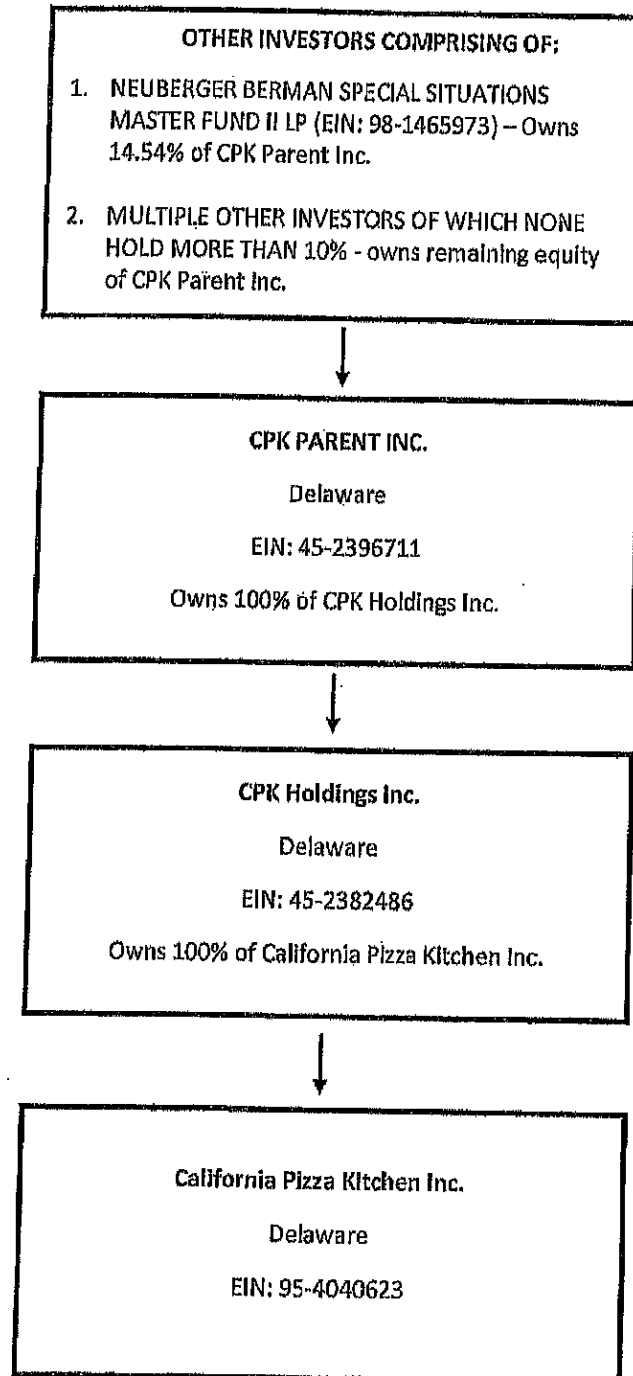
CORI forms for all officers who control the decisions of California Pizza Kitchen Inc. have been provided.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in this Request, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief.

Signature:  _____

Title: Secretary

ORGANIZATION CHART
CALIFORNIA PIZZA KITCHEN INC




Corp. secretary
K. P. [Signature]
10-7-22

Secretary's Certificate

The undersigned, Kendall Jones, the General Counsel and Secretary of CPK Parent Inc. and its subsidiaries (collectively "CPK"), hereby memorializes that the following actions have taken place:

- 1) On December 28, 2021, Robert Webster stepped down as a member of the Board of Directors of CPK Parent Inc. He did not offer a formal resignation letter, as his resignation was part of a larger issue resolution. However, the Board accepted Mr. Webster's resignation as of December 28, 2021.
- 2) On April 18, 2022, the employment of Judd Tirnauer, formerly Executive Vice President and Chief Financial Officer of CPK, was terminated by James F. Hyatt II, the CEO of CPK. On April 19, 2022, the CPK Board of Directors ratified that termination by unanimous vote.
- 3) On April 25, 2022, the Board of Directors of CPK Parent Inc. appointed Ashley Sheetz to join the Board of Directors. Ms. Sheetz' appointment was duly recorded in minutes of a regular meeting of the Board of Directors on April 25, 2022.
- 4) On October 3, 2022, the Board of Directors of CPK Parent Inc., terminated James F. Hyatt II as CEO and Board member of CPK Parent and its subsidiaries, and immediately replaced him with CPK Parent Inc. Board Member Jeff Warne, who became CPK Parent Inc.'s CEO, President and Director effective October 3, 2022. That day, Mr. Warne also became CEO and President of CPK Parent's subsidiaries, including California Pizza Kitchen Inc.
- 5) On Tuesday, October 25, 2022, Harshvardhan Chowdhary became the new Executive Vice President and Chief Financial Officer of CPK, hired by Mr. Warne pursuant to CPK's bylaws and ratified by the Board.
- 6) Since December 2020, one shareholder of CPK Parent Inc., Neuberger Berman, has been slowly buying shares of other, usually smaller shareholders. In 2022, Neuberger Berman became CPK Parent Inc.'s largest single shareholder, holding 15.54% of the Company's shares as of the date of this Certificate.

In witness hereof, I hereby affix my signature this 20th day of October, 2022 in Costa Mesa, California.


Kendall Jones, General Counsel and Corporate Secretary

Certificate of Incumbency

The undersigned individuals of CPK Parent Inc., a Delaware corporation (the "Corporation"), are designated as appropriate parties with the power and authority to enter into contracts, agreements and to provide written directions pertaining to services associated with stock transfer and registrar needs:

Jeff D. Warne, President and CEO

Signature

Harshvardhan Chowdhary, Exec. VP and CFO

Signature

Kendall Jones, Secretary and General Counsel

Signature

IN WITNESS WHEREOF I have hereunto set my hand

this 19th day of December, 2022

Name: Kendall Jones

Title: Secretary and General Counsel

ENTITY VOTE

The Board of Directors or LLC Managers of

California Pizza Kitchen, Inc.

Entity Name

duly voted to apply to the Licensing Authority of

Natick

and the

City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

10.30.22

Date of Meeting

For the following transactions (Check all that apply):

☒ Change of Officers/Directors/LLC Manager

☐ Change of Ownership Interest (LLC Members, LLP Partners, Trustees)

☒ Issuance/Transfer of Stock/New Stockholder

☐ Management/Operating Agreement

☐ Other

"VOTED: To authorize

Kendall Jones

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,


Corporate Officer /LLC Manager Signature

Kendall Jones

(Print Name)

For Corporations ONLY

A true copy attest,


Corporation Clerk's Signature

Kendall Jones

(Print Name)

ENTITY VOTE

The Board of Directors or LLC Managers of

California Pizza Kitchen

Entity Name

duly voted to apply to the Licensing Authority of

Natick, MA

City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

11/17/2023

Date of Meeting

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA |

"VOTED: To authorize

Kendall Jones

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint

Matthew Stewart

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,



Corporate Officer /LLC Manager Signature

Kendall Jones

(Print Name)

For Corporations ONLY

A true copy attest,



Corporate Clerk's Signature

Kendall Jones

(Print Name)

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

California Pizza Kitchen, Inc

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

N/A

Name of Principal

CPK Holdings Inc.

Residential Address

575 Anton Blvd #100, Costa Mesa, CA 92626

SSN

45-2382486

DOB

Title and or Position

Shareholder

Percentage of Ownership

100

Director/ LLC Manager

☒ Yes ☐ No

US Citizen

☒ Yes ☐ No

MA Resident

☐ Yes ☒ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

CPK Parent Inc.

100

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Ave., Nashville, TN 37205	[REDACTED]	1/4/1961
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd., Los Angeles, Ca 90064	[REDACTED]	10/31/1987
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CFO/Executive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W, Ponte Verde Beach, FL 32082	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Daniel Kokini	155 E 76th Street, Apt 7B, New York, NY 10021	[REDACTED]	12/3/1984
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

CPK Holdings Inc.

100

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Avenue, Nashville, TN 37205	[REDACTED]	01/04/1961
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd, Los Angeles, CA 90064	[REDACTED]	10/31/1987
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CFO/Exexecutive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Corporate Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	4/25/1974
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W Ponte Vedra Beach, FL 32082	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Daniel Kokini			
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Neuberger Berman Special Situations
Master Fund II

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

14.54 %

Name of Principal

Private Fund - Multiple Investments in a
variety of stocks

Residential Address

SSN

98-1455973

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☒ Yes ☐ No

☒ Yes ☐ No

☐ Yes ☒ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE RESTATED CERTIFICATE OF "CALIFORNIA PIZZA KITCHEN,
INC.", FILED IN THIS OFFICE ON THE TWENTY-THIRD DAY OF
NOVEMBER, A.D. 2020, AT 4:53 O`CLOCK P.M.*



Jeffrey W. Bullock, Secretary of State

3789740 8100
SR# 20208475289

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204147572
Date: 11-23-20

SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CALIFORNIA PIZZA KITCHEN, INC.

California Pizza Kitchen, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is "California Pizza Kitchen, Inc."
2. The Corporation filed its original Certificate of Incorporation with the Secretary of State of the State of Delaware on May 12, 2004 (the "Original Certificate").
3. The Corporation filed a Certificate of Ownership and Merger with the Secretary of State of the State of Delaware on July 7, 2011, pursuant to which the Original Certificate was amended and restated in its entirety under the name "California Pizza Kitchen, Inc." (the "Amended Certificate"), in accordance with Section 253 of the General Corporation Law of the State of Delaware (the "DGCL").
4. The Corporation desires to amend and restate in its entirety the Amended Certificate, pursuant to this Amended and Restated Certificate of Incorporation (this "Certificate"), which was duly adopted on the date hereof (the "Reorganization Date") in accordance with the provisions of Sections 245 and 303 of the DGCL and in accordance with that certain Joint Chapter 11 Plan of Reorganization of California Pizza Kitchen, Inc. and its Debtor Affiliates, approved by order of the United States Bankruptcy Court for the Southern District of Texas, Houston Division, in In re: California Pizza Kitchen, Inc., et al., Case No. 20-33752, under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101-1330), as amended, and was filed with the Secretary of State of Delaware on the Reorganization Date.

ARTICLE ONE

The name of the Corporation is California Pizza Kitchen, Inc. (hereinafter called the "Corporation").

ARTICLE TWO

The address of the Corporation's registered office in the State of Delaware is 850 New Burton Road, Suite 201, in the City of Dover, County of Kent, Delaware, 19904. The name of its registered agent at such address is Cogency Global Inc.

ARTICLE THREE

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR

The total number of shares of stock which the Corporation has authority to issue is one thousand (1,000) shares of Common Stock, with a par value of \$0.01 per share.

ARTICLE FIVE

The Corporation is to have perpetual existence.

ARTICLE SIX

In furtherance and not in limitation of the powers conferred by statute, the board of directors of the Corporation is expressly authorized to make, alter or repeal the by-laws of the Corporation.

ARTICLE SEVEN

Meetings of stockholders may be held within or without the State of Delaware, as the by-laws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the by-laws of the Corporation. Election of directors need not be by written ballot unless the by-laws of the Corporation so provide.

ARTICLE EIGHT

No director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "GCL") or (iv) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this ARTICLE EIGHT by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

ARTICLE NINE

The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the board of directors. The right to indemnification conferred by this ARTICLE NINE shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

The Corporation may, to the extent authorized from time to time by the board of directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this ARTICLE NINE to directors and officers of the Corporation.

The rights to indemnification and to the advance of expenses conferred in this ARTICLE NINE shall not be exclusive of any other right which any person may have or hereafter acquire under this certificate of incorporation, the by-laws of the Corporation, any statute, agreement, vote of stockholders or disinterested directors or otherwise.

Any repeal or modification of this ARTICLE NINE of the Corporation shall not adversely affect any rights to indemnification and to the advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE TEN

The Corporation expressly elects not to be governed by Section 203 of the General Corporation Law of the State of Delaware.

ARTICLE ELEVEN

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation in the manner now or hereafter prescribed herein and by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE TWELVE

The Corporation shall not issue non-voting equity securities; provided, however, that the foregoing restriction shall (i) have no further force and effect beyond that required under Section 1123(a)(6) of Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), (ii) only have such force and effect for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to the Corporation, and (iii) in all events may be amended or eliminated in accordance with applicable law as from time to time may be in effect. The prohibition on the issuance of non-voting equity securities is included in this Certificate in compliance with Section 1123(a)(6) of the Bankruptcy Code (11 U.S.C. § 1123(a)(6)).

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 23rd day of November, 2020.

By: _____


James Hyatt, CEO and President



ALC-65

Natick PD Review

Alcohol License Application

Status: Complete

Became Active: Dec 11, 2023

Assignee: Brian Lauzon

Completed: Dec 12, 2023

Applicant

Jacklyn Ruess
jacklyn@liquorlicense.com
2222 Damon Street
Los Angeles, CA 90021
2133142951

Primary Location

1245 WORCESTER ST Unit 1092 - CALIFORNIA
PIZZA KITCHEN
Unit 1092 - CALIFORNIA PIZZA KITCHEN
Natick, MA 01760

Owner:

Natick Mall. LLC
1245 Worcester Rd Natick, MA 01760

Comments

Brian Lauzon, Dec 12, 2023

We have completed a background review of the following applicants for Change of Corporate Officers/Directors/LLC Managers as requested including Jeffrey Warne, Harshvardhan Chowdhary, Michael O'Donnell, Ashley Fick Sheetz, Kendall Jones, and Daniel Kokini, and would recommend that the Select Board approve them as requested. Regarding the Change of Manager request for Matthew Stewart he should be asked to contact me directly, so that we can ascertain answers to a few questions prior to making a recommendation to the Board.

Brian Lauzon, Jan 12, 2024

At this time we would recommend that the Select Board, acting as the Local Licensing Authority for the Town of Natick, approve Mr. Matthew Stewart as the Manager of Record for the California Pizza Kitchen located at the Natick Mall, 1245 Worcester Street. Once approved if Mr. Stewart could be provided a complete set of the appropriate Natick Alcohol Rules and Regulations, and also submit to me for review, within 30days, a copy of an approved Alcohol Server Certification it would be appreciated.



Certificate of Compliance

CALIFORNIA PIZZA KITCHEN INC
575 ANTON BLVD STE 100
COSTA MESA CA 92626-7672

Date: January 25, 2024
Letter ID: L0001488513
Employer ID (FEIN): XX-XXX0623

Certificate ID: L0001488513

The Department of Unemployment Assistance certifies that as of 24-Jan-2024, CALIFORNIA PIZZA KITCHEN INC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c.149,§189.

This certificate expires on 23-Feb-2024 .

Sincerely,

Katie Dishnica, Director
Department of Unemployment Assistance

Questions?

Revenue Enforcement Unit
Department of Unemployment Assistance
Email us: Revenue.Enforcement@detma.org
Call us: (617) 626-5750



Commonwealth of Massachusetts
Department of Revenue
Geoffrey E. Snyder, Commissioner

mass.gov/dor

Letter ID: L1448799520
Notice Date: July 14, 2023
Case ID: 0-002-092-062



CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



JORGE PAICO
CALIFORNIA PIZZA KITCHEN INC.
575 ANTON BLVD FL 1
COSTA MESA CA 92626-7169

Why did I receive this notice?

The Commissioner of Revenue certifies that, as of the date of this certificate, CALIFORNIA PIZZA KITCHEN INC. is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

This certificate doesn't certify that the taxpayer is compliant in taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law.

This is not a waiver of lien issued under Chapter 62C, section 52 of the Massachusetts General Laws.

What if I have questions?

If you have questions, call us at (617) 887-6400 or toll-free in Massachusetts at (800) 392-6089, Monday through Friday, 9:00 a.m. to 4:00 p.m..

Visit us online!

Visit mass.gov/dor to learn more about Massachusetts tax laws and DOR policies and procedures, including your Taxpayer Bill of Rights, and MassTaxConnect for easy access to your account:

- Review or update your account
- Contact us using e-message
- Sign up for e-billing to save paper
- Make payments or set up autopay

Edward W. Coyle, Jr., Chief
Collections Bureau

Use the confirmation code below to print another copy of this letter or to review your submission.



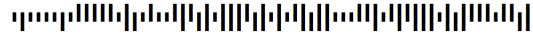
Commonwealth of Massachusetts
Department of Revenue
Geoffrey E. Snyder, Commissioner

mass.gov/dor

Letter ID: L1448799520
Notice Date: July 14, 2023
Case ID: 0-002-092-062



CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



JORGE PAICO
CALIFORNIA PIZZA KITCHEN INC.
575 ANTON BLVD FL 1
COSTA MESA CA 92626-7169

Confirmation Code: mf3y78

ITEM TITLE: Water and Sewer Abatement Appeal

ITEM SUMMARY: 1. Daniel Katz, 63 Eliot Hill Road

ATTACHMENTS:

Description	Upload Date	Type
Katz Abatement Appeal documents	1/17/2024	Cover Memo

TOWN OF NATICK – ADMINISTRATION

Jon Marshall, Deputy Town Administrator/Operations
13 East Central Street
Natick, MA 01760
508-647-6403 – jmarshall@natickma.org

December 1, 2023

Daniel Katz
63 Eliot Hill Road
Natick, MA 01760

RE: Water & Sewer Bill Adjustment/Abatement Request – Account # 120361

Dear Mr. Katz,

I am writing in regards to your request for a water and sewer abatement submitted on 10/16/23.

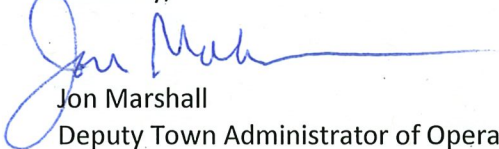
I have reviewed your application, account details and correspondence submitted. Based on this review and the reasons for which an adjustment or abatement can be provided in the Natick Select Board "Water & Sewer Bill Adjustment/Abatement Policy" (attached), your request does not meet the criteria for an adjustment or abatement as outlined under Section 1(d) of the policy.

Under the provisions of Section 4 of the Policy, you, as ratepayer, have the right to appeal this decision directly to the Select Board. Please submit any request for an appeal to the Natick Select Board, c/o Ms. Joan McNamara, Executive Assistant to the Natick Select Board, 13 East Central St, Natick, MA 01760, or email to selectboard@natickma.org.

If this presents a financial hardship there are resources we can direct you to. Please contact Donna Donovan in my office and she will assist you. Donna may be reached at 508-647-6410 or ddonovan@natickma.org.

If you have any questions regarding this decision and/or the Select Board's "Water & Sewer Bill Adjustment / Abatement Policy", please contact me at 508-647-6410 or email jmarshall@natickma.org.

Sincerely,



Jon Marshall
Deputy Town Administrator of Operations

Cc: Debbie Sherman, Treasurer/Collector (via email)
Catherine Phillipson, Executive Assistant (via email)
Judy Jones, Executive Assistant (via email)

Application for Water & Sewer Abatement or Adjustment
Town of Natick
13 East Central Street
Natick, MA 01760

RECEIVED
OCT 17 2023
TOWN OF NATICK
COLLECTOR

Name Daniel Katz Service Address 63 Eliot Hill Rd
Account # 3265155 Bill # Disputed 120361 Bill Date 10/4/23
Email Address Dlkatz22@verizon.net Telephone # 774-270-0182

RATEPAYERS ARE ENCOURAGED TO PAY THE BILL IN FULL TO AVOID INTEREST & PENALTIES

Reason for Abatement/Adjustment (Please refer to policy on reverse side)

1(c) ☒ 1(d)

Explanation for Abatement/Adjustment Request (Please refer to the reason checked above)

Outdoor spigot left running above French drain system that runs off into the yard.

Property also has a separate irrigation meter.

No sewer usage would have occurred.

Photos included show drain system and water pooling only in window well.

Was the Water & Sewer Division notified? yes ☒ no

If yes, have they visited the property

Are you enrolled in the Natick Watersmart program? ☒ yes no

If no, please visit <https://natickma.watersmart.com/index.php/welcome> to enroll

Please attach any supporting documents i.e. (plumbing repair receipts, usage reports, pictures of the issue and work completed ect.)

Applicant's signature  Date 10/16/23

**COMPLETED APPLICATIONS MUST BE SUBMITTED TO THE TREASURER/COLLECTOR'S OFFICE
WITHIN 60 DAYS OF THE BILLING DATE**

7/1
8/1
9/1

WATER & SEWER BILL ADJUSTMENT/ABATEMENT POLICY

Policy:

1) The Deputy Town Administrator for Operations may abate or adjust a water & sewer bill for the following reasons:

- a) a billing error where a data entry or clerical error occurs.
- b) a meter malfunction as confirmed by the Department of Public Works. The adjusted water/sewer charges shall be calculated based on the average usage of the preceding three years of that billing cycle.
- c) an uncharacteristic elevated water/sewer usage where it has been confirmed by the Department of Public Works that the Town of Natick was responsible for the elevated usage. The adjusted water/sewer charges shall be calculated based on the average usage of the preceding three years of that billing cycle.
- d) a failure of a facility necessary for habitation or use of a property (i.e. an outside leaky faucet, a burst heating pipe, or similar) where it has been demonstrated by the property owner to the Deputy Town Administrator for Operations' satisfaction that uncharacteristic elevated water usage during a particular billing period did not result in the water entering the sewer system.

If this occurs, the water portion of a water/sewer bill shall not be abated, but the sewer portion of a water/sewer bill shall be abated based on the average usage of the preceding three years of that billing cycle.

Facilities necessary for habitation shall not include items such as irrigation systems, pools and/or other similar accessory facilities that are not part of the systems necessary for habitation of a property. Ratepayers are encouraged to install a separate irrigation meter for such facilities.

The Deputy Town Administrator for Operations shall decline to grant any request for an abatement/adjustment of a water & sewer bill except as provided in this Section.

2) Completed applications for water & sewer adjustments/abatements, inclusive of all supporting materials, shall be filed with the Treasurer/Collectors Office within 60 days of the billing statement that is the subject of the request. A copy of the application is available on the Town's website or by contacting the Collector/Treasurers Office.

3) The Deputy Town Administrator for Operations shall provide the ratepayer with a written determination of the adjustment/abatement request within 45 days of receipt of an application. If no such written determination is provided within the 45-day timeframe, the application shall be considered declined and the ratepayer shall have the right to appeal to the Select Board as provided for in this policy.

4) The ratepayer shall have the right to appeal to the Select Board any decision of the Deputy Town Administrator for Operations regarding a request for an abatement/adjustment of a water & sewer bill, or in the event such request is deemed declined as provided for in this policy.

Such appeal must be submitted in writing to the Select Board, inclusive of the reasons for the appeal of the decision, a copy of the original application submitted with supporting materials, and a copy of the written determination from the Deputy Town Administrator for Operations, if applicable.

Materials must be submitted within 14 days of the date of the decision of the Deputy Town Administrator for Operations, or in the absence of a written decision, within 14 days of the expiration of the decision period noted in this policy.

5) Neither the Deputy Town Administrator for Operations nor the Treasurer/Collectors office have the authority to waive or adjust interest/finance charges, late fees or penalties. Ratepayers are encouraged to pay any and all contested bills on or before the due date of the bill to avoid these charges, fees and penalties.

Effective: July 1, 2021

TOWN OF NATICK



UB Consumption History Report

Account #	Man Meter #	Customer Name	Cd	Read Date	By	Bill #	Cur	Read	Usage	Rept	Usage	Location	Charge Amt	Status
Service												Billed Usage	Billed Amt	Days
3265155		7003024KATZ DANIEL						72-00000046				63. ELIOT HILL.		CURRENT
1100	1 NEPT393333965	A 09/01/2023				120361	1,538	5	0	5	27.45	92		
1100	1 NEPT393333965	A 06/01/2023				109084	1,533	1	0	1	2,100.77	92		
1100	1 NEPT393333965	A 03/01/2023				97091	1,532	0	0	0	9.49	90		
1100	1 NEPT393333965	A 12/01/2022				85806	1,532	1	0	1	680.80	91		
1100	1 NEPT393333965	A 09/01/2022				74508	1,531	24	0	24	5.00	92		
1100	1 NEPT393333965	A 06/01/2022				63242	1,507	0	0	0	177.36	91		
1100	1 NEPT393333965	A 03/02/2022				51686	1,507	0	0	0	1,119.34	91		
1100	1 NEPT393333965	A 12/01/2021				40445	1,507	1	0	1	5.00	91		
1100	1 NEPT393333965	A 09/01/2021				29233	1,506	2	0	2	832.26	92		
1100	1 NEPT393333965	A 06/01/2021				11394	1,504	10	0	10	602.15	93		
1100	1 NEPT393333965	A 03/01/2021				90487835	1,494	0	0	0	9.02	90		
1100	1 NEPT393333965	A 12/01/2020				90255988	1,494	23	0	23	778.88	91		
1100	1 NEPT393333965	A 09/01/2020				90350574	1,471	73	0	73	13.04	92		
1100	1 NEPT393333965	A 06/01/2020				90012292	1,398	2	0	2	514.71	92		
1100	1 NEPT393333965	A 03/01/2020				90499114	1,396	0	0	0	43.10	91		
1100	1 NEPT393333965	A 12/01/2019				90382357	1,396	107	0	107	631.92	92		
1100	1 NEPT393333965	A 08/31/2019				90159954	1,289	50	0	50	.00	91		
1100	1 NEPT393333965	A 06/01/2019				90495709	1,239	0	0	0	.00	92		
1100	1 NEPT393333965	A 03/01/2019				90061239	1,239	0	0	0	.00	90		
1100	1 NEPT393333965	A 12/01/2018				90319845	1,239	7	0	7	.00	92		
1100	1 NEPT393333965	A 08/31/2018				90098369	1,232	23	0	23	.00	91		
1100	1 NEPT393333965	A 06/01/2018				90264353	1,209	7	0	7	.00	92		
1100	1 NEPT393333965	A 03/01/2018				90392430	1,202	0	0	0	.00	90		
1100	1 NEPT393333965	A 12/01/2017				90325692	1,202	22	0	22	.00	91		
1100	1 NEPT393333965	A 09/01/2017				90267666	1,180	44	0	44	.00	66		

TOWN OF NATICK



UB Consumption History Report

Account #	Customer	Name	By	Bill#	Parcel	Usage	Repl	Usage	Location	Charge	Status
Service	Man Meter #	Cd	Read Date		Read				Billed Usage	Amt	Days
3265155	1 NEPT39333965	7003024KATZ DANIEL		90391504	1,136	72-00000046	18	0	63 ELIOT HILL	.00	CURRENT
1100	1 NEPT39333965	A 06/27/2017		90329170	1,118	23	0	0	23	.00	92
1100	1 NEPT39333965	A 03/01/2017		90209359	1,095	0	0	0	0	.00	91
1100	1 NEPT39333965	A 11/30/2016		90449802	1,095	1	0	0	1	.00	90
1100	1 NEPT39333965	A 09/01/2016		90264071	1,094	43	0	0	43	.00	92
1100	1 NEPT39333965	A 06/01/2016		90382612	1,051	17	0	0	17	.00	92
1100	1 NEPT39333965	A 03/01/2016		90464878	1,034	0	0	0	0	.00	91
1100	1 NEPT39333965	A 12/01/2015		90165668	1,034	26	0	0	26	.00	91
1100	1 NEPT39333965	A 09/01/2015		90107502	1,008	78	0	0	78	.00	92
1100	1 NEPT39333965	A 06/01/2015		90016426	930	14	0	0	14	.00	91
1100	1 NEPT39333965	A 03/02/2015		90316017	916	0	0	0	0	.00	91
1100	1 NEPT39333965	A 12/01/2014		90275811	916	25	0	0	25	.00	90
1100	1 NEPT39333965	A 09/02/2014		90112756	891	67	0	0	67	.00	92
1100	1 NEPT39333965	A 06/02/2014		90219647	824	0	0	0	0	.00	91
1100	1 NEPT39333965	A 03/03/2014		90485801	824	0	0	0	0	.00	91
1100	1 NEPT39333965	A 12/02/2013		90295293	824	57	0	0	57	.00	90
1100	1 NEPT39333965	A 09/03/2013		90520510	767	114	0	0	114	.00	96
1100	1 NEPT39333965	A 05/30/2013		90161621	653	6	0	0	6	.00	91
1100	1 NEPT39333965	A 02/28/2013		90178648	647	0	0	0	0	.00	91
1100	1 NEPT39333965	A 11/29/2012		90516989	647	4	0	0	4	.00	91
1100	1 NEPT39333965	A 08/30/2012		90258589	643	53	0	0	53	.00	90
1100	1 NEPT39333965	A 06/01/2012		90391183	590	0	0	0	0	.00	93
1100	1 NEPT39333965	A 02/29/2012		90389055	590	0	0	0	0	.00	90
1100	1 NEPT39333965	A 12/01/2011		90140530	590	0	0	0	0	.00	91
1100	1 NEPT39333965	A 09/01/2011		90173029	590	58	0	0	58	.00	92
1100	1 NEPT39333965	A 06/01/2011		90270340	532	16	0	0	16	.00	92

TOWN OF NATICK



UB Consumption History Report

Account #	Customer #	Name	Parcel	Location	Charge Amt	Status
Service	Main Meter #	Cd	Read Date	By	Billing #	Days
					Curr Read	
3265155		7003024KATZ DANIEL	72-00000046	63 ELIOT HILL		CURRENT
1100	1 NEPT39333965	A	03/01/2011		90368243	90
1100	1 NEPT39333965	A	12/01/2010		90311596	91
1100	1 NEPT39333965	A	09/01/2010		90074868	92
1100	1 NEPT39333965	A	06/01/2010		90058808	92
1100	1 NEPT39333965	A	03/01/2010		90506439	90
1100	1 NEPT39333965	A	12/01/2009		90043549	0

** END OF REPORT - Generated by Catherine Phillipson **

TOWN OF NATICK



UB Consumption History Report

Account #	Customer #	Name	Parcel	Location	Status									
Service	Man Meter #	Cd	Read Date	By	Bill #	Curr Read	Usage	Repl	Usage	Billed	Usage	Charge Amt	Billed Amt	Days
3265155		7003024KATZ DANIEL		72-00000046		63 ELIOT HILL								CURRENT
1000	1 NEPT38995082	A	09/01/2023		120361	2,121	80	566.48	92					
1000	1 NEPT38995082	A	06/01/2023		109084	2,041	33	2,100.77	92					
1000	1 NEPT38995082	A	03/01/2023		97091	2,008	29	151.00	92					
1000	1 NEPT38995082	A	12/01/2022		85806	1,979	45	680.80	90					
1000	1 NEPT38995082	A	09/01/2022		74508	1,934	45	110.52	91					
1000	1 NEPT38995082	A	06/01/2022		63242	1,888	42	492.64	91					
1000	1 NEPT38995082	A	03/02/2022		51686	1,846	35	213.30	92					
1000	1 NEPT38995082	A	12/01/2021		40445	1,811	42	922.62	92					
1000	1 NEPT38995082	A	09/01/2021		29233	1,769	31	221.80	91					
1000	1 NEPT38995082	A	06/01/2021		11394	1,738	36	1,119.34	92					
1000	1 NEPT38995082	A	03/01/2021		90487835	1,702	36	187.80	93					
1000	1 NEPT38995082	A	12/01/2020		90255988	1,666	39	832.26	90					
1000	1 NEPT38995082	A	09/01/2020		90350574	1,627	33	602.15	91					
1000	1 NEPT38995082	A	06/01/2020		90012292	1,594	46	174.72	92					
1000	1 NEPT38995082	A	03/01/2020		90499114	1,548	45	778.88	91					
1000	1 NEPT38995082	A	12/01/2019		90382357	1,503	47	113.00	92					
1000	1 NEPT38995082	A	08/31/2019		90159954	1,456	38	514.71	91					
1000	1 NEPT38995082	A	06/01/2019		90495709	1,418	36	131.18	92					
1000	1 NEPT38995082	A	03/01/2019		90061239	1,382	51	631.92	90					
1000	1 NEPT38995082	A	12/01/2018		90319845	1,331	41	.00	92					
1000	1 NEPT38995082	A	08/31/2018		90098369	1,290	40	.00	91					
1000	1 NEPT38995082	A	06/01/2018		90264353	1,250	41	.00	92					
1000	1 NEPT38995082	A	03/01/2018		90392430	1,209	36	.00	90					
1000	1 NEPT38995082	A	12/01/2017		90325692	1,173	45	.00	91					
1000	1 NEPT38995082	A	09/01/2017		90267666	1,128	23	.00	66					

TOWN OF NATICK



UB Consumption History Report

Account #	Man Meter #	Customer Name	Cd	Read Date	By	Bill #	Parcel	Usage Rep	Usage	Location	Charge Amt	Status
Service							Read				Billed Amt	Days
3265155	1	NEPT38995082	7003024KATZ DANIEL	A 06/27/2017		90391504	1,105	72-00000046	34	0	63 ELIOT HILL	CURRENT
1000	1	NEPT38995082	A 06/01/2017			90329170	1,071		41	0		26
1000	1	NEPT38995082	A 03/01/2017			90209359	1,030		20	0		92
1000	1	NEPT38995082	A 11/30/2016			90449802	1,010		34	0		91
1000	1	NEPT38995082	A 09/01/2016			90264071	976		10	0		90
1000	1	NEPT38995082	A 06/01/2016			90382612	966		18	0		92
1000	1	NEPT38995082	A 03/01/2016			90464878	948		16	0		91
1000	1	NEPT38995082	A 12/01/2015			90165668	932		24	0		91
1000	1	NEPT38995082	A 09/01/2015			90107502	908		14	0		92
1000	1	NEPT38995082	A 06/01/2015			90016426	894		16	0		91
1000	1	NEPT38995082	A 03/02/2015			90316017	878		13	0		91
1000	1	NEPT38995082	A 12/01/2014			90275811	865		13	0		90
1000	1	NEPT38995082	A 09/02/2014			90112756	852		12	0		92
1000	1	NEPT38995082	A 06/02/2014			90219647	840		17	0		91
1000	1	NEPT38995082	A 03/03/2014			90485801	823		16	0		91
1000	1	NEPT38995082	A 12/02/2013			90295293	807		24	0		90
1000	1	NEPT38995082	A 09/03/2013			90520510	783		26	0		96
1000	1	NEPT38995082	A 05/30/2013			90161621	757		23	0		91
1000	1	NEPT38995082	A 02/28/2013			90178648	734		21	0		91
1000	1	NEPT38995082	A 11/29/2012			90516989	713		29	0		91
1000	1	NEPT38995082	A 08/30/2012			90258589	684		20	0		90
1000	1	NEPT38995082	A 06/01/2012			90391183	664		22	0		93
1000	1	NEPT38995082	A 02/29/2012			90389055	642		19	0		90
1000	1	NEPT38995082	A 12/01/2011			90140530	623		21	0		91
1000	1	NEPT38995082	A 09/01/2011			90173029	602		25	0		92
1000	1	NEPT38995082	A 06/01/2011			90270340	577		27	0		92

TOWN OF NATICK



UB Consumption History Report

Account #	Man Meter #	Customer Name	Cd	Read Date	By	Bill #	Parcel	Usage	Repl	Usage	Location	Charge Amt	Status
Service							Read				Billed Usage	Billed Amt	Days
3265155		7003024KATZ DANIEL						72-00000046			63 ELIOT HILL		CURRENT
1000	1	NEPT38995082	A	03/01/2011		90368243	550	17		0	17	.00	90
1000	1	NEPT38995082	A	12/01/2010		90311596	533	15		0	15	.00	91
1000	1	NEPT38995082	A	09/01/2010		90074868	518	12		0	12	.00	92
1000	1	NEPT38995082	A	06/01/2010		90058808	506	17		0	17	.00	92
1000	1	NEPT38995082	A	03/01/2010		90506439	489	14		0	14	.00	90
1000	1	NEPT38995082	A	12/01/2009		90043549	475	0		0	0	.00	0

** END OF REPORT - Generated by Catherine Phillipson **

Town of Natick
Collector's Office
13 E. Central Street
Natick, MA 01760
Debbie Jo Sherman
Tax Collector

Phone
Tax Collector:
(508) 647-6425
DPW:
(508) 647-6557

COLLECTOR HOURS
Monday – Wednesday: 8:00am – 5:00pm
Thursday: 8:00am – 7:00pm
Friday: 8:00am – 12:30pm

DPW HOURS
Monday: 7:00am – 7:00pm
Tuesday – Thursday: 7:00am – 4:00pm
Friday: 7:00am – 12:00pm

WATER/SEWER BILL

Customer Copy
Keep this portion for your records

CUSTOMER NAME				SERVICE LOCATION				UNITS	
KATZ DANIEL				63 ELIOT HILL RD				1	
BILL NUMBER		BILL DATE		ACCOUNT #		CUSTOMER #		DUE DATE	
120361		10/04/2023		3265155		7003024		11/06/2023	
CHARGE DESCRIPTION		METER NUMBER	READ CODE	PREVIOUS READ DATE	CURRENT READ DATE	PREVIOUS READING	CURRENT READING	USAGE	CHARGE AMOUNT
WATER USE CHARGE		38995082	A	06/01/2023	09/01/2023	2041	2121	80	\$566.48
IRRIGATION		39333965	A	06/01/2023	09/01/2023	1533	1538	5	\$27.45
SEWER USAGE				06/01/2023	09/01/2023				\$1,501.84
METER ADMIN FEE				06/01/2023	09/01/2023				\$5.00

FOR USAGE INFORMATION: natickma.watersmart.com

Interest Penalty Information: This bill is due and payable without penalty if received by the due date. Any portion of the bill unpaid after this date is subject to a 14% per annum late charge from the date of the billing. All unpaid charges will be billed to your tax bill. An administrative fee of \$5.00 per Dwelling Unit is included as part of the water charge per quarter.

READ CODE	Total Current Billing	\$2,100.77
A = Actual	Previous Balance	\$680.80
E = Estimate	Adjustments	\$0.00
F = Final	Less Payments Received	\$680.80
W = Water	Total Amount Due	\$2,100.77

FY 2024 - ALL RATES INCREASED BY 4% - RATE TIERS HAVE ALSO CHANGED
RATE TIER 1 IS 0-8 UNITS, RATE TIER 2 IS 9-16 UNITS
RATE TIER 3 IS 17-32 UNITS, RATE TIER 4 IS 33+ UNITS
QUESTIONS www.natickma.gov/1917/Water-Sewer-Rates

✂ DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT ✂

Promptly Send Payment To:

Town of Natick
Collector's Office
PO BOX 647
Natick, MA 01760

Pay Online: www.natickma.org

KATZ DANIEL
63 ELIOT HILL RD
NATICK, MA 01760-5557

WATER/SEWER BILL

Remittance Copy
Return this portion with your payment

Account Number:	3265155
Customer Number:	7003024
Bill Number:	120361
Pay By:	11/06/2023
Total Due:	\$2,100.77

Service Location
63 ELIOT HILL RD

Please write your Account Number on your check and enclose this portion of bill with your payment.

03316042024800120361100002100774

ITEM TITLE: Certify New Electronic Voting Equipment Purchase

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Memo from Lynn Kelly	1/23/2024	Cover Memo
Contract Award voting machines	1/23/2024	Cover Memo
Certificate of insurance	1/23/2024	Cover Memo



Town of Natick
Office of the Town Clerk
13 East Central Street, Natick, MA 01760
www.natickma.org
508-647-6430 Fax 508-655-6715

OFFICIAL MEMO

TO: Natick Select Board

FROM: Lynn Kelly

CC: James Errickson
Jon Marshall
Bryan Leblanc

DATE: January 22, 2024

RE: New Electronic Voting Equipment

Objective:

The purpose of this memo is to request that the Natick Select Board vote to certify new electronic voting equipment, as required by Massachusetts General Law Chapter 54, §34, to tabulate ballots at the Annual Town Election on March 26, 2024.

The equipment was demonstrated by Election Systems and Software in The Town Clerk Office, with myself and our staff, election officials, and Town Administrator, Jamie Errickson present.

Following the demonstration, we went through the bid process with procurement which led to a single respondent, out of the two vendors that are certified by the Secretary of the Commonwealth. A contract was executed and is attached.

Thank you for your consideration. I look forward to improving the voting process in the Town of Natick for voters and election officials.

TOWN OF NATICK MASSACHUSETTS

TO: James Errickson, Town Administrator
Jon Marshall, Deputy Town Administrator - Operations
Lynn Kelly, Town Clerk

FROM: Bryan R. Le Blanc, Chief Procurement Officer

DATE: January 8, 2023

SUBJECT: CONTRACT AWARD/VOTING MACHINES AND SERVICES

On November 30, 2023, sealed Price and Non-Price Proposals were received in accordance with M.G.L. c. 30B, sec. 6 for the procurement of voting machines and services. Proposals were received from one (1) proposer (See attached.)

The most advantageous Proposal, taking into account price and all other non-price criteria, was submitted by Election Systems & Software, LLC, 11208 John Galt Boulevard, Omaha, NE 68137. Its price was \$70,365.00 total, as outlined in its Price Proposal. We recommend that the Natick Town Administrator award the contract to Election Systems & Software, LLC, for the complete main work, as provided for in the Town's Request for Proposals (RFP). The amount of the award will be for \$70,365.00, as provided for in Election Systems & Software, LLC's Price Proposal.

We have reviewed the Proposals received and have checked the references and qualifications of Election Systems & Software, LLC., and have determined it to be a responsible and eligible Proposer.

Please advise if you have any questions or require additional information.

Proposals Received:	11/30/2023
Newspaper Advertisement (<u>Metrowest Daily News</u>):	11/10/2023
Website Posting:	11/07/2023
Town Hall Postings:	11/07/2023
Goods and Services Bulletin:	11/13/2023
COMMBUYS Posting:	11/07/2023

Funding: FY23 Capital - Voting Machine - 00020777 - 580130

Proposals Received: See attached.

Town of Natick, Massachusetts											
RFP Registry of Proposals											
Proposals - Voting Machines and Services/Town Clerk's Office											
Date & Time: November 30, 2023, 9:00 A.M. local time											
	Envelopes Sealed & Marked		Certificate of Non Collusion	Tax Compliance Certification	Cert. of Corporate Proposer	Conflict of Interest Certificate	Signature of Proposer	Certificate of Insurability	Compliance with MGL 151B	Certificate of Non Debarment	PRICE
Company Name											
Election Systems and Software, Omaha	x		x	x	x	x	x	x	x	x	\$70,365.00

See original registry.

CPO Signature: -s- Bryan R. Le Blanc

See original registry.

Witness Signature: -s- Erin Sullivan

RFP Registry of Proposals

Date & Time: November 30, 2023, 9:00 A.M. Local time

Sign under penalty of perjury.

CFO Signature:

Witness Signature:

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

This Contract is made this eighth day of January 2024, by and between the Town of Natick, Massachusetts, with an address of Natick Town Hall, 13 East Central Street, Natick, MA 01760 (hereinafter the “Town of Natick,” or “the Town”) and Election Systems & Software, LLC, 11208 John Galt Boulevard, Omaha, NE 68137 (hereinafter the “Contractor”).

The words "he," "him" and "his" in this Contract, as far as they refer to the Contractor, shall so refer whether the Contractor is an individual, partnership or corporation. All prior contracts for the services outlined in Section 1, below (Scope of Services), if any exist between the Town and the Contractor, are hereby terminated and shall be of no force and effect.

1. Scope of Services

The Contractor shall provide services as set forth in the Request for Proposals for the Procurement of a Voting Machines and Services Vendor for the Town of Natick (“RFP”), which is incorporated herein by reference.

2. Standard of Care

The Contractor shall exercise due care and diligence in the rendition of all services under this Contract in accordance with the applicable professional standards in the Eastern Massachusetts area. The Contractor’s services shall be performed as expeditiously as is consistent with such standards, with professional skill and care, and with the orderly progress of the work.

3. Term

The term of this Contract shall commence as of the execution date of this Contract and shall end one year later. At the sole discretion of the Town, this Contract may be extended for one (1) or two (2) additional one (1)-year terms. Time is of the essence in the performance of services rendered by the Contractor under this Contract.

4. Incorporation of the Request for Proposals/Order of Priority of Contract Documents

The provisions of the RFP and the Contractor’s Proposal are incorporated herein by reference. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority:	Amendments to Contract (if any)
Second Priority:	Contract
Third Priority:	Addenda to the RFP (if any)
Fourth Priority:	RFP

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

Fifth Priority: Contractor's Proposal.

5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Town shall pay the Contractor the prices stated in the Contractor's Price Proposal. (See attached Price Proposal Form.)

This Contract is a fixed price/fixed rate contract; and, therefore, miscellaneous expenditures associated with the Contractor's work on this project shall not be paid by the Town. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the Town's approval in writing prior to incurring the expense if it will subsequently seek payment of said expense from the Town.

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the Town as an invoice and shall specify work completed, progress made toward completing deliverables, the number of hours worked, the classification of each employee who performed work, and the billing rate for each employee who performed work on the project.

Payment will be due thirty (30) days after receipt of the Contractor's invoice by the Town for services rendered in accordance with this Contract. The Town shall not make payments in advance.

If the Town objects to all or part of any invoice, the Town shall notify the Contractor in writing within two (2) weeks of the date of receipt of the invoice, and shall pay that portion of the invoice not in dispute within thirty (30) days after the date of receipt of the invoice.

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the Town's RFP, the Contractor shall take such measures only with the Town's prior written approval. Charges for such services shall be billed directly to the Town unless otherwise agreed upon by the parties.

Payment of the amounts due under this Contract shall release the Town of Natick, Massachusetts and its officers, employees, boards, commissions, committees, agents and representatives, from any and all claims and liability in any way relating to this Contract or anything done in pursuance thereof.

No payment by the Town to the Contractor shall be deemed to be a waiver of any right of the Town under this Contract or a ratification by the Town of any breach hereof by the Contractor.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

6. Warranty

DELETED – NOT APPLICABLE.

7. Compliance with Laws

The Contractor shall comply with all provisions of Federal, Massachusetts and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, and related regulations, as amended, in effect throughout the term of this Contract and any extension or renewal thereof. Without limitation, the Successful Proposer shall comply with the applicable provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws (M.G.L.), as amended, and with all applicable minimum prevailing wage rates as determined by the Massachusetts Commissioner of Labor and Industries. This Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, as though such terms were set forth in their entirety herein.

8. Insurance

The Contractor shall provide and maintain throughout the term of the Contract and any extension or renewal thereof the following insurance with companies that are authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.

- a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of \$1,000,000/\$1,000,000/\$1,000,000.
- b. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- c. Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of \$1,000,000.
- d. Professional Liability Insurance – Deleted/Not Applicable.
- e. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

insurance, and employer's liability under workers' compensation insurance.

- f. The Town of Natick shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
- g. All certificates and policies shall contain the following provision:

“Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Natick Town Administrator, Natick Town Hall, 13 East Central Street, Natick, MA 01760 before such cancellation or amendment shall take place.”
- h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Town at the execution of this Contract. 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 as required by this Contract. The Contractor shall make no claims against the Town of Natick or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by the Contract.
- i. The Contractor shall also be required to provide to the Town of Natick with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town of Natick is named as an additional insured on each such policy.
- j. No insurance shall be obtained from an insurer which:
 - (1) is not licensed to sell insurance in the Commonwealth of Massachusetts; or
 - (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better.
- k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Contract and shall operate as an immediate termination thereof.

9. Indemnification

The Contractor shall compensate the Town of Natick for all damage to Town

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Town of Natick and all of its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the breach by the Contractor of its obligations under this Contract, or the act or omission of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or employees regarding the subject matter of this Contract. Said costs shall include, without limitation, reasonable legal costs, collections fees, and counsel fees incurred in defending any claim or suit that may be brought against the Town and any judgment that may be obtained in any such claim or suit.

10. No Personal Liability

Neither the Town of Natick, nor its officers, employees, boards, committees, commissions, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this Contract, or the violation of any Federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

11. Familiarity with Area of Work

By signing this Contract, the Contractor acknowledges that it has examined the area of work which is the subject matter of this Contract and that it is familiar with all sites which are the subject of this Contract and with all conditions of the RFP and of this Contract. The Contractor has entered into this Contract in reliance on its own examinations and estimates as to the amount and character of its work, and conditions which may be encountered in the performance thereof, and shall assume all risks and bear all losses pertaining thereto.

12. Performance Bond

DELETED – NOT APPLICABLE.

13. Labor and Materials Payment Bond

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

DELETED – NOT APPLICABLE.

14. Independent Contractor Status

The Contractor shall provide services under this Contract as an independent contractor with the Town of Natick and not as an employee of the Town of Natick. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town of Natick, including, without limitation, salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

15. Use of Alcohol and Controlled Substances Prohibited

The Contractor hereby acknowledges that the use of alcoholic beverages, narcotics, and controlled and/or mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on Town of Natick property which is the subject matter of this Contract and during all hours of work under this Contract. If any officer, employee, agent, or representative of the Contractor violates the foregoing provision, the Town of Natick shall have the right to order that such officer, employee, agent, or representative of the Contractor shall not be permitted to return to work on this Contract. Under such circumstances, the Contractor shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with this Contract.

16. No Smoking

Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers, employees, agents, and representatives are prohibited from smoking tobacco products, or any non-tobacco products designed to be combusted or inhaled, in any public building in the Town of Natick.

17. Criminal Background Screening

For each employee of the Contractor who is performing services under this Contract, the Contractor shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Contractor's pre-employment criminal background screen. In the event that any employee refuses to permit the Contractor to provide such information to the Town, the Contractor shall not assign such employee to perform services for the Town, and such employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

18. *Delays/Force Majeure*

Except as specifically set forth in this Contract, neither party shall hold the other responsible or liable for damages or delays in performance caused by acts of God, interruptions in the availability of labor, or other events beyond the control of the other party, or that could not have been reasonably foreseen or prevented. For this purpose, such acts or events shall include unusually severe weather affecting performance of services, floods, epidemics, wars, riots, strikes, lockouts, or other industrial disturbances, protest demonstrations, and project site conditions which could not have been reasonably anticipated. Should such acts or events occur, both parties shall use their best efforts to overcome the difficulties arising and to resume as soon as reasonably possible the normal pursuit of the services for the Project.

19. *Termination*

- a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) days of written notice thereof from the Town to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.
- b. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the Town may terminate this Contract upon written notice to the Contractor.
- c. The award of this Contract and the continued operation of this Contract are contingent upon appropriation by Natick Town Meeting of sufficient money to fund the Contract. Should Natick Town Meeting fail to appropriate necessary funds therefor, the Town of Natick shall no longer be under any obligation to tender performance, including payment, under the terms of this Contract. In that event the Town may terminate this Contract upon written notice to the Contractor.
- d. The Town may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to provide for a Contract price which represents a reduced appropriation for the Contract term.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

- e. The Town may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor.

In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.

In the event that this Contract is terminated pursuant to Section 19a. or 19b. above, the Town may make any reasonable purchase or contract to purchase services in substitution for services due from the Contractor and may deduct the cost of any substitute contract, or damages sustained by the Town due to non-performance or non-conformance of services, together with incidental and consequential damages from the Contract price, and shall withhold such damages from sums due or sums which become due.

20. Notices

- . Except as otherwise provided in this Contract, all notices required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section.

If to the Town: James Errickson,
Town Administrator
Natick Town Hall
13 East Central Street
Natick, MA 01760

With copies to: Karis L North, Esq.
Office of the Town Counsel
Murphy, Hesse, Toomey & Lehane, LLP
50 Braintree Hill Office Park, Suite 410
Braintree, MA 0218

If to the Contractor: President
Election Systems & Software, LLC
11208 John Galt Boulevard
Omaha, NE 68137.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

21. Miscellaneous Provisions

- a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Middlesex County, MA, and in no other court or jurisdiction.
- b. No action or failure to act by the Town shall constitute a waiver of a right or duty afforded to the Town under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Town shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Town. No waiver by the Town of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.
- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing services under this Contract, report the same to the Town in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the Town as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the Town vis-à-vis the media or the public at-large without the Town's express, written consent in advance.
- g. Prior to commencing services under this Contract, the Contractor shall furnish the Town, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees of his business who are to be contacted in the event of an after-hours emergency.
- h. By entering into this Contract, the Contractor certifies under penalties of perjury that its Proposal was made and submitted in good faith and without

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

collusion or fraud with any person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

- i. By entering into this Contract, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes, to reporting of employees and contractors, and to withholding and remitting child support.
- j. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.
- k. Prevailing wage rates, as contained in the Proposal documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable.
- l. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.
- m. **To the extent that any of the foregoing sections required by Massachusetts law are inconsistent with other, non-statutory sections in this agreement, any statutorily-mandated provisions contained**

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

herein shall control.

- n. The Contractor shall not assign or subcontract in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the Town.
- o. The Contractor shall not assign any money due or to become due to the Contractor unless the Town of Natick shall have received prior written notice of such assignment. No such assignment shall relieve the Contractor of its obligations under this Contract.
- p. This Contract may be amended only by written consent of the parties.
- q. This Contract constitutes the entire agreement of the parties and any other agreement, written or oral, that may exist is excluded from this Contract. When executed, this Contract supersedes any other agreement of any of the parties in connection with the transaction contemplated.
- r. If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.
- s. The provisions of this Contract shall be binding upon and shall inure to the benefit of the heirs, assigns and successors in interest of the parties.
- t. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of law issues or principles.
- u. This Contract is executed in triplicate as a sealed instrument.

(The remainder of this page is left blank.)

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

The Town of Natick, Massachusetts

Election Systems & Software, LLC

by:

by:

James Errickson
Town Administrator


Signature

Jared Plath
Printed Name

VP of Finance
Printed Title

Dated: _____

Dated: 1/18/2024

APPROVED AS TO AVAILABILITY OF APPROPRIATION:

This is to certify that an appropriation in the amount of this Contract is available therefor, and that the Natick Town Administrator is authorized to execute this Contract and to approve all requisitions and execute change orders.

Michelle L. Laramée
Comptroller, Town of Natick

Dated: _____

APPROVED AS TO FORM ONLY, AND NOT AS TO SUBSTANCE:

Karis L. North, Esq.
Office of the Town Counsel

Dated: _____

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

CERTIFICATE OF VOTE

I, Jared Plath, hereby certify
(Clerk/Secretary)

that I am the duly qualified and acting VP of Finance of
Election Systems & Software, LLC (Title)
(Corporation Name)

and I further certify that at a meeting of the Directors of said Corporation duly called and held on October 31 2023, at which meeting all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower either
Michael McCarthy Director ;
(Name) (Title)
_____, _____ ; or
(Name) (Title)
_____, _____
(Name) (Title),

any one acting singly, to execute all contracts and bonds on behalf of the Corporation.

I, further certify that the above vote is still in effect on this the 18th day of January, 2024 and has not been changed or modified in any respect.

Jared Plath
Signature

Jared Plath
Printed Name

VP of Finance
Printed Title

The certification contained hereabove shall be executed by CONTRACTOR or copy of current "certification of authority to sign for the Corporation" shall be attached.)



Enhancing the Voter Experience for the Town of Natick

Request For Proposals For The Procurement Of A Voting
Machines And Services Vendor For The Town Of Natick

Price Proposal

ORIGINAL

November 30, 2023

Election Systems & Software, LLC

11208 John Galt Boulevard

Omaha, NE 68137



Enhancing the Voter Experience for the Town of Natick

**Request For Proposals For The Procurement
Of A Voting Machines And Services Vendor
For The Town Of Natick**

Price Proposal

ORIGINAL

November 30, 2023



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ES&S Approach to Pricing	Page 5
Price Proposal Form	Page 9
Attachment A: Price Proposal Form	Page 10

Election Systems & Software, LLC (ES&S) has marked portions of its proposal which are confidential, proprietary, trade secret and/or are otherwise exempt from disclosure under the jurisdiction's public records act. The marked provisions are intended for the use of the individual or entity to which this document is directed. Subject to laws to the contrary, this information may not be disclosed or reproduced either publicly or to any outside third party without the prior written authorization of ES&S.

Pricing Requirements Responses



III. BACKGROUND

A. Description of Work

1. 10 (ten) each election tabulator with internal backup battery, touch screen, plastic ballot box with removable carrying case, soft sided case, and proprietary memory devices.

ES&S RESPONSE

Our proposed solution includes these items. Please see **Pricing, Price Proposal Form** for details.

2. 2 (two) each election tabulator with internal backup battery, touch screen, soft-sided case, and proprietary memory devices.

ES&S RESPONSE

Our proposed solution includes these items. Please see **Pricing, Price Proposal Form** for details.

3. Additional proprietary memory device.

ES&S RESPONSE

Our proposed solution includes an additional proprietary memory device. Please see **Pricing, Price Proposal Form** for details.

4. Successful Proposer to provide implementation services of project management, and tabulation equipment operations training, tabulation equipment installation, customer service support, and technical support, offer thermal paper purchase compatible with the tabulator.

ES&S RESPONSE

ES&S agrees and will comply. Please see **Pricing, Price Proposal Form** for details.

6. *Successful Proposer to provide software for managing election details and records.*

ES&S RESPONSE

Please see **Pricing** for details. Electionware is listed as an optional item in our **Price Proposal Form** and will not be included in the **Attachment A: Price Proposal Form** Total Price.

7. *The Town of Natick currently has 16 Accuvote model voting machines. Each Proposer, in its Proposal Price, shall include a credit for removal of the current machines and, in any contract awarded pursuant to this RFP, shall remove and dispose of said machines in accordance with all applicable federal, state, and local laws, rules, and regulations at no additional cost to the Town.*

ES&S RESPONSE

ES&S agrees and will comply. Please see **Pricing, Price Proposal Form** for details.

Pricing



ES&S Approach to Pricing

At Election Systems & Software (ES&S), our commitment to transparency starts with our response to your RFP, including the cost proposal. ES&S structures our pricing response to be clear and concise. We itemize the costs so you understand exactly what is included in our proposal. Our pricing responses are organized to illustrate each element of a proposed solution, including but not limited to hardware, software, election services and total purchase price.

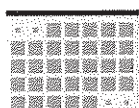
When reviewing all pricing responses to your RFP, we encourage you to compare apples to apples. Consider the following questions when comparing pricing responses:



What is not included with the total cost that will be needed to run the equipment? Does the hardware cost include necessary items like backup batteries, cases and ballot boxes?



What type of warranty is included? Will the supplier come on site to repair the units, or do they require the equipment to be shipped to a depot for repair? If depot repair, who pays for the shipping cost? Is the hardware maintenance only for broken units, or does it include a preventative maintenance plan that guarantees the equipment is routinely checked to ensure it works prior to Election Day?



What ongoing services do you need? Are they included in the price proposal?



If the equipment requires ink cartridges or toner, is pricing for those items included? How often will you need to replace ink or toner (each election or every few months)?








Are the implementation services offered by all suppliers comparable?





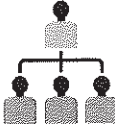
Does the pricing sheet include all the items you asked for?

Comparing Pricing Responses



To help with your review, the table below provides a view of a few items from this bid. It provides details about what is provided in the ES&S response and a space for notes from other bid responses.

Category	ES&S	Other	Notes
Battery Backup 	Included in the cost of the DS200 is an internal battery backup.		
Printer 	Included in the cost of the DS200 is an internal thermal printer.		
Printer Consumables 	The DS200 uses an internal thermal printer that eliminates costly consumables like ink, toner, ribbons or drums.		
Implementation Services 	ES&S implementation services include: <ul style="list-style-type: none"> • installation of equipment, • Acceptance Testing, • Logic & Accuracy (L&A) Testing, • project management, • training on new equipment, • Election Day support, • technical support, • election preparation and all services as needed. 		
Site Support 	With on-site support, you have a dedicated point of contact at your election headquarters with immediate answers to questions and the ability to provide guidance to all election staff.		

Pricing Executive Summary

Category	ES&S	Other	Notes
Training 	<p>ES&S provides a customized approach to training your election team with classroom-based training and courses that are tailored to specific audiences and incorporate a high degree of hands-on instruction and simulations.</p> <p>We also provide a comprehensive series of training documentation for election administrators and poll workers along with troubleshooting guides.</p>		
Help Desk 	<p>The ES&S Help Desk can be contacted via our dedicated toll-free number or via email. Additionally, you will receive login credentials to the ES&S customer portal. The portal contains copies of all user product documentation, including administrator and operator manuals and product advisories. The portal also provides access to request forms and a link to the ES&S supply store website.</p>		
Project Team 	<p>ES&S provides you with a dedicated project team, including an account manager who works closely with you throughout the life of your contract. ES&S will use its vast resource pool of subject matter experts, technical specialists and certified trainers to ensure you are fully supported and knowledge is successfully transferred to your staff.</p>		

Pricing Executive Summary

Category	ES&S	Other	Notes
Ongoing Hardware Maintenance 	Following the initial warranty period, ES&S provides a routine preventative maintenance service event every year or every other year. This on-site event includes the inspection, cleaning, calibration and testing of covered ES&S equipment and all labor and parts except for consumable items.		
Purpose-Built or COTS Equipment 	ES&S provides purpose-built voting systems that are uniform in nature, simple to operate, secure and easy to maintain for many years. Using purpose-built systems allows for sustainability over the years because we, as the manufacturer, can guarantee the availability of uniform equipment.		



Town of Natick, MA
Price Proposal Form
Submitted by Election Systems & Software

Purchase Solution Includes:

Quantity	Item Description	Unit Price	Extended Price
Tabulation Hardware			
	DS200 Poll Place Scanner and Tabulator:		
10	DS200 (Includes Internal Backup Battery, Plastic Ballot Box with Removable Carrying Case, Paper Roll and One (1) Standard 4GB Memory Device)	\$7,130.00	\$71,300.00
2	DS200 WITHOUT Ballot Box or Carrying Case (Includes Internal Backup Battery, Paper Roll and One (1) Standard 4GB Memory Device)	\$5,755.00	\$11,510.00
12	Soft-Sided Nylon Case	\$145.00	\$1,740.00
1	Standard 4GB Memory Device (Additional)	\$115.00	\$115.00
Election Services			
2	Implementation Services	\$1,975.00	\$3,950.00
X	Tabulation Equipment Operations Training		
X	Election Support		
X	Tabulation Equipment Installation		\$1,975.00
X	Two (2)-Year Hardware and Firmware Warranty		Included
X	Shipping and Handling		\$3,235.00
X	Customer Discount		(\$19,460.00)
	Trade-In Allowance. Equipment Being Traded-In by Customer Includes: 16-AccuVote OS/OSX Scanner with Ballot Box		(\$4,000.00)
Total Purchase Solution			\$70,365.00
Annual Post-Warranty License and Maintenance and Support Fees (Fees are Based Upon a One (1)-Year Customer Commitment to Subscribe to the Following Services)			
	Annual Post-Warranty Hardware Maintenance and Support Fees:		
12	HMA DS200 - Extended Warranty with Annual Maintenance	\$215.00	\$2,580.00
	Annual Post-Warranty Firmware License and Maintenance and Support Fees:		
12	Firmware License - DS200	\$95.00	\$1,140.00
Total Annual Post-Warranty License and Maintenance and Support Fees			\$3,720.00
Optional Software and Workstation			
1	Electionware Election Management Software - Reporting Only Base Package with Two (2) Year Warranty		\$3,080.00
1	Laptop Workstation with Printer and Installation		\$3,491.00

Footnotes:

- Rates valid for sixty (60) days and thereafter may change.
- Subject to state, municipal, jurisdictional, provincial or territory laws to the contrary, the above pricing information is confidential, proprietary and trade secret information of ES&S and is intended only for the use of the individual or entity to which the document is directed to. This information may not be disclosed or reproduced either publicly or to any other individual or entity without the prior written authorization of ES&S.

**Attachment A:
Price Proposal Form**



Attachment G - Certificate of Non-Debarment
Attachment H - Form of Contract

**ATTACHMENT A
TOWN OF NATICK
PRICE PROPOSAL FORM**

The undersigned Proposer hereby submits a price proposal for the provision of a voting machines and services vendor in the Town of Natick.

Printed Name of Proposer:

Election Systems & Software, LLC

Address: 11208 John Galt Boulevard

Omaha, NE 68137

The PROPOSER hereby pledges to deliver the complete scope of services required for price shown below:

Total Price in Words: Seventy Thousand Three Hundred Sixty-Five Dollars

Total Price in Numbers: \$70,365.00

NOTE THAT THE ABOVE PRICE INCLUDES THE TRADE IN OF CURRENT EQUIPMENT AS
DESCRIBED HEREIN.

The PROPOSER acknowledges receipt of addenda nos. _____

Please write out all addenda issued. For example, for four (4) addenda issued, please write: "1, 2, 3, and 4." Do not write "1-4" or "4."



Authorized Signature
Jared Plath

Printed Name

011

Vice President of Finance

Printed Title

November 21, 2023

Date

Full Legal Name Election Systems & Software, LLC

Officers of Corporation and Addresses

Election Systems & Software, LLC

11208 John Galt Blvd.

Omaha, NE 68137

State of Incorporation Delaware

Principal Place of Business 11208 John Galt Blvd.

Omaha, Nebraska 68137

Tel. 877-377-8683

Qualified in Massachusetts Yes ☒ No ☐

Principal Place of Business in MA 201 Flanders Road

Westborough, MA 01581

Tel. 877-377-8683



Enhancing the Voter Experience for the Town of Natick

Request For Proposals For The Procurement Of A Voting
Machines And Services Vendor For The Town Of Natick

Non-Price Proposal

COPY

November 30, 2023

Election Systems & Software, LLC
11208 John Galt Boulevard
Omaha, NE 68137



Enhancing the Voter Experience for the Town of Natick

Request For Proposals For The Procurement
Of A Voting Machines And Services Vendor
For The Town Of Natick

Non-Price Proposal

COPY

November 30, 2023



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Election Systems & Software, LLC (ES&S) has marked portions of its proposal which are confidential, proprietary, trade secret and/or are otherwise exempt from disclosure under the jurisdiction's public records act. The marked provisions are intended for the use of the individual or entity to which this document is directed. Subject to laws to the contrary, this information may not be disclosed or reproduced either publicly or to any outside third party without the prior written authorization of ES&S.

Letter of Transmittal



November 30, 2023

Town of Natick, c/o Procurement Officer, Natick Public Works
75 West Street
Natick, MA 01760

RE: RFP For The Procurement Of A Voting Machines And Services Vendor For The Town Of Natick

Dear Procurement Officer:

When Election Day comes, you want the assurance of knowing your voters and staff will have a great experience. We want the same thing. Our proposed system is proven nationwide to increase administrative efficiencies, provide much greater transparency, make audits painless, greatly improve the voter experience regardless of voter ability, and reduce the overall costs of running elections in the Town of Natick. We look forward to working with the Town of Natick to implement the most technically advanced, yet easy-to-use election solution available.

As a leading provider of total integrated election management solutions in the United States, Election Systems & Software, LLC (ES&S) is pleased to be included in the Town of Natick's Request For Proposals For The Procurement Of A Voting Machines And Services Vendor For The Town Of Natick. The role of election supplier to the Town of Natick is an important responsibility, one that ES&S takes seriously. At the core of our philosophy are values like hard work, trust and honesty.

ES&S has invested decades of sole focus on fully integrated election management solutions, and we have decades of expertise assisting Massachusetts jurisdictions in managing successful elections.

We have proven staying power and provide several advantages that allow us to make elections easy for you now and well into the future:

- No third-party or contractor involvement. Our clients deal directly with ES&S, the original manufacturer of the proposed system.
- Our voting systems are ES&S' intellectual property certified for sale and use in the Commonwealth of Massachusetts.
- We control software/hardware modifications/licenses, etc.
- We can enhance firmware to meet each jurisdiction's needs/laws.
- The DS200 features a simple setup – simply plug in the unit, lift the lid and it's ready to go.
- The optional Electionware election management software provides a single interface for faster and streamlined election creation, programming, reporting and post-election tasks.
- ES&S has the North American resources and financial strength necessary to provide the long-term support and service to achieve all the Town of Natick's requirements.
- Headquartered in Omaha, Nebraska, ES&S only offers U.S.-based hardware/software, services and support.

Key Aspects of Our Solution for the Town of Natick

We appreciate the opportunity to present our election-proven voting system to the Town of Natick. Please feel free to contact your regional sales manager, Joe Passarella, at 215-313-9044 or joe.passarella@essvote.com.

We stand ready to provide the Town of Natick with voting systems that will meet the needs of election officials and voters for years to come.

The Proposal is effective for at least sixty (60) calendar days from the deadline date for receipt of sealed Proposals, or from the date upon which this RFP is cancelled, whichever occurs first.

Very Respectfully,



Joe Passarella
Regional Sales Manager
Election Systems and Software, LLC
11208 John Galt Blvd.
Omaha, NE 68137
215-313-9044
joe.passarella@essvote.com



Jared Plath
Vice President of Finance
Election Systems & Software, LLC
11208 John Galt Blvd.
Omaha, NE 68137
402-415-8398
jared.plath@essvote.com

Executive Summary

- Fully Executed Scope of Services



Enhancing the Voter Experience for the Town of Natick



Your RFP indicates the need to procure tabulators and reporting software and hardware. As an original manufacturer of voting equipment since 1979, ES&S is well-equipped to partner with you to ensure a smooth and successful implementation of the DS200 system.

With 25 years of experience servicing elections in the Commonwealth, we are built to accommodate the needs of our Massachusetts customers. Our more than 450 employees allow us to develop, enhance and maintain the most relevant, easy-to-use and dependable election equipment and software available for elections.

Local field service technicians provide 24/7 support.

ES&S is an original manufacturer of voting equipment with a certified voting system in Massachusetts. To serve the Town of Natick, ES&S field service representatives are based out of Westfield, Massachusetts. ES&S can use field service technicians from New Jersey, New York and Pennsylvania as well.

On-Site Election Support

ES&S acts on progressive ideas to create simple, positive and trusted experiences on Election Day. With on-site support, you have a dedicated point of contact at your election headquarters with answers to questions and the ability to provide guidance to all election staff. We deliver experiences that customers find truly valuable, enabling them to achieve results that count.

Our election support event includes a fully trained ES&S employee the day of an election to assist you with any needs you may have, including:

- Guidance on tabulator operations and open/close procedures
- Hardware troubleshooting and communication with the ES&S Help Desk and field service technicians, if needed
- Local call center support
- Polling place field support
- Assistance with reporting software

Our coast-to-coast disbursement of trained and dedicated employees working out of multiple operating locations allows us to quickly respond to and support the demands of a new implementation project like that of the Town of Natick. In addition to our dedicated Massachusetts support team, we post ample site support personnel throughout the Commonwealth on Election Day.

ES&S provides a secure certified system that you can trust.

Every time voters head to the polls, they want to know their data is protected. At ES&S, we take extra precautions to ensure our software, hardware and data is well-insulated from harm.

ES&S equipment and USB flash drives are designed to ensure the highest levels of data and hardware security. All data transferred between equipment is digitally signed and encrypted using Federal Information Processing Standard (FIPS) 140-2 compliant algorithms. The computer systems are hardened by ES&S infrastructure engineers before they are installed at a customer location to ensure they are tamper-free and meet stringent certification requirements. User activity is digitally logged, and user accounts are limited to the functions they are permitted to perform.



Physical Security

Our systems also use physical locks and tamper-evident seals. These provide safeguards against tampering before, during and after an election. ES&S educates customers on proper handling and storage of their election-related material and best chain-of-custody practices as well.



Unique Encryption

Our systems use unique encryption keys for every election. This ensures all voting machines will only accept USB flash drives programmed for that election and prevents tampering by unauthorized agents.



System Hardening

System software is installed on hardened computers, which are locked down to only perform the core functions required for an election. A hardened computer cannot connect to the internet, will not accept an unauthorized USB flash drive and restricts authorized users to only perform necessary actions.



Signature Validation

All data in transit is protected using cryptographic modules that meet the FIPS. This means the signatures of all files throughout the entire election process are validated each time a file is accessed.



Secure Data

We adhere to secure practices surrounding the creation, transfer and storage of important election files and data. Our systems save a record of all user actions to the system audit log. These physical, digital and access-level security practices preserve the integrity of election data.



Independent Testing

Accredited independent testing labs thoroughly test all our voting systems for integrity and transparency. These labs provide an unbiased assessment of the system's capabilities and hold us accountable to federal regulations.



The proposed solution is EAC-certified and approved for use in the Commonwealth of Massachusetts.

DS200®

Scanner and Tabulator



The DS200 scanner and tabulator pairs with the AutoMARK ballot marking device (BMD) to meet your vote marking and tabulation needs. It combines the best attributes of a paper-based system with the flexibility and efficiency of a digital environment.

Precise ballot sensors simultaneously scan both sides of a ballot in high resolution. Thus, cast vote records and ballot images can be stored on a USB flash drive and reviewed, as needed, on a standard PC. The DS200 is designed with flexibility to support a wide range of ballot configurations and designs while being the easiest, most accurate and most user-friendly machine in the marketplace today.

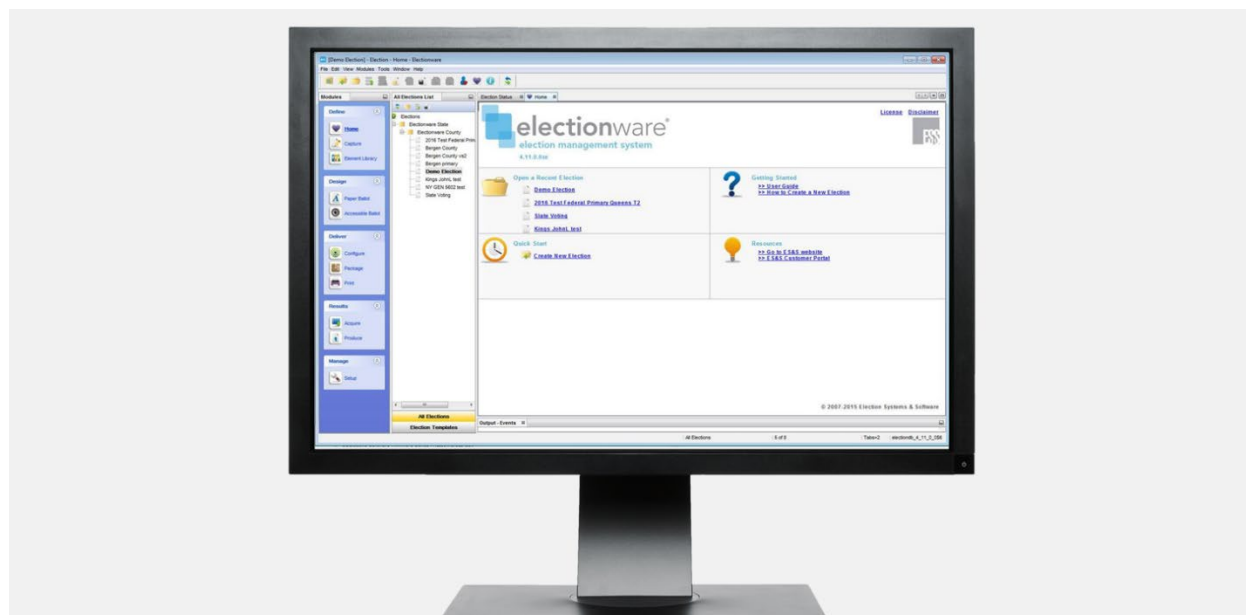
More than
71,579
DS200 tabulators
are in use today.

DS200: Key Benefits & Features

- **Easy setup.** Poll workers simply lift the lid to power on the unit, making setup quick and **reducing calls to Election Central.**
- **Secure tabulation.** Your election data is **physically and electronically secure**, from the inside to the outside. Keyed locks, secure passcode access and self-locking encryption comes standard.
- **Integrated battery backup.** Poll workers don't have to worry about carrying a heavy uninterruptible power supply (UPS) or charging an external battery. The DS200 unit's fully integrated backup battery allows the voting process to **continue normally during a power failure.**
- **Cost savings.** You **save money** with the DS200 unit's internal thermal printer by eliminating the need to replace costly consumables like ink, toner or drums.

Electionware® Results Group

(Reporting Only, Optional)



Electionware is our fully integrated election management software solution that will allow the Town of Natick to complete election management tasks through a uniform user experience. It has a powerful and intuitive interface and a single, common relational database.

The Electionware Results group generates paper and electronic reports for election officials and candidates. Reporting features enable the user to read data from the tabulators, customize report formats and accumulate accurate election results.

Electionware: Benefits & Features

- **Flexibility.** Electionware is highly flexible, providing a library of on-demand report that can be customized to meet your needs. Electionware stores precinct-level results in **up to 14 user-defined groups** (such as early, Election Day and provisional reporting).
- **Custom reports.** You can **create reports** that contain all applicable precincts or contests, or you can select the precincts and/or contests to be included. For any summary report, you can control whether counts for overvotes and undervotes are included. You can specify that the report display vote results as a percentage of votes cast or as a percentage of eligible voters.
- **Export capabilities.** A wide array of user-configurable election reports, displays and results files can be **exported in different formats**. Electionware generates HTML versions of the printed reports that can be stored as files and posted on a website so the public and media can view the Results Reports via the internet. Electionware can generate Results Report formats that can be used in applications like Excel to create custom reports.

Strengths and Benefits

How the ES&S Team Will Meet Your Needs

The ES&S team offers the Town of Natick the most elections experience of any supplier. The table below illustrates the benefits of partnering with ES&S for election systems and support services.

Your Needs	Our Benefits	
Financial stability		We have the capacity to scale our solution to your needs, providing a technically robust and financially responsible solution. We invest in innovation, so we can continually enhance our products for the benefit of our customers.
A trusted supplier with elections knowledge		<p>We provide nearly half a century of ballot tabulation experience. Our team has unmatched knowledge and experience preparing, maintaining and conducting elections in New England. Today, not only do we work with many of the same customers, but our business has grown to serve more than 1,660 counties in 41 states.</p> <p>ES&S provides election systems and services to clients ranging in size from small county governments to state boards of elections. ES&S completed successful installations of statewide voting systems in Alabama, Arkansas, Delaware, Maine, Maryland, Montana, Nebraska, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, West Virginia and Wyoming.</p>
An understanding of Massachusetts election rules and regulations		Because we have served the election process in Massachusetts for 30 years, we understand the Town of Natick's election processes and procedures like no other supplier.
Ability to provide for every election need		<p>Our integrated, robust system means our customers can enjoy the efficiency of dealing with one (1) trusted supplier for all their election needs.</p> <p>Being the industry leader demands accountability. Our commitment, dedication and credibility in the industry will give you great assurance that your elections will be accurate, safe and secure.</p>
Local presence		Our dedicated and local New England team is ready to serve you. We've listened and responded to the needs of our customers, and we commit to always providing outstanding customer service and support.

Summary

Our comprehensive solution will provide the Town of Natick with a reliable, secure and efficient solution for tabulators and scanners along with the very best service and support.



Our integrated solution will provide the Town of Natick with a reliable, cost-effective voting tabulation system that will continue to meet the needs of Town voters well into the future. Town staff and poll workers will find our equipment **easy to move and set up** on Election Day and **convenient to store and maintain** when the election is over. And, as always, our **team of customer service and technical support experts** will be available to assist with any questions or concerns that arise.

Thank you for the opportunity to present this information. We look forward to enhancing the Town of Natick constituents' voting experience for years to come.

Requirements Responses



III. BACKGROUND

A. Description of Work

1. 10 (ten) each election tabulator with internal backup battery, touch screen, plastic ballot box with removable carrying case, soft sided case, and proprietary memory devices.

ES&S RESPONSE

Our proposed solution includes these items. Please see our separately sealed **Price Proposal** for details.

The DS200 tabulator contains an internal backup battery that maintains the system for a minimum of four (4) hours in the case of a power failure during the election process. The battery is a 21-volt, 10 cell lithium-ion battery that needs no special maintenance.

The battery kicks in immediately without system impact. When the battery gets low, the system will have a graceful shutdown to ensure no ballots are being scanned or data is being written to the USB flash drive when it loses power completely. When power returns, a recovery procedure allows voting to continue where it left off.

A battery charge indicator icon in the upper right corner of the DS200 touch screen provides a visual notification of how much battery life remains in the unit. The battery icon is displayed as empty if the battery is dead or very low. If the battery is disconnected, the battery icon will blink. In addition, the power indicator light in the rear of the DS200 indicates the charging level for the battery.

If AC power is interrupted to the DS200, the AC power icon in the right corner of the display will show the two (2) blue plugs disconnected, a series of four (4) audible beeps will be heard, and a system message, "Switched to Battery Power," will be shown on the LCD display.

The DS200 plastic ballot box is configured to seamlessly fit the tabulator. A hard, plastic clamshell carrying case comes with the plastic ballot box and serves as the top of the plastic ballot box during voting. After the DS200 carrying case is attached to the top of the plastic ballot box, the DS200 unit slides onto two (2) mounting rails and the AC power cord is connected to the back of the terminal. After the DS200 is securely attached to the ballot box, a locking door hinges into place over the front of the unit to prevent removal of the device, and a locking door on the back of the case prevents access to the ballot bin. The carrying case that comes with the plastic ballot box includes a telescoping handle and rollers.

The DS200 carrying case is made of high-density polyethylene (HDPE) and includes a telescoping handle. It becomes the top of the plastic ballot bin and ensures that the DS200 is securely attached to the ballot box and deposits ballots directly into the box once scanned.

2. 2 (two) each election tabulator with internal backup battery, touch screen, soft-sided case, and proprietary memory devices.

ES&S RESPONSE

Our proposed solution includes these items. Please see our separately sealed **Price Proposal** for details.

3. Additional proprietary memory device.

ES&S RESPONSE

Our proposed solution includes an additional proprietary memory device. Please see our separately sealed **Price Proposal** for details.

4. Successful Proposer to provide implementation services of project management, and tabulation equipment operations training, tabulation equipment installation, customer service support, and technical support, offer thermal paper purchase compatible with the tabulator.

ES&S RESPONSE

ES&S agrees and will comply. Please see our separately sealed **Price Proposal** for details.

CONFIDENTIAL

The ES&S Approach to On-Site Training Is Comprehensive

ES&S understands that a successful transition to new election technology depends on more than executing a logistics plan. A key element to success is ensuring that the Town of Natick is empowered with the knowledge to administer the new system and achieve a trouble-free election. To make this transition successful, we emphasize on-site training as a critical component of our overall implementation plan. Our training goal is to ensure a strong level of comfort and competency for the Town of Natick's election staff and poll workers. ES&S is committed to maintaining our flexible approach in tailoring the right mix of products, training, support and service to the Town of Natick.

Training the ES&S Way Is Tailor-Made for the Customer

The ES&S curriculum is based on our decades of experience in implementing new voting systems. Our customized approach to training the Town of Natick's election team anticipates the wide range of skills needed to conduct a successful election. Our courses are tailored to specific audiences and incorporate a high degree of hands-on instruction and simulations, increasing the relevancy of every minute your election workers spend in the classroom.

ES&S Trainers: Experience That Matters

ES&S has carefully selected our training staff to provide the very best training experience for the Town of Natick's election staff. We require all personnel on our Operations Training team to be certified ES&S trainers. This begins with a minimum of two (2) years of experience as an instructor and continues with customized product certification. Additionally, each of our training staff members has personally supported elections using ES&S voting

equipment. Our trainers have firsthand knowledge of the challenges the Town of Natick's election workers could face with your new equipment. We can anticipate staff concerns and appreciate the challenges of using a new voting system.

ES&S' Training Plan Ensures User Competency and Proficiency

Introducing new technology presents unique challenges, and deployment training is our primary concern in implementing a new elections systems solution. ES&S measures the success of new equipment installations by confirming our clients can manage their unique election processes while using the ES&S system. Our comprehensive, classroom-based training program promotes a strong level of competency for all intended users through training modules developed to provide your election team with the skills to perform necessary operations.

ES&S Training Materials Empower the User

Our ES&S Instructional Design team has developed a comprehensive series of training documentation, including administrator, poll worker and troubleshooting guides. Our goal with these training materials is to provide your election staff with easy-to-follow operating procedures to refer to during future elections, after the classroom training has concluded. This approach to our customized manuals allows your election staff to be fully prepared and ensures autonomy in election operations while using our equipment, both during absentee/early voting and on Election Day.

ES&S Continuing Education and Support Ensure Long-Term Success

The ES&S method aims at fully preparing election staff during initial deployment training to ensure autonomy in election operations while using our equipment. We understand long-term needs may require a combination of continuing education courses and/or on-site support for future elections. These continuing education and site support services from our experienced training team can be coordinated and tailored to meet the Town of Natick's unique requirements.

Course Descriptions (Confidential)

DS200 Scanner and Tabulator Operations Course

Course Length – ½ Day

This course introduces election personnel to the ES&S DS200 Scanner and Tabulator. Participants gain the knowledge, skills and abilities to operate the DS200.

Covered topics include:

- In-depth overview of the DS200, including equipment setup, hardware components and system functionality.
- Pre-election preparation requirements, including loading and testing the election.
- Operations, including opening and closing the polls for early voting and Election Day, marking and casting ballots and how the device meets ADA standards.
- Troubleshooting procedures.

Pre-Requisite(s):

- None

Audience:

- Election Staff

Number of Participants:

- 1 – 20

5. Successful Proposer to provide a two (2)-year warranty on hardware and software.

ES&S RESPONSE

ES&S agrees and will comply.

ES&S acts on progressive ideas to create simple, more valuable and trusted experiences on Election Day. With on-site support, you have a dedicated point of contact at your election headquarters with immediate answers to questions and the ability to provide guidance to all election staff. We deliver experiences that customers find truly valuable, giving them the ability to achieve results that count.

Our election support event includes a fully trained, experienced ES&S employee the day before, the day of and the day after an election to assist you with any needs you may have, including:

- Guidance on vote tabulator open, close and operations
- Hardware troubleshooting – liaison with ES&S Help Desk and field services technicians, if needed
- Call center support
- Polling place field support
- Assistance with vote accumulation software

ES&S maintains a primary service center in Omaha, Nebraska, but there are numerous satellite service facilities near the Commonwealth. Field service representatives are based out of Westfield, Massachusetts. ES&S can draw field service technicians from New Jersey, New York and Pennsylvania as well.

Field service representatives who work daily in the Commonwealth live in different geographical locations and have repair/replacement parts on hand. They are continuously replenishing their stock for their maintenance vehicles. On Election Day, any additional technical staff required to support clients conducting elections will also come from different geographical locations. In an emergency, a service representative could be on site within two (2) hours. Technicians are available and able to service the Town's voting equipment as required on Election Day.

Each DS200 is covered by a two (2)-year warranty on both parts and labor, including on-site annual preventative maintenance, Help Desk support, maintenance as needed and loaner equipment, if necessary, at no additional cost to the Town of Natick. If on-site repair is not possible, loaner equipment will be left in the Town of Natick's possession until all equipment can be repaired and returned.

Multiple ES&S technicians stand ready to provide operations and maintenance support of the Town of Natick's voting system. On Election Day, they will be strategically positioned to ensure we can respond to our clients' needs in a timely manner. ES&S can draw from our more than 450 trained, full-time employees who live and work across the U.S. as well.

Our coast-to-coast disbursement of trained employees working out of multiple operating locations allows us to quickly ramp up to respond to and support the demands of a new implementation project like that of the Town of Natick. Furthermore, we post ample site support personnel throughout Massachusetts on Election Day.

Technicians who serve the Commonwealth of Massachusetts come from the following home base:

- Westfield, MA

ES&S can provide more resources to the Town of Natick than any other vendor.

ES&S respectfully requests that, in the event ES&S is the successful vendor, the Town consider using ES&S' Standard Agreement, a copy of which is attached hereto ("**Appendix A: ES&S Standard Agreement**"). ES&S' Standard Agreement has been designed specifically for the provision of voting system products and services to a customer and includes the terms and conditions appropriate for the purchase of tabulation equipment. The content

of this RFP and all provisions of the successful proposal deemed pertinent by the parties may be easily incorporated into ES&S' Standard Agreement (**Appendix A**).

In the event that the Town requires its form of Contract be used in the event ES&S is the successful vendor, ES&S requests that certain of its terms and condition be included in the final Contract as may be mutually agreed upon by the parties. Those provisions include, but are not limited to, ES&S' license terms, warranty terms, limitation of liability term and ES&S' post warranty license, maintenance and support services terms.

6. Successful Proposer to provide software for managing election details and records.

ES&S RESPONSE

As an optional item, the Town of Natick can use our election management software, Electionware Results Group (Reporting Only), that will allow the Town of Natick to complete election management tasks through a uniform user experience.

Results data from the DS200 is passed to the EMS reporting software on a secure USB flash drive to be extracted by the software for accumulation. The DS200 uses digital encryption and signing of key configuration and data files for complete integrity of the election and results. All DS200 data is signed with Federal Information Processing Standards (FIPS)-compliant digital signature algorithms so the program receiving the data can validate it. Encrypted vote and ballot image data is extracted by and can be viewed in Electionware. This will be a very simple process on election night for your election staff should the Town select this optional product. Pricing for this optional software can be found in our separately sealed **Price Proposal**.

7. The Town of Natick currently has 16 Accuvote model voting machines. Each Proposer, in its Proposal Price, shall include a credit for removal of the current machines and, in any contract awarded pursuant to this RFP, shall remove and dispose of said machines in accordance with all applicable federal, state, and local laws, rules, and regulations at no additional cost to the Town.

ES&S RESPONSE

ES&S agrees and will comply. Please see our separately sealed **Price Proposal** for details.

8. The successful proposer shall have electronic voting equipment certified, as required by the Massachusetts General Law and CMR50.

ES&S RESPONSE

The voting equipment offered to the Town of Natick by ES&S is certified by the Secretary of the Commonwealth of Massachusetts. Please see **Appendix B: Proof of Certification** for a copy of the approval letter. Our proposed solution, EVS 5.3.4.0, is an upgrade of EVS 5.2.4.0. A copy of the approval of the firmware upgrade for voting equipment approved for use in Massachusetts is included below.



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division


APPROVAL OF FIRMWARE UPGRADE FOR VOTING EQUIPMENT APPROVED FOR USE IN MASSACHUSETTS

On May 7, 2014, the DS200 Precinct Tabulator, manufactured by Elections Systems and Software, Inc., (ES&S) was approved for use in Massachusetts. On July 18, 2014, hardware modifications were approved. At that time, a firmware upgrade to EVS 5.0.0.0.3 was also approved. On April 14, 2017, a firmware upgrade to EVS 5.3.1.0 was approved.

In 2018, ES&S provided documentation regarding a new firmware upgrade to EVS 5.3.4.0, which completed federal testing in June 2018. The change in the firmware for which approval was sought provides additional security for the modem function and will allow for additional functionality with compatible equipment, including the AutoMark Voter Assist Terminal.

Under the provisions of section 32 of chapter 54 of the Massachusetts General Laws, after any equipment has been approved by the Secretary, any change or improvement that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the equipment. ES&S has confirmed that the firmware upgrades do not impair the accuracy, efficiency, or capacity of the previously certified DS200 system. Accordingly, the firmware upgrade to EVS 5.3.4.0 is approved sale and use in the Commonwealth.

Dated: January 30, 2019


Michelle K. Tassinari
Director/Legal Counsel, Elections Division

B. Successful Proposer's Personnel

The Successful Proposer shall be responsible for any training of his/her/its personnel. The Successful Proposer's personnel shall be adequately trained by the Successful Proposer, shall be experienced in the provision of services specified in this RFP, and shall be of good moral character. All of the Successful Proposer's employees assigned to the work under any contract with the Town shall pass Criminal Background Screening.

ES&S RESPONSE

ES&S agrees and will comply. Our staff receives excellent training and our cumulative experience in the election industry is unparalleled.

Employee Background Checks

All ES&S employees (full-time and temporary) and contractors must successfully pass a criminal background check prior to being employed or engaged by ES&S. A successful background check must include:

- No felony convictions.
- No outstanding bench warrants or outstanding arrest warrants.
- No misdemeanor convictions within the previous five (5) years for a crime involving violent behavior, vehicular homicide, some element of deceitfulness, untruthfulness, or falsification bearing on the new hire's propensity to be truthful and honest, including but not limited to, crimes such as theft, burglary and check fraud.
- No more than one (1) misdemeanor conviction within the previous five (5) years for a crime involving driving under the influence or reckless/aggressive driving. This finding will apply only to those positions that require the candidate to operate a company-owned or rented vehicle or heavy machinery, or where ground travel is a significant component of the applicable position.

Candidates that do not pass a background check are not hired. ES&S does not perform annual background checks but reserves the right to perform additional checks if required.

The Successful Proposer shall provide the Town with the following information: 1. Name, business address, telephone, and cell phone numbers of the person(s) in charge of the work under any contract with the Town.

ES&S RESPONSE

John Lento, senior account manager, would be in charge of the work under any contract for the Town.

Business address: 201 Flanders Rd, Westborough, MA 01581

Cell and work phone: 617-694-8443

2. Name, address, and telephone number of all employees assigned to the work under any contract with the Town. The Successful Proposer will update this list whenever there is a change in personnel.

ES&S RESPONSE

ES&S agrees and will comply.

Joe Passarella, regional sales manager:

- **Business address:** 201 Flanders Rd, Westborough, MA 01581
- **Cell and work phone:** 215-313-9044

Gil Molina, technician II, field services:

- **Business address:** 201 Flanders Rd, Westborough, MA 01581
- **Cell and work phone:** 413-262-9253

Juanita Molina, technician I, field services:

- **Business address:** 201 Flanders Rd, Westborough, MA 01581
- **Work phone:** 413-250-5839
- **Cell phone:** 531-250-6828

IV. PROPOSAL SUBMISSION REQUIREMENTS

8) The identity of the individual, partnership or corporation applying for contract award and credentials of the personnel who would actually perform the work, as well as their managers, and the nature of the supervision. State the responsibilities of each of the work personnel. If the proposer intends to sub-contract or any work required in the scope of services, the sub-contractor shall be identified. Sample work products are required for all personnel. This item is a major determinant in assessing the proposer's qualifications and shall be incorporated as a condition in the contract to be awarded.

ES&S RESPONSE

Identity of the corporation: Election Systems & Software (ES&S), LLC.

During the last decade, our proposed project team built a strong, reliable relationship with customers and each other as they implemented every DS200 solution configuration within the Commonwealth of Massachusetts. Each member of the team understands their role and has proven to be a well-disciplined installation and support team.

Resumes for each team member are included in **Appendix C: Project Team Resumes**. These include their work experience, responsibilities, and examples of previous successful projects.

We will not use a sub-contractor.

ES&S is the largest elections-only company in the U.S. and has been providing election equipment, software and services since 1979. The company employs more than 450 election professionals in multiple operating locations across the U.S.

Our team is composed of seasoned, highly skilled experts whose sole mission is to support our customers from start to finish. ES&S has supported more than 1,300 elections in the past year, with the single focus of ensuring our customers' elections are safe, secure and successful.

Our vision at ES&S is simple and unwavering: we provide products and services of exceptional quality and value to maintain voter confidence and enhance the voting experience. We accomplish this through continuous investments in research and development, resulting in regular product updates and security enhancements for each voting system we design, build, sell and support. With nearly half a century of experience, our customer base is our sample work product.

9) *An applicant qualifications statement, including professional qualifications and work experience attesting to capacity to perform the required work program. Include résumé(s), detailing academic and professional work experience attesting to capacity to perform the required work program. Résumés are required for all work personnel.*

ES&S RESPONSE

Resumes for each team member are included in **Appendix C: Project Team Resumes**. These include their professional qualifications, work experience, and academic background.

10) *A detailed explanation of the proposer's approach to the work: methodology, demonstrated understanding of the scope of work, and the proposer's expectations of assistance and services from the Town. A technical work plan and timeline for accomplishing the tasks described in the scope of services shall be provided.*

ES&S RESPONSE

One dedicated local ES&S Project Team will serve as a single point of contact.

Our complete, integrated project management approach will ensure effective and timely implementation of the equipment and services for your election. We work directly with the Town of Natick election administrators so that any call for questions or issues with any aspect of the implementation of solutions and technology being proposed will be directed to a single point of contact.

ES&S employs project managers to lead implementations with our customers, which allows us to employ industry-tested best practices, as well as industry-specific lessons learned and specialized techniques. Our project managers are supported by teams of subject matter experts, hardware/software technicians, and engineers, which allow us to apply specialized talent where it's needed.

We recognize that our clients are our second greatest assets. Our first are our dedicated frontline election support staff willing to work tirelessly to ensure our clients are suitably prepared for each of their elections.

At ES&S, we ensure every employee is suitably trained to provide support at every level of an ES&S implementation. Whether the task is customer training, hardware repair, election day support, or hardware and software installation – ES&S staff can fill every role during an ES&S implementation.

Not only do we have the very best front-line implementation support staff, we also have the best client and staff call center support departments.

Our teams of dedicated hardware and software support specialists are available in call center format to ensure both our on-site staff and our clients have the best support ES&S can offer them.

For the Town of Natick, our strategy will be to provide continual project oversight and experienced local ES&S staff who can successfully fulfil the roles that are required of them. These experienced staff have worked within Massachusetts elections in the past, fulfilling similar roles.

Utilizing regular internal and external update meetings, both of our primary and secondary implementation local and non-local teams are kept up to date on the Town of Natick's project progress. Our teams track and document issues and future requirements which allow ES&S project staff to deploy additional resources familiar with the Commonwealth and current project needs.

During the last decade, our proposed project team built a strong, reliable relationship with customers and each other as they implemented every DS200 solution configuration within the Commonwealth of Massachusetts.

Please see **Appendix D: Project Management Plan** for our technical work plan and timeline.

11) A client reference list, with names, addresses, telephone numbers, and e-mail addresses (if available) for clients for whom the proposer has performed similar services within the past five (5) years.

ES&S RESPONSE

Appendix E: Massachusetts Customer List contains a list of all Massachusetts clients who have purchased a DS200. The list is sorted from newest to oldest with 39 clients being long-term ones for which our firm has served as the electronic voting supplier over the last three (3) years or more. It includes purchases dating back to November of 2014.

Please see the following list of references.

CONFIDENTIAL

Town of Brookline, Massachusetts

Name: Ben Kaufman, Clerk

Phone No.: 617-730-2010

Address: 333 Washington St., 1st FL - Rm 104, Brookline, MA 02445-6853

Email: bkaufman@brooklinema.gov

Tabulation Model: DS200

Installation Date (Month/Year): 03/2022

City of Chicopee, Massachusetts

Name: Jan Nash, Assistant City Clerk

Phone No.: 413-594-1463

Address: City Hall, 17 Springfield St., Chicopee, MA 01013-2657

Email: jnash@chicopeema.gov

Tabulation Model: DS200

Installation Date (Month/Year): 06/2019

Town of Montague, Massachusetts

Name: Kathern F. Pierce, Town Clerk

Phone No.: 413-863-3200

Address: 1 Avenue A, Turners Falls, MA 01376

Email: townclerk@montague-ma.gov

Tabulation Model: DS200

Installation Date (Month/Year): 01/2021

City of Springfield, Massachusetts

Name: Gladys Oyola, Commissioner

Phone No.: 413-787-6189

Address: 36 Court St., Springfield, MA 01103

Email: goyola@springfieldcityhall.com

Tabulation Model: DS200

Installation Date (Month/Year): 10/2021

City of Taunton, Massachusetts

Name: Mark Pacheco, Director

Phone No.: 508-821-1044

Address: 15 Summer St., Taunton, MA 02780

Email: mpacheco@taunton-ma.gov

Tabulation Model: DS200

Installation Date (Month/Year): 07/2018

Town of Northborough, Massachusetts

Name: Andy Dowd, Town Clerk

Phone No.: 508-393-15001

Address: 63 Main St., Northborough, MA 01532-1943

Email: adowd@town.northborough.ma.us

Tabulation Model: DS200

Installation Date (Month/Year): 01/2016

12) Any other information deemed relevant to the work, and which the proposer believes will further the competitiveness of the proposal.

ES&S RESPONSE

ES&S is the largest elections-only company in the United States with nearly half a century of experience supporting the elections of more than 1,660 counties across the country.

ES&S is a privately owned limited liability company (LLC). Government Systems, Software, & Services, Inc., 11208 John Galt Boulevard, Omaha, NE, owns 100% of Election Systems & Software, LLC. McCarthy Group, an Omaha, Nebraska-based investment firm, owns 80% of Government Systems, Software & Services, Inc. and has been such owner since 1988. ES&S is not owned by any non-U.S. entity or individual. All entities and individuals who maintain ownership interests in ES&S are U.S. entities and individuals.

Our more than 450 employees allow us to develop and support the most relevant, easy-to-use and dependable equipment and software available to support the City's elections.

ES&S' founding company, American Information Services (AIS), was incorporated on August 29, 1979. After acquiring the Business Records Corporation Election Services Division, the newly formed entity was incorporated as Election Systems & Software, Inc., on Dec. 4, 1997. Effective October 1, 2011, ES&S changed its form of legal entity from a C-corporation to a Delaware limited liability company. ES&S corporate headquarters is in Omaha, Nebraska. The company maintains eight (8) facilities across North America and has customers in the U.S. and its territories, Canada, British Virgin Islands, Northern Mariana Islands and Palau.

ES&S has more experienced field service technicians located across the country than any other vendor. Their skills, combined with our design and manufacturing process, ensure your system will be in operation the next 10 years and beyond.

ES&S designs and manufactures purpose-built voting equipment that is intended to last 10 to 15 years. In some cases, customers have used ES&S equipment for more than 20 years, and ES&S continues to support these customers. To ensure the sustainability of our voting system products, ES&S engineers them with an eye on durability, ease of maintenance and availability of parts and supplies. The ES&S supply chain is the most extensive in the election industry. Tight control is possible because ES&S designs and owns all rights to the design and

manufacturing of our voting system units. We choose long-life, industrial-grade components and hardware to ensure continual availability of parts. We continually monitor our component inventory supply, customer demand and supplier availability. ES&S' strong financial standing, vast supplier relationships, large customer base, and extensive research and development capability provide a foundation for long-term availability of our products and parts for our customers.

ES&S makes ongoing updates to our systems as deemed required by law. ES&S has a well-staffed certification team, which enables us to learn of anticipated changes and prepare in advance to ensure updates are provided in a timely manner. When state law changes require new releases of our products, ES&S works with our customer base to develop state certification timelines and upgrade strategies to ensure that the upgrades occur around the election calendars of the jurisdictions.

ES&S is a well-capitalized, professionally managed company, capable of continually sustaining high-quality development and support to our customers for the long term.

ES&S constantly designs, tests and introduces new hardware, software and firmware to support the process and make systems easier and more reliable for election officials. Our robust research and development department includes experienced and highly trained electronic and software engineers, Quality Assurance analysts, software testers, documentation personnel and certification specialists.

Our manufacturing partner for the DS200 is Pivot International Inc., headquartered in Lenexa, Kansas. Pivot has manufactured vote tabulators for ES&S for almost 20 years; we have a direct relationship. Pivot has extensive quality management certification programs throughout their design and manufacturing processes to include ISO 9001 and ISO 13485. ES&S has manufactured and deployed more than 71,579 DS200 scanners throughout North America.

Final assembly and quality assurance configuration of our systems is completed in Omaha, Nebraska, which ensures that the customer receives a voting system that is fully compliant to their state guidelines.

Our associates have managed voting system implementation projects of all sizes, from large-scale, complex installations such as statewide implementations, to the five (5) boroughs that make up New York City and its 5.2 million voters, to single-county projects such as Arthur County, Nebraska, with its 334 registered voters.

ES&S is fully prepared and well-versed in supporting Massachusetts elections with our local team.

13) A statement of any legal proceedings pending or concluded within the past five (5) years relating to the performance of services by the Proposer.

ES&S RESPONSE

There have been no legal proceedings pending or concluded within the past five (5) years relating to the performance of our services.

V. SELECTION CRITERIA

1. Minimum Evaluation Criteria

In order to be considered a responsive and responsible Proposer, a Proposal shall comply with the Proposal Submission Requirements set forth in Section IV above.

2. Comparative Evaluation Criteria

All responsive proposals will be judged against the **Comparative Evaluation Criteria** detailed below.

The Town will rank each proposal as:

- a. Highly Advantageous – the proposal exceeds the standards of the specific criterion;
- b. Advantageous – the proposal fully satisfies the standards of the specific criterion;
- c. Not Advantageous – the proposal does not fully satisfy the standards of the specific criterion, or is incomplete and/or unclear.

2.1. Quality and Depth of Work Experience

Highly Advantageous – The proposal demonstrates experience with ten (10) or more similar projects

Advantageous – The proposal demonstrates experience with five (5) to nine (9) similar projects.

Not Advantageous – The proposal demonstrates experience with four (4) or fewer similar projects.

ES&S RESPONSE

With over 30 years of experience servicing elections in Massachusetts, we are built to accommodate the needs of local jurisdictions. Every election at ES&S is treated like it is the only election we manage. Every jurisdiction receives our best in every way. We supported 44 Massachusetts DS200 customers in 2022 alone, and we look forward to supporting more Massachusetts clients in the years to come.

2.2. Qualifications of the Proposer

Highly Advantageous – The proposer's résumé(s) demonstrate(s) that proposer has superior training, educational background and work experience appropriate to the work described herein and all key work personnel demonstrate (s) professional experience well beyond the minimum requirements.

Advantageous – The proposer's résumé(s) do/does not meet the above category for highly advantageous, but demonstrate(s) that proposer has adequate training, educational background and work experience appropriate to the work described herein and all key work personnel demonstrate(s) professional experience that meets or exceeds the minimum requirements.

Not Advantageous – The proposer's résumé(s) do/does not demonstrate that proposer has adequate training, educational background and work experience appropriate to the work described herein.

ES&S RESPONSE

The resumes for the project team demonstrate superior training, educational background and an abundance applicable work experience.

CONFIDENTIAL

- Sr. Account Manager – John Lento
 - John will use his 40 years of technical eservice experience in software testing, hardware testing and calibration, system installations, quality assurance, customer support and documentation to provide superior customer service for this project.
- Regional Sales Manager – Joe Passarella
 - Joe strives to deliver revenue growth and simultaneously provide strong customer service by understanding potential and existing clients' needs and being an expert in our full suite of products.
- Technician II, Field Services – Gil Molina
 - Gil has been working in the elections industry since 2007, when he served as an election assistant for the City of Springfield. He will leverage this experience to support the Town, always aiming for the highest level of customer satisfaction.
- Technician I, Field Services – Juanita Molina
 - A highly committed individual with the ability to meet the wide range of requirements of the Field Service department, Juanita will use her training and knowledge of equipment to provide excellent customer service for this project.

For specific qualifications and experience of each team member, please see **Appendix C: Project Team Resumes**.

2.3. Desirability of approach to the work, demonstrated understanding of the community's needs, and proposer's ability to undertake and complete this work.

Highly Advantageous – The proposal demonstrates a superior approach to the subject material and a superior understanding of the issues addressed by the work.

Advantageous – The proposal does not meet the above category for highly advantageous, but demonstrates an acceptable approach to the subject material and an acceptable understanding of the issues addressed by the work.

Not Advantageous – The proposal does not demonstrate an acceptable approach to the subject material and an acceptable understanding of the issues addressed by the work, and/or the proposal fails to indicate a time schedule that meets the work requirements.

ES&S RESPONSE

Our proposed solution fully meets and significantly exceeds the standards of the needs of the Town. A member of the project team would be happy to demonstrate the capability of our solution to perform the work outlined in the request for proposals document with a high degree of efficiency and timeliness. We can demonstrate our ability to partner with the Town to improve its election operations and that our equipment features are advantageous to the Town. We're proud of the support we've provided to Massachusetts elections for over 30 years, and our Massachusetts team is standing by and eager to get started.

2.4. Overall Quality of Client References

Highly Advantageous – All references contacted spoke favorably of the work performed by the proposer and would use them again for similar work without hesitation.

Advantageous – Not used.

Not Advantageous – One (1) or more references stated that there had been difficulty with the proposer's ability to deliver the contracted services and deliverables.

ES&S RESPONSE

Please see our exemplary references in the references requirement above and our list of long-tenured customers in **Appendix E: Massachusetts Customer List**.

Our vision at ES&S is simple and unwavering: We provide products and services of exceptional quality and value to maintain voter confidence and enhance the voting experience. We accomplish this through continuous investments in research and development, resulting in regular product updates and security enhancements for each voting system we design, build, sell and support.

The ES&S mission is to provide valuable, trusted and proven election systems and services to our nation's election administrators. Our teams of passionate, knowledgeable and talented election professionals across North America accomplish our mission by delivering the highest standards of accuracy, security and reliability.

ES&S is devoted to helping election officials follow their state's physical security and chain-of-custody laws. Every ES&S voting system undergoes rigorous test campaigns as part of the EAC's Voting System Certification Program. Also, all systems adhere to secure practices that surround the creation, transfer and storage of election data and employ encryption and digital signing for all data in transit using cryptographic modules that meet the Federal Information Processing Standard.

2.5. Completeness and Quality of Proposal

Highly Advantageous – The proposal is complete, concise, informative, and highly detailed. Proposal reflects that proposer is able to perform in a superior manner acceptable to the Town.

Advantageous – The proposal does not meet the above criteria for highly advantageous, but the proposal is complete, informative, and meets criteria for responsiveness.

Not Advantageous – The proposal is not complete, informative, and responsive. A proposal that fails to meet any of the minimum submission requirements shall be deemed Unacceptable (U) in all of the above categories.

ES&S RESPONSE

Our proposal is complete, concise, informative, and highly detailed. Our supporting documentation shows we are more than capable to perform the work in a superior manner. We are grateful for this opportunity to partner with you and understand what a privilege that is.

IX. COMPLIANCE WITH LAWS

The Successful Proposer shall comply with all provisions of Federal, Massachusetts and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act, as amended, and related regulations, as amended, in effect throughout the term of this Lease and any extension or renewal thereof. Without limitation, the Successful Proposer shall comply with the applicable provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws (M.G.L.), as amended, and with all applicable minimum prevailing wage rates as determined by the Massachusetts Commissioner of Labor and Industries. Any Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, and any other laws, as though such terms were set forth in their entirety herein.

ES&S RESPONSE

ES&S agrees and will comply.

X. INSURANCE

The Successful Proposer shall keep in force throughout the term of the Contract and any extension or renewal thereof the amount of insurance described in the Contract which is a part of this RFP and is incorporated herein by reference. Without limitation of other requirements of this RFP, no Contract shall be entered into by the parties unless the successful Proposer complies with all applicable insurance requirements, including, without limitation, the requirement to submit endorsements or riders which include the required language concerning notice of cancellation or amendment of any and all insurance policies required under the Contract, and which include the required language mandating that the Town of Natick shall be named as an additional insured on the required policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form.

ES&S RESPONSE

ES&S agrees and will comply. Please see **Appendix F: Certificate of Insurance**.

XI. INDEMNIFICATION

The Successful Proposer shall assume the indemnification responsibilities described in the Contract which is a part of this RFP and is incorporated herein by reference.

ES&S RESPONSE

ES&S agrees and will comply.

Required Forms



TOWN OF NATICK

ATTACHMENT B
CERTIFICATE OF NON-COLLUSION

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

Name of Proposer

Election Systems & Software, LLC
Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137
Telephone Number 877-377-8683

By: _____


(Signature)

Jared Plath
Printed Name

Vice President of Finance
Printed Title

11/21/2023
Date

TOWN OF NATICK

ATTACHMENT C
CERTIFICATE OF TAX COMPLIANCE

Pursuant to Massachusetts General Laws (M.G.L.) c. 62C, §49A, I certify under the penalties of perjury that the Proposer named below has complied with all laws of the Commonwealth of Massachusetts pertaining to the payment of taxes, to the reporting of employees and contractors, and to the withholding and remitting of child support.

Name of Proposer

Election Systems & Software, LLC
Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137

Telephone Number 877-377-8683

By: 

(Signature)

Jared Plath

Printed Name

Vice President of Finance

Printed Title

11/21/2023

Date

TOWN OF NATICK

ATTACHMENT D

CONFLICT OF INTEREST CERTIFICATION

The Proposer hereby certifies that:

1. The Proposer has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of a Contract pursuant to this RFP.
2. No consultant to, or subcontractor for, the Proposer has given, offered, or agreed to give any gift, contribution, or offer of employment to the Proposer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a Contract by the Proposer.
3. No person, corporation, or other entity, other than a bona fide full time employee of the Proposer has been retained or hired to solicit for or in any way assist the Proposer in obtaining a Contract pursuant to this RFP upon an agreement or understanding that such person, corporation or entity be paid a fee or other compensation contingent upon the award of a Contract to the Proposer.
4. The Proposer understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws (M.G.L.), applies to the Proposer and its officers, employees, agents, subcontractors, and affiliated entities with respect to the transaction outlined in the Request for Proposals.
5. The Proposer understands that the Proposer and its officers, employees, agents, subcontractors, and affiliated entities, shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.

Name of Proposer

Election Systems & Software, LLC

Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137

Telephone Number 877-377-8683

By: 

(Signature)

Jared Plath

Printed Name

Vice President of Finance

Printed Title

11/21/2023

Date

TOWN OF NATICK

ATTACHMENT E
CERTIFICATE OF CORPORATE PROPOSER

I, Thomas F O'Brien, Executive Vice President and CFO of Election Systems & Software, LLC Limited Liability Company (LLC), certify that I am the Clerk of the Corporation named as Proposer in the attached Proposal Form; that Jared Plath, who signed said Proposal on behalf of the Proposer was then Vice President of Finance of said Corporation and was duly authorized to sign said Proposal Form; and that I know his/her signature thereto is genuine.

(Corporate Seal)

Name of Proposer

Election Systems & Software, LLC

Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137

Telephone Number 877-377-8683

By: Jared Plath

(Signature)

Jared Plath

Printed Name

Vice President of Finance

Printed Title

11/21/2023

Date



This Certificate shall be completed where Proposer is a Corporation and shall be so completed by its Clerk. In the event that the Clerk is the person signing the Proposal on behalf of the Corporation, this certificate shall be completed by another officer of the Corporation.

TOWN OF NATICK

ATTACHMENT F

CERTIFICATE OF COMPLIANCE WITH M.G.L. c. 151B

The Proposer hereby certifies that it is in compliance with and shall remain in compliance with Massachusetts General Laws (M.G.L.) Chapter 151B and shall not discriminate on any prohibited basis outlined therein. The Proposer also hereby certifies that it shall comply with any and all applicable Supplier Diversity Office (SDO) thresholds that have been established in conjunction with this Request for Proposals.

Name of Proposer

Election Systems & Software, LLC

Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137

Telephone Number 877-377-8683

By: 

(Signature)

Jared Plath

Printed Name

Vice President of Finance

Printed Title

11/21/2023

Date

TOWN OF NATICK

ATTACHMENT G
CERTIFICATE OF NON-DEBARMENT

The Proposer hereby certifies that it is presently not debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, and that, should any proceeding arise in which it is debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, the Proposer shall inform the Town of Natick within one (1) business day of such debarment, suspension, or prohibition from practice.

Name of Proposer

Election Systems & Software, LLC

Address of Proposer

11208 John Galt Blvd.

Omaha, NE 68137

Telephone Number 877-377-8683

By: 

(Signature)

Jared Plath

Printed Name

Vice President of Finance

Printed Title

11/21/2023

Date

Legal Responses



Legal Responses

Attachment H: Form of Contract

ES&S RESPONSE

ES&S has included suggestions for alternative language in response to certain terms and conditions or otherwise requests the opportunity to further discuss certain items in the event it is the successful vendor. Those items are set forth below.

Section	Proposed Contract Language
6. Warranty	<p>DELETED – NOT APPLICABLE.</p> <p>Warranty. <u>Contractor warrants that for a two (2) year period (the “Warranty Period”), it will repair or replace any component of the Contractor Hardware or Contractor Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any Contractor Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, protective coatings, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the “Consumables”). Contractor may modify and make available additional Consumables as they may become available from time to time. The Warranty shall not include the repair or replacement of any Contractor Hardware due to cosmetic damages, including, but not limited to, screen cracks, scratches, dents and broken plastic or any defects resulting from normal wear and tear. Contractor has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a third-party Item. Any repaired or replaced item of Contractor Hardware or Contractor Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the Contractor Hardware or Contractor Software will become the property of the Contractor. This warranty is effective provided that (l) the Town notifies Contractor within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance</u></p>

Section	Proposed Contract Language
	<p><u>with its obligations hereunder, (II) the Contractor Hardware or Contractor Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by Contractor, (III) the Contractor Hardware or Contractor Software to be repaired or replaced has been maintained or repaired by an individual other than an authorized representative of Contractor (IV) the Contractor Hardware or Contractor Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S prior written consent (V) the Contractor Hardware or Contractor Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact, use which is not in accordance with the Documentation or causes beyond the reasonable control of Contractor or the Town, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (VI) the Town has installed and is using the most recent Update provided to it by Contractor. This warranty is void for any units of hardware which: (i) have not been stored or operated in a temperature range according to their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon expiration of the Warranty Period, the Town shall be entitled to receive Hardware Maintenance and Software Maintenance and Support Services.</u></p>
9. Indemnification	<p>The Contractor shall compensate the Town of Natick for all damage to Town property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Town of Natick and all of its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the breach by the Contractor of its obligations under this Contract, or the act or omission of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or</p>

Section	Proposed Contract Language
	<p>employees regarding the subject matter of this Contract. Said costs shall include, without limitation, reasonable legal costs, collections fees, and counsel fees incurred in defending any claim or suit that may be brought against the Town and any judgment that may be obtained in any such claim or suit. <u>Notwithstanding the preceding, neither party shall be liable for any indirect, incidental, punitive, exemplary, special, or consequential damages of any kind whatsoever arising out of or relating to this Contract. Neither party shall be liable for the other party's negligent or willful misconduct. Contractor's total liability to the Town of Natick arising out of or relating to this Contract shall not exceed the aggregate amount to be paid to the Contractor hereunder.</u></p>
19. Termination	<p>a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) <u>thirty (30)</u> days of written notice thereof from the Town to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.</p> <p>c. The award of this Contract and the continued operation of this Contract are contingent upon appropriation by Natick Town Meeting of sufficient money to fund the Contract. Should Natick Town Meeting fail to appropriate necessary funds therefor, the Town of Natick shall no longer be under any obligation to tender performance, including payment, under the terms of this Contract. In that event the Town may terminate this Contract upon written notice to the Contractor. <u>In the event that the Town terminates this Contract due to non-appropriation of funds, the Town shall promptly pay Contractor for all deliverables provided and services rendered up through the effective date of such termination.</u></p> <p>d. The Town may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to provide for a Contract price which represents a reduced appropriation for the Contract term. <u>In the event that the Town terminates this Contract due to a loss of funding the Town shall promptly pay Contractor for all deliverables provided and services rendered up through the effective date of such termination.</u></p> <p>e. The Town may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor. In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.</p> <p>In the event that this Contract is terminated pursuant to Section 19a. or 19b. above, the Town may make any reasonable purchase or contract to</p>

Section	Proposed Contract Language
	<p>purchase services in substitution for services due from the Contractor and may deduct the cost of any substitute contract, or damages sustained by the Town due to non- performance or non-conformance of services, together with incidental and consequential damages from the Contract price, and shall withhold such damages from sums due or sums which become due.</p>

Appendices



Appendix A: ES&S Standard Agreement





11208 JOHN GALT BLVD
OMAHA, NE 68137-2364
(402) 593-0101

Sales Order Agreement

Quotation Number #: _____

1st Election Date: To be Agreed Upon by the Parties

Estimated Delivery Date: To be Agreed Upon by the Parties

Phone Number: _____

Fax Number: _____

Customer Contact, Title: _____

Customer Name: _____

Type of Sale: ☐ NEW

Type of Equip: ☐ NEW ☐ REFURBISHED

Bill To: _____

Ship To: _____

<u>Item</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Total</u>
1				
2				
3				
4				
5				

Freight Billable: yes ☐ no ☐

Order Subtotal	\$ -
Order Total	\$ -

Sales Order Agreement

Regional Sales Manager

Customer Signature

Date

V.P. of Finance

Date

Title

Special Notes:

Payment Terms

\$ of Order Total will be invoiced upon Contract Execution.

\$ of Order Total will be invoiced as Equipment and Software are delivered to Customer.

Invoices are due net 30 from invoice date.

Note 1: Any applicable state and local taxes are not included, and are the responsibility of the Customer.

Note 2: In no event shall Customer's payment obligations hereunder, or the due dates for such payments, be contingent or conditional upon Customer's receipt of federal and/or state funds.

Warranty Period (Years):

Two (2) Years for Hardware Equipment and Two (2) Years for Software/Firmware

Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period)
The terms, conditions, and pricing for the Hardware Maintenance and Software License, Maintenance and Support Services (Post-Warranty Period) are set forth in Exhibit A attached hereto.

SEE GENERAL TERMS AND CONDITIONS

GENERAL TERMS

1. Definitions:

All capitalized terms used, but not otherwise defined, in these Hardware Purchase and Software License Terms ("General Terms") or in an Exhibit shall have the following meanings:

- a. "Documentation" means any and all written or electronic documentation furnished or generally made available to Customer by ES&S relating to the ES&S Hardware and ES&S Software, including any operating instructions, user manuals or training materials.
- b. "ES&S Firmware" means ES&S' proprietary software which is installed on the ES&S Hardware.
- c. "ES&S Hardware Maintenance Services" and "ES&S Software License, Maintenance and Support Services" means those services described on Exhibit A.
- d. "ES&S Software" means the ES&S Software and ES&S Firmware as set forth on the front side of this agreement.
- e. "ES&S Hardware" means ES&S's proprietary vote tabulation hardware set forth on the front side of this Agreement.
- f. "ES&S Software" means ES&S's proprietary vote tabulation software as set forth on the front side of this Agreement.
- g. "Software" means ES&S Software and Third Party software.
- h. "Third Party Items" means hardware, equipment and software manufactured and developed by parties other than ES&S.

2. Hardware Purchase and Software License Terms. Subject to the terms and conditions of this Sales Order Agreement ("Agreement"), ES&S agrees to sell and/or license, and Customer agrees to purchase and/or license, the ES&S Hardware and ES&S Software described on the front side of this Agreement. The payment terms for the ES&S Hardware and ES&S Software are set forth on the front side of this Agreement. The consideration for ES&S' grant of the license during the Initial Term for the ES&S Firmware is included in the cost of the ES&S Hardware.

a. **Hardware Purchase.** Subject to the terms and conditions of this Agreement, ES&S agrees to sell, and Customer agrees to purchase, the ES&S Hardware. Title to the ES&S Hardware shall pass to Customer when Customer has paid ES&S the total amount set forth on the front side of this Agreement for the ES&S Hardware.

b. **Grant of Licenses.** Subject to the terms and conditions of this Agreement, ES&S hereby grants to Customer nonexclusive, nontransferable licenses for its bona fide full time, part time or temporary employees to use the ES&S Software and the Documentation in the Jurisdiction while Customer is using the ES&S Hardware and timely pays the applicable annual ES&S Software License, Maintenance and Support Fees set forth on Schedule A1. The licenses allow such bona fide employees to use and copy the ES&S Software (in object code only) and the Documentation, in the course of operating the ES&S Hardware and solely for the purposes of defining and conducting elections and tabulating and reporting election results in the Jurisdiction.

3. Prohibited Uses. Customer shall not take any of the following actions with respect to the ES&S Software or the Documentation:

- a. Reverse engineer, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework for part or all of the ES&S Software;
- b. Cause or permit any use, display, loan, publication, transfer of possession, sublicensing or other dissemination of the ES&S Software or Documentation, in whole or in part, to or by any third party without ES&S' prior written consent; or
- c. Cause or permit any change to be made to the ES&S Software without ES&S' prior written consent;
- d. Cause or permit any review, testing, examination or audit of the ES&S Software without ES&S' prior written consent; or
- e. Allow a third party to cause or permit any copying, reproduction or printing of any output generated by the ES&S Software (except finished ballots by ballot printers selected by Customer) in which ES&S owns or claims any proprietary intellectual property rights (e.g., copyright, trademark, patent pending or patent), including, but not limited to, any ballot shells or ballot code stock.

4. Term of Licenses. The licenses granted in Section 2(b) shall commence upon the delivery of the ES&S Software described in Section 2(b) and shall continue for a two (2) year period (the "Initial License Term"). Upon expiration of the Initial License Term, the licenses shall automatically renew for an unlimited number of successive one-year periods (each a "License Renewal Term") upon the payment by Customer of the annual software license and software maintenance and support fee as set forth on the front side of this Agreement. The license terms for any License Renewal Term shall be set forth on Exhibit A. ES&S may terminate any of the licenses granted hereunder if Customer fails to pay the consideration due for, or breaches Sections 2(b), 3, or 9 with respect to, such licenses. Upon the termination any of the licenses granted in Section 2(b) for ES&S Software or upon Customer's discontinuance of the use of any ES&S Software, Customer shall immediately return such ES&S Software and the related Documentation (including any and all copies thereof) to ES&S, or (if requested by ES&S) destroy such ES&S Software and Documentation and certify in writing to ES&S that such destruction has occurred.

5. Updates. During the Initial License Term or any License Renewal Term for which Customer has paid the associated renewal fees, ES&S may provide new releases, upgrades or maintenance patches to the ES&S Software, together with appropriate Documentation ("Updates"), on a schedule solely defined by ES&S. Customer is solely responsible for obtaining and purchasing any upgrades or Third Party Items required to operate the Updates, as well as the cost of any replacements, retrofits or modifications to the ES&S Hardware which may be necessary in order to operate the Updates. All Updates shall be deemed to be ES&S Software for purposes of this Agreement upon delivery. Updates to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefore and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to: (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Tabulation Software Updates. If applicable, Customer shall be responsible for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee which is caused by Customer's failure to install the most recent Update provided to it by ES&S. ES&S represents to Customer that the Updates will comply with all applicable state law requirements at the time of delivery. Customer shall be responsible to ensure that it has installed and is using only certified versions of ES&S Software in accordance with applicable law. In the event that any Updates are required due to changes in state law, ES&S reserves the right to charge Customer for the following:

- (i) the total cost of any Third Party Items that are required in order to operate the Updates;
- (ii) the total cost of any replacements, retrofits or modifications to the ES&S Hardware contracted for herein that may be developed and offered by ES&S in order for such ES&S Hardware to remain compliant with applicable laws and regulations; and
- (iii) Customer's pro-rata share of the costs of designing, developing and/or certification by applicable federal and state authorities of such state mandated Updates.

Customer's pro-rata share of the costs included under subsection (iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement. Customer shall pay ES&S the entire costs incurred for design, development and certification of any Update which is required due to a change in local law or is otherwise requested or required by Customer.

6. Delivery; Risk of Loss. The Estimated Delivery Dates and First Election Use (if any) set forth on the front side of this Agreement are estimates and may only be established or revised, as applicable, by the parties, in a written amendment to this Agreement, because of delays in executing this Agreement, changes requested by Customer, product availability and other events. ES&S will notify Customer of such revisions as soon as ES&S becomes aware of such revisions. Risk of loss for the ES&S Hardware and ES&S Software shall pass to Customer when such items are delivered to Customer's designated location. Upon transfer of risk of loss to Customer, Customer shall be responsible for obtaining and maintaining sufficient casualty insurance on the ES&S Hardware and ES&S Software and shall name ES&S as an additional insured thereunder and, at ES&S' request, shall deliver written evidence thereof to ES&S until all amounts payable to ES&S under this Agreement have been paid by Customer.

7. Warranty.

a. **ES&S Hardware/ES&S Software.** ES&S warrants that for a two (2) year period (the "Warranty Period"), it will repair or replace any component of the ES&S Hardware or ES&S Software which, while under normal use and service: (i) fails to perform in accordance with its Documentation in all material respects, or (ii) is defective in material or workmanship. The Warranty Period will commence upon delivery. The Warranty shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, protective coatings, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. The Warranty shall not include the repair or replacement of any ES&S Hardware due to cosmetic damages, including, but not limited to, screen cracks, scratches, dents and broken plastic or any defects resulting from normal wear and tear. ES&S has no obligation under this Agreement to assume the obligations under any existing or expired warranty for a Third Party Item. Any repaired or replaced item of ES&S Hardware or ES&S Software shall be warranted only for the unexpired term of the Warranty Period. All replaced components of the ES&S Hardware or ES&S Software will become the property of ES&S. This warranty is effective provided that (i) Customer notifies ES&S within three (3) business days of the discovery of the failure of performance or defect and is otherwise in compliance with its obligations hereunder, (ii) the ES&S Hardware or ES&S Software to be repaired or replaced has not been repaired, changed, modified or altered except as authorized or approved by ES&S, (iii) the ES&S Hardware or ES&S Software to be repaired or replaced has been maintained or repaired by an individual other than an authorized representative of ES&S (IV) the ES&S Hardware or ES&S Software to be repaired or replaced has not been used, displayed, disseminated, transferred, loaned, disassembled, dismantled, modified, and/or tampered with by a third party without ES&S prior written consent (V) the ES&S Hardware or ES&S Software to be repaired or replaced is not damaged as a result of accident, theft, vandalism, neglect, abuse, liquid contact, use which is not in accordance with the Documentation or causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, and (VI) Customer has installed and is using the most recent Update provided to it by ES&S. This warranty is void for any units of hardware which: (i) have not been stored or operated in a temperature range according their specifications, (ii) have been severely handled so as to cause mechanical damage to the unit, or (iii) have been operated or handled in a manner inconsistent with reasonable treatment of an electronic product. Upon expiration of the Warranty Period, Customer shall be entitled to receive Hardware Maintenance and Software Maintenance and Support Services, the terms of which are set forth on Exhibit A.

b. **Exclusive Remedies/Disclaimer.** IN THE EVENT OF A BREACH OF SUBSECTION 7(a), ES&S' OBLIGATIONS, AS DESCRIBED IN SUCH SUBSECTION, ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES. ES&S EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, WHICH ARE NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. FURTHER, IN THE EVENT CUSTOMER DECLINES

ES&S' INSTALLATION AND ACCEPTANCE TESTING SERVICES OR IN ANY WAY AT ANY TIME ALTERS, MODIFIES OR CHANGES ANY HARDWARE, SOFTWARE, THIRD PARTY ITEMS AND/OR NETWORK (COLLECTIVELY "SYSTEM") CONFIGURATIONS WHICH HAVE BEEN PREVIOUSLY INSTALLED BY ES&S OR WHICH ARE OTHERWISE REQUIRED IN ACCORDANCE WITH THE CERTIFIED VOTING SYSTEM CONFIGURATION, ALL WARRANTIES OTHERWISE PROVIDED HEREUNDER WITH RESPECT TO THE SYSTEM PURCHASED, LEASED, RENTED AND/OR LICENSED UNDER THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE AND EFFECT.

8. **Limitation Of Liability.** Neither party shall be liable for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind whatsoever arising out of or relating to this Agreement. Neither party shall be liable for the other party's negligent or willful misconduct. ES&S' total liability to Customer arising out of or relating to this Agreement shall not exceed the aggregate amount to be paid to ES&S hereunder. By entering into this Agreement, Customer agrees to accept responsibility for (a) the selection of, use of and results obtained from any equipment, software or services not provided by ES&S and used with the ES&S Hardware or ES&S Software; or (b) user errors, voter errors or problems encountered by any individual in voting that are not otherwise a result of the failure of ES&S to perform. ES&S shall not be liable under this Agreement for any claim, damage, loss, judgment, penalty, cost, amount paid in settlement or fee that is caused by (y) Customer's failure to timely or properly install and use the most recent update provided to it by ES&S or (z) Customer's election not to receive, or to terminate, the Hardware Maintenance Services or the ES&S Software Maintenance and Support.

9. **Proprietary Rights.** Customer acknowledges and agrees as follows:

ES&S owns the ES&S Software, all Documentation provided by ES&S, the design and configuration of the ES&S Hardware and the format, layout, measurements, design and all other technical information associated with the ballots to be used with the ES&S Hardware. Customer has the right to use the aforementioned items to the extent specified in this Agreement. ES&S also owns all patents, trademarks, copyrights, trade names and other proprietary or intellectual property in, or used in connection with, the aforementioned items. The aforementioned items also contain confidential and proprietary trade secrets of ES&S that are protected by law and are of substantial value to ES&S. Customer shall keep the ES&S Software and related Documentation free and clear of all claims, liens and encumbrances and shall maintain all copyright, trademark, patent or other intellectual or proprietary rights notices that are set forth on the ES&S Hardware, the ES&S Software, the Documentation and ballots that are provided, and all permitted copies of the foregoing.

10. **Termination.** This Agreement may be terminated, in writing, at any time by either party if the other party breaches any material provision hereof and does not cure such breach within 30 days after it receives written notification thereof from the non-breaching party.

11. **Excusable Nonperformance.** Except for obligations to make payments hereunder, if either party is delayed or prevented from performing its obligations under this Agreement as a result of any cause beyond its reasonable control, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the cause of delay has been removed. ES&S agrees to work with Customer, at Customer's request, to develop mutually agreeable alternatives in order to minimize the negative impact of any such delay.

12. **Notice.** Any notice or other communication required or permitted hereunder shall be in writing and will be deemed given when (a) delivered personally, (b) sent by confirmed email, (c) sent by commercial overnight courier (with written verification of receipt) or (d) sent by registered or certified mail, return receipt requested, postage prepaid, when the return receipt is received. All communications shall be sent to the attention of the persons listed on the signature page to this Agreement and at the addresses or email address set forth on such signature page unless other names or addresses are provided by either or both parties in accordance herewith.

13. **Disputes.**

a. **Payment of Undisputed Amounts.** In the event of a dispute between the parties regarding (1) a product or service for which payment has not yet been made to ES&S, (2) the amount due ES&S for any product or service, or (3) the due date of any payment, Customer shall nevertheless pay to ES&S when due all undisputed amounts. Such payment shall not constitute a waiver by Customer or ES&S of any of its rights and remedies against the other party.

b. **Remedies for Past Due Undisputed Payments.** If any undisputed payment to ES&S is past due more than 30 days, ES&S may suspend performance under this Agreement until such amount is paid. Any disputed or undisputed payment not paid by Customer to ES&S when due shall bear interest from the due date at a rate equal to the lesser of one and one-half percent per month or the maximum amount permitted by applicable law for each month or portion thereof during which it remains unpaid.

14. **Assignment.** Except in the case of a reorganization of the assets or operations of ES&S with one or more affiliates of ES&S or the sale, transfer or assignment of all or substantially all of the assets of ES&S or any business operations thereof to a successor who has asserted its intent to continue the applicable business of ES&S, neither party may assign or transfer this Agreement or assign, subcontract or delegate any of its rights, duties or obligations hereunder without the prior written consent of the other party hereto, such consent not to be unreasonably withheld or conditioned, nor unduly delayed.

15. **Compliance with Laws.** ES&S warrants to Customer that, at the time of delivery, the ES&S Hardware and ES&S Software sold and licensed under this Agreement will comply with all applicable requirements of federal and state election laws and regulations that are mandatory and effective as of the Effective Date and will have been certified by the appropriate state authorities for use in Customer's state. The ES&S Hardware and ES&S Tabulation Software, including all components will be provided to Customer with a hardened network in accordance with the guidelines of the United States Election Assistance Commission. In the event Customer fails to maintain the ES&S Software in the hardened network or allows any internal or external access to the hardened network, Customer agrees to indemnify and hold harmless ES&S from and against any and all claims, damages, losses, liens, obligations, liabilities, judgments, assessed damages, costs, expenses (including reasonable attorney's fees) and the like arising out of or related to the Customer's breach of its obligations hereunder.

16. **Voting System Reviews.** In the event that the Jurisdiction or the State require any future reviews or examinations ("Reviews") of current or previous versions of state-certified ES&S voting systems or components thereof that are not otherwise required as a result of any changes or

modifications voluntarily made by ES&S to the ES&S Software and/or ES&S Hardware licensed and sold hereunder, Customer shall be responsible for:

(i) Customer's pro-rata share of such Review costs;

(ii) Customer's pro-rata share of the costs of designing, developing, manufacturing and/or certification by applicable federal and state authorities of any mandated modifications to the ES&S Hardware and/or ES&S Software that may result from such Reviews; and

(iii) the total cost of any third-party items that are required in order for the ES&S Hardware and/or ES&S Software to satisfy any new requirements resulting from such Reviews in order to remain certified;

Customer's pro-rata share of the costs included under subsections 13(ii) and 13(iii) above shall be determined at the time by dividing the number of registered voters in Customer's jurisdiction by the total number of registered voters in all counties in Customer's state to which ES&S has sold and/or licensed the ES&S Hardware and/or ES&S Software purchased and licensed by Customer under this Agreement.

17. **Customer Enhancements.** In the event that Customer requests any future enhancements of the ES&S Hardware and/or ES&S Software ("Enhancements"), such requests shall be submitted in writing to ES&S. ES&S will evaluate each of the Enhancements to determine if any of such Enhancements are technologically feasible, commercially reasonable and consistent with ES&S's security protocol and procedures. In the event that ES&S determines that any of such Enhancements meet the foregoing requirements, then ES&S shall prepare a scope of work which shall include an estimated timeline and the estimated costs for design, development, testing, certification and implementation of such Enhancements (the "SOW"). ES&S shall provide the SOW to Customer for review and written approval. After ES&S's receipt of written approval of the SOW by Customer, ES&S shall prepare a written change order for Customer's execution. ES&S shall solely own and retain any and all intellectual proprietary rights in any Enhancements developed and provided to Customer.

18. **Entire Agreement.** This Agreement, including all exhibits hereto, shall be binding upon and inure to the benefit of the parties and their respective representatives, successors and assigns. This Agreement, including all Exhibits hereto, contains the entire agreement of the parties with respect to the subject matter hereof and shall supersede and replace any and all other prior or contemporaneous discussions, negotiations, agreements or understandings between the parties, whether written or oral, regarding the subject matter hereof. Any provision of any purchase order, form or other agreement which conflicts with or is in addition to the provisions of this Agreement shall be of no force or effect. In the event of any conflict between a provision contained in an Exhibit to this Agreement and these General Terms, the provision contained in the Exhibit shall control. No waiver, amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by the party against whom such waiver, amendment or modification is sought to be enforced. No consent by either party to, or waiver of, a breach by either party shall constitute a consent to or waiver of any other different or subsequent breach by either party. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Customer resides, without regard to its conflicts of laws principles. The parties agree that venue for any dispute or cause of action arising out of or related to this Agreement shall be in the state and federal courts of the United States located in the State in which the Customer resides. ES&S is providing equipment, software and services to Customer as an independent contractor, and shall not be deemed to be a "state actor" for purposes of 42 U.S.C. § 1983. ES&S may engage subcontractors to provide certain of the equipment, software or services, but shall remain fully responsible for such performance. The provisions of Sections 1-4, 6(b), 7, 8, 10(b), 11-14 these General Terms shall survive the termination of this Agreement, to the extent applicable.

EXHIBIT A
ES&S HARDWARE MAINTENANCE AND SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES
(POST-WARRANTY PERIOD)

ARTICLE I
GENERAL

1. **Term; Termination.** This Exhibit A for ES&S Hardware Maintenance and Software License, Maintenance and Support Services shall be in effect for the coverage period as described in Schedule A1 (the "Initial Post Warranty Term"). Upon expiration of the Initial Post Warranty Term, this Exhibit A shall automatically renew for an unlimited number of successive **One-Year Periods** (each a "Renewal Period") until this Exhibit A is terminated by the first to occur of (a) either party's written election not to renew, which shall be delivered to the other party at least thirty (30) days prior to the end of the Initial Post Warranty Term or any Renewal Period, as applicable, (b) the date which is thirty (30) days after either party notifies the other that it has materially breached this Exhibit A, if the breaching party fails to cure such breach (except for a breach pursuant to subsection (e), which will require no notice), (c) the date which is thirty (30) days after ES&S notifies Customer that it is no longer able to procure replacement parts that may be needed in order to perform the ES&S Hardware Maintenance Services contemplated hereunder, (d) the date on which the ES&S Hardware or firmware installed thereon is no longer certified by federal and/or state authorities for use in Customer's jurisdiction, or (e) the date which is thirty (30) days after Customer fails to pay any amount due to ES&S under this Exhibit A. The termination of this Exhibit A shall not relieve Customer of its liability to pay any amounts due to ES&S hereunder and shall only entitle Customer to a prorated refund of any fees already paid to ES&S in the event that this is Exhibit A is terminated pursuant to subsection 1(c) or 1(d) above.

2. **Fees.** In consideration for ES&S' agreement to provide ES&S Hardware Maintenance and Software License, Maintenance and Support Services under this Exhibit A, Customer shall pay to ES&S the ES&S Hardware Maintenance and Software License, Maintenance and Support Fees set forth on Schedule A1 for the Initial Post Warranty Term. The Hardware Maintenance and Software License, Maintenance and Support Fees for the Initial Post Warranty Term are due as set forth on Schedule A1. ES&S may increase the Hardware Maintenance and Software License, Maintenance and Support Fees for a Renewal Period by not more than 10% of the amount of the most recent Fees paid by Customer. All fees for any Renewal Period shall be due and payable no later than thirty (30) days prior to the beginning of such Renewal Period. The Software License, Maintenance and Support Fee shall be comprised of (i) a fee for the Software License, Maintenance and Support provided for the ES&S Firmware, and (ii) a fee for the Software License, Maintenance and Support provided for all other ES&S Software, and shall be in addition to any fees or charges separately referred to in any Section of this Exhibit A. If Customer elects to receive Software License, Maintenance and Support for an Add-On or New Product during the Initial Post Warranty Term or any Renewal Period thereof, ES&S will charge an incremental Software License, Maintenance and Support Fee for such services.

ARTICLE II
HARDWARE

1. **Maintenance Services.** The ES&S Hardware Maintenance Services to be provided to Customer under this Agreement for the ES&S Hardware set forth on Schedule A1 (the "Products") shall be subject to the following terms and conditions:

a. **Routine Maintenance Services.** An ES&S Representative shall provide such services as may be necessary to keep the Products working in accordance with their Documentation, normal wear and tear excepted ("Normal Working Condition"). The services provided by ES&S pursuant to this Subsection 1(a) are referred to herein as "Routine Maintenance Services". Routine Maintenance Services shall be provided once each **Twelve (12) Months** during the Initial Post Warranty Term or any Renewal Period thereof. Generally,

Routine Maintenance Services shall include cleaning, lubrication, diagnostic check, and calibration services. The Routine Maintenance Services shall not include the repair or replacement of any ES&S Hardware components that are consumed in the normal course of operating the ES&S Hardware, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"). ES&S may modify and make available additional Consumables as they may become available from time to time. Customer may request that Routine Maintenance Services be performed more than once during the Initial Post Warranty Term or any Renewal Period. Any such request shall be made at least sixty (60) days before the Routine Maintenance Services are desired. The per-unit fee for such additional Routine Maintenance Services is set forth on Schedule A1 and shall be due within thirty (30) days after invoice date. ES&S will schedule the Routine Maintenance Services with Customer. The Routine Maintenance Services will be provided at Customer's Designated Location. Customer's "Designated Location" shall mean Customer's owned or leased facility at which Customer desires ES&S to perform the ES&S Hardware Maintenance Services.

b. **Repair Services.**

i. **Defects Under Normal Use and Service.** If a defect or malfunction occurs in any Product while it is under normal use and service, Customer shall promptly notify ES&S, and ES&S shall use reasonable efforts to restore the item to Normal Working Condition as soon as practicable. The services provided by ES&S pursuant to this Subsection 1(b)(i) are referred to herein as "Repair Services". ES&S will perform Repair Services in conjunction with a Routine Maintenance Service event at the Customer's Designated Location.

ii. **Defects Due to Customer Actions or Omissions.** If a defect or malfunction occurs in any Product as a result of (1) repairs, changes, modifications or alterations not authorized or approved by ES&S, (2) use, modification, dismantling, disassembly, or transfer to third party without ES&S's prior written consent, (3) accident, theft, vandalism, neglect, abuse or use that is not in accordance with instructions or specifications furnished by ES&S or (4) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, rodent infestation, or if Customer does not notify ES&S within 72 hours after it knows of the defect or malfunction, Customer shall pay ES&S for the Repair Services at ES&S' then-current rates, as well as for the cost of all parts used in connection with such Repair Services.

iii. **Timing.** The date(s) on which any Repair Services shall be provided shall be mutually agreed upon by ES&S and Customer. If Customer requires ES&S to provide "emergency" Repair Services (which shall be defined as Repair Services that are provided by ES&S within 48 hours after Customer notifies ES&S of the need therefore), and such emergency Repair Services are not needed as a result of an action, error or omission by ES&S, Customer shall pay a surcharge, as set forth on Schedule A1.

iv. **Loaner Unit.** At Customer's request and if such product is available, ES&S shall use reasonable efforts to promptly make available to Customer a product that is the same as, or substantially similar to, the Product for which Repair Services are being performed (a "Loaner Unit"). If the Repair Services are being performed

pursuant to Subsection 1(b)(ii) above, Customer shall pay ES&S for the use of the Loaner Unit at ES&S' then-current rates including the cost of shipping.

c. **Exclusions.** ES&S has no obligation under this Agreement to (i) assume the obligations under any existing or expired warranty for a Third Party Item; (ii) repair or replace Product components that are consumed in the normal course of operating the Product, including, but not limited to, headphones and headphone protective covers, printer cartridges or ribbons, paper, batteries, drums, toners, fusers, transfer belts, removable media storage devices, seals, keys, power supplies/cords, PCMCIA, Smart, or CF cards or marking devices (collectively, the "Consumables"), or (iii) repair any Product from which the serial number has been removed or altered. In addition, ES&S may, at any time in its discretion, determine that any Product is no longer fit for ES&S Hardware Maintenance Services because it is in such poor condition that it cannot practically be restored to Normal Working Condition, or cannot be restored to Normal Working Condition at an expense that is less than the then-current value of the Product. If such a determination is made, ES&S shall no longer be required to provide ES&S Hardware Maintenance Services for such Product. ES&S shall also refund to Customer an amount equal to (1) that portion of the most recent fee paid for ES&S Hardware Maintenance Services that is attributable to such Product, multiplied by (2) a fraction, the numerator of which is the remaining number of days within the Term for which such fee was paid and the denominator of which is the total number of days within the Term.

d. **Sole Provider; Access.** Customer shall not permit any individual other than an ES&S Representative to provide maintenance or repairs with respect to the Products for so long as the Initial Post Warranty Term or any Renewal Period is in effect. Customer shall provide ES&S Representatives with all information necessary to enable them to provide ES&S Hardware Maintenance Services. Customer shall likewise provide full access to the Products and adequate working space for all ES&S Hardware Maintenance Services performed at its Designated Location, including sufficient heat, lights, ventilation, electric current and outlets.

e. **Environmental Conditions.** Products should be stored in a clean, dry and secure environment. During the storage and operation of the Products, the temperature and moisture ranges should be maintained in accordance with the Products' Documentation.

f. **Reinstatement of ES&S Hardware Maintenance Services; Inspection.** If the Initial Post Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter resume receiving ES&S Hardware Maintenance Services upon (a) notification to ES&S and (b) the granting to ES&S of access to the Products. ES&S requires Customer to allow it to inspect such Products before it provides any ES&S Hardware Maintenance Services. The purpose of such inspection shall be to determine whether or not the Products are in Normal Working Condition. The cost of such inspection will be at ES&S' then current rates and shall be due from Customer within thirty (30) days of its receipt of ES&S' invoice therefore. If any of the Products is not in Normal Working Condition, ES&S, at the option of Customer, (i) shall provide such repairs and replacements as it deems reasonable and necessary to restore such item to Normal Working Condition, at Customer's expense with respect to the cost of any labor (charged at ES&S' then current rates) and parts used in such repairs or replacements, or (ii) shall not provide any ES&S Hardware Maintenance Services with respect to such Product(s).

ARTICLE III

SOFTWARE LICENSE, MAINTENANCE AND SUPPORT SERVICES

1. **License and Services Provided.** ES&S shall provide license, maintenance and support services ("Software License, Maintenance and Support") for the ES&S Software, to allow Customer to continue to license and use the software in accordance with the license terms set forth in Sections 2-4 of the General Terms as well as to enable it to perform in accordance with its Documentation in all material respects, and to cure any defect in material or workmanship. The specific Software License,

Maintenance and Support services provided by ES&S and each party's obligations with respect to such services are set forth on Schedule A1.

2. **Updates.** During the Initial Post Warranty Term and any Renewal Period thereof, ES&S may continue to provide Updates in accordance with the terms of Section 4 of the General Terms. Unless otherwise agreed to by the parties, and subject to Customer's prior execution of a purchase order therefor, ES&S shall install ES&S Firmware Updates in accordance with Section 4 of the General Terms. Updates to the ES&S Firmware will be incorporated by ES&S into a regularly scheduled preventative maintenance event at no additional charge to Customer. If Customer requests installation of an Update at a time other than a regularly scheduled preventative maintenance event, then Customer shall execute and deliver to ES&S a purchase order therefore and ES&S shall charge Customer accordingly for such installation. ES&S shall also charge Customer at its then-current rates to; (i) train Customer on Updates, if such training is requested by Customer and (ii) if applicable, provide maintenance and support on the ES&S Software that is required as a result of Customer's failure to timely or properly install an Update. Notwithstanding the foregoing, Customer shall pay ES&S to install all ES&S Software Updates.

3. **Conditions.** ES&S shall not provide Software License, Maintenance and Support for any item of ES&S Software if such item requires such services as a result of (a) repairs, changes, modifications or alterations not authorized or approved by ES&S, (b) use, modification, dismantling, or transfer to third party without ES&S's prior written consent, (c) accident, theft, vandalism, neglect, abuse, liquid contact or use that is not in accordance with the Documentation, (d) causes beyond the reasonable control of ES&S or Customer, including acts of God, fire, floods, riots, acts of war, terrorism or insurrection, government acts or orders; epidemics, pandemics or outbreak of communicable disease; quarantines; national or regional emergencies, labor disputes, transportation delays, governmental regulations and utility or communication interruptions, (e) Customer's failure to timely and properly install and use the most recent update provided to it by ES&S, or (f) Customer's failure to notify ES&S within three (3) business days after Customer knows of the need for such services. Any such Software License, Maintenance and Support shall be provided at the fees to be agreed upon by the parties if and when the need for such Software License, Maintenance and Support arises. Replacement versions of Software and/or Third-Party Items or any services required in order to replace the same as a result of items set forth in this Section 3 or as a result of Customer's actions or inactions shall be billable to Customer at ES&S' then current rates.

4. **Proprietary Rights.** ES&S shall own the entire right, title and interest in and to all corrections, programs, information and work product conceived, created or developed, alone or with Customer or others, as a result of or related to the performance of this Exhibit A, including all proprietary rights therein or based thereon. Subject to the payment of all Software License, Maintenance and Support Fees, ES&S hereby grants to Customer a non-exclusive license to use that portion of such corrections, programs, information and work product that ES&S actually delivers to Customer pursuant to this Exhibit A. All licensed items shall be deemed to be ES&S Software for purposes of this Exhibit A. Except and to the extent expressly provided herein, ES&S does not grant to Customer any right, license, or other proprietary right, express or implied, in or to any corrections, programs, information, or work product covered by this Exhibit A.

5. **Reinstatement of Software License, Maintenance and Support.** If the Initial Post Warranty Term or any Renewal Period thereof expires without being renewed, Customer may thereafter receive a Software License and resume receiving Software Maintenance and Support upon (a) notification to ES&S, (b) payment of all fees, which would have been due to ES&S had the Initial Post Warranty Term or any Renewal Period not expired, and (c) the granting to ES&S of access to the ES&S Software, so that ES&S may analyze it and perform such maintenance as may be necessary before resuming the Software License, Maintenance and Support services.

Schedule A1
Pricing Summary

<u>Summary:</u>		
Description	Refer To	Amount
ES&S Hardware Maintenance Fees	ES&S Hardware Maintenance Description and Fees Below	
ES&S Software License, Maintenance and Support Fees	ES&S Software License, Maintenance and Support Description and Fees Below	
ES&S Firmware License, Maintenance and Support Fees	ES&S Firmware License, Maintenance and Support Description and Fees Below	
Total Maintenance Fees for the Initial Post Warranty Term:		
<u>Payment Terms:</u> ES&S shall Invoice Customer annually for each year of the Initial Post Warranty Term. Payment is due before the start of each period within the Initial Post Warranty Term.		
<u>Terms & Conditions:</u>		
Note 1: Any applicable state and local taxes are not included and are the responsibility of Customer.		

ES&S HARDWARE MAINTENANCE DESCRIPTION AND FEES

Initial Post Warranty Term: Expiration of the Warranty Period through the **first** anniversary thereof

Qty	Description	Coverage Period	Annual Maintenance Fee Per Unit	Maintenance Fee In Total
		Year 1		
		Year 1		
Total Maintenance Fees for the Coverage Period ***** through ***** or Year 1				
Total ES&S Hardware Maintenance Fees for the Initial Post Warranty Term				

Note 1: The Per-Unit Fees if Customer requests more than one Routine Maintenance visit in a 12-month period shall be 55% of the then current maintenance fee per unit.

Note 2: Surcharge for Emergency Repair Services shall be the daily maintenance service rate in effect at the time such service is requested.

Note 3: Customer's Designated Location:

Note 4: The Per Unit Surcharge for performance of Routine Maintenance visit at more than one Customer Designated Location shall be \$25.00 per unit for all units located at second or more locations.

ES&S Hardware Maintenance Services Provided by ES&S Under this Schedule A1

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.
4. Routine Maintenance Services.
 - Onsite scheduled maintenance inspection per Article II, Section 1(a). The Inspection includes:
 - Service performed by an ES&S trained and certified technician.
 - Performance of factory approved diagnostics on the unit, identifying and making adjustments where necessary as indicated by the testing.
 - Replacement of worn or defective parts with new or remanufactured federally and state certified parts.
 - Conducting a final test to verify that the unit is working according to manufacturer's specifications.
 - Use of a checklist tailored for each piece of ES&S Tabulation Hardware.

5. Repair Services.

- Customer will receive coverage for interim repair calls.
 - Interim repair calls may be provided during a scheduled Routine Maintenance Services event or scheduled in conjunction with other service work being performed in close proximity to Customer's location if such repairs are not election critical.
 - A Product may be sent to ES&S' Depot location for repairs at a time to be mutually agreed upon by ES&S and Customer.

6. Priority Services.

- Customer has access to the ES&S Help Desk for assistance.
- The customer receives priority on service calls.
- The customer receives priority on response time.
- The customer receives priority on certified ES&S parts inventory.

Note: Except for those ES&S Hardware Maintenance Services specifically set forth herein, ES&S is under no obligation and shall not provide other ES&S Hardware Maintenance Services to the Customer unless previously agreed upon in writing by the parties.

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
SOFTWARE**

Initial Post Warranty Term: Expiration of the Warranty Period through the **first** anniversary thereof

Listed below is the Software and Fees for which Software License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Software License, Maintenance and Support Fee In Total
		Year 1	
		Year 1	
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 1			
Total Software License, Maintenance and Support Fees for the Initial Post Warranty Term			

**ES&S SOFTWARE LICENSE, MAINTENANCE AND SUPPORT DESCRIPTION AND FEES
FIRMWARE**

Initial Post Warranty Term: Expiration of the Warranty Period through the **first** anniversary thereof

Listed below are the Hardware Products and Fees for which Firmware License, Maintenance and Support will be provided:

Qty	Description	Coverage Period	Annual Firmware License, Maintenance and Support Fee Per Unit	Firmware License, Maintenance and Support Fee In Total
		Year 1		
		Year 1		
Total License, Maintenance and Support Fees for the Coverage Period ***** through ***** or Year 1				
Total Firmware License, Maintenance and Support Fees for the Initial Post Warranty Term				

Software License, Maintenance and Support Services Provided by ES&S under the Agreement

1. Telephone Support.
2. Issue Resolution.
3. Technical Bulletins will be available through Customer's ES&S Web-based portal.

Note: Except for those Software License, Maintenance and Support services specifically set forth herein, ES&S is under no obligation and shall not provide other Software License, Maintenance and Support services to the Customer unless previously agreed upon by the parties.

Software License, Maintenance and Support and ES&S Hardware Maintenance and Support Services – Customer Responsibilities

1. Customer shall have completed a full software training session for each product selected.
 - Customer shall have completed training at a proficiency level to successfully use the hardware (firmware) and software products.
 - Customer shall have the ability to install hardware firmware and make changes to date and time settings.
 - Customer shall have the ability to change accessible consumable items on hardware. Any other changes made by the customer must be pre-approved in writing by ES&S.
2. Customer shall have reviewed a complete set of User Manuals.
3. Customer shall be responsible for the installation and integration of any third-party hardware or software application or system purchased by the Customer, unless otherwise agreed upon, in writing, by the parties.
4. Customer shall be responsible for data extraction from Customer's voter registration system.
5. Customer shall be responsible for implementation of any security protocols physical, network or otherwise which are necessary for the proper operation of the ES&S Hardware and ES&S Software.
6. Customer shall be responsible for the acceptance of the ES&S Hardware and Software, unless otherwise agreed upon, in writing, by the parties.
7. Customer shall be responsible for the design, layout, set up, administration, maintenance or connectivity of the Customer's network.
8. Customer shall be responsible for the resolution of any errors associated with the Customer's network or other hardware and software not purchased or recommended by ES&S and not otherwise identified in the User Guides as part of ES&S' Hardware and Software.
9. Customer shall be responsible for all costs associated with diagnosing ballot printing problems resulting from the use of non-ES&S Ballot Partner Printers ballots.
10. Customer shall be responsible for the payment of additional or replacement Software CDs or DVDs requested by Customer. The price for such additional or replacement Software CDs or DVDs shall be at ES&S' then current rates.

Appendix B: Proof of Certification





United States Election Assistance Commission

Certificate of Conformance

ES&S EVS 5.2.4.0



The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: EVS

Model or Version: 5.2.4.0

Name of VSTL: Pro V&V

EAC Certification Number: ESSEVS5240

Date Issued: June 5, 2018

Executive Director
U.S. Election Assistance Commission

Scope of Certification Attached



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

APPROVAL OF FIRMWARE UPGRADE FOR VOTING EQUIPMENT APPROVED FOR USE IN MASSACHUSETTS

On May 7, 2014, the DS200 Precinct Tabulator, manufactured by Elections Systems and Software, Inc., (ES&S) was approved for use in Massachusetts. On July 18, 2014, hardware modifications were approved. At that time, a firmware upgrade to EVS 5.0.0.0.3 was also approved. On April 14, 2017, a firmware upgrade to EVS 5.3.1.0 was approved.

In 2018, ES&S provided documentation regarding a new firmware upgrade to EVS 5.3.4.0, which completed federal testing in June 2018. The change in the firmware for which approval was sought provides additional security for the modem function and will allow for additional functionality with compatible equipment, including the AutoMark Voter Assist Terminal.

Under the provisions of section 32 of chapter 54 of the Massachusetts General Laws, after any equipment has been approved by the Secretary, any change or improvement that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the equipment. ES&S has confirmed that the firmware upgrades do not impair the accuracy, efficiency, or capacity of the previously certified DS200 system. Accordingly, the firmware upgrade to EVS 5.3.4.0 is approved sale and use in the Commonwealth.

Dated: January 30, 2019

A handwritten signature in blue ink that reads "Michelle K. Tassinari".

Michelle K. Tassinari
Director/Legal Counsel, Elections Division

Appendix C: Project Team Resumes



John Lento

SR. ACCOUNT MANAGER



John began his career with ES&S as a Technical Support Specialist. His responsibilities included customer call support and on-site customer training using voter registration software for election office procedures and activities. He transitioned to Account Management in 2005, primarily supporting Miami-Dade County, Florida, where he was responsible for preparing vote tabulation hardware, software and election coding for state and local elections. In 2008, John moved to the ES&S Certification organization where he was responsible for voting system certifications for the State of New York, electronic pollbook certifications and federal certifications.

John's current role at ES&S is Senior Account Manager. John is the primary point of contact for Iowa, Maine and Massachusetts customers for all election activity related to voting systems. John also works closely with the City of Philadelphia and various Pennsylvania counties as a Technical Lead.

RELEVANT EXPERIENCE

- Over 20 years of experience in the election industry with ES&S
- 10 years with ES&S Federal and State Certification organization
- 10 years with Customer Account and Project Management
- 40 years of technical service experience in software testing, hardware testing and calibration, system installations, quality assurance, customer support and documentation
- 30 years of experience in customer support, including software and hardware training
- 20 years of project management experience includes two (2) years in contract manufacturing industry
- Two (2) years of experience with GIS mapping systems and redistricting

PROFESSIONAL TRAINING & CERTIFICATIONS

- Complete and comprehensive knowledge of all ES&S products and services
- Annual Security Awareness & Ethics training

EDUCATION

- Associate's Degree in Electronic Engineering Technology – Wentworth Institute of Technology, Boston

Joe Passarella

REGIONAL SALES MANAGER



Joe is an experienced Regional Sales Manager with a background of over 10 years in sales and technology. Joe is also a former Director of Voter Services with over 20 years of experience. He has knowledge of every aspect of election technology (e.g., voting systems, electronic pollbooks). His experience as a Director of Voter Services gives him vast knowledge of what it takes to implement a new voting system.

Joe excels in building and managing relationships with key stakeholders. His exemplary communication skills enable him to consistently meet and exceed customer expectations.

CURRENT RESPONSIBILITIES

- Over 27 years of elections experience, including six (6) years with ES&S
- Over 18 years of experience as Director of Voter Services for Montgomery County, PA
- Manages implementation projects in Pennsylvania, Massachusetts, Connecticut and New Hampshire
- Over 18 years as a Regional Sales Manager with extensive experience implementing voting systems in many towns and counties
- Develops and implements plans and programs in accordance with customer expectations of effective performance and reliability
- Effectively communicates and collaborates with key stakeholders

RELEVANT EXPERIENCE

- Regional Sales Manager, (2013–present)
 - Managed the sales process for Pennsylvania, Massachusetts, Connecticut and New Hampshire.
 - Led the implementation of a new voting systems in and many towns and counties in Pennsylvania, Virginia and Massachusetts.
- Director of Voter Services (1994–2013)
 - Managed all aspects of elections, including absentees, voter registration programming ballots and voting machines and campaign finance reports.
 - Managed the implementation of new voting systems for Montgomery County, poll worker classes, voter education and 420 polling places.

PROFESSIONAL TRAINING & CERTIFICATIONS

- Complete and comprehensive knowledge of all ES&S products and services
- Annual Security Awareness & Ethics training

EDUCATION

- Associates Degree in Business Administration, Montgomery County Community College
- Studied Business Administration at Millersville University

Gilberto Molina

TECHNICIAN II, FIELD SERVICES



Gil has been working in the elections industry since 2007, when he served as an election assistant for the City of Springfield. In 2012, he was promoted to the position of bilingual elections program coordinator. He quickly became familiar with ES&S equipment and service from a customer standpoint.

Gil leverages his experience to support current ES&S customers, always aiming for the highest level of customer satisfaction. He is committed to ES&S' mission to maintain voter confidence and enhance the voting experience.

CURRENT RESPONSIBILITIES

- Maintains and supports ES&S products and systems
- Performs hardware and software diagnostics for repair determinations
- Maintains adequate inventory for assigned territory
- Achieves high customer service satisfaction

RELEVANT EXPERIENCE

- Field Service Technician, ES&S (2016–present)
- Bilingual Elections Program Coordinator, City of Springfield (2007–2015)
 - Responsible for maintaining and testing all voting equipment
 - Well versed in the Voter Registration Information System (VRIS) for the Commonwealth of Massachusetts
 - Responsible for paying invoices for the Elections Office, Clerk's Office and City Council's Office using the MUNIS program for the City of Springfield
 - Responsible for general and clerical duties associated with the operations of the Elections Office, including processing and filing voter registration forms and updating voter and resident information

PROFESSIONAL TRAINING & CERTIFICATIONS

- Complete and comprehensive knowledge of all ES&S products and services
- Annual Security Awareness & Ethics training

EDUCATION

- Boston Latin School, Boston, MA
- University of Massachusetts, Amherst, MA
- Springfield Technical Community College, Springfield, MA

Juanita Molina

TECHNICIAN I, FIELD SERVICES



Before joining ES&S as a full-time field service technician, Juanita worked with ES&S as a contractor since 2020. A highly committed individual with the ability to meet the requirements of the Field Service department, Juanita uses her training and knowledge of equipment to provide excellent customer service.

Juanita is focused on field services, diagnostics, repair, inventory control and customer service satisfaction. She is committed to ES&S' mission to maintain voter confidence and enhance the voting experience.

CURRENT RESPONSIBILITIES

- Maintains and supports ES&S products and systems in Maine, Massachusetts, New York and Rhode Island
- Performs hardware and software diagnostics for repair determinations
- Performs equipment setup and installation
- Respond to questions and inquiries from customers
- Maintains adequate inventory for assigned territory
- Provide superior customer satisfaction

RELEVANT EXPERIENCE

Field Service Contractor/Technician, ES&S (2020–present)

- Maintains, repairs and troubleshoots DS200, AutoMARK and ExpressVote units and central count equipment
- Works as part of a team on large-scale projects throughout the country
- Has worked individually in Maine, Massachusetts and upstate New York
- Coordinates with customers to ensure desired results

PROFESSIONAL TRAINING & CERTIFICATIONS

- Complete and comprehensive knowledge of all ES&S products and services
- Annual Security Awareness & Ethics training

EDUCATION

- The High School of Commerce, Springfield, MA
- University of Massachusetts, Amherst, MA

Appendix D: Project Management Plan



ES&S Project Management Plan: the Town of Natick

Introduction

You need an elections partner that will successfully implement your voting system on time and continue to service and support the system throughout its useful life. With decades of industry experience and thousands of successful implementations, no other voting system supplier can compare to ES&S.

ES&S provides all necessary resources to execute the five (5) phases of project management, as stated by the Project Management Institute (PMI), which helps to ensure a smooth and successful implementation.



Implementation Overview

Our collaborative approach with the Town of Natick will ensure a customized approach through all phases of implementation, including installation, training and support of ES&S' voting system suite of products:

- DS200® Scanner and Tabulator
- Electionware® Results Group (Reporting Only) (optional)

The equipment overview configuration is defined based on the contract between ES&S and the Town of Natick. The contract establishes specific milestones, deliverables, tasks and stakeholders that are further detailed in the final project plan. These are tracked and monitored throughout implementation by the Town of Natick's dedicated ES&S project manager with a continual review by the Town of Natick.

“This will be my third transition and installation to a new voting system. It has by far been the best one yet. Communication between county and vendor has been excellent. The trainers and project management team have been professional, friendly and very knowledgeable regarding their subjects. Our schedules are clearly defined and adhered to as much as possible. All these things are leading us to a successful transition to our next generation voting system. Thanks to all.”

– BRUCE SHERBET, COLLIN COUNTY, TEXAS

Five (5) Phases of Implementation



Phase 1: Initiation

ES&S implements hundreds of new voting systems every year. We will make every effort to ensure that the Town of Natick's staff is fully prepared through each phase. During the initiation phase, our partnership begins as we work together to gain an understanding of the the Town of Natick's unique and specific election needs. ES&S will work with the Town of Natick to adjust our implementation approach, understand contract terms and define all commitments and expectations throughout the implementation.



Phase 2: Planning

During the planning phase, ES&S and the Town of Natick collaborate on logistics, including but not limited to:

- Creation of the work-breakdown structure (WBS) for all major deliverables and stakeholder assignments
- Development of a communication plan to ensure lines of communication remain open and clear
- Development of a Risk Mitigation Plan to recognize potential risks throughout the implementation and an Escalation Plan in case any issue needs to be escalated beyond the project team
- Development of a plan outlining ES&S' support during pre-election, Election Day and post-election activities to ensure a successful first use of the new voting system



Phase 3: Executing

Once the planning phase is complete, ES&S will work to achieve all key milestones. This includes executing on all tasks and meeting deliverables on time and in a quality manner.

During this phase, you can expect an organized and collaborative plan for all activities such as:

- Delivery of new voting systems

- Installation of hardware and ES&S assistance throughout the Town of Natick's Acceptance Testing process, as requested
- Installation with final quality assurance (QA) check of any necessary software and/or IT networks and third-party items
- Training of the Town of Natick staff on all facets of the ES&S voting system
- Assisting with and/or performing poll worker training, including best practices, as requested
- Development of Logic and Accuracy Testing routines
- ES&S assistance with pre-election, Election Day and post-election tasks



Phase 4: Monitoring and Controlling

During this phase, ES&S will work with the Town of Natick to monitor and control each aspect of the implementation. The following activities will allow us to observe the process and adjust when necessary:

- Conduct routine status check-ins with all key personnel and stakeholders
- Creation of status reports detailing the progress on all agreed-upon tasks, deliverables and milestones defined in the project plan
- Continuous review of the action item list
- Monitoring of risk assessment and issue mitigation
- Continued partnership and open lines of communication to ensure we achieve the Town of Natick's 100% satisfaction throughout the implementation



Phase 5: Closing

After your first election, ES&S will work with the Town of Natick to review all phases of the implementation, discuss lessons learned and begin planning for the next election.

During this phase, you can expect:

- Review of all phases of the project
- Lessons learned for future elections, such as any changes to Election Day processes
- Discussion of additional training or other support needs
- Follow-up on any outstanding items

Implementation Summary



The measure of success with a new voting system implementation is a successful election.

ES&S' proven approach to implementation instills confidence and provides the tools to ensure you are prepared for each Election Day.

A partnership with ES&S means you can expect:

- A trusted and experienced partner that will deliver exceptional quality and value
- A customized implementation plan that meets all the Town of Natick's expectations
- Project team members who will work tirelessly to ensure a smooth and organized process during all phases of the implementation
- Support from first use throughout the life of your voting system to ensure the highest standards of accuracy, security and reliability

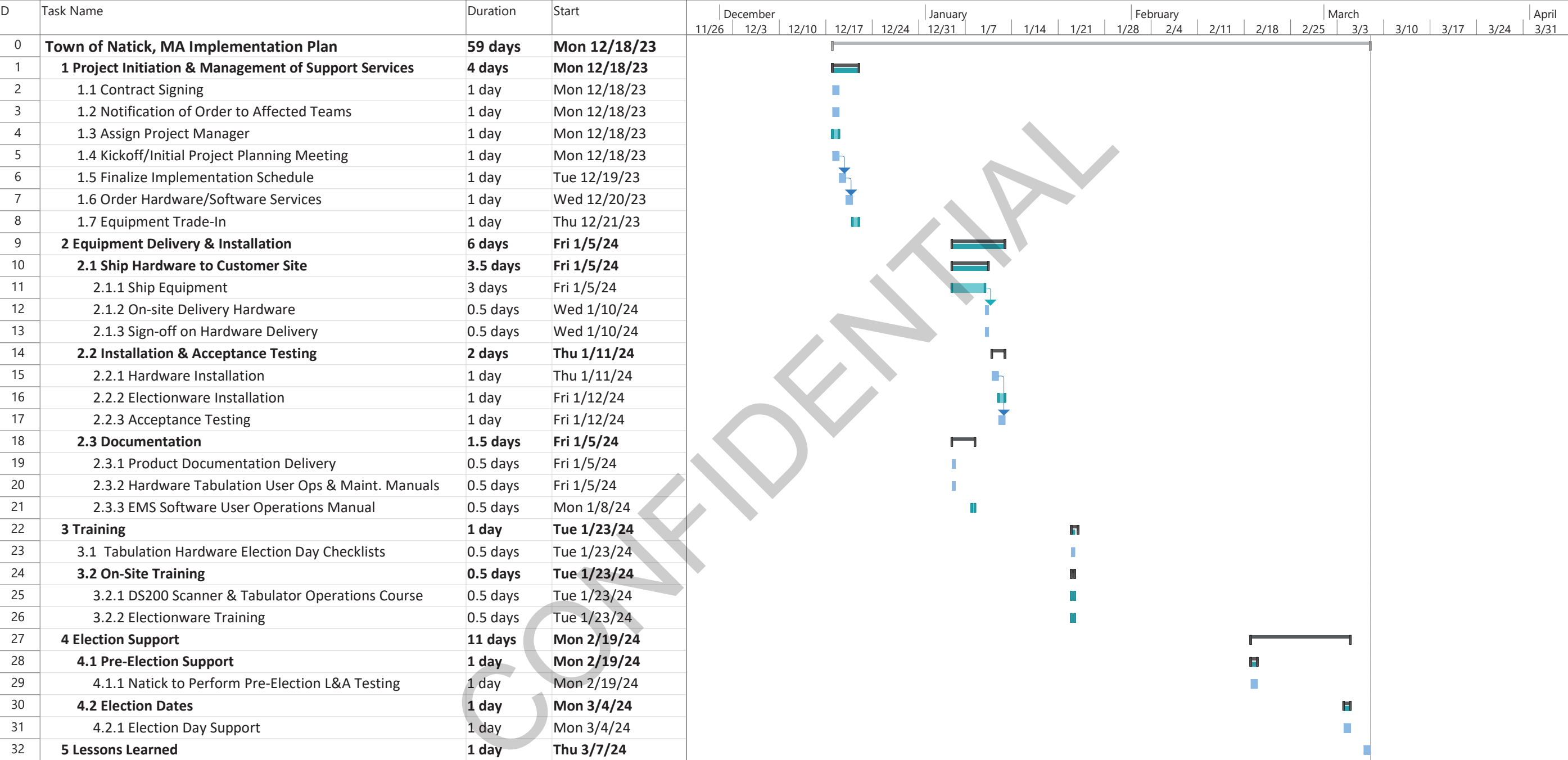
"We have been very pleased with the customer service provided by ES&S. We were able to implement the new system in an incredibly tight time frame with very little issue and have received premium customer service with any questions or issues that have come up."

– LISA WISE, EL PASO COUNTY, TEXAS

Town of Natick, MA - Proposed Implementation Plan



Prepared by Election Systems & Software



Project: Town of Natick, MA
Date: Fri 11/17/23

Task

Split

Milestone

Summary

◆

◆

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress

↓

Note: Project Dates are estimates. Actual timeframes will be established at the time of contract execution. Following contract execution, project plans will be solidified including activities, tasks, milestones, and deliverables.

Appendix E: Massachusetts Customer List



Appendix E - Massachusetts Customer List

Municipality	DS200	Date of Purchase (MON-YR)	Voters
Belmont, Town of, Massachusetts	10	Mar-23	17,500
Foxborough, Town of, Massachusetts	6	Mar-23	12,800
Sharon, Town of, Massachusetts	6	Mar-23	12,600
Brookline, Town of, Massachusetts	27	Mar-22	9,000
Dighton, Town of, Massachusetts	3	Jan-22	6,000
Springfield, City of, Massachusetts	64	Oct-21	96,000
Millbury, Town of, Massachusetts	4	Mar-21	9,500
Montague, Town of, Massachusetts	6	Jan-21	58,042
Hubbardston, Town of, Massachusetts	1	Jun-20	4,000
North Attleborough	11	Jun-20	20,000
Upton, Town of, Massachusetts	2	Apr-20	6,000
Wilbraham, Town of, Massachusetts	6	Oct-19	10,422
Bolton, Town of, Massachusetts	1	Sep-19	3,986
Lancaster, Town of, Massachusetts	3	Aug-19	5,087
Hadley, Town of, Massachusetts	1	Jul-19	4,022
Chicopee, City of, Massachusetts	29	Jun-19	36,659
Fall River, City of, Massachusetts	42	Jun-19	46,763
Hanover, Town of, Massachusetts	6	Mar-19	9,743
Taunton, City of, Massachusetts	18	Jul-18	34,734
Chelsea, City of, Massachusetts	19	Jun-18	16,021
Norwell, Town of, Massachusetts	4	Nov-17	7,956
Revere, City of, Massachusetts	22	Oct-17	28,481
Weymouth, Town of, Massachusetts	20	Oct-17	36,946
Greenfield, Town of, Massachusetts	10	Sep-17	12,008
Hanson, Town of, Massachusetts	4	Sep-17	7,523
Holland, Town of, Massachusetts	1	Jun-17	1,960
West Bridgewater, Town of, Massachusetts	2	Mar-17	5,291
Concord, Town of, Massachusetts	6	Nov-16	13,134
Townsend, Town of, Massachusetts	3	Aug-16	6,556
Millis, Town of, Massachusetts	3	Mar-16	6,043
Leicester, Town of, Massachusetts	4	Feb-16	7,573
Paxton, Town of, Massachusetts	1	Feb-16	3,322
Princeton, Town of, Massachusetts	1	Feb-16	2,703
Somerville, City of, Massachusetts	25	Feb-16	51,129
Northborough, Town of, Massachusetts	5	Jan-16	11,223
Mattapoisett, Town of, Massachusetts	1	Dec-15	5,218
Scituate, Town of, Massachusetts	7	Dec-15	14,627
Braintree, Town of, Massachusetts	13	Sep-15	27,270
Mendon, Town of, Massachusetts	1	Aug-15	4,352
Tisbury, Town of, Massachusetts	1	Aug-15	3,469
Buckland, Town of, Massachusetts	1	Jul-15	1,323
Worcester, City of, Massachusetts	53	Jul-15	104,938
Harvard, Town of, Massachusetts	1	Mar-15	4,362
Rochester, Town of, Massachusetts	1	Dec-14	4,349
Somerset, Town of, Massachusetts	5	Dec-14	13,286
New Bedford, City of, Massachusetts	42	Nov-14	58,042
Westborough, Town of, Massachusetts	6	Nov-14	12,199

Appendix F: Certificate of Insurance





CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
11/17/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Central, Inc. Omaha NE Office 17807 Burke Street Suite 401 Omaha NE 68118 USA	CONTACT NAME: PHONE (A/C. No. Ext): (402) 697-1400 FAX (A/C. No.): (402) 697-0017 E-MAIL ADDRESS:														
INSURED Election Systems & Software, LLC 11208 John Galt Blvd Omaha NE 68137 USA	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Twin City Fire Insurance Company</td><td>29459</td></tr><tr><td>INSURER B: Hartford Accident & Indemnity Company</td><td>22357</td></tr><tr><td>INSURER C: Trumbull Insurance Company</td><td>27120</td></tr><tr><td>INSURER D: Hartford Casualty Insurance Co</td><td>29424</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Twin City Fire Insurance Company	29459	INSURER B: Hartford Accident & Indemnity Company	22357	INSURER C: Trumbull Insurance Company	27120	INSURER D: Hartford Casualty Insurance Co	29424	INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** 570102749813 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			41UUNAX0RMG	10/01/2023	10/01/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> \$1,000 Comp Ded. <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> \$1,000 Coll. Ded.			41 UEN AA3388	10/01/2023	10/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000 <input type="checkbox"/> CLAIMS-MADE			41XHUAY3V0J	10/01/2023	10/01/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N N/A			41WEAB9NF1	10/01/2023	10/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Town of Natick, MA, RFP. Town of Natick is included as Additional Insured in accordance with the policy provisions of the General Liability, Automobile Liability and Umbrella Liability policies. Should General Liability, Automobile Liability, Umbrella Liability and workers' compensation policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy.

CERTIFICATE HOLDER

Town of Natick, MA
Natick Town Hall, 13 East Central Street
Natick MA 01760 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Central, Inc.

Holder Identifier : ABDGEI

570102749813

Certificate No :





ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Central, Inc.		NAMED INSURED Election Systems & Software, LLC	
POLICY NUMBER See Certificate Number: 570102749813			
CARRIER See Certificate Number: 570102749813	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

<p>THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,</p>	
<p>FORM NUMBER: ACORD 25</p>	<p>FORM TITLE: Certificate of Liability Insurance</p>
<p>workers' Compensation Underwriting Co.</p> <p>Hartford Casualty Insurance Company: Illinois Pennsylvania Texas</p> <p>Hartford Insurance Company of Midwest: Georgia</p> <p>Hartford Underwriters Insurance Company: Missouri New Jersey North Carolina</p> <p>Property & Casualty Insurance Company of Hartford: Alabama Colorado Minnesota New York</p> <p>Sentinel Insurance Company: California Iowa Maryland</p> <p>Trumbull Insurance Company: Indiana Nebraska</p> <p>Twin City Fire Insurance Company: Arkansas Arizona Delaware Florida Idaho Kansas Kentucky Massachusetts Michigan Mississippi North Dakota Ohio Oklahoma Oregon Rhode Island South Carolina South Dakota Tennessee Utah Vermont Virginia Washington West Virginia Wisconsin</p>	



COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- e. **Incidental Medical Malpractice And Good Samaritan Coverage**
- "Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
 - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
 - (b) Any health or therapeutic service, treatment, advice or instruction; or
 - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
 - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
 - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1)** A watercraft while ashore on premises you own or rent;
- (2)** A watercraft you do not own that is:
 - (a)** Less than 51 feet long; and
 - (b)** Not being used to carry persons for a charge;
- (3)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,

enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or

settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

i. Infringement Of Intellectual Property Rights

- (1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or
- (2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

- (1) Infringement, in your "advertisement", of:
 - (a) Copyright;
 - (b) Slogan; or
 - (c) Title of any literary or artistic work; or
- (2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

I. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Internet Advertisements And Content Of Others

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

- (4) Computer code, software or programming used to enable:

(a) Your web site; or

(b) The presentation or functionality of an "advertisement" or other content on your web site.

q. Right Of Privacy Created By Statute

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

r. Violation Of Anti-Trust law

"Personal and advertising injury" arising out of a violation of any anti-trust law.

s. Securities

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

t. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

u. Employment-Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

v. Asbestos

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

w. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and

- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors Of Land Or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **j.** of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or
- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
 - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. **"Auto"** means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

18. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT - NEBRASKA

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

Paragraph 1. Who is an Insured of Section II – Covered Autos Liability Coverage is amended to include the following:

d. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

e. Employees as Insureds

- (1) Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

f. Lessors as Insureds

Paragraph 1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- (1) The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (a) The agreement requires you to provide direct primary insurance for the lessor and
 - (b) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

g. Additional Insured if Required by Contract

- (1) When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (a) During the policy period, and

- (b) Subsequent to the execution of such written contract, and
- (c) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

2. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in A.1.f. - Additional Insured If Required by Contract, the following provisions apply:

- (1) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(2) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (1) and (2) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in SECTION IV - Business auto Conditions, B. General Conditions, Other Insurance 5.d.

3. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The SECTION IV - Business Auto Conditions, B. General Conditions, 5. OTHER INSURANCE Condition is amended by adding the following:

- e. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

4. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation

insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

5. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

6. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

7. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

8. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

9. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

- a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or
- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

- b. Section III, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 is amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

- (3) An integral part of such equipment.

- c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

11. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

12. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

13. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

15. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV. B.7.B.(6) - BUSINESS AUTO CONDITIONS is replaced by the following:

- 6. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

16. WAIVER OF SUBROGATION

Paragraph 5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS A. Loss Conditions is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

17. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS, C. is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

18. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail notice of cancellation by registered or certified mail to the first Named Insured at least 60 days before the effective date of cancellation.

19. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"
- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

20. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

- A.** If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



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- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 41 WE AB9NF1

Endorsement Number: 1

Effective Date: 10/01/23

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: GOVERNMENT SYSTEMS SOFTWARE SERVICES INC ETAL
11208 JOHN GALT BLVD
OMAHA NE 68137

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

Appendix G: Marketing Materials





DS200[®]

Precinct Scanner & Tabulator



Protective Cover

Cover has heavy-duty rubber seal to shelter DS200 from elements during transport.

Easy to Set Up

Lid-up, power-on approach allows poll workers to easily open polls.

Touch-Screen Display

Provides voters with instructions and immediate feedback. Tension bearings hold screen in place for custom positioning.

Ballot/Card Slot

Voters cast both ballots and vote summary cards here; accommodates up to 19-inch ballots.

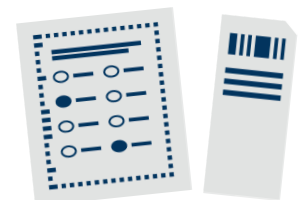
Auxiliary Ballot Compartment

Main Ballot Compartment

Easy, hassle-free storage of up to 3,500 ballots.

Enhanced Voting Experience

The DS200 is a precinct-based scanner and vote tabulator equipped with the latest in ES&S' patented technology. Fully certified and compliant with EAC guidelines, the DS200 enhances the voting experience for voters and election officials alike. Our patented Intelligent Mark Recognition (IMR[®]) and patented Positive Target Recognition & Alignment Compensation (PTRAC[®]) technologies ensure even the most poorly marked ballots are read accurately and consistently — protecting voter intent. All of this is designed to make everyone's job easier.



11 14-inch flat ballots processed per minute

ACCURATE



The DS200 combines the ES&S-patented IMR® and PTRAC® systems to accurately track and pinpoint target locations. This technology accommodates ballots inserted at angles or with erroneous marks to uphold voter intent. This precision improves the reliability of elections.

RELIABLE



Having both battery backup and thermal paper means you never have to worry about power outages or printer ink. The DS200 includes redundant data storage.

SECURE



Like all ES&S tabulation equipment, the DS200 includes physical security features such as locking panels and security seals to secure sensitive components and election files, and a key-locked case for transport and shipping. The DS200 operating system controls, limits and detects unauthorized access to all critical data. The system also includes safeguards, such as data encryption and digital signatures, that help protect sensitive data and verify authenticity, including certification of all firmware.

COMPATIBLE



Works in conjunction with:

- ExpressVote® Universal Voting System
- DS450® High-Throughput Scanner & Tabulator
- DS850® High-Speed Scanner & Tabulator
- DS950® High-Speed Scanner & Tabulator
- Electionware® Election Management Software
- AutoMARK® Ballot Marking Device
- Election Reporting Manager®



**The election yesterday went so well,
I hugged my DS200 at the end of the night."**

ANNETTE STASHEK, VILLAGE CLERK FOR THE VILLAGE OF WHITING, WI



Electionware®

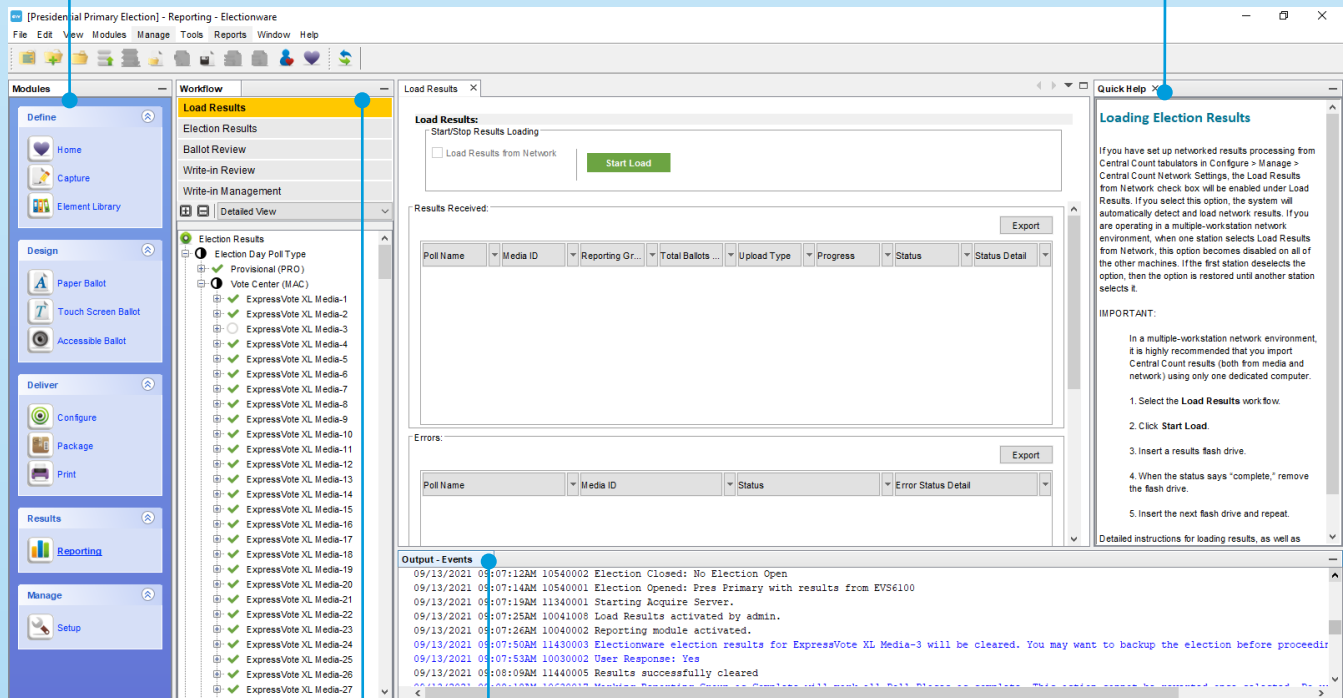
Election Management Software

Build Elections in Less Time

Easy workflow enables end-to-end election management, from data capture, ballot layout and configuring equipment to loading and reporting results.

Find Answers Easily

Interactive, comprehensive Quick Help, available in all areas of Electionware, empowers election administrators to easily find answers to common questions.



Ensure Consistent Data

Intuitive Navigator toolbar helps users organize their work and see data quickly.

Create Error-free Elections

Flexible and powerful election management software guides users through creating the election, ensuring that all election data, security codes and machine settings are added correctly to the election definition.

Easy to Master

Jurisdictions of all sizes can manage their elections through Electionware's easy-to-understand, user-friendly interface. You'll get the knack of the software in no time because the design is based on actual election workflow, making it easy to learn and navigate. The software accommodates early and overseas voting, ADA compliance, ballot adjudication and election night reporting.

WHAT'S IN IT FOR ELECTION OFFICIALS?

- **Power.** Manages thousands of ballot styles and precincts; incorporates many languages; manages and deploys multiple levels of security.
- **Intelligence.** Real-time election data queries and reports; workflow management and error alerts; enforced data accuracy; user customization; tracking of election media; helpful status indicators for incoming results.
- **Productivity.** Fast data import; reuse of election and ballot layout templates; simple translation and audio file management; multiple simultaneous users; ballot image filtering, viewing and printing.

Work Simultaneously

Electionware's multi-user functionality allows multiple authorized election personnel on a closed-network system to prepare precinct flash drives simultaneously or load results while running reports, even on different elections.

Ensure Electionwide Uniformity and Compliance

Electionware uses one database for multiple equipment types, manages nearly 15,000 ballot styles and precincts, supports numerous languages and manages and deploys multiple levels of security configurable to jurisdiction requirements.

5 COMPREHENSIVE ELECTION MANAGEMENT SOFTWARE GROUPS

Electionware gives election administrators the software tools needed to:

- **Create elections**
- **Design ballots**
- **Configure digital tabulation and accessible equipment**
- **Manage election results data**
- **Generate custom results reports**

These tasks are coordinated through Electionware's five software groups, each representing a stage of the election process.

Each group includes modules that handle specific functions for setting up an election and processing results — all of which can be configured.

DEFINE	<ul style="list-style-type: none"> • Capture contests, candidate and proposition information • Import data (precincts, candidates)
DESIGN	<ul style="list-style-type: none"> • Design paper ballots • Lay out touch-screen ballots to display single or multiple contests per screen • Configure accessibility settings
DELIVER	<ul style="list-style-type: none"> • Set equipment access and configurations • Package data onto flash drives for use with equipment and ES&S pollbooks • Print ballots on demand with ES&S BOD
RESULTS	<ul style="list-style-type: none"> • Load election results • Adjudicate ballots and organize write-ins • Filter information and generate reports
MANAGE	<ul style="list-style-type: none"> • Control user access • Set security code complexity

**Town of Natick
Natick, Massachusetts**

**REQUEST FOR PROPOSALS FOR THE PROCUREMENT OF
A VOTING MACHINES AND SERVICES VENDOR FOR THE
TOWN OF NATICK**

PROPOSALS DUE:

November 30, 2023, 9:00 A.M. LOCAL TIME

Late Proposals Will Be Rejected

DELIVER COMPLETED PROPOSALS TO:

Town of Natick
c/o Procurement Officer
Natick Public Works
75 West Street
Natick, MA 01760
Phone: 508-647-6438

NOTICE TO PROPOSERS

Pursuant to Chapter 30B, Section 6 of the Massachusetts General Laws (M.G.L. c. 30B, §6), the Town of Natick, Natick Town Hall, 13 East Central Street, Natick, MA 01760 (“the Town”) invites the submission of sealed proposals for the procurement of a voting machines and services vendor for the Town of Natick. The Request for Proposals (“RFP”) may be obtained from the electronically from the Procurement Office, Natick Public Works, 75 West Street, Natick, MA 01760, at bleblanc@natickma.org, between 8:00 A.M. and 4:00 P.M. local time, Monday through Thursday, and between 8:00 A.M. and 12:00 P.M. (noon) local time, Friday, beginning on November 13, 2023. Please do not request prior to November 13, 2023. Please request during regular business hours only, per the above. Note that the Town of Natick will be closed for the Thanksgiving Holidays, Thursday, November 23, 2023, and Friday, November 24, 2023. Please do not request those days. Ten (10) copies of each sealed Proposal, contained in separately sealed envelopes marked, respectively, “RFP: Procurement of a Voting Machines and Services Vendor for the Town of Natick – Price Proposal” and “RFP: Procurement of a Voting Machines and Services Vendor for the Town of Natick – Non-Price Proposal” will be received until **9:00 A.M. local time, November 30, 2023**, at the Procurement Office, Natick Public Works, 75 West Street, Natick, MA 01760. Proposers shall also include an electronic copy of their non-price proposal in the non-price proposal envelope. All Proposals shall comply with the RFP issued by the Town of Natick, including, without limitation, Section 1, Instructions to Proposers, and Proposal Submission Requirements. The Town reserves the right to waive any informality in or to reject any, any part of, or all Proposals in the best interest of the Town. Any Proposal submitted will be binding for sixty (60) days subsequent to the deadline date for receipt of sealed Proposals. Award of a contract shall be subject to appropriation and, as applicable, shall be subject to vote by the Natick Select Board/Town Administration.

I. INTRODUCTION

Pursuant to Chapter 30B, Section 6 of the Massachusetts General Laws (M.G.L. c. 30B, §6), the Town of Natick, Natick Town Hall, 13 East Central Street, Natick, MA 01760 (“the Town”) invites the submission of sealed proposals for Procurement of a Voting Machines and Services Vendor for the Town of Natick. For a full description of such services, please refer to Section III (A) of the Request for Proposals (“RFP”).

The Request for Proposals (“RFP”) may be obtained from the electronically from the Procurement Office, Natick Public Works, 75 West Street, Natick, MA 01760, at bleblanc@natickma.org, between 8:00 A.M. and 4:00 P.M. local time, Monday through Thursday, and between 8:00 A.M. and 12:00 P.M. (noon) local time, Friday, beginning on November 13, 2023.

No Pre-Proposal Conference will be held.

Questions regarding this RFP shall be submitted in writing and shall be delivered to the Procurement Office by the close of business (4:00 P.M. local time, Monday through Thursday, and 12:00 P.M. (noon) local time, Friday) by email to bleblanc@natickma.org on November 20, 2023. Questions presented after this time shall not be considered. No question shall be considered which is not submitted in writing. Any questions requiring consideration shall be answered in an addendum delivered to all registered Proposers.

Ten (10) copies of each sealed Proposal, contained in separately sealed envelopes marked, respectively, “RFP: Procurement of a Voting Machines and Services Vendor for the Town of Natick – Price Proposal” and “RFP: Procurement of a Voting Machines and Services Vendor for the Town of Natick – Non-Price Proposal” will be received until **9:00 A.M. local time, November 30, 2023**, at this address:

Procurement Office
Natick Public Works
75 West Street
Natick, MA 01760.

Proposers shall also include an electronic copy of their non-price proposal in the non-price proposal envelope.

Each Proposer’s name, address and contact phone number shall be clearly visible from the outside of each sealed envelope. The clock in the Procurement Office shall be considered official. No Proposals received after the date and time specified in the previous paragraph shall be accepted. No faxed Proposals shall be accepted. Conditional Proposals will not be accepted.

Please refrain from using staples and binders, if this is at all possible.

Each Proposal shall be submitted in accordance with the Submission Requirements in order to be considered for award. Any Proposal submitted shall be binding for sixty (60) days subsequent to the time of the opening of Proposals.

The Town **will not** reimburse Proposers for any costs incurred in preparing Proposals in response to this RFP.

Submission of a Proposal shall be conclusive evidence that the Proposer has examined this RFP and is familiar with terms of this RFP and all provisions of the contract included with this RFP. Upon finding any omissions or discrepancy in this RFP, each Proposer shall notify the Town immediately so that any necessary addenda may be issued. Failure of a Proposer to investigate completely the RFP and/or to be thoroughly familiar with this RFP shall in no way relieve any such Proposer from any obligation with respect to the Proposal.

By submission of a Proposal, the Proposer agrees that if its Proposal is accepted, then it shall enter into a Contract with the Town which incorporates all of the requirements of this RFP. By submission of a Proposal, the Proposer further indicates acceptance of all terms and conditions of this RFP.

Changes, modifications or withdrawal of Proposals shall be submitted in writing to the Town prior to the deadline and shall be contained in a sealed envelope clearly marked, as appropriate, “CORRECTION, MODIFICATION OR WITHDRAWAL OF SEALED PROPOSAL FOR THE PROCUREMENT OF A VOTING MACHINES AND SERVICES VENDOR FOR THE TOWN OF NATICK – PRICE PROPOSAL” or “CORRECTION, MODIFICATION OR WITHDRAWAL OF SEALED PROPOSAL FOR PROCUREMENT OF A VOTING MACHINES AND SERVICES VENDOR FOR THE TOWN OF NATICK - NON-PRICE PROPOSAL.” No corrections, modifications, or withdrawal of Proposals shall be permitted after the deadline for receipt of Proposals.

For further information, please refer to the succeeding sections, with which each Proposer shall comply in submitting a Proposal.

II. PRE-PROPOSAL CONFERENCE/QUESTIONS

No Pre-Proposal Conference will be held.

Questions regarding this RFP shall be submitted in writing and shall be delivered to the Procurement Office by the close of business (4:00 P.M. local time, Monday through Thursday, and 12:00 P.M. (noon) local time, Friday) by email to bleblanc@natickma.org on November 20, 2023. Questions presented after this time shall not be considered. No question shall be considered which is not submitted in writing. Any questions requiring consideration shall be answered in an addendum delivered to all registered Proposers.

III. BACKGROUND

A. Description of Work

Pursuant to this RFP, the Successful Proposer shall provide all labor and materials for the procurement of a voting machines and services vendor for the Town of Natick.

1. 10 (ten) each election tabulator with internal backup battery, touch screen, plastic ballot box with removable carrying case, soft sided case, and proprietary memory devices.
2. 2 (two) each election tabulator with internal backup battery, touch screen, soft-sided case, and proprietary memory devices.
3. Additional proprietary memory device.
4. Successful Proposer to provide implementation services of project management, and tabulation equipment operations training, tabulation equipment installation, customer service support, and technical support, offer thermal paper purchase compatible with the tabulator.
5. Successful Proposer to provide a two (2)-year warranty on hardware and software.
6. Successful Proposer to provide software for managing election details and records.
7. The Town of Natick currently has 16 Accuvote model voting machines. Each Proposer, in its Proposal Price, shall include a credit for removal of the current machines and, in any contract awarded pursuant to this RFP, shall remove and dispose of said machines in accordance with all applicable federal, state, and local laws, rules, and regulations at no additional cost to the Town.
8. The successful proposer shall have electronic voting equipment certified, as required by the Massachusetts General Law and CMR50.

B. Successful Proposer's Personnel

The Successful Proposer shall be responsible for any training of his/her/its personnel. The Successful Proposer's personnel shall be adequately trained by the Successful Proposer, shall be experienced in the provision of services specified in this RFP, and shall be of good moral character. All of the Successful Proposer's employees assigned to the work under any contract with the Town shall pass Criminal Background Screening.

The Successful Proposer shall provide the Town with the following information:

1. Name, business address, telephone, and cell phone numbers of the person(s) in charge of the work under any contract with the Town.
2. Name, address, and telephone number of all employees assigned to the work under any contract with the Town. The Successful Proposer will update this list whenever there is a change in personnel.

IV. PROPOSAL SUBMISSION REQUIREMENTS

I. PRICE PROPOSAL

To be considered responsible and responsive and eligible to submit a Proposal for consideration of having the most advantageous Proposal, Proposers shall submit their price Proposals on the form entitled "Price Proposal Form" that is enclosed herewith as Attachment A. The **Price Proposal Form** shall include a price that includes the furnishing of all payments, insurance, and other costs incurred in the performance under the Contract, and signed by an individual authorized to bind the Proposer contractually.

The total price shall be a fixed sum for all work performed (not an hourly rate) and shall be all inclusive including travel, printing, telephone and any other outside expense.

II. NON-PRICE PROPOSAL

To be considered responsible and responsive and eligible to submit a Proposal for consideration of having the most advantageous Proposal, Proposers shall submit non-price Proposals that comply with the following requirements:

A. Letter of Transmittal

Proposers shall submit cover letters with their Proposals. Each cover letter shall be signed by the Proposer, stating that the Proposal is effective for at least sixty (60) calendar days from the deadline date for receipt of sealed Proposals, or from the date upon which this RFP is cancelled, whichever occurs first.

B. Table of Contents

Proposals shall include a table of contents, properly indicating the section and page numbers of the information included.

C. A Fully-Executed Scope of Services

Each Proposer shall submit a written narrative which explains in detail the scope of services to be provided by that Proposer.

D. Other Documents.

Each Proposer shall submit the following:

- 1) A fully executed Certificate of Non-Collusion (Attachment B).
- 2) A fully executed Certificate of Tax Compliance (M.G.L., c.62C, §49A) (Attachment C).
- 3) A fully executed Conflict of Interest Certification (M.G.L. c.268A) (Attachment D).
- 4) A fully executed Certificate of Corporate Proposer (Attachment E).
- 5) A fully executed Certificate of Compliance with M.G.L. c. 151B (Attachment F).
- 6) A fully executed Certificate of Non-Debarment (Attachment G).
- 7) A certificate of insurability from an insurance company that is licensed to do business in the Commonwealth of Massachusetts indicating that all the provisions of the specifications can be met, shall be submitted with the proposal documents.

- 8) The identity of the individual, partnership or corporation applying for contract award and credentials of the personnel who would actually perform the work, as well as their managers, and the nature of the supervision. State the responsibilities of each of the work personnel. If the proposer intends to sub-contract or any work required in the scope of services, the sub-contractor shall be identified. Sample work products are required for all personnel. This item is a major determinant in assessing the proposer's qualifications and shall be incorporated as a condition in the contract to be awarded.
- 9) An applicant qualifications statement, including professional qualifications and work experience attesting to capacity to perform the required work program. Include résumé(s), detailing academic and professional work experience attesting to capacity to perform the required work program. Résumés are required for all work personnel.
- 10) A detailed explanation of the proposer's approach to the work: methodology, demonstrated understanding of the scope of work, and the proposer's expectations of assistance and services from the Town. A technical work plan and timeline for accomplishing the tasks described in the scope of services shall be provided.
- 11) A client reference list, with names, addresses, telephone numbers, and e-mail addresses (if available) for clients for whom the proposer has performed similar services within the past five (5) years.
- 12) Any other information deemed relevant to the work, and which the proposer believes will further the competitiveness of the proposal.
- 13) A statement of any legal proceedings pending or concluded within the past five (5) years relating to the performance of services by the Proposer.

V. SELECTION CRITERIA

1. Minimum Evaluation Criteria

In order to be considered a responsive and responsible Proposer, a Proposal shall comply with the Proposal Submission Requirements set forth in Section IV above.

2. Comparative Evaluation Criteria

All responsive proposals will be judged against the **Comparative Evaluation Criteria** detailed below. The Town will rank each proposal as:

- a. Highly Advantageous – the proposal exceeds the standards of the specific criterion;
- b. Advantageous – the proposal fully satisfies the standards of the specific criterion;
- c. Not Advantageous – the proposal does not fully satisfy the standards of the specific criterion, or is incomplete and/or unclear.

2.1. Quality and Depth of Work Experience

Highly Advantageous – The proposal demonstrates experience with ten (10) or more similar projects.

Advantageous – The proposal demonstrates experience with five (5) to nine (9) similar projects.

Not Advantageous – The proposal demonstrates experience with four (4) or fewer similar projects.

2.2. Qualifications of the Proposer

Highly Advantageous – The proposer's résumé(s) demonstrate(s) that proposer has superior training, educational background and work experience appropriate to the work described herein and all key work personnel demonstrate (s) professional experience well beyond the minimum requirements.

Advantageous – The proposer's résumé(s) do/does not meet the above category for highly advantageous, but demonstrate(s) that proposer has adequate training, educational background and work experience appropriate to the work described herein and all key work personnel demonstrate(s) professional experience that meets or exceeds the minimum requirements.

Not Advantageous – The proposer's résumé(s) do/does not demonstrate that proposer has adequate training, educational background and work experience appropriate to the work described herein.

2.3. Desirability of approach to the work, demonstrated understanding of the community's needs, and proposer's ability to undertake and complete this work.

Highly Advantageous – The proposal demonstrates a superior approach to the subject material and a superior understanding of the issues addressed by the work.

Advantageous – The proposal does not meet the above category for highly advantageous, but demonstrates an acceptable approach to the subject material and an acceptable understanding of the issues addressed by the work.

Not Advantageous – The proposal does not demonstrate an acceptable approach to the subject material and an acceptable understanding of the issues addressed by the work, and/or the proposal fails to indicate a time schedule that meets the work requirements.

2.4. Overall Quality of Client References

Highly Advantageous – All references contacted spoke favorably of the work performed by the proposer and would use them again for similar work without hesitation.

Advantageous – Not used.

Not Advantageous – One (1) or more references stated that there had been difficulty with the proposer’s ability to deliver the contracted services and deliverables.

2.5. Completeness and Quality of Proposal

Highly Advantageous – The proposal is complete, concise, informative, and highly detailed. Proposal reflects that proposer is able to perform in a superior manner acceptable to the Town.

Advantageous – The proposal does not meet the above criteria for highly advantageous, but the proposal is complete, informative, and meets criteria for responsiveness.

Not Advantageous – The proposal is not complete, informative, and responsive.

A proposal that fails to meet any of the minimum submission requirements shall be deemed **Unacceptable (U)** in all of the above categories.

VI. PROPOSAL SUBMISSION

Ten (10) copies of each sealed Proposal, in separate envelopes, as described above, shall be submitted by **9:00 A.M. LOCAL TIME, November 30, 2023**, to this address:

Town of Natick
c/o Procurement Officer
Natick Public Works
75 West Street
Natick, MA 01760.

Proposers shall also include an electronic copy of their non-price proposal in the non-price proposal envelope. After this time, they will be opened in confidence. **Proposals received after the date and time specified in this Section VI for receipt of Proposals will not be accepted.**

VII. INTERVIEWS

After review of the technical proposals, the Screening Committee may, **at its discretion**, schedule interviews with any or all of the proposers for the purpose of further evaluation of the proposer’s qualifications and ability to provide the required service. Interviewees will be ranked on their presentation.

VIII. FINAL SELECTION AND AWARD

The Screening Committee will review the non-price proposals. The Screening Committee will determine which non-price proposals meet the minimum evaluation criteria set forth in Section IV above. The Screening Committee will rank such non-price proposals in accordance with the comparative evaluation criteria set forth in the Section V above. The Screening Committee will then open and review the envelopes labeled “Price Proposals” and rank them.

Based upon the Screening Committee's analysis of both the Price-Proposal and the Non-Price Proposal, the Screening Committee will make a recommendation to the Procurement Officer, to the Natick Town Administrator concerning which Proposal, if any, the Town should accept. The Natick Town Administrator will then decide whether a Contract will be awarded. Any Contract will be awarded, if at all, pursuant to all applicable provisions of the Massachusetts General Laws, to a responsive and responsible Proposer who has submitted the most advantageous Proposal, taking into consideration price and all other evaluation criteria set forth in the RFP.

IX. COMPLIANCE WITH LAWS

The Successful Proposer shall comply with all provisions of Federal, Massachusetts and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act, as amended, and related regulations, as amended, in effect throughout the term of this Lease and any extension or renewal thereof. Without limitation, the Successful Proposer shall comply with the applicable provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws (M.G.L.), as amended, and with all applicable minimum prevailing wage rates as determined by the Massachusetts Commissioner of Labor and Industries. Any Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, and any other laws, as though such terms were set forth in their entirety herein.

X. INSURANCE

The Successful Proposer shall keep in force throughout the term of the Contract and any extension or renewal thereof the amount of insurance described in the Contract which is a part of this RFP and is incorporated herein by reference. Without limitation of other requirements of this RFP, no Contract shall be entered into by the parties unless the successful Proposer complies with all applicable insurance requirements, including, without limitation, the requirement to submit endorsements or riders which include the required language concerning notice of cancellation or amendment of any and all insurance policies required under the Contract, and which include the required language mandating that the Town of Natick shall be named as an additional insured on the required policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form.

XI. INDEMNIFICATION

The Successful Proposer shall assume the indemnification responsibilities described in the Contract which is a part of this RFP and is incorporated herein by reference.

XII. PERFORMANCE BOND REQUIREMENTS

DELETED – NOT APPLICABLE

XIII. LABOR AND MATERIALS PAYMENT BOND REQUIREMENTS

DELETED – NOT APPLICABLE

XIV. INDEPENDENT CONTRACTOR STATUS

The Successful Proposer shall provide services as an independent contractor with the Town of Natick and the Successful Proposer and his/her/its employees shall not be entitled to receive any benefits of employment with the Town of Natick, including without limitation salary, overtime, vacation pay, holiday pay, health insurance, life insurance, pension or deferred compensation.

XV. CRIMINAL BACKGROUND SCREENING

For each employee of the Successful Proposer who is performing services under any Contract awarded by the Town of Natick, the Successful Proposer shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Successful Proposer's pre-employment criminal background screen. In the event that any employee refuses to permit the Successful Proposer to provide such information to the Town, the Successful Proposer shall not assign such employee to perform services for the Town, and such employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

XVI. USE OF ALCOHOL AND CONTROLLED SUBSTANCES PROHIBITED

The use of alcoholic beverages, narcotics, and mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Successful Proposer is prohibited on Town of Natick property which is the subject matter of this RFP and during all hours of work under any contract with the Town. If any officer, employee, agent, or representative of the Successful Proposer violates the foregoing provision, the Town of Natick shall have the right to order that such officer, employee, agent, or representative of the Successful Proposer shall not be permitted to return to work under any contract with the Town. Under such circumstances, the Successful Proposer shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with any contract with the Town.

XVII. NO SMOKING/USE OF TOBACCO PRODUCTS

Pursuant to M.G.L. c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Successful Proposer, its officers, employees, agents, and representatives are prohibited from smoking tobacco products, or any non-tobacco products designed to be combusted or inhaled, in any public building.

XVIII. INDEX OF ATTACHMENTS

Attachment A - Price Proposal Form
Attachment B - Certificate of Non-Collusion
Attachment C - Certificate of Tax Compliance (M.G.L., c.62C, §49A)
Attachment D - Conflict of Interest Certification (M.G.L. c.268A).
Attachment E - Certificate of Corporate Proposer
Attachment F - Certificate of Compliance with M.G.L. c. 151B

Attachment G - Certificate of Non-Debarment
Attachment H - Form of Contract

**ATTACHMENT A
TOWN OF NATICK
PRICE PROPOSAL FORM**

The undersigned Proposer hereby submits a price proposal for the provision of a voting machines and services vendor in the Town of Natick.

Printed Name of Proposer:

Address: _____

The PROPOSER hereby pledges to deliver the complete scope of services required for price shown below:

Total Price in Words: _____

Total Price in Numbers: _____

NOTE THAT THE ABOVE PRICE INCLUDES THE TRADE IN OF CURRENT EQUIPMENT AS
DESCRIBED HEREIN.

The PROPOSER acknowledges receipt of addenda nos. _____

Please write out all addenda issued. For example, for four (4) addenda issued, please write: "1, 2, 3, and 4." Do not write "1-4" or "4."

Authorized Signature

Printed Name

Printed Title

Date

Full Legal Name

Officers of Corporation and Addresses

State of Incorporation

Principal Place of Business

Tel.

Qualified in Massachusetts **Yes**_____ **No**_____

Principal Place of Business in MA

Tel.

TOWN OF NATICK

ATTACHMENT B

CERTIFICATE OF NON-COLLUSION

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

Name of Proposer

Address of Proposer

Telephone Number _____

By: _____
(Signature)

Printed Name

Printed Title

Date

TOWN OF NATICK

ATTACHMENT C
CERTIFICATE OF TAX COMPLIANCE

Pursuant to Massachusetts General Laws (M.G.L.) c. 62C, §49A, I certify under the penalties of perjury that the Proposer named below has complied with all laws of the Commonwealth of Massachusetts pertaining to the payment of taxes, to the reporting of employees and contractors, and to the withholding and remitting of child support.

Name of Proposer

Address of Proposer

Telephone Number _____

By: _____
(Signature)

Printed Name

Printed Title

Date

TOWN OF NATICK

**ATTACHMENT D
CONFLICT OF INTEREST CERTIFICATION**

The Proposer hereby certifies that:

1. The Proposer has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of a Contract pursuant to this RFP.
2. No consultant to, or subcontractor for, the Proposer has given, offered, or agreed to give any gift, contribution, or offer of employment to the Proposer, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a Contract by the Proposer.
3. No person, corporation, or other entity, other than a bona fide full time employee of the Proposer has been retained or hired to solicit for or in any way assist the Proposer in obtaining a Contract pursuant to this RFP upon an agreement or understanding that such person, corporation or entity be paid a fee or other compensation contingent upon the award of a Contract to the Proposer.
4. The Proposer understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws (M.G.L.), applies to the Proposer and its officers, employees, agents, subcontractors, and affiliated entities with respect to the transaction outlined in the Request for Proposals.
5. The Proposer understands that the Proposer and its officers, employees, agents, subcontractors, and affiliated entities, shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.

Name of Proposer

Address of Proposer

Telephone Number _____

By: _____

(Signature)

Printed Name

Printed Title

Date

TOWN OF NATICK

ATTACHMENT E

CERTIFICATE OF CORPORATE PROPOSER

I, _____, certify that I am the Clerk of the Corporation named as Proposer in the attached Proposal Form; that _____, who signed said Proposal on behalf of the Proposer was then _____ of said Corporation and was duly authorized to sign said Proposal Form; and that I know his/her signature thereto is genuine.

(Corporate Seal)

Name of Proposer

Address of Proposer

Telephone Number _____

By: _____

(Signature)

Printed Name

Printed Title

Date

This Certificate shall be completed where Proposer is a Corporation and shall be so completed by its Clerk. In the event that the Clerk is the person signing the Proposal on behalf of the Corporation, this certificate shall be completed by another officer of the Corporation.

TOWN OF NATICK

ATTACHMENT F

CERTIFICATE OF COMPLIANCE WITH M.G.L. c. 151B

The Proposer hereby certifies that it is in compliance with and shall remain in compliance with Massachusetts General Laws (M.G.L.) Chapter 151B and shall not discriminate on any prohibited basis outlined therein. The Proposer also hereby certifies that it shall comply with any and all applicable Supplier Diversity Office (SDO) thresholds that have been established in conjunction with this Request for Proposals.

Name of Proposer

Address of Proposer

Telephone Number

By: _____

(Signature)

Printed Name

Printed Title

Date

TOWN OF NATICK

ATTACHMENT G
CERTIFICATE OF NON-DEBARMENT

The Proposer hereby certifies that it is presently not debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, and that, should any proceeding arise in which it is debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, the Proposer shall inform the Town of Natick within one (1) business day of such debarment, suspension, or prohibition from practice.

Name of Proposer

Address of Proposer

Telephone Number _____

By: _____
(Signature)

Printed Name

Printed Title

Date

TOWN OF NATICK

**ATTACHMENT H
FORM OF CONTRACT**

(SEE ATTACHED DOCUMENT.)

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

This Contract is made this _____ day of _____ 2023, by and between the Town of Natick, Massachusetts, with an address of Natick Town Hall, 13 East Central Street, Natick, MA 01760 (hereinafter the “Town of Natick,” or “the Town”) and _____ (hereinafter the “Contractor”).

The words "he," "him" and "his" in this Contract, as far as they refer to the Contractor, shall so refer whether the Contractor is an individual, partnership or corporation. All prior contracts for the services outlined in Section 1, below (Scope of Services), if any exist between the Town and the Contractor, are hereby terminated and shall be of no force and effect.

1. Scope of Services

The Contractor shall provide services as set forth in the Request for Proposals for the Procurement of a Voting Machines and Services Vendor for the Town of Natick (“RFP”), which is incorporated herein by reference.

2. Standard of Care

The Contractor shall exercise due care and diligence in the rendition of all services under this Contract in accordance with the applicable professional standards in the Eastern Massachusetts area. The Contractor’s services shall be performed as expeditiously as is consistent with such standards, with professional skill and care, and with the orderly progress of the work.

3. Term

The term of this Contract shall commence as of the execution date of this Contract and shall end one year later. At the sole discretion of the Town, this Contract may be extended for one (1) or two (2) additional one (1)-year terms. Time is of the essence in the performance of services rendered by the Contractor under this Contract.

4. Incorporation of the Request for Proposals/Order of Priority of Contract Documents

The provisions of the RFP and the Contractor’s Proposal are incorporated herein by reference. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority:	Amendments to Contract (if any)
Second Priority:	Contract
Third Priority:	Addenda to the RFP (if any)
Fourth Priority:	RFP

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

Fifth Priority: Contractor's Proposal.

5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Town shall pay the Contractor the prices stated in the Contractor's Price Proposal. (See attached Price Proposal Form.)

This Contract is a fixed price/fixed rate contract; and, therefore, miscellaneous expenditures associated with the Contractor's work on this project shall not be paid by the Town. In the event that an unforeseen miscellaneous expense is incurred, the Contractor shall receive the Town's approval in writing prior to incurring the expense if it will subsequently seek payment of said expense from the Town.

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the Town as an invoice and shall specify work completed, progress made toward completing deliverables, the number of hours worked, the classification of each employee who performed work, and the billing rate for each employee who performed work on the project.

Payment will be due thirty (30) days after receipt of the Contractor's invoice by the Town for services rendered in accordance with this Contract. The Town shall not make payments in advance.

If the Town objects to all or part of any invoice, the Town shall notify the Contractor in writing within two (2) weeks of the date of receipt of the invoice, and shall pay that portion of the invoice not in dispute within thirty (30) days after the date of receipt of the invoice.

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the Town's RFP, the Contractor shall take such measures only with the Town's prior written approval. Charges for such services shall be billed directly to the Town unless otherwise agreed upon by the parties.

Payment of the amounts due under this Contract shall release the Town of Natick, Massachusetts and its officers, employees, boards, commissions, committees, agents and representatives, from any and all claims and liability in any way relating to this Contract or anything done in pursuance thereof.

No payment by the Town to the Contractor shall be deemed to be a waiver of any right of the Town under this Contract or a ratification by the Town of any breach hereof by the Contractor.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

6. Warranty

DELETED – NOT APPLICABLE.

7. Compliance with Laws

The Contractor shall comply with all provisions of Federal, Massachusetts and Town of Natick law applicable to his work including, without limitation, statutes, by-laws, rules, regulations, orders and directives, as amended, and including, without limitation, the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, and related regulations, as amended, in effect throughout the term of this Contract and any extension or renewal thereof. Without limitation, the Successful Proposer shall comply with the applicable provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws (M.G.L.), as amended, and with all applicable minimum prevailing wage rates as determined by the Massachusetts Commissioner of Labor and Industries. This Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, as though such terms were set forth in their entirety herein.

8. Insurance

The Contractor shall provide and maintain throughout the term of the Contract and any extension or renewal thereof the following insurance with companies that are authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.

- a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of \$1,000,000/\$1,000,000/\$1,000,000.
- b. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- c. Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of \$1,000,000.
- d. Professional Liability Insurance – Deleted/Not Applicable.
- e. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

insurance, and employer's liability under workers' compensation insurance.

- f. The Town of Natick shall be named as an additional insured on each such policy of Commercial General Liability Insurance, Excess Liability Insurance, Umbrella Form, and Automobile Liability Insurance.
 - g. All certificates and policies shall contain the following provision:

“Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Natick Town Administrator, Natick Town Hall, 13 East Central Street, Natick, MA 01760 before such cancellation or amendment shall take place.”
 - h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Town at the execution of this Contract. 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 as required by this Contract. The Contractor shall make no claims against the Town of Natick or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by the Contract.
 - i. The Contractor shall also be required to provide to the Town of Natick with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Town of Natick is named as an additional insured on each such policy.
 - j. No insurance shall be obtained from an insurer which:
 - (1) is not licensed to sell insurance in the Commonwealth of Massachusetts; or
 - (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better.
 - k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Contract and shall operate as an immediate termination thereof.
9. Indemnification

The Contractor shall compensate the Town of Natick for all damage to Town

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Town of Natick and all of its officers, employees, boards, commissions, committees, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the breach by the Contractor of its obligations under this Contract, or the act or omission of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or employees regarding the subject matter of this Contract. Said costs shall include, without limitation, reasonable legal costs, collections fees, and counsel fees incurred in defending any claim or suit that may be brought against the Town and any judgment that may be obtained in any such claim or suit.

10. No Personal Liability

Neither the Town of Natick, nor its officers, employees, boards, commissions, committees, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the breach or violation of any provision of this Contract, or the violation of any Federal, Massachusetts or Town of Natick statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

11. Familiarity with Area of Work

By signing this Contract, the Contractor acknowledges that it has examined the area of work which is the subject matter of this Contract and that it is familiar with all sites which are the subject of this Contract and with all conditions of the RFP and of this Contract. The Contractor has entered into this Contract in reliance on its own examinations and estimates as to the amount and character of its work, and conditions which may be encountered in the performance thereof, and shall assume all risks and bear all losses pertaining thereto.

12. Performance Bond

DELETED – NOT APPLICABLE.

13. Labor and Materials Payment Bond

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
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DELETED – NOT APPLICABLE.

14. Independent Contractor Status

The Contractor shall provide services under this Contract as an independent contractor with the Town of Natick and not as an employee of the Town of Natick. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the Town of Natick, including, without limitation, salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.

15. Use of Alcohol and Controlled Substances Prohibited

The Contractor hereby acknowledges that the use of alcoholic beverages, narcotics, and controlled and/or mood altering substances, except for current valid, legal prescriptions, by any officer, employee, agent, or representative of the Contractor is prohibited on Town of Natick property which is the subject matter of this Contract and during all hours of work under this Contract. If any officer, employee, agent, or representative of the Contractor violates the foregoing provision, the Town of Natick shall have the right to order that such officer, employee, agent, or representative of the Contractor shall not be permitted to return to work on this Contract. Under such circumstances, the Contractor shall promptly remove the subject officer, employee, agent, or representative from the job site and shall not permit the subject officer, employee, agent, or representative to perform further work in conjunction with this Contract.

16. No Smoking

Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers, employees, agents, and representatives are prohibited from smoking tobacco products, or any non-tobacco products designed to be combusted or inhaled, in any public building in the Town of Natick.

17. Criminal Background Screening

For each employee of the Contractor who is performing services under this Contract, the Contractor shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written confirmation to the Town that such employee passed the Contractor's pre-employment criminal background screen. In the event that any employee refuses to permit the Contractor to provide such information to the Town, the Contractor shall not assign such employee to perform services for the Town, and such employee shall not be authorized to perform services for the Town. The Town shall be permitted to keep such information in its files.

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
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18. *Delays/Force Majeure*

Except as specifically set forth in this Contract, neither party shall hold the other responsible or liable for damages or delays in performance caused by acts of God, interruptions in the availability of labor, or other events beyond the control of the other party, or that could not have been reasonably foreseen or prevented. For this purpose, such acts or events shall include unusually severe weather affecting performance of services, floods, epidemics, wars, riots, strikes, lockouts, or other industrial disturbances, protest demonstrations, and project site conditions which could not have been reasonably anticipated. Should such acts or events occur, both parties shall use their best efforts to overcome the difficulties arising and to resume as soon as reasonably possible the normal pursuit of the services for the Project.

19. Termination

- a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) days of written notice thereof from the Town to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.
- b. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the Town may terminate this Contract upon written notice to the Contractor.
- c. The award of this Contract and the continued operation of this Contract are contingent upon appropriation by Natick Town Meeting of sufficient money to fund the Contract. Should Natick Town Meeting fail to appropriate necessary funds therefor, the Town of Natick shall no longer be under any obligation to tender performance, including payment, under the terms of this Contract. In that event the Town may terminate this Contract upon written notice to the Contractor.
- d. The Town may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to provide for a Contract price which represents a reduced appropriation for the Contract term.

Town of Natick, Massachusetts
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- e. The Town may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor.

In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.

In the event that this Contract is terminated pursuant to Section 19a. or 19b. above, the Town may make any reasonable purchase or contract to purchase services in substitution for services due from the Contractor and may deduct the cost of any substitute contract, or damages sustained by the Town due to non-performance or non-conformance of services, together with incidental and consequential damages from the Contract price, and shall withhold such damages from sums due or sums which become due.

20. Notices

- . Except as otherwise provided in this Contract, all notices required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section.

If to the Town: James Errickson,
 Town Administrator
 Natick Town Hall
 13 East Central Street
 Natick, MA 01760

With copies to: Karis L North, Esq.
 Office of the Town Counsel
 Murphy, Hesse, Toomey & Lehane, LLP
 50 Braintree Hill Office Park, Suite 410
 Braintree, MA 02184

If to the Contractor:

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
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21. Miscellaneous Provisions

- a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Middlesex County, MA, and in no other court or jurisdiction.
- b. No action or failure to act by the Town shall constitute a waiver of a right or duty afforded to the Town under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Town shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Town. No waiver by the Town of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.
- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing services under this Contract, report the same to the Town in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the Town as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the Town vis-à-vis the media or the public at-large without the Town's express, written consent in advance.
- g. Prior to commencing services under this Contract, the Contractor shall furnish the Town, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees of his business who are to be contacted in the event of an after-hours emergency.
- h. By entering into this Contract, the Contractor certifies under penalties of perjury that its Proposal was made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

“person” shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

- i. By entering into this Contract, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes, to reporting of employees and contractors, and to withholding and remitting child support.
- j. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.
- k. Prevailing wage rates, as contained in the Proposal documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable.
- l. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.
- m. **To the extent that any of the foregoing sections required by Massachusetts law are inconsistent with other, non-statutory sections in this agreement, any statutorily-mandated provisions contained herein shall control.**

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

- n. The Contractor shall not assign or subcontract in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the Town.
- o. The Contractor shall not assign any money due or to become due to the Contractor unless the Town of Natick shall have received prior written notice of such assignment. No such assignment shall relieve the Contractor of its obligations under this Contract.
- p. This Contract may be amended only by written consent of the parties.
- q. This Contract constitutes the entire agreement of the parties and any other agreement, written or oral, that may exist is excluded from this Contract. When executed, this Contract supersedes any other agreement of any of the parties in connection with the transaction contemplated.
- r. If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law.
- s. The provisions of this Contract shall be binding upon and shall inure to the benefit of the heirs, assigns and successors in interest of the parties.
- t. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of law issues or principles.
- u. This Contract is executed in triplicate as a sealed instrument.

(The remainder of this page is left blank.)

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

The Town of Natick, Massachusetts

by:

Printed Name of Contractor
by:

James Errickson
Town Administrator

Signature

Printed Name

Printed Title

Dated: _____

Dated: _____

APPROVED AS TO AVAILABILITY OF APPROPRIATION:

This is to certify that an appropriation in the amount of this Contract is available therefor, and that the Natick Town Administrator is authorized to execute this Contract and to approve all requisitions and execute change orders.

Michelle L. Laramée
Comptroller, Town of Natick

Dated: _____

APPROVED AS TO FORM ONLY, AND NOT AS TO SUBSTANCE:

Karis L. North, Esq.
Office of the Town Counsel

Dated: _____

Town of Natick, Massachusetts
Contract for the Services of a Voting Machines and Services Vendor
for the Town of Natick

CERTIFICATE OF VOTE

I, _____, hereby certify
(Clerk/Secretary)

that I am the duly qualified and acting _____ of

(Corporation Name) (Title)

and I further certify that at a meeting of the Directors of said Corporation duly called and held on _____ 20 ____, at which meeting all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower either

_____, _____;
(Name) (Title)

_____, _____; or
(Name) (Title)

_____, _____
(Name) (Title),

any one acting singly, to execute all contracts and bonds on behalf of the Corporation.

I, further certify that the above vote is still in effect on this the ____ day of _____, 20__ and has not been changed or modified in any respect.

Signature

Printed Name

Printed Title

The certification contained hereabove shall be executed by CONTRACTOR or copy of current "certification of authority to sign for the Corporation" shall be attached.)



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
11/17/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Central, Inc. Omaha NE Office 17807 Burke Street Suite 401 Omaha NE 68118 USA	CONTACT NAME: PHONE (A/C. No. Ext): (402) 697-1400 FAX (A/C. No.): (402) 697-0017 E-MAIL ADDRESS:														
INSURED Election Systems & Software, LLC 11208 John Galt Blvd Omaha NE 68137 USA	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Twin City Fire Insurance Company</td><td>29459</td></tr><tr><td>INSURER B: Hartford Accident & Indemnity Company</td><td>22357</td></tr><tr><td>INSURER C: Trumbull Insurance Company</td><td>27120</td></tr><tr><td>INSURER D: Hartford Casualty Insurance Co</td><td>29424</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Twin City Fire Insurance Company	29459	INSURER B: Hartford Accident & Indemnity Company	22357	INSURER C: Trumbull Insurance Company	27120	INSURER D: Hartford Casualty Insurance Co	29424	INSURER E:		INSURER F:	
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INSURER D: Hartford Casualty Insurance Co	29424														
INSURER E:															
INSURER F:															

COVERAGES	CERTIFICATE NUMBER: 570102749813	REVISION NUMBER:
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.		
Limits shown are as requested		

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			41UUNAX0RMG	10/01/2023	10/01/2024	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> \$1,000 Comp Ded. <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> \$1,000 Coll. Ded.			41 UEN AA3388	10/01/2023	10/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$10,000 <input type="checkbox"/> CLAIMS-MADE			41XHUY3V0J	10/01/2023	10/01/2024	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N N/A			41WEAB9NF1	10/01/2023	10/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Town of Natick, MA, RFP. Town of Natick is included as Additional Insured in accordance with the policy provisions of the General Liability, Automobile Liability and Umbrella Liability policies. Should General Liability, Automobile Liability, Umbrella Liability and workers' compensation policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions of each policy.

CERTIFICATE HOLDER Town of Natick, MA Natick Town Hall, 13 East Central Street Natick MA 01760 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Central, Inc.</i>
--	--

Holder Identifier : ABDGEI

570102749813

Certificate No :





ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Central, Inc.		NAMED INSURED Election Systems & Software, LLC	
POLICY NUMBER See Certificate Number: 570102749813			
CARRIER See Certificate Number: 570102749813	NAIC CODE	EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM, FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance	
workers' Compensation Underwriting Co. Hartford Casualty Insurance Company: Illinois Pennsylvania Texas Hartford Insurance Company of Midwest: Georgia Hartford Underwriters Insurance Company: Missouri New Jersey North Carolina Property & Casualty Insurance Company of Hartford: Alabama Colorado Minnesota New York Sentinel Insurance Company: California Iowa Maryland Trumbull Insurance Company: Indiana Nebraska Twin City Fire Insurance Company: Arkansas Arizona Delaware Florida Idaho Kansas Kentucky Massachusetts Michigan Mississippi North Dakota Ohio Oklahoma Oregon Rhode Island South Carolina South Dakota Tennessee Utah Vermont Virginia Washington West Virginia Wisconsin	



COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- e. **Incidental Medical Malpractice And Good Samaritan Coverage**
- "Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
 - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
 - (b) Any health or therapeutic service, treatment, advice or instruction; or
 - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
 - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
 - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

- (a) Employment by the insured; or
- (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1)** A watercraft while ashore on premises you own or rent;
- (2)** A watercraft you do not own that is:
 - (a)** Less than 51 feet long; and
 - (b)** Not being used to carry persons for a charge;
- (3)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

(b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,

enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Employment-Related Practices

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Asbestos

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

s. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
 - (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or

settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages **A** and **B**.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

i. Infringement Of Intellectual Property Rights

(1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or

(2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

(1) Infringement, in your "advertisement", of:

(a) Copyright;

(b) Slogan; or

(c) Title of any literary or artistic work; or

(2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of web sites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

I. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Internet Advertisements And Content Of Others

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

- (4) Computer code, software or programming used to enable:

(a) Your web site; or

(b) The presentation or functionality of an "advertisement" or other content on your web site.

q. Right Of Privacy Created By Statute

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

r. Violation Of Anti-Trust law

"Personal and advertising injury" arising out of a violation of any anti-trust law.

s. Securities

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

t. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

u. Employment-Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

v. Asbestos

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
 - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
 - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
 - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

w. Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

COVERAGE C MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;provided that:
 - (1) The accident takes place in the "coverage territory" and during the policy period;
 - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
 - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

f. The indemnitee:

(1) Agrees in writing to:

(a) Cooperate with us in the investigation, settlement or defense of the "suit";

(b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(c) Notify any other insurer whose coverage is available to the indemnitee; and

(d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

(a) Obtain records and other information related to the "suit"; and

(b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or

b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or

- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and

- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

(2) With respect to the insurance afforded to these additional insureds this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

c. Lessors Of Land Or Premises

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

With respect to the insurance afforded these additional insureds the following additional exclusions apply:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or
2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

e. Permits Issued By State Or Political Subdivisions

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

With respect to the insurance afforded these additional insureds, this insurance does not apply to:

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
 - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
 - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

7. Medical Expense Limit

Subject to **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

8. How Limits Apply To Additional Insureds

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insureds Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **j.** of Section **I** - Coverage **A** - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or
- b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
 - b. An interactive conversation between or among persons through a computer network.
2. **"Advertising idea"** means any idea for an "advertisement".
3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.
4. **"Auto"** means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. **"Bodily injury"** means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. **"Hostile fire"** means one which becomes uncontrollable or breaks out from where it was intended to be.

11. **"Impaired property"** means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work", or your fulfilling the terms of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;

- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

18. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
 - b. Created or used on; or
 - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT - NEBRASKA

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

Paragraph 1. Who is an Insured of Section II – Covered Autos Liability Coverage is amended to include the following:

d. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

e. Employees as Insureds

- (1) Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

f. Lessors as Insureds

Paragraph 1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- (1) The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (a) The agreement requires you to provide direct primary insurance for the lessor and
 - (b) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

g. Additional Insured if Required by Contract

- (1) When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (a) During the policy period, and

- (b) Subsequent to the execution of such written contract, and
- (c) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

2. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in A.1.f. - Additional Insured If Required by Contract, the following provisions apply:

- (1) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(2) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (1) and (2) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in SECTION IV - Business auto Conditions, B. General Conditions, Other Insurance 5.d.

3. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The SECTION IV - Business Auto Conditions, B. General Conditions, 5. OTHER INSURANCE Condition is amended by adding the following:

- e. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

4. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation

insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

5. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

6. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

7. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

8. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

9. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

- a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or
- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

- b. Section III, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 is amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

- (3) An integral part of such equipment.

- c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

11. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

12. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

13. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

15. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV. B.7.B.(6) - BUSINESS AUTO CONDITIONS is replaced by the following:

- 6. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

16. WAIVER OF SUBROGATION

Paragraph 5. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS A. Loss Conditions is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

17. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS, C. is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

18. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail notice of cancellation by registered or certified mail to the first Named Insured at least 60 days before the effective date of cancellation.

19. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"
- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

20. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

- A.** If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



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- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

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- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



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NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 41 WE AB9NF1

Endorsement Number: 1

Effective Date: 10/01/23

Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: GOVERNMENT SYSTEMS SOFTWARE SERVICES INC ETAL

11208 JOHN GALT BLVD

OMAHA NE 68137

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

ITEM TITLE: Referral of Zoning Articles for Spring Annual Town Meeting
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Site plan review document	1/24/2024	Cover Memo
Site plan review referral document	1/24/2024	Cover Memo

Section VI-DD Site Plan Review

A. Purpose and Intent

Site Plan Review aims to protect the safety, public health, and common good of the Natick Community and its environment through a clear, consistent, comprehensive review of construction projects. Such review will allow for better control and mitigation of potential impacts on traffic, parking, municipal and public services, utilities, site design features, streetscape, appropriate use of land, and environmental quality while ensuring compliance with the goals and objectives of the Comprehensive Plan and the provisions of the Zoning Bylaw.

B. Authority

Whenever site plan review and approval is required under the provisions of the Zoning Bylaw, the Planning Board or their designee shall follow the procedures set forth in this Section. Where an activity or use requires both site plan review and one or more special permits the Planning Board shall conduct such reviews together.

C. Applicability

This Section shall apply to all construction projects or modification of previously approved Site Plan Approvals outlined herein.

1. Exempt from Site Plan Review

- a. Any construction or modification to a Single and Two-Household Dwellings on an individual lot;
- b. Any construction or modification that results in an increase less than 1,500 gross square feet;
- c. Any construction or modification that results in an increase in lot coverage less than 1,000 square feet;
- d. Any construction or modification to an off-street parking areas that results in five (5) or fewer additional off-street parking spaces;
- e. Any façade modification that does not modify structural features (ex. location of doors, windows, emergency services) or dimensional; or
- f. Any use of lands, buildings, or structures for educational purposes by the Natick Public Schools on land owned or leased by the Town of Natick or Natick+ Public Schools.

2. Minor Site Plan Review

Minor site plan review and approval may be conducted by the Development Review Team (DRT) or Planning Board, as outlined in the Planning Board Rules and Regulations, as amended. Such projects that require minor site plan review and approval shall include:

- a. Any expansion of a nonresidential structure that results in an increase between 1,500 – 3,000 gross square feet;
- b. Any construction or modification to an off-street parking areas that results in six (6) or more additional off-street parking spaces; or
- c. Any construction or modification to a parking facility, off-street loading facility, of a facility for the storage or sale of any type of new or used vehicles, including

construction vehicles, truck trailers and/or any vehicle that requires licensing by the Commonwealth of Massachusetts.

3. Major Site Plan Review

Major site plan review and approval shall be conducted by the Planning Board. Such projects that require major site plan review and approval shall include:

- a. Any construction of a new or expansion of a nonresidential structure that results in an increase greater than 3,000 gross square feet;
- b. Any construction of a new or expansion of a Multi-household Dwelling, Mixed-use Residential Development, or Mixed-use Development that results 1,500 square feet or greater;
- c. Any project subject to the provisions of Inclusionary Housing Bylaw, herein.
- d. Any project with a new or existing drive-thru facility;
- e. All Marijuana Establishments (Marijuana Retailers, Marijuana Cultivators, and Marijuana Product Manufacturers)

4. Limited Site Plan Review

Any new structure or alteration of an existing structure or change of use in any structure for an entity claiming exception under MGL c. 40A, § 3 as determined by the Building Commissioner.

5. Modification of a Site Plan Approval

- a. All modifications to properties with prior site plan approval that have not been determined to be an insignificant field change by the Building Commissioner and Fire Department.
- b. Any change, extension, material corrections, additions, substitutions, alterations, or modification to a site plan review permit that is not deemed a minor field change by the Planning Board or its designee shall require a majority vote at a public meeting in accordance with MGL c. 40A, § 11.

D. Application Review

Application submittal requirements shall be outlined in the Planning Board Rules and Regulations, which shall include required documents, site plans, and reports, which will aid the Planning Board in its evaluation of site plan reviews.

E. Review Criteria and Findings

1. Minor and Major Site Plan Review

- a. Siting of facilities, off-street parking, and site features
 - i. Protection and mitigation of adjoining premises against detrimental impacts, which include surface water drainage, light, sound and sight buffers and preservation of views, light, and air
- b. Design of open space, natural resource, and the landscape, emplacing the balance between form and function of the natural, aesthetic, social, and recreational design
- c. Protection of surface and ground water
- d. Circulation and connectivity that is safe and accessible for all
- e. Efficient vehicular and non-vehicular transportation and parking
- f. Impacts on public services, infrastructure, and facilities

- g. Impacts on public and environmental health
- h. Design of a sustainable, climate sensitive, and environmentally conscious site
- i. Mitigation of adverse impacts on Town resources (water and sewer, aquifers, fire protection, roadways, infrastructure, etc.

2. Limited Site Plan Review

- a. Bulk and height of structures
- b. Yard sizes and setbacks
- c. Lot area and building coverage
- d. Off-street parking (parking, circulation, lighting, landscaping, and stormwater)

F. Review Procedures

All projects requiring a site plan review and approval shall be subject to the following procedures, unless modified within this Section under minor, major, or limited site plan review.

1. Public Hearing

A public hearing shall be reviewed for all site plan reviews and approvals conducted by the Planning Board. The hearing shall be advertised in a local newspaper no less than one (1) week and no more than two (2) weeks prior to the public hearing. Notice shall be sent to landowners within three-hundred (300) feet of each affected lot and published in the location designated under MGL c. 30A §20(c).

2. Pre-Application Review

Applicants are strongly encouraging to meet with the Development Review Team (DRT) prior to an application submittal.

3. Special Permit Coordination

Where a project requires site plan review and special permits, the Planning Board shall conduct a coordinated, comprehensive review of the project.

4. Decision

A decision shall be rendered within sixty (60) days for minor and limited site plan review; one-hundred and twenty (120) days for major site plan review; and modifications to site plan approvals within a reasonable time dependent on scope of modifications.

G. Administration

- i. The Planning Board shall establish and periodically amend rules and regulations related to administration of this Section, submittal requirements, and design standards.
- ii. The Planning Board shall establish and periodically amend a schedule of fees for all applications under this Section. No application shall be deemed complete unless all associated fees are paid.
- iii. No building permit shall be issued for, and no person shall undertake, any use, alteration or improvement subject to this Section unless an application for site plan review and approval has been prepared and approved by the Planning Board.
- iv. Site plan approval granted under this Section shall lapse within three (3) years, not including such time required to pursue or await the determination of an appeal as referred to in MGL, c. 40A §17, if construction was not begun by such date except for good cause.

H. Waiver

The Planning Board, at its discretion, may waive technical or submittal requirements of site plan review and approval where such technical or submittal requirements are not appropriate or

relevant for the evaluation of the project. All Applicants seeking waiver requests shall provide a detailed description of the need for relief from the technical or submittal requirement.

I. Appeal

Any person aggrieved by a decision of the review authority may appeal to a court of competent jurisdiction as set forth in MGL c. 40A, §17.



Natick Community & Economic Development

BUILDING • PLANNING • ZONING • CONSERVATION

Town of Natick, 13 E. Central Street Natick, MA 01760

www.NatickMA.gov • (508) 647 – 6450

To: The Natick Select Board
cc: Natick Planning Board
From: Amanda Loomis, Director of Community & Economic Development
RE: 2024 Spring Annual Town Meeting Zoning Articles
Date: January 23, 2024

Dear Members of the Natick Select Board,

Pursuant to MGL c. 40A, Section 5, the Planning Board requests that the Select Board refer the following Zoning Articles for the 2024 Spring Town Meeting back to the Planning Board to commence the public hearing process.

Amend Zoning Bylaw: Amend § VI-DD Special Permit Procedures and Site Plan Review and Associated Sections To see if the Town will vote to amend the Natick Zoning Bylaw by amending § VI-DD Special Permit Procedures and Site Plan Review by amending § VI-DD.1 Purpose and Intent Administration by deleting reference to Site Plan Review; delete Section § VI-DD.2.B Site Plan Review Applicability and SPGA Designation, § VI-DD.3 General Requirements, 4. Procedures, 5. Criteria for Approval, 6. Standards for Site Plan Review, 7. Start of Construction, and 6. Certificate of Occupancy: Designer's Certification; add a new Section Site Plan Review; amend Section 200 – Definitions; or act in any other manner in relation thereto (Sponsor: Planning Board)

Please let me know if you have any questions.

Thank you,
Amanda Loomis, AICP

ITEM TITLE: Consideration of Select Board Sponsorship of Town Meeting Warrant Articles
ITEM SUMMARY:

ITEM TITLE: Special Town Meeting - scheduling
ITEM SUMMARY:

ITEM TITLE: Approve Meeting Minutes:

- ITEM SUMMARY:**
1. May 3, 2023
 2. May 17, 2023
 3. May 31, 2023
 4. October 4, 2023
 5. October 16, 2023
 6. December 12, 2023

ATTACHMENTS:

Description	Upload Date	Type
Open Session Meeting Minutes May 3, 2023	1/19/2024	Cover Memo
Open Session Meeting Minutes May 17, 2023	1/19/2024	Cover Memo
Open Session Meeting Minutes May 31, 2023	1/19/2024	Cover Memo
Open Session Meeting Minutes October 4, 2023	1/19/2024	Cover Memo
Open Session Meeting Minutes October 16, 2023	1/19/2024	Cover Memo
Open Session Meeting Minutes December 12, 2023	1/19/2024	Cover Memo

SELECT BOARD
TOWN OF NATICK

MEETING MINUTES

Meeting Conducted in the Edward H. Dlott
Meeting Room and via Zoom
May 3, 2023
6:30 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice Chair; Richard Sidney, Clerk; Paul R. Joseph; Kristen L. Pope

ALSO PRESENT: Town Administrator, James Errickson; Deputy Town Administrator-Operations, Jon Marshall; Fire Chief, Jason Ferschke; Executive Assistant, Joan McNamara

ABSENT:

Chair Evans called the meeting to order at 6:38 PM.

Chair Evans stated that he will read the items for Executive Session this evening and read the following:

- A. Pursuant to M.G.L. c. 30A, section 21(a)(3), to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares - REBA Dispute Resolution Mediation: Pelo, et al v. Town of Natick Zoning Board of Appeals, et al; Land Court Docket No. 21 MISC 000520 (DRR) GROSSMAN
- B. Pursuant to MGL c 30A, S21 (a)(6) To consider the purchase, exchange, lease or value of real property if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body - 5 Auburn Street Development Agreement
- C. Pursuant to M.G.L. c. 30A, section 21(a)(3), to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares - Springfield Water and Sewer, et al. v. Massachusetts DEP, No. 2384CV00443 (Suffolk Superior)

On a motion by Ms. Coughlin, seconded by Mr. Joseph, the Board, by Roll call vote, voted 5-0-0, to enter into Executive Session. The roll call vote was as follows:

Mr. Sidney	Yes
Mr. Joseph	Yes
Ms. Coughlin	Yes
Mr. Evans	Yes
Ms. Pope	Yes

RECONVENE OPEN SESSION

Open Session was reconvened at 7:37 PM.

The Pledge of Allegiance was recited, and a Moment of Silence was observed for rabbi Harold Kushner of Temple Israel who passed away on April 28, 2023. This has been a great loss for the community. Rabbi Kusner helped millions deal with loss.

ANNOUNCEMENTS

A. Vacancies on the Cultural Council

There are 3 vacancies available on the Cultural Council. The mission of the Natick Cultural Council is to promote excellence, education, and diversity in the arts, humanities, and interpretative sciences to improve the quality of life for Natick residents. The Council awards grants based on the cultural needs of the community, as assessed by Council members with input from the community. The Council supports and fosters professional excellence in the arts, encourages the local development of the arts and supports the work of artists, humanists, and cultural organizations.

The full vacancy notice is attached to this evening's agenda.

B. Fire Chief Ferschke's announcement of firefighter promotions:

Chief Ferschke was present before the Board this evening to recognize multiple achievements within his department. There have been two captain and two lieutenant promotions.

Captain promotions:

Justin Mellor, Captain, could not be present this evening

Chris Hampton, Captain, was present to receive this honor. Captain Hampton has stepped into the role of Training Captain flawlessly. He also holds a master's degree and is a Marine.

Lieutenant promotions:

Jack Curley, Lieutenant, was present to receive this honor. Lieutenant Curley has been a member of the department since 2001. He is an EMT and part of the tactical rescue team and honor guard.

Rob Stephenson, Lieutenant, was present to receive this honor. Lieutenant Stephenson has completed paramedic school and is in the process of officer certification. His main aspiration is to be a good mentor.

C. Mental Health Awareness Month

Mr. Erickson announced that May is Mental Health Awareness Month. The Town is working to generate awareness. Attached to this evening's agenda is a flyer that can provide information on upcoming events such as webinars and training.

D. Hazardous waste collection day will be on May 6th, 2023, from 9:00 AM – 12:00 PM. Tickets for the collection day must be purchased in advance from the Department of Health.

PUBLIC SPEAK

None.

DISCUSSION AND DECISION

A. 21 Overbrook easement discussion

This is a small dead-end street off Route 9 near the Wellesley town line. The owner of this property has an outbuilding which is technically a garage. We now know that the garage was built on land that is accepted Town roadway. There were two options for the property owner. The owner could remove the garage or go to Town Meeting and authorize the Select Board to issue an easement because it was a transfer of property rights. A Citizen's Petition was brought to Town Meeting and Town Meeting has now authorized the Select Board to issue the easement.

Mr. Errickson had further discussion with the Board and noted that there are a few more questions to be answered by Town staff prior to bringing this back to the Board for final approval of the easement.

B. Board ratification of press statement, April 21, 2023.

The Select Board and Town of Natick wished to ratify a public press statement which was released on April 21, 2023, regarding public hate crimes. The full press release is attached to this evening's agenda. On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0 to approve the press statement of April 21, 2023.

C. Town Governance Study committee Update and Survey Request

Attached to this evening's agenda is a memorandum dated May 1, 2023, from the Chair of the Town Governance Study Committee, Carol Gloff, entitled Study Committee Quarterly Update.

Mr. Joseph stated that he is planning to file a charter commission petition tomorrow at the Town Clerk's office tomorrow. In his opinion, this cannot wait another year and the voters should have a say in how the government runs. Mr. Joseph was very clear that any initiative he takes with regard to a charter commission will be taken individually, and not on behalf of this Board.

D. Public Hearing: Application of a S. 15 all alcohol package store license – Liberty Liquors, Jaymin Patel

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board, by Roll Call vote, voted 5-0-0 to open the public hearing.

Mr. Sidney	Yes
Ms. Pope	Yes
Ms. Coughlin	Yes
Mr. Joseph	Yes
Mr. Evans	Yes

Jaymin Patel is present before the Board and is the sole applicant for Liberty Liquors. The Board had a roundtable discussion and determined that in this case there was a lack of differentiation in products offered and a lack of public need.

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted that pursuant to M.G.L. c. 138 s.23, this Board does not find that there is a public need which is commonly referred to as the Ballarin test and therefore denied the Application by a 5-0-0 vote.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board, by Roll Call vote, voted 5-0-0 to close the public hearing.

Mr. Sidney	Yes
Ms. Pope	Yes
Ms. Coughlin	Yes
Mr. Joseph	Yes
Mr. Evans	Yes

E. Water and Sewer Abatement Appeal

1. Rattan Menzies, 8 Durant Road, Natick, MA

Mr. Menzies is before the Board this evening seeking an appeal from his water and sewer abatement request which was denied. Mr. Menzies and his family were away out of the country when a neighbor noticed that their outside faucet was turned on and running. The neighbor turned it off and notified Mr. Menzies.

Mr. Menzies is requesting that the Board abate the sewer charges as the water did not enter the sewer system.

On a motion by Mr. Joseph, seconded by Ms. Coughlin, the Board voted 5-0-0 to abate the water and sewer bill in the amount of \$1,744.38. consistent with Mr. Marshall's findings.

F. Stonegate/East Central Street (former St Patrick's School) mixed use redevelopment

Mr. Erickson stated that attached to this evening's agenda is the Third Amendment to the Stonegate Development Agreement. In short, the amendment is adjusting the types of units (from rental to for sale), for a small portion of the units. Mr. Erickson noted that per paragraph 3 of the amendment, "Ownership units shall be eligible to be included on the SHI consistent with the current provisions of G.L. c. 40B sec. 20-23 and applicable regulations as they apply to ownership units." There will be 8 total units of which two of those units will be for sale deeded in perpetuity affordable and the remaining will be rental units. Mr. Erickson and Town Counsel, have both reviewed the proposed Third Amendment.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 5-0-0 to approve the Third amendment to the Development Agreement.

G. Anti-Discrimination Policy

Mr. Marshall stated that this item is on the agenda this evening to start a broader discussion with the Board about actually creating an Anti-Discrimination Policy.

Mr. Joseph stated that it may be something that this Board wants to consider as a vision or value statement rather than a policy that may be more complicated. Mr. Evans added that he could see this as being a core value.

H. Discussion on prior year's Goals

The Board will be having an off-cycle meeting on May 10, 2023, to talk about goals and objectives and to get an update on communications from Town Administration.

CONSENT AGENDA

A. Approve Meeting Minutes

1. Meeting Minutes October 19, 2022
2. Meeting Minutes November 2, 2022
3. Meeting Minutes November 9, 2022
4. Meeting Minutes November 16, 2022
5. Meeting Minutes November 30, 2022

B. Procurement Officer Award Contracts:

1. Award: Traffic Study Engineering Services
2. Award: Second Amendment to Contract for the Procurement of Engineering Services for the Cochrane Rail Trail (final phase)

C. Re-vote Ari Gottlieb's appointment to the Zoning Board of Appeals from a member to an associate member

D. Reappoint Shriya Joag to the Cultural Council

E. Reappoint Amanda Hsiao to the Commission on Disability

F. Reappoint David Jackowitz to the Zoning Board of Appeals

G. Approve One Day Entertainment License for Natick Community Organic Farm

H. Approve two S12 All Alcohol Temporary Extension of Premise Applications until April 30, 2024 conditioned upon site inspection by Deputy Chief Lauzon or his designee

I. Frescafe

1. Hampton Inn
2. Approve 2023 License Renewals
3. Junk Dealers/Collectors
4. Billiards
5. Taxi/Livery/Limousine

J. Approve Natick Center Associate's Request to Occupy a public way for Natick Nights (Court and Adams Streets) for the following dates: June 1st, 15th, 29th, July 13th, 20th (Adams Street only), and 27th

K. Approve One Day Alcohol License for Natick Center Associates for Natick Nights for the following dates: June 1st, 15th, 29th and July 13th and 27th

L. Approve Nellie Goodman's Request to hold a block party on June 11, 2023, with a rain date of June 11, 2023, from 2:00pm-5:00pm

M. Approve Aaron Stevens' Request to host a block party on May 9, 2023, from 2:00-8:00pm

N. Approve Natick Recreation & Parks Requests to hang a banner for the following events:

1. June 26-July 9: Concerts and Family Performances on the Common
2. August 28-Sept 10: Natick Days
3. October 23-29: Spooktacular on the Common

O. Approve letter to Boston MPO in support of TIP Amendment 24-28 and give consent for Chair to sign on the Board's behalf

P. Approve letter in support of MVP Grant Application

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 5-0-0 to remove Item A. 1-5 (Meeting Minutes) from the Consent Agenda and to approve Items B-P.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to approve the meeting Minutes with two minor edits.

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted 5-0-0 to adjourn the meeting at 10:12 PM.

Richard Sidney, Clerk

May 3, 2023, Select Board Meeting Minutes Approved by the Select Board on _____.

All documents used at this Select Board meeting are available at:

<https://naticktown.novusagenda.com/agendapublic/MeetingView.aspx?MeetingID=1117&MinutesMeetingID=-1&doctype=Agend>

SELECT BOARD
TOWN OF NATICK

MEETING MINUTES

Meeting Conducted in the Edward H. Dlott
Meeting Room and via Zoom
May 17, 2023
6:30 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice Chair; Richard Sidney, Clerk; Paul R. Joseph; Kristen L. Pope

ALSO PRESENT: Town Administrator, James Errickson; Deputy Town Administrator-Operations, Jon Marshall; John Westerling, Director of Dept. of Public Works; William Spratt, Executive Director of the DPW and Facilities; Executive Assistant, Joan McNamara

ABSENT:

Chair Evans called the meeting to order at 6:34 PM.

Chair Evans stated that he will read the items for Executive Session this evening and read the following:

- A. Pursuant to M.G.L. ch30A s. 21 (a)(6) To consider the purchase, exchange, lease or value of real property if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body - 5 Auburn Street Development Agreement
- B. Pursuant to M.G.L. ch30A s. 21 (a)(4) To discuss the deployment of security personnel or devices, or strategies with respect thereto - North Eastern Massachusetts Law Enforcement Council; Middlesex County Chiefs of Police Interagency Agreement

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board, by Roll call vote, voted 5-0-0 to enter into Executive Session. The roll call vote was as follows

Mr. Sidney:	Yes
Mr. Joseph:	Yes
Ms. Pope:	Yes
Ms. Coughlin:	Yes
Mr. Evans:	Yes

RECONVENE OPEN SESSION

Open Session was reconvened at 7:48 PM.

The Pledge of Allegiance was recited, and a Moment of Silence was observed for all those that serve.

ANNOUNCEMENTS

- A. Introduction of John Westerling, new Director of Department of Public Works, and presentation of award

Mr. Errickson introduced a new employee, John Westerling, who is our new Director of the Department of

Public Works.

Mr. Errickson also wished to announce and congratulate Mr. Westerling on having received the “2023 Top Ten Public Work Leader of the Year.” This award is one of the American Public Works Association’s highest honors and is based on a lifetime of professional contributions. The full press release is attached to this evening’s agenda.

B. Vacancies on the Cultural Council

There are 3 vacancies available on the Cultural Council. The mission of the Natick Cultural Council is to promote excellence, education, and diversity in the arts, humanities, and interpretative sciences to improve the quality of life for Natick residents. The Council awards grants based on the cultural needs of the community, as assessed by Council members with input from the community. The Council supports and fosters professional excellence in the arts, encourages the local development of the arts and supports the work of artists, humanists, and cultural organizations.

The full vacancy notice is attached to this evening’s agenda.

PUBLIC SPEAK

None.

APPOINTMENTS

A. Interview and Appointment to the Historic District Commission

1. Robin Wood

Ms. Wood was present to interview for an appointment to the Historic District Commission. Ms. Wood’s application packet is attached to this evening’s agenda.

On a motion by Ms. Coughlin, seconded by Mr. Joseph, the Board voted 5-0-0 to appoint Robin Wood to the Historic District Commission.

DISCUSSION AND DECISION

A. Accept MathWorks' Scholarship Committee's Recommendations for Scholarship Recipients and discussion regarding scholarship value

Gregg Cohen, Chair of the MathWorks Scholarship Committee was present this evening and thanked the Select Board and MathWorks for their continued support of the Natick students.

1. Margaret Lagan
2. Akshaya Ravi

Ms. Lagan and Ms. Ravi were both present to accept their scholarships.

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted 5-0-0 to accept MathWorks' Scholarship Committee's recommendation to approve the scholarship recipients – Margaret Lagan and Akshaya Ravi.

B. Approve Resolution for Michael J. Hickey, Jr.

A Resolution was prepared for Michael J. Hickey, Jr., who was a Select Board member for six years. Mr. Hickey has made many contributions to the Town of Natick and the Board is honoring him this evening with a Resolution.

Mr. Hickey is present, and Ms. Coughlin read the Resolution.

On a motion by Ms. Coughlin, seconded by Mr. Joseph, the Board voted 5-0-0, to approve the Resolution for Michael J. Hickey, Jr.

C. Public Hearing: Fiscal 2023 Water and Sewer Rates

Mr. Joseph noted (as above), that our agenda states that the Public Hearing is for Fiscal 2023, however, this is a typographical error in the agenda only. The Public Hearing notice itself reads 2024.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to open the public hearing.

Bill Spratt, Executive Director of the DPW and Facilities, walked the Board through his presentation entitled "Water and Sewer Rate Hearing 2024", which contains all the information on setting the 2024 water and sewer rates.

On a motion by Ms. Coughlin, seconded by Ms. Pope, the Board voted 5-0-0, to accept the Fiscal 2024 Water and Sewer rates.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 5-0-0 to close the public hearing.

D. Regional Housing Services Office (RHSO) Review and Authorization of Town Administrator to sign finalized Inter-Municipal Agreement

Attached to this evening's agenda is a memorandum and presentation from Amanda Loomis, Director of Community and Economic Development. The memorandum fully outlines the work of the "RHSO" and the proposed partnership with Natick.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board authorized the Town Administrator to sign and finalize the Inter-Municipal Agreement for the Regional Housing Services Office.

E. Approve Natick Pegasus Contract Extension

Mr. Errickson stated that there are no major changes to the fiscal 2024 contract. Town Counsel has reviewed the contract as well as the Natick Pegasus team.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0 to approve the Natick Pegasus Contract extension.

- F. Vote to set the maximum useful life of the departmental equipment and capital improvement to be financed by the June 2023 Bond issue

Mr. Errickson stated that this vote needs to be taken in advance of the Bond issuance that will be on the Board's agenda for June 14, 2023, for the permanent borrowing for all of the capital work that has been previously approved to fund capital projects. As part of this process, the Select Board is required to take the Useful Life vote as attached to this evening's agenda.

Mr. Sidney read the following into the record:

I, the Clerk of the Select Board of the Town of Natick, Massachusetts, certify that at a meeting of the board held May 17, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody: Voted: the maximum useful life of the departmental equipment and capital improvements listed below to be financed with the proceeds of the borrowings authorized by the vote of Town Meeting to be as follows:

Each line contains the following: Project Title, Amount, Town Meeting Approval and Maximum Useful Life

Replace Vehicle 606 (W-17) F-450 w/Crane \$200,000 2020 FATM 13 - B1 7
Springvale Water Air Stripper Media Replacement \$380,000 2020 FATM 14 - B1 10
High Lift, H&T Building Modifications Springvale \$450,000 2020 FATM 14 - B2 20
Rough Mower \$50,000 2020 FATM 13 - D1 8
HD Utility Vehicle \$30,000 2020 FATM 13 - D2 7
Replace 2001 Pumping Engine \$700,000 2021 SATM 16 - A4 10
Replace Vehicle 404 (H-42) Dump Body Pickup and Equipment \$115,000 2022 SATM 15 - A4 7
Replace Vehicle 508 (S-39) Hooklift Truck and Equipment \$225,000 2022 SATM 15 - A5 7
Replace Vehicle 414 (H-49) Dump Truck/Sander and Equipment \$345,000 2022 SATM 15 - A6 7
SCADA Equipment \$80,000 2022 FATM 15 - D3 10
Replace Vehicle 602 \$80,000 2022 FATM 15 - D2 7

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive

session, all in accordance with G.L. c.30A, §§18-25 as amended, moved by Mr. Sidney, and seconded by Ms. Pope, the Board voted 5-0-0 to approve.

G. Vote and sign easement and deed for 299-301 Bacon Street

The Select Board was authorized, in 2019, at Town Meeting, to transfer the property at 299-301 Bacon St. This was held up due to COVID and we are now completing the paperwork for transfer to the Affordable Housing Trust. The easement, deed and Town Meeting authority documents are all attached to this evening's agenda.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0 to sign the easement and deed for 299-301 Bacon Street.

H. Vote to submit letters to State Legislature:

Attached to this evening's agenda are two letters. The first letter pertains to Natick's 2023 Fall Annual Town Meeting which authorized the Select Board to file a Home Rule Petition to exempt all Police Superior Officers in the Natick Police Department from the provisions of Chapter 31 of the General Laws relative to Civil Service. The second letter pertains to Natick's 2022 Fall Annual Town Meeting which authorized the Select Board to file a Home Rule Petition to exempt all Police Patrol Officers in the Natick Police Department from the provisions of Chapter 31 of the General Laws relative to Civil Service. The Board is being asked to vote to submit these letters to the State Legislature.

1. 2022 Fall Annual Town Meeting: Natick Patrol Officers - Exemption from Civil Service

2. 2023 Spring Annual Town Meeting: Natick Superior Officers - Exemption from Civil Service

On a motion by Mr. Sidney, seconded by Ms. Pope the Board voted 5-0-0 to submit the letter pertaining to the 2022 Fall Annual Town Meeting: Natick Patrol Officers - Exemption from Civil Service to the State Legislature.

On a motion by Mr. Sidney, seconded by Ms. Pope the Board voted 5-0-0 to submit the letter pertaining to the 2023 Spring Annual Town Meeting: Natick Superior Officers - Exemption from Civil Service to the State Legislature.

I. 21 Overbrook easement discussion

On May 3, 2023, the Board discussed the 21 Overbrook easement. Town Counsel has made slight revisions to the easement deed which is not attached to this evening's agenda. The Board will be approving this version provisionally provided that the landowner has no further questions, comments, or revisions.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0 to provisionally approve the 21 Overbrook easement.

J. Select Board policy on Contracts and Procurement

Attached to this evening's agenda is a memorandum from Mr. Errickson outlining a request to eliminate the Select Board policy on Contracts and Procurement.

On a motion by Mr. Joseph, seconded by Ms. Coughlin, the Board voted 5-0-0 to remove the Select Board policy on Contracts and Procurement.

CONSENT AGENDA

- A. Accept resignation from Matthew Labrie from the Historic District Commission
- B. Approve Cypress Tree Management Natick, Inc./dba Redi's Application for Adult Use Marijuana Establishment License
- C. Approve Change of Manager request from Anthony's Coal Fired Pizza of Natick, LLC
- D. Approve One Day Liquor License for Decanted Wine Truck for June 1, 2023, for Natick Nights
- E. Reappoint Robert Steckbeck to the Zoning Board of Appeals
- F. Approve Safety Committee Recommendations submitted by Chief Hicks
- G. Approve Chief Hicks Recommendations:
 - 1. To appoint Auxiliary Police Office Bryan Bradley;
 - 2. To appoint Parking Enforcement Officers
- H. Approve Natick Elks' Application to extend their Temporary Outdoor Premises license conditional upon a site visit by Deputy Chief Lauzon
- I. Reappoint Prerna Dubish to the Cultural Council
- J. Accept request from ZBA board members to switch member status as follows:
 - 1. Andrew Enright - change from full member to Associate Member;
 - 2. Michael Lynch - change from Associate Member to full Member
- K. Reappointments to the Cochituate Rail Trail Advisory Committee
 - 1. Barbara Sanchez
 - 2. Michelle Languedoc
- L. Approve Meeting Minutes
 - 1. December 14, 2022
 - 2. December 21, 2022
 - 3. December 28, 2022
 - 4. May 3, 2023
- M. Affirm vote of Third Amendment to Development Agreement with Stonegate St. Patrick LLC

Item A and Item H were removed from the Consent Agenda.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0 to approve Items A-G and Items I-M of the Consent Agenda.

On a motion by Ms. Coughlin, seconded by Sidney, the Board voted 5-0-0 to approve the Natick Elks' Application to extend their Temporary Outdoor Premises License conditional upon a site visit by Deputy Chief Lauzon requesting that the Deputy Chief visit within the next two weeks or when it is most appropriate given the seating chart.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to approve meeting minutes of December 21, 2022, and May 3, 2023.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to adjourn the meeting at 10:15 PM.

Richard Sidney, Clerk

May 17, 2023, Select Board Meeting Minutes Approved by the Select Board on _____.

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SELECT BOARD
TOWN OF NATICK

EXECUTIVE SESSION
MEETING MINUTES

Meeting Conducted in the Edward H. Dlott Meeting Room and via Zoom
May 31, 2023
6:30 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice-Chair; Richard Sidney, Clerk; Paul R. Joseph; Kristen L. Pope (Via Zoom)

ALSO PRESENT: Town Administrator, James Errickson; Deputy Town Administrator, Jon Marshall, Director of Communications, Jay Poropatich

ABSENT: None.

Chair Evans called the meeting to order at 6:38 PM.

The Chair stated that he will read the one item for Executive Session this evening and read the following:

EXECUTIVE SESSION

A. Pursuant to M.G.L. ch30A s. 21 (a)(6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body: 5 Auburn Street Development Agreement

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board, by Roll Call vote, voted 5-0-0 to enter into Executive Session. The Roll Call vote was as follows:

Mr. Joseph	Yes
Ms. Pope	Yes
Ms. Coughlin	Yes
Mr. Sidney	Yes
Mr. Evans	Yes

RECONVENE OPEN SESSION

Open Session reconvened at 7:37 PM.

The Pledge of Allegiance was recited, and a Moment of Silence was observed for all those who serve.

ANNOUNCEMENTS

A. Announcement of the 2023 Susan G. Salamoff summer internship recipient

This is the first summer that we are honoring our former colleague, Susan Salamoff, through the 2023

summer internship program. Jacob Brown is the recipient of the internship and is present before the Board this evening. Jacob grew up in Natick and is a current junior at Colgate University. His academic interests are in politics and government. Attached to this evening's agenda is a memorandum from Mr. Erickson announcing Jacob's internship and background.

Ms. Salamoff was also present via Zoom to thank the Board and to congratulate Jacob.

PUBLIC SPEAK

None.

DISCUSSION AND DECISION

- A. Retirement Board's presentation and request for vote of approval for a 2% COLA increase for retirees and survivors

Kathleen Reilly, actuary, and Michael Reardon were present before the Board on behalf of the Retirement Board.

Mr. Reardon stated that because of the inflation rate of the last year or so, PERAC (Public Employee Retirement Administration Commission), the state regulatory board for retirement systems, has allowed for greater than the normal 3% rate. "To be clear, this is 3% on the first \$13,000 of a pension. This is about a \$400.00 a year increase cost of living." In order to go from 3-5% cost of living increase, the Natick Retirement Board had to vote for the extra 2% which they did in the affirmative. The final step is to have the Town's governing board act before June 30, 2023. This would be a one-time increase retroactive to July 1, 2022.

Attached to this evening's agenda is the full COLA Segal report provided to the Board.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 5-0-0 to approve the 5% COLA and recommend the spread payment schedule.

- B. Town Brand process and roadmap

Jay Poropatich, Director of Communications, was present before the Board this evening to discuss the Town brand process and roadmap. Mr. Poropatich is leading the way in Town branding and design work beyond the Town seal. Mr. Poropatich presented a PowerPoint presentation which is attached to this evening's agenda.

- C. Main Street design work

Mr. Erickson stated that we have received some funding to do a multi-phase design work project on Main Street. McFarland Johson is a Consultant that the Town has hired to focus on the work. This work will be conceptual design work only. After concept work is complete, robust community engagement will follow.

D. ARPA Spending Plan update

Attached to this evening's agenda is a document entitled ARPA Actual Spending as of March 2023. The Board has been consistently viewing a spending plan for ARPA funding. The Town received approximately \$10.6 million dollars in funding for pandemic related relief (American Rescue Plan Act funding). The Town has been actively moving through the use of those funds per the Select Board's approved plans. Mr. Errickson stated that the Town has spent approximately \$7 million dollars thus far so that is about 70% of the funding.

E. Rhode Island Avenue disposition process discussion

To remind the Board, this is a small parcel of land off of Route 9 which is owned "fee simple" by the Town.

Supporting documentation from prior discussions before the Board are attached to this evening's agenda.

We were approached by Scrub a Dub and asked to sell directly to them as a property owner, however, due to State rules and regulations, the Town is unable to sell directly to a property owner. We currently have a draft RFP that we are working on which will essentially go out to the highest bidder.

Mr. Errickson stated that he is not looking for any action from the Board tonight.

F. Proposed Meeting Minutes review process

Mr. Sidney addressed a new process for the review of meeting minutes for Board members. The new review process is outlined in a document which is attached to this evening's agenda.

G. Kennedy Middle School – 8th Grade Civic Action Project

The 8th grade class at Kennedy Middle School has been working on a "Civics Action Project" and the children chose the topic "street signs". The plan is for the teacher and some students to attend the next Board meeting to discuss their project.

H. LGBTQIA+ Proclamation

Attached to this evening's agenda is a copy of the Select Board's LGBTQIA+ Proclamation which was read aloud by Mr. Sidney.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to approve the Proclamation.

CONSENT AGENDA

- A. Approve Rotary Club of Natick's Request to hang a banner for the Tour de Natick from June 12th through June 18, 2023
- B. Procurement Officer Award Contracts
 - Award Chemical Feed Upgrades Project (W-165)
 - Award Newfield Drive Lighting Upgrades Project – 2023
- C. Approve Tessa Kaminski's Block party request to be held on June 15, 2023, from 4- 8:00pm
- D. Approve American Foundation for Suicide Prevention's Request to hang a banner from September 10th through the 24th of 2023 for National Suicide Prevention Week
- E. Approve Safety Committee Recommendation submitted by Chief Hicks
- F. Reappoint Dennis Ravenelle to the Cochituate Rail Trail Advisory Committee
- G. Accept Friends of Natick Trails' Request:
 - 1. To accept a donation of a maintenance shed for the Cochituate Rail Trail.
- H. Approve Natick Center Cultural District's Request to host a food truck for the Juneteenth holiday on June 19, 2023, from 1:00pm - 4:00pm in a parking spot on Park St.

Ms. Coughlin wished to remove Item E from the Consent Agenda.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the board, by Roll call vote, voted 5-0-0, to approve the Consent Agenda with the exception of Item E.

The Safety Committee Recommendation as attached to this evening's agenda was discussed at length with contributions from Joshua Ostroff, who was the previous Chair of the Transportation Advisory Committee. After consideration and discussion, Mr. Errickson suggested that Item E be moved to the next agenda so that a bit more research can be conducted before a vote on the final recommendation is made.

On a motion by Mr. Sidney, seconded by Ms. Pope, the Board voted 5-0-0, to adjourn the meeting at 9:40 PM.

Richard Sidney, Clerk

May 31, 2023, Select Board Meeting Minutes Approved by the Select Board on .

Select Board agenda materials available:

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SELECT BOARD
TOWN OF NATICK

MEETING MINUTES

Meeting Conducted in the Edward H. Dlott
Meeting Room and via Zoom
October 4, 2023
6:30 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice Chair; Richard Sidney, Clerk; Paul R. Joseph.

ALSO PRESENT: Town Administrator, James Errickson; Deputy Town Administrator, Finance; John Townsend; Deputy Town Administrator, Operations, Jon Marshall; Supervisor of Land Facilities and Natural Resources, Art Goodhind; Executive Director of the DPW and Facilities, William Spratt; Deputy Director of Recreation and Parks, Travis Farley.

ABSENT: Kristen L Pope

Chair Evans called the meeting to order at 6:35 PM.

Chair Evans stated that the Board will be entering Executive Session and read the two items listed for Executive Session:

- A. Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares: Justin George vs. Town of Natick Fire Department (MCAD Docket No. 21BEM01327/EEOC Docket No. 16C-2021-01261
- B. Pursuant to M.G.L. ch30A s. 21 (a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares: Pirrone v. Natick No 2281-CV-02666 (Middlesex Superior Court)

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board, by Roll call vote, voted 4-0-0, to enter into Executive Session. The roll call vote was as follows:

Mr. Sidney:	Yes
Mr. Joseph:	Yes
Ms. Coughlin:	Yes
Mr. Evans:	Yes

RECONVENE OPEN SESSION

The Board reconvened Open Session at 7:30 PM.

The Chair announced that this meeting is currently being recorded by Natick Pegasus for future viewing.

The Pledge of Allegiance was recited, and a moment of silence was observed for all those who serve.

ANNOUNCEMENTS

Community Preservation Committee: Chair Evans announced that we are continuing to take applications for the Community and Preservation Committee through October 27, 2023, and plan to review them at the November 1, 2023, meeting.

Statement of Chief Hicks: Chair Evans read a statement from Police Chief Hicks regarding the pan handling concerns that have arisen at the Oak St. and route 9 intersection. The statement made the following points:

- Pan handling has become more of a problem over the recent months.
- When the police have been called, it is noted that the actions of the individuals are protected by law and the individuals are following all laws and guidelines.
- These guidelines are to not be in the street nor to disrupt the flow of traffic
- Most times the police can only warn these individuals of the citizens' complaints.

Broadmoor Wildlife Sanctuary and Mass Audubon

Town Administration received a letter from Broadmoor Wildlife Sanctuary and Mass Audubon that they will be conducting a controlled hunt during archery season from October 3, 2023, to December 31, 2023, to control the deer population. There are designated areas that are away from pathways and where people will be hiking. Please visit [Massaudubon.org\broadmoor](https://massaudubon.org/broadmoor) for more information.

PUBLIC SPEAK

Donna McKenzie, speaking "in her capacity as an associate member of the Charter and By-law Committee, stated that there will be a community forum on October 11, 2023, at 7:00 PM in the School Committee meeting room. There are some significant Warrant Articles this year and we are hoping we can answer some questions that some people have about these Articles.

APPOINTMENTS

A. Interviews and Appointments to South Middlesex Regional Vocational Technical School Committee (Keefe Tech)

1. Edward Carr
2. Henry Haughland

Both Edward Carr and Henry Haughland interviewed before the Select Board this evening for appointments to the South Middlesex Regional Vocational Technical School Committee (Keefe Tech).

On a motion by Mr. Joseph, seconded by Mr. Sidney, the Board voted 4-0-0 to appoint Edward Carr and Henry Haughland to serve as the Natick representatives to the South Middlesex Regional Vocational Technical School Committee (Keefe Tech).

DISCUSSION AND DECISION

A. Tourism Discussion with Economic Development Committee

Steve Levinsky and Scott Laughlin were present before the Board to ass

There are several attachments to our agenda in support of the discussion including a detailed memorandum from Scott Laughlin, Chair of the Economic Development Committee, which fully outlines the merits of participating in a Tourism Destination Marketing District (TDMD) in the MetroWest region under the auspices of the MetroWest Visitors Bureau (MWVB) as fiscal agent. The TDMD's purpose is to market the MetroWest region and help hoteliers put "heads in beds", thereby feeding the engine that is our local economy and bolstering local option tax revenues for the Town.

Mr. Levinsky added that their reason for being here is to stimulate the economy in the metrowest area by promoting tourism and travel for people beyond 50 miles outside the metrowest area, internationally as well as nationally.

A PowerPoint presentation is also attached to this evening's agenda.

B. Accept Resignations from the Sustainability Committee

- A. Roger Luckmann
- B. Alfredo Vargas
- C. David Mogolov
- D. Nick Adams Pandolfo

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted 4-0-0 to accept the resignations of the four members of the Sustainability Committee.

C. Sustainability Committee Update and Proposed Changes to Committee Charge and Composition

Attached to this evening's agenda is a memorandum from Leo Ryan, former Chair of the Sustainability Committee. The memorandum is a full outline of the proposal to transition the Sustainability Committee to the Net Zero Committee

Mr. Ryan noted that transition is critical to helping Natick focus on advancing its net zero goal whereas the Sustainability Committee has primarily served an advisory role. The newly formed Net Zero Committee would be tasked with taking action to accelerate the adoption of strategies defined in Natick's Net Zero Action Plan and future priorities as identified. This may include activities such as: facilitating research studies, projects, and collaborations; enlisting the support of residents and businesses; recommending changes to local laws and regulations; seeking state and local funding; and taking any other actions necessary for Natick to achieve net zero emissions by 2050.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 4-0-0 to create a Net Zero Committee with the Charge as described within Mr. Ryan's memorandum.

D. Updated Public Shade Tree Policy

Attached to this evening's agenda is a revised Draft 2023 updated Public Shade Tree Policy. Art Goodhind, Supervisor of Land Facilities and Natural Resources, explained the full policy to the Board.

On a motion by Mr. Sidney, seconded by Mr. Evans, the Board voted 4-0-0 to update the Public Shade Tree policy.

E. Charles River Dam Update

Bill Spratt, Executive Director of the DPW and Facilities and Travis Farley, Deputy Director of Recreation and Parks, are presenting to the Board this evening as part of the Charles River Dam project.

Attached to this evening's agenda is the full presentation entitled Charles River Dam Removal and River Restoration Project Update.

F. Vote to Establish the Useful Life of Department Equipment-Tasers and Vote to Recommend the Town Enter into a Lease Purchase Financing Agreement to Acquire Tasers for the Police Department

John Townsend, Deputy Town Administrator, Finance, was before the Board to discuss the purchasing of Taser Equipment for the police department.

All proper documentation is attached to this evening's agenda and the following votes were taken:

Vote of the Select Board as read into the record by the Clerk, Richard Sidney, moves that

I, the Clerk of the Select Board of the Town of Natick, Massachusetts, certify that at a meeting of the board held October 4, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appears upon the official record of the board in my custody:

Voted: that the maximum useful life of the departmental equipment listed below to be financed with a lease purchase financing agreement for the acquisition of equipment that may be acquired through the issuance of debt under G.L. c. 44, to be authorized by the vote of Town Meeting is as follows:

Project Title: Tasers Amount: \$260,000 Town Meeting Article: 2023 FATM 7C
Maximum Useful Life: 5

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of

the Town Clerk is located, or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the subject matter of this vote were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended

Moved by Mr. Sidney, seconded by Mr. Joseph, the Board voted 4-0-0 to approve.

Vote of the Select Board as read into the record:

I, the Clerk of the Select Board of the Town of Natick, Massachusetts (the Town”), certify that at a meeting of the Board held October 4, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was unanimously passed, all of which appear upon the official record of the board in my custody:

Whereas: The Police Department of the Town of Natick needs to procure tasers for the operations of the department.

Whereas: Axon, TASER Model 10 is approved by the Executive Office of Public Safety and Security for use by Massachusetts police departments and is available with holsters, batteries, cartridges, maintenance program and instructor certification through a lease purchase finance agreement.

Whereas: In order to procure the tasers in an expeditious manner and ensure appropriate service during the useful life of the taser a lease purchase financing agreement is appropriate and therefore:

The Select Board hereby votes: to recommend that the tasers be procured under General Laws Chapter 44, Section 21C, a lease purchase finance agreement for the acquisition of Tasers, equipment that may be acquired through the issuance of debt under G.L. c. 44, the term of such agreement not to exceed five years, the useful life of the equipment as determined by the Select Board, and the Town Administrator and Police department shall be authorized to enter into such agreement on behalf of the Town. The Town Administrator and the Chief of Police are authorized to take any and all actions to execute the delivery of such documents as may be determined by them, to be necessary or convenient to carry into effect the provisions of the foregoing vote.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the Lease Purchase Finance Agreement were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Moved by Mr. Sidney, seconded by Mr. Evans, the Board voted 4-0-0 to approve.

G. Rhode Island Avenue Results from RFP Process

Mr. Marshall explained that he and the Procurement Officer, Bryan Leblanc, had the opening for the bids for Rhode Island Avenue. The Town received one bid from D&D Realty in the amount of \$50,000.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 4-0-0 to authorize administration to negotiate a purchase and sale for Rhode Island Avenue.

H. 2024 Licensing Fees - Discussion on Whether to Hold a Public Hearing to Modify Licensing Fees

The Board, in discussion, decided to schedule a public hearing on this matter for either October 25th or November 1, 2023.

I. Select Board Committee Assignments

Attached to this evening's agenda is a document created by the Select Board Chair delineating the Select Board representative assignments.

CONSENT AGENDA

A. Vote to Accept Wegman's Request to Surrender their s12. and s15. All Alcohol Beverage Licenses

B. Approve Request for Exemption from Town By-Laws Ch. 41, s.4

- A. Patrick Conaway
- B. Erin Harris
- C. Katheryn Brown
- D. Christine Fleming

C. Approve Select Board and Charter and By-Law Review Committee Subcommittee's Minutes of 9/15/23

D. Approve a One Day Beer and Wine License for Kohr Golf, LLC for 10/17/23

On a motion by Mr. Sidney, seconded by Mr. Evans, the Board voted 4-0-0 to approve the Consent Agenda.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 4-0-0 to adjourn the meeting at 9:52 PM.

Richard Sidney, Clerk

October 4, 2023

October 4, 2023, Select Board Meeting Minutes Approved by the Select Board on _____

All documents used at this Select Board meeting are available at:

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SELECT BOARD
TOWN OF NATICK

MEETING MINUTES

Meeting Conducted via Zoom only
October 16, 2023, at 2:30 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice Chair; Richard Sidney, Clerk; Paul R. Joseph

ALSO PRESENT: Town Administrator, James Errickson; Executive Assistant, Joan McNamara

ABSENT: None.

Chair Evans called the meeting to order at 2:34 PM.

The Chair announced that this meeting is currently being recorded by Zoom meeting only.

The Pledge of Allegiance was recited, and a moment of silence was observed for all those who serve.

Public Speak

None.

CONSENT AGENDA

- A. Approve request by Donna Murphy for a block party on Franconia Avenue on November 4, 2023, or a rain date of November 18, 2023
- B. Accept resignation of Karen Oakley from the Council on Aging
- C. Approve block party request from Karoline Barbieri for October 28, 2023, from 1:00 pm-4:00pm
- D. Approve the Doug Flutie, Jr., Foundation for Autism's request to hold its 24th Annual Flutie 5k for Autism on October 29, 2023
- E. Approve Meeting Minutes from September 27, 2023
- F. Approve one-day beer and wine license request from Kohr Golf, LLC for the following dates: 10/24, 10/31, 11/7, 11/14, and 11/21
- G. Approve sidewalk closures request from James Welch & Company, Inc., for a project located at One South Main Street:
 - 1. Sidewalk closure on Pond Street as outlined in the narrative and attached map
 - 2. The existing sidewalks on South Main St. and W. Central St. will be partially closed but will remain accessible to pedestrian per the attached map and outline

On a motion by Mr. Sidney, seconded by Mr. Evans, the Board, by Roll Call vote, voted 5-0-0 to approve the Consent Agenda. The Roll Call vote was as follows:

October 16, 2023

Mr. Sidney	Yes
Ms. Coughlin	Yes
Ms. Pope	Yes
Mr. Joseph	Yes
Mr. Evans	Yes

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board, by Roll Call vote, voted 5-0-0 to adjourn the meeting at 2:43 PM.

Richard Sidney, Clerk

October 16, 2023, Select Board Meeting Minutes Approved by the Select Board on _____

All documents used at this Select Board meeting are available at:

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SELECT BOARD
TOWN OF NATICK

MEETING MINUTES

Meeting Conducted in the Edward H. Dlott
Meeting Room and via Zoom
December 12, 2023
7:00 PM

PRESENT: Bruce T. Evans, Chair; Kathryn M. Coughlin, Vice Chair; Richard Sidney, Clerk; Paul R. Joseph.

ALSO PRESENT: Deputy Town Administrator, Operations, Jon Marshall; Town Counsel, Karis North

ABSENT: None

Chair Evans called the meeting to order at 7:03 PM.

The Chair announced that this meeting is currently being recorded by Natick Pegasus for future viewing.

The Pledge of Allegiance was recited, and a moment of silence was observed for all those who serve.

PUBLIC SPEAK

Paul Griesmer, Town Meeting member for Precinct 7 and Chair of the Charter and Bylaw Review Committee (hereinafter referred to as the CBRC), addressed the Board during public speak. Mr. Griesmer read a statement as to why the members of the CBRC are not present at this meeting tonight.

In summary, Mr. Griesmer stated that he “learned” of the meeting on Friday, December 8, 2023, and this did not allow him enough time to schedule and post a meeting per the Open Meeting Law. After consulting with Special Counsel, he was advised that there could be a violation of the Open Meeting law if four or more members of the CBRC attended this meeting and entered into discussions. Mr. Griesmer wanted to be clear that the lack of participation from any of the members of the CBRC at this meeting should not be misconstrued as lack of interest.

The next scheduled meeting of the CBRC is Tuesday, December 19, 2023, at 6:00 PM, in the Select Board meeting room. At that time, the CBRC will be asking the Moderator to present the floor amendments received so that they can start an initial public working session on those citizen amendments. Mr. Griesmer added that the CBRC is committed to its role and obligations under the Town Charter to review the provisions of the Charter and Bylaws and make a report with recommendations concerning any proposed amendments or revisions.

Julian Munnich spoke during Public Speak. Mr. Munnich’s concern is that the issue of a Special Town Meeting would be discussed at Select Board meetings. Mr. Munnich stated that he is discouraged that the Select Board agendas for this meeting and tomorrow night’s meeting do not include an agenda item for a Special Town Meeting. The reason that there was an abrupt end to the Fall Town Meeting was due to time concerns and that a solution to that was to “instantaneously” pick up with a Special Town Meeting. Mr. Munnich is requesting that at the next possible “posting” that this body follow-through with what Town Meeting had been told to expect.

Michael Hickey spoke during Public Speak. Mr. Hickey stated that he reviewed the tape from Town Meeting to see what had been communicated by the Chair of the Select Board. Mr. Hickey stated the following: "The Chair noted that there had already been, by that time, robust discussion of a number of proposed amendments, that there was a long way to go, and we were six sessions into Town Meeting. The Chair specifically noted that an alternative could be to consider referring to sponsor the rest of Article 25, 26 and 23 with, and I quote, the prospect of reconsidering them at Spring Annual Town Meeting or at Special Town Meeting this winter. Proponents would resubmit perhaps incorporating the changes made based on discussions of amendments that had taken place up to that point. The Chair noted that this approach would give us additional time to evaluate these amendments should Town Meeting choose." The Chair made the only commitment which I believe he can make which is to put the topic on an upcoming agenda which was November 15, 2023, for discussion and possible decision. The Chair did exactly what was committed to at Town Meeting: He scheduled a meeting of the Board for discussion on November 15, 2023. At that meeting, the Chair framed what the Board was there to discuss and not to discuss. The Chair also recapped that Town Meeting had passed A-H and referred the balance to the sponsor to allow more time for consideration. The Chair also acknowledged that he needed to know what the CBRC's plans were and invited open discussion and further meetings. He also thought that Town Meeting members should hear from the Select Board on these Articles. The Chair also stated that we should be less concerned about how quickly we move on these Articles but instead be more concerned about getting them right."

DISCUSSION AND DECISION

1. Review Natick Charter Amendments

Chair Evans stated that it is the intention of the Board to work with the CBRC to determine what, if any, changes are warranted to the amendments of the special act. He further stated that he has been trying to schedule a meeting with the Chair of the CBRC, Mr. Griesmer, but has been unable to do so. On Thursday, Chair Evans was able to communicate with one of the members of the CBRC and subsequently met with Mr. Griesmer on Friday.

Expectations for the discussion: We are going to review the entirety of Article 25 amendments A through U with no Q. The Board will discuss the individual Articles individually. Some amendments, such as amendment A which have a "global replace" of Town Administrator with Town Manager we can dispense with rather quickly.

The Chair will ask for public comments on the proposed amendment but will only allow comments on content of the proposed amendment itself. If there are no objections or concerns raised by the Board or the public, the Select Board will take a vote to support the amendment. If concerns arise out of a discussion, those concerns will be noted and passed on to the CBRC to be considered in a future meeting.

Only Town Meeting can modify the amendments that were voted at Town Meeting and that process would require rescission of their earlier vote followed by a new vote.

Amendment A

Global replace of Town Administrator with Town Manager

Chair Evans moved for the global replace of Town Administrator with Town Manager. **(Nobody seconded)**
Board voted 5-0-0 in support of Motion.

Amendment B

Amends Charter Sections 2-6(c) & 2-6(d) Vacancies – to fill Town Meeting vacancies using an elected official, the moderator, instead of an appointed position, the Town Clerk.

Flagged for comment: Section 2-6(c) The lists so prepared and maintained shall at all times be subject to the review and approval of the Town Moderator or the Town Moderator's designee. The Town Moderator may prepare and maintain such lists in the event of failure of the Town Clerk to prepare and maintain the same on a timely basis.

Ms. Coughlin has noted concern over the wording "review and approve".

A question/comment from Richard Jennett, Town Meeting member, was why the Clerk would not be able to appoint Town Meeting members, but instead would have to hand that over to the Moderator. Could that be a collaborative effort?

On a motion by Ms. Coughlin, seconded by Ms. Pope, the Board voted 5-0-0 to table the discussion and vote on Amendment B.

Amendment C

Section 2-12 (c) Proceedings of Town Meetings – Quorum

The context of the Amendment is to adjust the Town Meeting quorum to be based on "filled seats".

Chair Evans read into the record an email from Cody Jacobs, Town Meeting member, who could not be present this evening. The full email is attached to this evening's agenda.

Ms. North, Town Counsel: Under the General Laws, the quorum is 50% of the Board as constituted. If there is a 7-person Board it is 4. The exception is the Conservation Commission where it is 50% plus one of the seats filled. So, for the Select Board, Planning Board, Zoning Board, etc., it's 50% plus one of the Board as constituted.

Karen Adelman Foster, resident, commented on the idea of a "floating quorum". Her concern would be that the vacancies would not be equally distributed amongst all of the precincts. She added that "vacancies are concentrated in Precinct 1, the population of which the Federal government officially considers an environmental justice population by virtue of its being composed of 40% or more of so-called minorities." Ms. Adelman-Foster's concern is that Amendment C allows us to stop worrying about vacancies in a precinct with a significant minority population.

Joshua Ostroff, Town Meeting Member, Precinct 6, made a comment to the Board that he had voted against Amendment C and his thoughts are that the size of Town Meeting should be addressed.

Carol Gloff, Town Meeting member, Precinct 7. Ms. Gloff stated that after reviewing Amendment C, she believes that it could work because you could be “adjusting the number of seats that are filled every night of Town Meeting which could then adjust the need for the quorum.” She stated that she believes it could be done on a rolling basis, but it would take a lot of work that “somebody” has to take care of. She believes that the disadvantages outweigh the advantages.

Brinley Vickers, Town Meeting member, Precinct 8, stated that in her opinion, this Amendment should be deleted as there is no way to amend it at this point in its current form.

Ms. Coughlin stated that the demographic is changing, and we cannot demand participation. We can only encourage it. We live in a democracy, and we cannot, through law, address participation.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to table this vote and sending comments to the CBRC

Amendment D

Section 2-11 Town Meeting Warrants

(b) Ms. North: On Section 2-11(b), any citizen(s) petition received that meets the requirement must be put on the Warrant. The Charter can direct how we handle other types of Articles. The best practice is that if an Article is received from an individual or body, than it should go on the Warrant.

Michael Hickey, Precinct 9 commented that as the Select Board is the chief policy making agency of the Town, the Board could always take a “voted” position and write to the legislature (including our delegation), that would hear, consider or deliberate on any portion of what has already been acted upon

7(g) Multiple Member Body

Mr. Sidney’s concern is that this definition excludes committees appointed by the Select Board.

Mr. Joseph stated that sometimes we try to fix a problem that we don’t have. We have elected representatives and Boards in this Town that serve in Executive roles that are not the Select Board. In his opinion, to handcuff them arbitrarily just to protect “our” dominion does not make sense. “Less is sometimes more”.

Ms. North, Town Counsel: Ms. North stated that she will be discussing with the Town Clerk the process to submit the Articles from Town Meeting to the legislature. Ms. North does not believe that these have already been submitted. Amendments A-H have already been voted on at Town Meeting. It would take an act at Town Meeting to change them and a rescission of that prior vote regardless of whether they have gone to the legislature or not.

Joshua Ostroff, Town Meeting member, Precinct 6 commented that he did not understand what this amendment was trying to solve. “To bring something to Town Meeting without going before the appointing authority before is generally not good politics.” He further stated that although he appreciates the intent, it may be delving too far into the weeds to be productive.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to approve the 2-11(b) amendment with a change eliminating the language “any eligible” and striking the recommended change under 7(g)

Amendment E

Section 2-10 Participation by Non-Town Meeting Members

(a) Representatives of Town Agencies

Ms. Coughlin: Her only concern is that the Town Moderator is compelling attendance as opposed to the Town Administrator instead of them working collaboratively.

Ms. Adelman Foster, resident, made a comment to the Board that when talking about “intent” when creating or changing Charter language is not desirable. It is very important that “what is meant is what the law literally say.” She acknowledged that having all department heads attend every meeting appears to be a waste of time, but to do it this way is inappropriate. She further added that she would encourage the Board to table this discussion and refer it to the CBRC for further review.

On a motion by Mr. Sidney, seconded by Mr. Evans, the Board voted 5-0-0 to table the discussion and send comments to the CBRC.

Amendment F

Section 3-1 (8) – Add a clause within the preliminary elections’ section in the event rank choice voting is available in the future.

On a motion by Mr. Sidney, seconded by Mr. Evans, the Board voted 5-0-0 to support Amendment F as is.

Amendment G

Section 3-1(f)

Mr. Sidney read aloud a note from the Finance Committee which stated the following: “This amendment addresses the changes in the Town’s Charter and the ability the Select Board and the Town Administrator to call or compel certain individuals for consultation. This amendment seeks to clarify that this power should not assent to the Moderator or the Moderator appointees including members of the Finance Committee or other individuals from the legislative branch of the government.”

Mr. Evans asked Town Counsel if this means that the Select Board cannot compel people to be there but can only request that people be there.

After reading the amendment, Ms. North stated that it is not clear to her that the Select Board would still have the ability to even request the Moderator for consultation based on this language.

Mr. Joseph posed the following question: Does the language as proposed in this amendment preclude the convening of the Financial Planning Committee because that body is basically defined to include two members of

the Finance Committee and that is a strategic body designed to contemplate the financial future of this community in a collaborative format? It does not because they are appointed by the Moderator.

Ms. North noted that it is only excluding the Town Moderator. It does not exclude any multiple-member body which the Financial Planning Committee would be. After a few moments of research, Ms. North continued the conversation and stated that the definition of multiple member body excludes Town Meeting Committees so it could if there were pushback.

On a motion by Mr. Sidney, seconded by Ms. Coughlin, the Board voted 5-0-0 to refer back to the CBRC and revert back to the language of April 23, 2023, Charter language.

Amendment H

Section 3-12 Recreation and Parks Commission

(b) Powers and Duties – clarify advisory role of the Recreation and Parks Commission to advise both the Select Board and Town Manager

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted 5-0-0 to support Amendment H as is.

Amendment I

Section 3-10 Town Moderator

Addition of new sub-section (c) – Provide for the Town Moderator to appoint a Deputy Moderator, to preside over representative town meeting in the absence of the moderator.

Initial comments from Mr. Joseph and Mr. Sidney stated that both were going to abstain from taking any vote on this amendment.

Ms. North, Town Counsel, wanted to be clear that the Town Moderator's appointment is only to appoint a Deputy Town Moderator. The Town Moderator's appointment does not make that person automatically become the Moderator or the incumbent. That is an elected position. Ms. North further clarified. "If there is a vacancy and a need for a short-term Moderator, it becomes the Clerk. In the absence of the Clerk, it becomes the Chair of the Selectmen or senior member present and lastly the Justice of the Peace."

Todd Gillenwater, Town Meeting Member, Precinct 5 and a member of the Finance Committee. Mr. Gillenwater stated that one of the precipitating issues that the CRBC became involved in was the change in the Clerk from an elected position. The definition of the Clerk's job specifically excludes them from serving as the temporary Moderator. In Mr. Gillenwater's experience, several times over the years the Town Clerk has had to step in to serve as a temporary Moderator due to unforeseen events. There is a certain amount of training that is required to serve in this role even temporarily.

Ms. Adelman-Foster, resident, stated that, having a Deputy Town Moderator is a great idea, but having the Town Moderator appoint that person is not a great idea. Because the Town Moderator has power over an incredibly

powerful body (Town Meeting), arguably, the Town Moderator is the most powerful position in Town. A simple fix could be allowing the Town Clerk to run Town Meeting in the Town Moderator's absence.

Carol Gloff, Town Meeting member, Precinct 7, stated that in 2007 there was a tie vote in the election of Town Moderator. The Select Board then took a vote and chose the incumbent. Some Town Meeting members were uncomfortable with the decision that the Select Board made that final decision. She further stated, "the Charter or By-law, not sure which, was then changed, so that now if that were to happen again, the Town Meeting would be choosing the Moderator and not the Select Board." Her suggestion is that perhaps we could have Town Meeting to decide on who the Deputy Town Moderator should be.

Todd Gillenwater, Town Meeting Member, Precinct 5 and a member of the Finance Committee. Mr. Gillenwater was asked if he knew why there had been any issue with appointing the Town Clerk as Deputy Moderator. Mr. Gillenwater responded that he did recall that there had been concerns about "undue influence and separation of powers." The thought was that an appointee of the Town Administrator running Town Meeting could have the potential of undue influence and having "their agenda put through."

Richard Jennett, Town Meeting member, stated that if we are really looking at separation of powers, I would agree that allowing Town Meeting to appoint the Deputy Town moderator would make the most sense.

Ms. North, Town Counsel stated that in section 3.1 of the Charter g(1) Filling of Vacancies, there is a section that specifically talks about failure to elect or a vacancy in the office of Town Moderator, Town Meeting fills that at the next session and until that vacancy is filled or until the next election the Town Clerk serves as presiding officer. That language is already in the Charter and has not been "proposed" for change.

On a motion by Mr. Evans, seconded by Mr. Sidney, the Board voted 4-0-1 to have Town Meeting be the Appointing Authority.

Mr. Joseph

Amendment J

Section 3-2 Select Board

(b) Powers and Duties

There was consensus amongst Board members to delete the last sentence of the Amendment beginning with ...Nothing in this section shall be construed to authorize...and ending with administration of any town agency.

Michael Hickey, resident, stated that he believed that this was one of the most deeply concerning of the Amendments and he would urge the Board to slow down and further review this Amendment. In his opinion, this is best example, either intentional or unintentional, of what he sees as the dilution of Executive Board authority and purview that has served the Board well.

Joshua Ostroff, Town Meeting member, Precinct 6 stated that there are times where the Select Board needs to exercise leadership. The perfect example would be in the case of the pandemic when the School Committee and the Board of Health were convened by the Chair in ways that could have run afoul of this Charter had we adopted it.

He further stated that it is important for the Charter to state what the powers are, however, as elected officials can often be guilty of thinking they may have more authority than they actually do. In his opinion, this amendment “kneecaps us”.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 5-0-0 to recommend to the CBRC to eliminate the entire change except for the deletion of the last sentence of 3-2(b).

Amendment K

Section 4-4 – Removal and Suspension

Ms. North, Town Counsel, answered a question that had been posed by Ms. Coughlin as to why this is in the Charter instead of in the Town Administrator’s contract. The simple answer is that the Charter existed before a Town Administrator Contract.

Ms. Coughlin stated that if the Board were to terminate a Town Administrator, she would want all five members of the Board to be available either in person or hybrid with their names attached to a vote. Board members should be accountable for their decisions.

Ms. North, Town Counsel, wished to clarify that provision (f) is being added not stricken. She further added that any defense an employee will make after termination is that they did not have a performance review or that they had positive performance reviews. This language gives the Select Board more flexibility in their personnel decisions.

On a motion by Mr. Sidney, seconded by Mr. Joseph, the Board voted 4-0-1 to support the preamble changes and remove paragraph (f).

On a motion by Ms. Coughlin, seconded by Mr. Sidney, the Board voted 5-0-0 to adjourn the meeting at 10:12 PM.

Richard Sidney, Clerk

Select Board Meeting Minutes Approved by the Select Board on _____

All documents used at this Select Board meeting are available at:

ITEM TITLE: Approve Change of Manager - California Pizza Kitchen, Inc.
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Application	1/22/2024	Cover Memo
Proposed Manager Passport	1/22/2024	Cover Memo



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for:

☐ **CHANGE OF CATEGORY**

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Category Application
Vote of the Entity Board
Advertisement*
Abutter's Notification*

☐ **CHANGE OF LICENSE TYPE**

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Change of License Type Application
Vote of the Entity Board
Advertisement*

CHANGE OF CORPORATE STRUCTURE



\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Corporate Structure Application
Vote of the Entity Board
Business Structure Documents
If Sole Proprietor, **Business Certificate**
If partnership, **Partnership Agreement**
If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

CHANGE OF CLASSIFICATION



\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Classification Application
Vote of the Entity Board
Abutter's Notification*
Advertisement*



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APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☒ **CHANGE OF OFFICERS/DIRECTORS/LLC MANAGERS**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **CHANGE OF OWNERSHIP INTEREST (e.g. LLC Members, LLP Partners, Trustees etc.)**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Financial Statement

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

Purchase and Sale Agreement

Supporting Financial Records

Advertisement*

☒ **CHANGE OF STOCK INTEREST (e.g. New Stockholders or Transfer or Issuance of Stock)**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Officers/Directors Application

Financial Statement

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

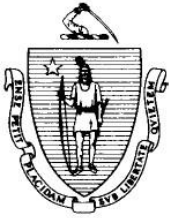
If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

Purchase and Sale Agreement

Supporting Financial Records

Advertisement*

**If abutter notification and advertisement are required for transaction, please see the local licensing authority.*



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APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐ **CHANGE OF CORPORATE NAME OR DBA**

\$200 fee via [ABCC website](#) and Payment Receipt (Corporate Name Only)

Monetary Transmittal Form

DOR Certificate of Good Standing (Corporate Name Only)

DUA Certificate of Compliance (Corporate Name Only)

Change of Corporate Name/DBA Application

Vote of the Entity Board

Business Structure Documents

If Sole Proprietor, **Business Certificate**

If partnership, **Partnership Agreement**

If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **CHANGE OF PLEDGE OF LICENSE, STOCK OR INVENTORY**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

DOR Certificate of Good Standing

DUA Certificate of Compliance

Change of Pledge of License, Stock or Inventory Application

Vote of the Entity Board

Pledge documentation

Promissory note

CHANGE OF MANAGER

☒ **CHANGE OF MANAGER**

\$200 fee via [ABCC website](#) and Payment Receipt

Monetary Transmittal Form

Change of Manager Application

Vote of the Entity Board

CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Proof of Citizenship. Passport, birth certificate, voter registration, or naturalization papers will be accepted.



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APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐

CHANGE OF LOCATION

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Alteration of Premises/Change of Location Application
Vote of the Entity Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*

☐

ALTERATION OF PREMISES

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Alteration of Premises/Change of Location Application
Vote of the Entity Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*

☐

MANAGEMENT AGREEMENT

\$200 fee via [ABCC website](#) and Payment Receipt
Monetary Transmittal Form
Management Agreement Application
Management Agreement
Vote of the Entity Board
CORI Forms for all listed in Section 8A and attachments

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*



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APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

Non-Profit Club's ONLY

e.g. Veteran's Club

☐ **Non-Profit Club CHANGE OF OFFICERS/DIRECTORS**

DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Officers/Directors Application
Vote of the club signed by an approved officer
Business Structure Documents-Articles of Organization from the Secretary of the Commonwealth
Monetary Transmittal Form
\$200 fee via [ABCC website](http://www.abcc.mass.gov) and Payment Receipt

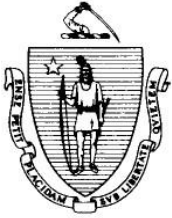
☐ **Non-Profit Club CHANGE OF MANAGER**

\$200 fee via [ABCC website](http://www.abcc.mass.gov) and Payment Receipt
Monetary Transmittal Form
Change of Manager Application
Vote of the club signed by an approved officer
CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal*.

Updated Officers and Directors*

*Please ensure to update your officers and directors **simultaneously** or **PRIOR** to applying for a change of manager. It will be returned with no action taken if the officers and directors do not match ABCC records.

Proof of Citizenship. Passport, birth certificate, voter registration, or naturalization papers will be accepted.



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**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

APPLICATION FOR MULTIPLE AMENDMENTS

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.**

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

**PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE
PAYMENT RECEIPT**

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

00030-RS-0768

ENTITY/ LICENSEE NAME

California Pizza Kitchen

ADDRESS

575 Anton Blvd Ste. 100

CITY/TOWN

Costa Mesa

STATE

Ca

ZIP CODE

92626

For the following transactions (Check all that apply):

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input checked="" type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input checked="" type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA |

**THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS
APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL**

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
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APPLICATION FOR MULTIPLE AMENDMENTS

1. BUSINESS ENTITY INFORMATION

Entity Name

Municipality

ABCC License Number

Caifornia Pizza Kitchen Inc.

Natick

00030-RS-0768

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

change of Corporate Officers/Directors, Change of Stock Interest and Change of General Manager

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name

Title

Email

Phone

Cindy Block

Authorized Agent

cindy@liquorlicense.com

213.417.2320

2. AMENDMENT-Change of License Classification

☐ **Change of License Category**

All Alcohol, Wine and Malt,
Wine Malt and Cordials

Last-Approved License Category

Requested New License Category

☐ **Change of License Class**

Seasonal or Annual

Last-Approved License Class

Requested New License Class

☐ **Change of License Type***

i.e. Restaurant to Club

*Certain License Types

CANNOT change once issued*

Last-Approved License Type

Requested New License Type

3. AMENDMENT-Change of Business Entity Information

☐ **Change of Corporate Name**

Last-Approved Corporate Name:

Requested New Corporate Name:

☐ **Change of DBA**

Last-Approved DBA:

Requested New DBA:

☐ **Change of Corporate Structure**

LLC, Corporation, Sole
Proprietor, etc

Last-Approved Corporate Structure

Requested New Corporate Structure

4. AMENDMENT-Pledge Information

☐ **Pledge of License**

To whom is the pledge being made:

☐ **Pledge of Inventory**

☐ **Pledge of Stock**

5. AMENDMENT-Change of Manager

☒ Change of License Manager

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name

Date of Birth

SSN

Residential Address

Email

Phone

Please indicate how many hours per week you intend to be on the licensed premises

Last-Approved License Manager

B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?*

☒ Yes ☐ No *Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

☐ Yes ☒ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition
N/A			

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
9/9/2021	current	Asst. Manager	California Pizza Kitchen	Braulio Godinho
8/1/2019	3/4/2020	Cook/MIT	Movie Tavern	Pernell Campbell

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ☐ Yes ☒ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature

Date

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

☒ **Change of Officers/Directors** ☐ **Change of Ownership Interest (LLC Managers/LLP Partners, Trustees)** ☒ **Change of Stock (E.g. New Stockholder/ Transfer or Issuance of Stock)**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Avenue, Nashville, TN 37205	[REDACTED]	1/4/1961

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd, Los Angeles, CA 90064	[REDACTED]	10/31/1987

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
CFO/Executive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Corporate Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	4/25/1974

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W, Ponte Verde, FL 32082	[REDACTED]	3/17/1956

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Name of Principal	Residential Address	SSN	DOB
Danial Kokini	155 E 76th Street, Apt 7E, New York, NY 10021	[REDACTED]	12/3/1984

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input checked="" type="radio"/> No

Additional pages attached? ☒ Yes ☐ No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

☒ Yes ☐ No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.

☐ Yes ☒ No

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

6B. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
N/A		
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☒ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
California Pizza Kitchen	S12	01361-RS-0116	Boston
California Pizza Kitchen	S12	00005-RS-0130	Braintree

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

7. AMENDMENT-Change of Premises Information

☐ **Alteration of Premises:** (must fill out attached financial information form)

7A. ALTERATION OF PREMISES

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

N/A

PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage	<input type="text"/>	Seating Capacity	<input type="text"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text"/>	Number of Exits	<input type="text"/>	Number of Floors	<input type="text"/>

☐ **Change of Location:** (must fill out attached financial information form)

7B. CHANGE OF LOCATION

Last-Approved Street Address

Proposed Street Address

DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage	<input type="text"/>	Seating Capacity	<input type="text"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text"/>	Number of Exits	<input type="text"/>	Number of Floors	<input type="text"/>

OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

☐ Yes ☒ No

8. AMENDMENT-Management Agreement

☐ **Management Agreement:** (must fill out all pages in section 8)

Are you requesting approval to utilize a management company through a management agreement?
If yes, please fill out section 8.

☐ Yes ☒ No

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

8A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name	Address	Phone
N/A		

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☐ No

8B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 8A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

8. AMENDMENT-Management Agreement

8C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 8A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality
N/A			

8D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 8A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement
N/A			

8E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 8B, 8C or 8D ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation
	N/A		

8F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee?

Yes ☐ No ☐

b. Will the licensee retain control of the business finances?

Yes ☐ No ☐

c. Does the management entity handle the payroll for the business?

Yes ☐ No ☐

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

☐ \$ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☐ % of overall sales (indicate percentage)

☐ other (please explain)

ABCC Licensee Officer/LLC Manager

Signature:

Title:

Date:

Management Agreement Entity Officer/LLC Manager

Signature:

Title:

Date:

9. FINANCIAL DISCLOSURE

Required for the following transactions:

- Change of Officers, Stock or Ownership Interest (E.g. New Stockholder/Transfer or Issuance of Stock)
- Change of Premises Information
- Pledge of License, Inventory or Stock

Purchase Price(s):

N/A

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
N/A	
Total:	

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
N/A			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

N/A

APPLICANT'S STATEMENT

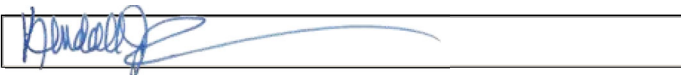
I, Kendall Jones the: ☐ sole proprietor; ☐ partner; ☒ corporate principal; ☐ LLC/LLP manager
Authorized Signatory
of California Pizza Kitchen
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date:

12/1/2023

Title:

Kendall Jones

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

California Pizza Kitchen Inc. is publicly traded. Please see attached for your reference:

1. Organization Chart
2. CORI Forms for all officers and entities
3. Beneficial Interest Disclosure
4. Letter re: Passive Shareholders
5. Annual Report
6. Articles of Incorporation for each entity
7. Secretary's Certificate
8. Certificate of Incumbency
9. Receipt for Filing Fees Paid
10. Certificate of Good Standing (DOR)
11. Certificate of Good Standing (DUA)



February 3, 2023

RE: California Pizza Kitchen
Shareholders of CPK's ultimate parent company, CPK Parent Inc.

To Whom It Concerns:

As we have previously disclosed, California Pizza Kitchen, Inc. is wholly owned by CPK Holdings Inc., which is in turn wholly owned by CPK Parent Inc.

CPK Parent is owned by about 90 shareholders, the overwhelming majority of which are investment funds, most of which reluctantly found themselves as shareholders of the company after we emerged from bankruptcy in November 2020.

I have attached to this letter a list of all shareholders who own 1% or more of the outstanding shares of CPK Parent Inc. All of these are passive shareholders who have zero engagement or involvement in the operations of the company. The address for all of these shareholders should be our corporate office.

Please let me know if you have any questions.

Sincerely,

Kendall Jones
General Counsel
Direct: 310-342-5027
KJones@CPK.com

CPK Parent Inc. Shareholders owning 1.0% or more of Outstanding Shares
As of February 3, 2023
In Alpha Order

<u>Name of Shareholder</u>	<u>% of O/S</u>
400 CAPITAL CREDIT OPPORTUNITIES MASTER FUND LTD	1.43
ALCOF II NUBT LP	3.91
AMZAK CAPITAL MANAGEMENT LLC	4.79
ANTARES HOLDINGS LP	1.00
APEX CREDIT CLO 2015-II LTD	1.03
ARMORY FUND LP	1.93
ATLAS SENIOR LOAN FUND XIII LTD	1.26
BLACKWELL PARTNERS LLC-SERIES A	2.52
BOFA SECURITIES INC	3.47
CASTLEKNIGHT MASTER FUND LP	1.00
CHATHAM CAPITAL MANAGEMENT IV LLC NOT INDIVIDUALLY BUT AS AGENT	1.16
CRESCENT CAPITAL HIGH INCOME FUND B L P	1.57
IGAL NAMDAR	2.93
JEFFERIES LLC	1.61
JFIN CLO 2014 LTD	1.72
JFIN PARENT LLC	3.55
LIVELLO CAPITAL SPECIAL OPPORTUNITIES MASTER FUND LP	2.39
MONROE CAPITAL CORPORATION	2.25
MONROE CAPITAL MML CLO 2016-1 LTD	1.61
NEUBERGER BERMAN SPECIAL SITUATIONS MASTER FUND II LP	15.69
PETRUS YIELD OPPORTUNITY FUND L P	2.37
PHILOSOPHY CAPITAL PARTNERS LP	2.99
SEAPORT GLOBAL ASSET MANAGEMENT V3 LP	5.29
SEAPORT OPPORTUNITY FUND LLC	1.46
SPECIAL ASSET EQUITY HOLDINGS SERIES LLC SERIES M	4.60
STAR V PARTNERS LLC	1.53
THE SEAPORT GROUP PROFIT SHARING PLAN	1.91



Alcoholic Beverages Control Commission
239 Causeway Street
Boston, Massachusetts 02114
Telephone: (617) 727-3040
Fax: (617) 727-1510

Jean M. Lorizio, Esq.
Chairman

BENEFICIAL INTEREST DISCLOSURE EXEMPTION REQUEST

Applicant Name: California Pizza Kitchen Inc.

Primary Contact Person for Applicant:

Name: Jorge Paico, Jr. / Cindy Block

Telephone Number: 213-296-5961 / 213-417-2320

Email Address: jorge@liquorlicense.com / Cindy@liquorlicense.com

The Applicant is seeking an exemption from disclosure under M.G.L. c. 138, §§ 15A & 23, for the following individuals and/or entities (use additional pages if necessary):

Name	% ownership in license	Control over operation of license?
Neuberger Berman Special Situations Master Fund II LP	14.54 (of CPK Parent Inc.) %	Yes / <input checked="" type="checkbox"/> No
Multiple individuals that hold no majority interest	of CPK Parent Inc. %	Yes / <input checked="" type="checkbox"/> No
	%	Yes / No
	%	Yes / No
	%	Yes / No

The Applicant is seeking an exemption from disclosing to the Licensing Authorities the following regarding the above-named individuals and/or entities (check all that apply):

X Criminal Offender Record Information ("CORI") Authorization Forms

X Personal Information Forms

X Identity of Individuals and/or Entities

Please explain why an exemption from the disclosure requirements of M.G.L. c. 138, §§ 15A & 23, is being sought, including, but not limited to, a description of the hardship(s) posed in obtaining the required information from the individuals and/or entities, and any other information that the Applicant believes would be of assistance to the Commission in considering whether to grant an exemption to the disclosure laws (use additional pages if necessary):

There are numerous shareholders who do not have control over the business/licensee California Pizza Kitchen Inc.

It would be impossible task to obtain CORI forms for all individuals involved.

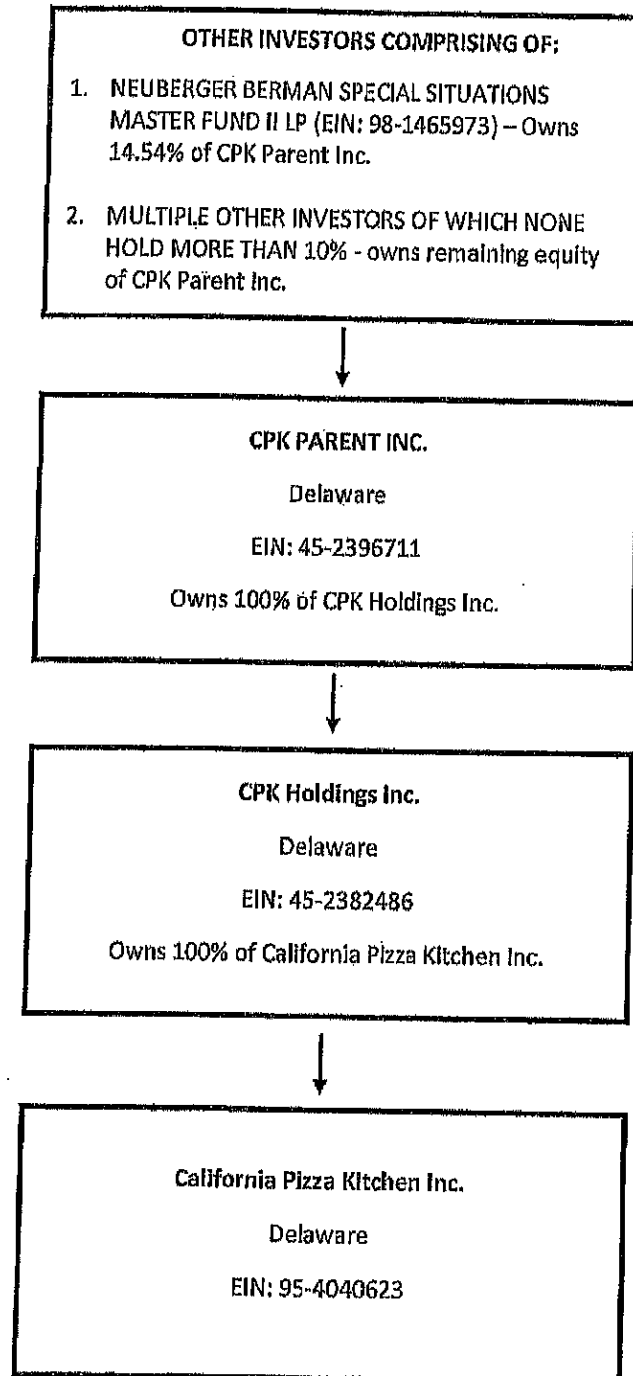
CORI forms for all officers who control the decisions of California Pizza Kitchen Inc. have been provided.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in this Request, and as such affirm that all statement and representations therein are true to the best of my knowledge and belief.

Signature:  _____

Title: Secretary

ORGANIZATION CHART
CALIFORNIA PIZZA KITCHEN INC




Corp. secretary
K. P. [Signature]
10-7-22

Secretary's Certificate

The undersigned, Kendall Jones, the General Counsel and Secretary of CPK Parent Inc. and its subsidiaries (collectively "CPK"), hereby memorializes that the following actions have taken place:

- 1) On December 28, 2021, Robert Webster stepped down as a member of the Board of Directors of CPK Parent Inc. He did not offer a formal resignation letter, as his resignation was part of a larger issue resolution. However, the Board accepted Mr. Webster's resignation as of December 28, 2021.
- 2) On April 18, 2022, the employment of Judd Tirnauer, formerly Executive Vice President and Chief Financial Officer of CPK, was terminated by James F. Hyatt II, the CEO of CPK. On April 19, 2022, the CPK Board of Directors ratified that termination by unanimous vote.
- 3) On April 25, 2022, the Board of Directors of CPK Parent Inc. appointed Ashley Sheetz to join the Board of Directors. Ms. Sheetz' appointment was duly recorded in minutes of a regular meeting of the Board of Directors on April 25, 2022.
- 4) On October 3, 2022, the Board of Directors of CPK Parent Inc., terminated James F. Hyatt II as CEO and Board member of CPK Parent and its subsidiaries, and immediately replaced him with CPK Parent Inc. Board Member Jeff Warne, who became CPK Parent Inc.'s CEO, President and Director effective October 3, 2022. That day, Mr. Warne also became CEO and President of CPK Parent's subsidiaries, including California Pizza Kitchen Inc.
- 5) On Tuesday, October 25, 2022, Harshvardhan Chowdhary became the new Executive Vice President and Chief Financial Officer of CPK, hired by Mr. Warne pursuant to CPK's bylaws and ratified by the Board.
- 6) Since December 2020, one shareholder of CPK Parent Inc., Neuberger Berman, has been slowly buying shares of other, usually smaller shareholders. In 2022, Neuberger Berman became CPK Parent Inc.'s largest single shareholder, holding 15.54% of the Company's shares as of the date of this Certificate.

In witness hereof, I hereby affix my signature this 20th day of October, 2022 in Costa Mesa, California.


Kendall Jones, General Counsel and Corporate Secretary

Certificate of Incumbency

The undersigned individuals of CPK Parent Inc., a Delaware corporation (the "Corporation"), are designated as appropriate parties with the power and authority to enter into contracts, agreements and to provide written directions pertaining to services associated with stock transfer and registrar needs:

Jeff D. Warne, President and CEO

Signature

Harshvardhan Chowdhary, Exec. VP and CFO

Signature

Kendall Jones, Secretary and General Counsel

Signature

IN WITNESS WHEREOF I have hereunto set my hand

this 19th day of December, 2022

Name: Kendall Jones

Title: Secretary and General Counsel

ENTITY VOTE

The Board of Directors or LLC Managers of

California Pizza Kitchen, Inc.

Entity Name

duly voted to apply to the Licensing Authority of

Natick

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

10.30.22

Date of Meeting

For the following transactions (Check all that apply):

☒ Change of Officers/Directors/LLC Manager

☐ Change of Ownership Interest (LLC Members, LLP Partners, Trustees)

☒ Issuance/Transfer of Stock/New Stockholder

☐ Management/Operating Agreement

☐ Other

"VOTED: To authorize

Kendall Jones

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,


Corporate Officer /LLC Manager Signature

Kendall Jones

(Print Name)

For Corporations ONLY

A true copy attest,


Corporation Clerk's Signature

Kendall Jones

(Print Name)

ENTITY VOTE

The Board of Directors or LLC Managers of

California Pizza Kitchen

Entity Name

duly voted to apply to the Licensing Authority of

Natick, MA

City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

11/17/2023

Date of Meeting

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other | | <input type="checkbox"/> Change of DBA |

"VOTED: To authorize

Kendall Jones

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint

Matthew Stewart

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,



Corporate Officer /LLC Manager Signature

Kendall Jones

(Print Name)

For Corporations ONLY

A true copy attest,



Corporate Clerk's Signature

Kendall Jones

(Print Name)

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

California Pizza Kitchen, Inc

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

N/A

Name of Principal

CPK Holdings Inc.

Residential Address

575 Anton Blvd #100, Costa Mesa, CA 92626

SSN

45-2382486

DOB

Title and or Position

Shareholder

Percentage of Ownership

100

Director/ LLC Manager

☒ Yes ☐ No

US Citizen

☒ Yes ☐ No

MA Resident

☐ Yes ☒ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

☐ Yes ☐ No

US Citizen

☐ Yes ☐ No

MA Resident

☐ Yes ☐ No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

CPK Parent Inc.

100

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Ave., Nashville, TN 37205	[REDACTED]	1/4/1961
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd., Los Angeles, Ca 90064	[REDACTED]	10/31/1987
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CFO/Executive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W, Ponte Verde Beach, FL 32082	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Daniel Kokini	155 E 76th Street, Apt 7B, New York, NY 10021	[REDACTED]	12/3/1984
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input checked="" type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
MA Resident			<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

CPK Holdings Inc.

100

Name of Principal	Residential Address	SSN	DOB
Jeffrey Warne	713 Westview Avenue, Nashville, TN 37205	[REDACTED]	01/04/1961
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CEO/President/Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Harshvardhan Chowdhary	10970 National Blvd, Los Angeles, CA 90064	[REDACTED]	10/31/1987
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
CFO/Exexecutive Vice President	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Kendall Jones	3561 Dahlia Circle, Seal Beach, CA 90740	[REDACTED]	10/1/1967
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Corporate Secretary	0	<input type="radio"/> Yes <input checked="" type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Ashley Sheetz	5307 Stone Falls Lane	[REDACTED]	4/25/1974
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Michael O'Donnell	9659 Preston Trail W Ponte Vedra Beach, FL 32082	[REDACTED]	3/17/1956
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Daniel Kokini			
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	0	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

ADDENDUM A

6. Change of Officers, Stock or Ownership Interest (Continued...)

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Neuberger Berman Special Situations
Master Fund II

Percentage of Ownership in Entity being Licensed
(Write "NA" if this is the entity being licensed)

14.54 %

Name of Principal

Private Fund - Multiple Investments in a
variety of stocks

Residential Address

SSN

98-1455973

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☒ Yes ☐ No

☒ Yes ☐ No

☐ Yes ☒ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership

Director/ LLC Manager

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT
COPY OF THE RESTATED CERTIFICATE OF "CALIFORNIA PIZZA KITCHEN,
INC.", FILED IN THIS OFFICE ON THE TWENTY-THIRD DAY OF
NOVEMBER, A.D. 2020, AT 4:53 O`CLOCK P.M.*



Jeffrey W. Bullock, Secretary of State

3789740 8100
SR# 20208475289

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 204147572
Date: 11-23-20

SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
CALIFORNIA PIZZA KITCHEN, INC.

California Pizza Kitchen, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows:

1. The present name of the Corporation is "California Pizza Kitchen, Inc."
2. The Corporation filed its original Certificate of Incorporation with the Secretary of State of the State of Delaware on May 12, 2004 (the "Original Certificate").
3. The Corporation filed a Certificate of Ownership and Merger with the Secretary of State of the State of Delaware on July 7, 2011, pursuant to which the Original Certificate was amended and restated in its entirety under the name "California Pizza Kitchen, Inc." (the "Amended Certificate"), in accordance with Section 253 of the General Corporation Law of the State of Delaware (the "DGCL").
4. The Corporation desires to amend and restate in its entirety the Amended Certificate, pursuant to this Amended and Restated Certificate of Incorporation (this "Certificate"), which was duly adopted on the date hereof (the "Reorganization Date") in accordance with the provisions of Sections 245 and 303 of the DGCL and in accordance with that certain Joint Chapter 11 Plan of Reorganization of California Pizza Kitchen, Inc. and its Debtor Affiliates, approved by order of the United States Bankruptcy Court for the Southern District of Texas, Houston Division, in In re: California Pizza Kitchen, Inc., et al., Case No. 20-33752, under Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 101-1330), as amended, and was filed with the Secretary of State of Delaware on the Reorganization Date.

ARTICLE ONE

The name of the Corporation is California Pizza Kitchen, Inc. (hereinafter called the "Corporation").

ARTICLE TWO

The address of the Corporation's registered office in the State of Delaware is 850 New Burton Road, Suite 201, in the City of Dover, County of Kent, Delaware, 19904. The name of its registered agent at such address is Cogency Global Inc.

ARTICLE THREE

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

ARTICLE FOUR

The total number of shares of stock which the Corporation has authority to issue is one thousand (1,000) shares of Common Stock, with a par value of \$0.01 per share.

ARTICLE FIVE

The Corporation is to have perpetual existence.

ARTICLE SIX

In furtherance and not in limitation of the powers conferred by statute, the board of directors of the Corporation is expressly authorized to make, alter or repeal the by-laws of the Corporation.

ARTICLE SEVEN

Meetings of stockholders may be held within or without the State of Delaware, as the by-laws of the Corporation may provide. The books of the Corporation may be kept outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the by-laws of the Corporation. Election of directors need not be by written ballot unless the by-laws of the Corporation so provide.

ARTICLE EIGHT

No director shall be personally liable to the Corporation or any of its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the General Corporation Law of the State of Delaware as set forth in Title 8 of the Delaware Code (the "GCL") or (iv) for any transaction from which the director derived an improper personal benefit. Any repeal or modification of this ARTICLE EIGHT by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification with respect to acts or omissions occurring prior to such repeal or modification.

ARTICLE NINE

The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that, except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the board of directors. The right to indemnification conferred by this ARTICLE NINE shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

The Corporation may, to the extent authorized from time to time by the board of directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this ARTICLE NINE to directors and officers of the Corporation.

The rights to indemnification and to the advance of expenses conferred in this ARTICLE NINE shall not be exclusive of any other right which any person may have or hereafter acquire under this certificate of incorporation, the by-laws of the Corporation, any statute, agreement, vote of stockholders or disinterested directors or otherwise.

Any repeal or modification of this ARTICLE NINE of the Corporation shall not adversely affect any rights to indemnification and to the advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE TEN

The Corporation expressly elects not to be governed by Section 203 of the General Corporation Law of the State of Delaware.

ARTICLE ELEVEN

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation in the manner now or hereafter prescribed herein and by the laws of the State of Delaware, and all rights conferred upon stockholders herein are granted subject to this reservation.

ARTICLE TWELVE

The Corporation shall not issue non-voting equity securities; provided, however, that the foregoing restriction shall (i) have no further force and effect beyond that required under Section 1123(a)(6) of Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code"), (ii) only have such force and effect for so long as Section 1123 of the Bankruptcy Code is in effect and applicable to the Corporation, and (iii) in all events may be amended or eliminated in accordance with applicable law as from time to time may be in effect. The prohibition on the issuance of non-voting equity securities is included in this Certificate in compliance with Section 1123(a)(6) of the Bankruptcy Code (11 U.S.C. § 1123(a)(6)).

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this corporation on this 23rd day of November, 2020.

By: _____


James Hyatt, CEO and President

*Of the United States,
in Order to form a more perfect Union,
establish Justice, insure domestic Tranquility,
provide for the common defence,
promote the general Welfare, and secure
the Blessings of Liberty to ourselves and
our Posterity, do ordain and establish this
Constitution for the United States of America.*

3

F

USA

597454727

Surname / Nom / Apellidos

STEWART

Given Names / Prénoms / Nombres

MATTHEW TIMOTHY

Nationality / Nationalité / Nacionalidad

UNITED STATES OF AMERICA

Date of birth / Date de naissance / Fecha de nacimiento

04 Jul 1983

Place of birth / Lieu de naissance / Lugar de nacimiento

MASSACHUSETTS, U.S.A.

Date of issue / Date de délivrance / Fecha de expedición

25 Mar 2019

Date of expiration / Date d'expiration / Fecha de caducidad

24 Mar 2029

Endorsements / Mentions Spéciales / Anotaciones

SEE PAGE 27

Sex / Sexe / Sexo

M

Authority / Autorité / Autoridad

United States

Department of State

USA



P<USASTEWARD<<MATTHEW<TIMOTHY<<<<<<<<<<<<<<<<

5974547278USA8307048M2903242108520326<907474

ITEM TITLE: Approve Change of Manager - Open World Entertainment, LLC, d/b/a Level 99
ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
ABCC Change of Manager Completed Application	1/18/2024	Cover Memo
Recommendation from Natick Police Department	1/18/2024	Cover Memo

Change of Manager

- Manager Application
- CORI Authorization
- Vote of the Entity
- Proof of Citizenship (Manager must be U.S. citizen)
- Payment Receipt



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

AMENDMENT-Change of Manager

**APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.**

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE
PAYMENT RECEIPT

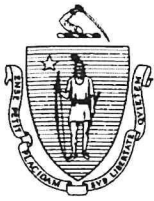
ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)	2023.06110.RS.0768				
ENTITY/ LICENSEE NAME	Open World Entertainment, LLC DBA Level99				
ADDRESS	1235 Worcester St Suite 3330				
CITY/TOWN	Natick	STATE	MA	ZIP CODE	01760

For the following transactions (Check all that apply):

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | <input type="checkbox"/> Other | | <input type="checkbox"/> Change of DBA |

**THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS
APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL**

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

AMENDMENT-Change of Manager

☒ **Change of License Manager**

1. BUSINESS ENTITY INFORMATION

Entity Name

Municipality

ABCC License Number

Open World Entertainment, LLC DBA Level99

Natick

2023.06110.RS.0768

2. APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name

Title

Email

Phone

Justin Lisonbee

Director of Operations

jlisonbee@level99.com

617-875-9908

3A. MANAGER INFORMATION

The individual that has been appointed to manage and control of the licensed business and premises.

Proposed Manager Name Justin Lisonbee

Date of Birth 09/30/1979

SSN

Residential Address

272 Whitney Street, Northborough, MA 01532

Email

jlisonbee@level99.com

Phone

617-875-9908

Please indicate how many hours per week
you intend to be on the licensed premises

40

Last-Approved License Manager

Brett Bovio

3B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?*

☒ Yes ☐ No *Manager must be U.S. citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.
Have you ever been convicted of a state, federal, or military crime?

☐ Yes ☒ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

3C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
02/2023	12/2023	Director of Operations	Broadway Hospitality Group	Adam Dorey
06/2020	02/2023	Director of Operations	Boston Burger Company	Sebastian Fricia

3D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ☐ Yes ☒ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature

Date 12/18/2023

APPLICANT'S STATEMENT

I, Matthew DuPlessie the: ☐ sole proprietor; ☐ partner; ☒ corporate principal; ☐ LLC/LLP manager
Authorized Signatory
of Open World Entertainment, LLC DBA Level9
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date: 12/18/2023

Title:

CEO

MASSACHUSETTS

DRIVER'S
LICENSE



James T. Baker REGISTRATION



ISS 09/25/2019

EXP 09/30/2024

CLASS D REST NONE

DOB 09/30/1979

END NONE

1 LISONBEE

2 JUSTIN COLE

3 272 WHITNEY ST
NORTHBOROUGH, MA 01532-1408

18 EYES BLU

19 SEX M 16 HGT 6'-03"

5 DD 09/26/2019 Rev 02/22/2016



09/30/79

MA

Justin Cole



JEAN M. LORIZIO, ESQ.
CHAIRMAN

Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150

CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

ABCC LICENSE INFORMATION

ABCC NUMBER: (IF EXISTING LICENSEE)	2023. 06110, R.S. 0763	LICENSEE NAME:	Open World Entertainment LLC	CITY/TOWN:	Natick
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APPLICANT INFORMATION

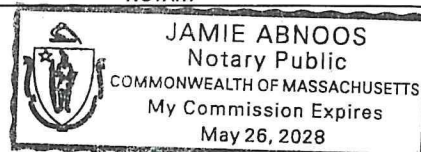
LAST NAME:	Lisabee	FIRST NAME:	Justin	MIDDLE NAME:	Cole
MAIDEN NAME OR ALIAS (IF APPLICABLE):		PLACE OF BIRTH:	Provo, UT		
DATE OF BIRTH:	09/30/1979	SSN:	[REDACTED]	ID THEFT INDEX PIN (IF APPLICABLE):	
MOTHER'S MAIDEN NAME:	Hatch	DRIVER'S LICENSE #:	[REDACTED]	STATE LIC. ISSUED:	MA
GENDER:	Male	HEIGHT:	6 4	WEIGHT:	165
		EYE COLOR:	Blue		
CURRENT ADDRESS:	277 Whitney St				
CITY/TOWN:	Northborough	STATE:	MA	ZIP:	01532
FORMER ADDRESS:	8001 Avalon Dr				
CITY/TOWN:	Northborough	STATE:	MA	ZIP:	01532

PRINT AND SIGN

PRINTED NAME:	Justin Lisabee	APPLICANT/EMPLOYEE SIGNATURE:	[Signature]
---------------	----------------	-------------------------------	-------------

NOTARY INFORMATION

On this	December 8 th 2023	before me, the undersigned notary public, personally appeared	Justin Cole Lisabee
(name of document signer), proved to me through satisfactory evidence of identification, which were		Mass. Driver license	
to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.			
		[Signature] NOTARY	



DIVISION USE ONLY

REQUESTED BY:	
SIGNATURE OF CORI-AUTHORIZED EMPLOYEE	

The DCJF Identify Theft Index PIN Number is to be completed by those applicants that have been issued an Identity Theft

ENTITY VOTE

The Board of Directors or LLC Managers of

Open World Entertainment, LLC DBA Level99

Entity Name

duly voted to apply to the Licensing Authority of

Natick

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

Date of Meeting

For the following transactions (Check all that apply):

☒ Change of Manager

☐ Other

"VOTED: To authorize

Matthew DuPlessie

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint

Justin Lisonbee

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

For Corporations ONLY

A true copy attest,



Corporate Officer /LLC Manager Signature

Corporation Clerk's Signature

Matthew DuPlessie

(Print Name)

(Print Name)

Utah Birth Certification

Justin Cole Lisonbee

Name of Child

Male
Sex of Child

September 30, 1979

Date of Birth

Utah
County of BirthKaren A Hatch
Mother's Maiden Name24
Mother's AgeCraig K Lisonbee
Father's Name24
Father's AgeOctober 10, 1979
Date of Registration1979 32626
File NumberSeptember 19, 2002
Date Issued

This is to certify that this is a true copy of the certificate on file in this office. This certified copy is issued under authority of section 26-2-22 of the Utah Code Annotated, 1953 As Amended.

Date Issued:

*Barry E Nangle*Barry E. Nangle
DIRECTOR OF VITAL RECORDS

SEP 19 2002

SL 242919

UTAH DEPARTMENT OF HEALTH
VITAL RECORDS & STATISTICS
SALT LAKE CITY, UTAH

Payment Confirmation

YOUR PAYMENT HAS PROCESSED AND THIS IS YOUR RECEIPT

Your account has been billed for the following transaction. You will receive a receipt via email.



Transaction Processed Successfully.

INVOICE #: 44daef4f-d03e-4083-9cdc-5a6b82b9b4d8

Description	Applicant, License or Registration Number	Amount
FILING FEES-RETAIL	Open World Entertainment LLC DBA Level99	\$200.00
		\$200.00

Total Convenience Fee: **\$4.70**

Date Paid: **12/22/2023 2:17:00 PM EDT**

Total Amount Paid: **\$204.70**

Payment On Behalf Of

License Number or Business Name:

Open World Entertainment LLC, DBA Level99

Fee Type:

FILING FEES-RETAIL

Billing Information

First Name:

Justin

Last Name:

Lisonbee

Address:

1235 Worcester Rd #3330

City:

Natick

State:

MA

Zip Code:

01760

Email Address:

jlisonbee@level99.com



ALC-66

NPD Review

Alcohol License Application

Status: Complete

Assignee: Brian Lauzon

Became Active: Dec 11, 2023

Completed: Dec 27, 2023

Applicant

Justin Lisonbee
jlisonbee@level99.com
1235 Worcester St Suite 3330
Natick, MA 01760
6178759908

Primary Location

1245 WORCESTER ST Unit 3330 - LEVEL 99
Unit 3330 - LEVEL 99
Natick, MA 01760

Owner:

Brookfield Properties
350 North Orleans Street Chicago, IL 60654

Comments

Justin Lisonbee, Dec 22, 2023

Hi Donna, Thank you for your help. Please let me know if you have any questions or need any thing additionally from me. Many thanks, Justin

Brian Lauzon, Dec 27, 2023

Upon review, we would recommend that the Select Board, acting as the Local Licensing Authority for the Town of Natick, approve Mr. Lisonbee as the Manager of Record for the Level 99 Entertainment Complex located inside the Natick Mall. We would request that Mr. Lisonbee be provided with a copy of the Town of Natick's Alcohol Policies and within 30 days of approval submit a copy of his Server Training Certificate from one of the programs approved here in Natick.

ITEM TITLE: Approve Natick Center Cultural District's Request to hang a Farmers' Market banner across Main Street for the week of April 29th through May 5th 2024

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Request from Deb Sayre	1/18/2024	Cover Memo



January, 2024

Natick Select Board
E. Central St.
Natick, MA. 01760

Dear Select Board Members,

Once again it is my pleasure to request your permission, pending approval by the Recreation & Parks Commission, for the use of the Natick Common from May 4th to September 28th, 2024 excluding Natick Days, when there is no market.

I am also seeking approval for the following:

1. To bag meters along the west side of Park Street as well as 2 meters on Common Street for those farms and meat vendors who work out of their trucks.
2. The hanging of the Farmers Market banner across Main Street for the week of April 29th thru May 5th. Insurance certificate will be provided.
3. Close Common Street from October 5th to 26th from 7:30 am to 1:30 pm for the market, which will be moved from the Common. Park Street will still be needed for vendor parking.

The request for the use of the Common has been sent to the Recreation and Parks Commission. Please note that the Farmers Market is sponsored by the Natick Center Cultural District.

Thank you for your consideration.

Deb Sayre, Market Manager

Cc: B. Lauzon, Natick Police

ITEM TITLE: Approve letters designating Morgan Griffiths as representative to the MWRTA
Advisory Board and MBTA Advisory Board

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
MWRTA Appointment letter	1/24/2024	Cover Memo
MBTA Appointment ltr.pdf	1/24/2024	Cover Memo

Natick Select Board

Bruce T. Evans, Chair
Kathryn M. Coughlin, Vice Chair
Richard Sidney, Clerk
Paul R. Joseph
Kristen L. Pope
PHONE 508-647-6410
EMAIL: selectboard@natickma.org

LOCATED AT
Town Hall
13 East Central Street
Natick, Massachusetts
01760

Town of Natick • Select Board Office

January 24, 2024

Mr. Jim Nee
Administrator
MetroWest Regional Transit Authority
15 Blandin Avenue
Framingham, MA 01702
jim@mwrtta.com

Dear Mr. Nee,

Please let this letter serve as confirmation that as Chair of the Select Board of Natick, I hereby confirm Morgan Griffiths as the designated representative to the MWRTA Advisory Board.

Please contact our offices if you require further information.

Very truly yours,

Bruce T. Evans,

A handwritten signature in blue ink that reads "Bruce T. Evans". The signature is written in a cursive style and is positioned above a horizontal line.

Bruce T. Evans, Chair

Natick Select Board

Bruce T. Evans, Chair
Kathryn M. Coughlin, Vice Chair
Richard Sidney, Clerk
Paul R. Joseph
Kristen L. Pope
PHONE 508-647-6410
EMAIL: selectboard@natickma.org

LOCATED AT
Town Hall
13 East Central Street
Natick, Massachusetts
01760

Town of Natick • Select Board Office

January 24, 2024

Mr. Brian Kane
Executive Director
MBTA Advisory Board
BKane@mbtaadvisoryboard.gov

Dear Mr. Kane,

Please let this letter serve as confirmation that as Chair of the Select Board of Natick, I hereby confirm Morgan Griffiths as the designated representative to the MBTA Advisory Board.

Please contact our offices if you require further information.

Very truly yours,

Bruce T. Evans,

A handwritten signature in blue ink that reads "Bruce T. Evans". The signature is written in a cursive style and is positioned above a horizontal line.

Bruce T. Evans, Chair

ITEM TITLE: Vote to uphold Terri Evans' reappointment to the Open Space Advisory Committee
 from July 1, 2023 through June 30, 2026

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Memorandum from Executive Assistant Joan McNamara	1/19/2024	Cover Memo

MEMORANDUM

TO: Select Board
FROM: Joan McNamara
RE: Terri Evans swearing-in (Open Space Advisory)

Ms. Evans is serving her 6th term on the Open Space Advisory Committee. She is the Planning Board Representative to this Committee. Ms. Evans' most recent reappointment by the Select Board was on July 1, 2023, which will end on June 30, 2026.

The Town Clerk has let us know that due to an oversight, Ms. Evans was not sworn-in for her new term beginning July 1, 2023. To be sworn-in now, the Select Board will need to vote to uphold her appointment to the Open Space Advisory Committee dated July 1, 2023.

ITEM TITLE: Approve the Boston Athletic Association's Request for a parade permit for the 128th Boston Marathon on April 15, 2024

ITEM SUMMARY:

ATTACHMENTS:

Description	Upload Date	Type
Request from the BAA	1/19/2024	Cover Memo
Natick PD recommendation	1/19/2024	Cover Memo



Boston Athletic Association

185 DARTMOUTH STREET, 6TH FLOOR, BOSTON, MASSACHUSETTS 02116
617.236.1652 www.baa.org

January 5, 2024

Bruce Evans, Chair
Board of Selectmen
12 East Central Street, 2nd Floor
Natick, MA 01760

RE: 128th Boston Marathon Parade Permit – Monday, April 15, 2024

Chair Evans:

The 128th Boston Marathon is scheduled for Monday, April 15th, 2024. The Boston Athletic Association requests that the Town of Natick issue a parade permit to conduct our annual event.

The field size of 30,000 runners remains consistent as previous years, with 4 waves of 7,500 departing every 25 minutes beginning at 10:00AM. Earlier starts for other groups are expected to begin as early as 9:00AM, as attached. The B.A.A. plans to work within the same footprint used in the past, not impacting additional roadways. The race operations team is reviewing these and other items while coordinating with town, state police, and others as required.

The B.A.A. requests that Natick's authorization includes permission to control and utilize the roadway, adjacent sidewalks, and other appropriate areas, as determined in our planning sessions, to conduct the race in a safe and controlled manner. This includes permission to deliver and install course signage, hydration stations, portable toilets, medical stations, timing mats, mile markers, and other equipment as outlined in the included attachments. The Town of Natick is named as additionally insured on our liability insurance policy and a certificate of insurance is included here.

The Boston Athletic Association looks forward to working with Natick to conduct a safe and successful race on Patriots' Day for the athletes, volunteers, and spectators looking to take part in the 128th Boston Marathon.

Sincerely,
The Boston Athletic Association



Boston Athletic Association

185 DARTMOUTH STREET, 6TH FLOOR, BOSTON, MASSACHUSETTS 02116
617.236.1652 www.baa.org

Monday, April 15th, 2024 – Patriots' Day

Start Times

6:00 AM – Military Marchers
9:02 AM – Men's Wheelchair
9:05 AM – Women's Wheelchair
9:30 AM - Handcycles and Duos
9:37 AM – Professional Men
9:45 AM – Professional Women
9:50 AM – Para Athletics Division
10:00 AM – Wave 1
10:25 AM – Wave 2
10:50 AM – Wave 3
11:15 AM – Wave 4

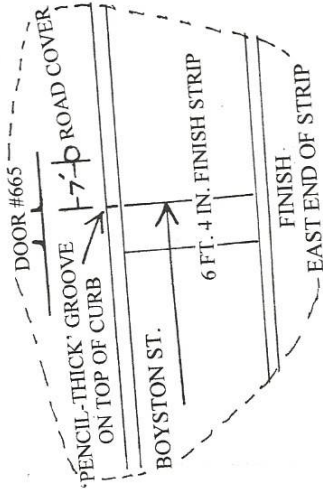
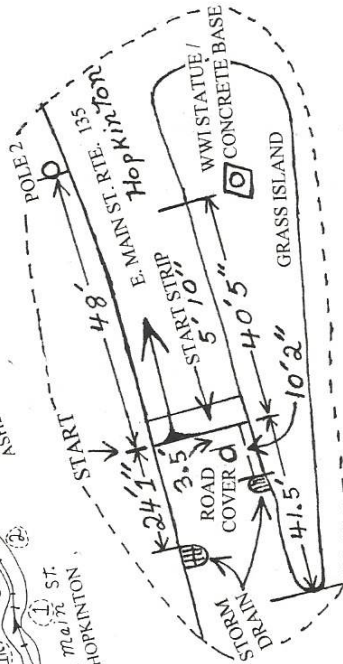
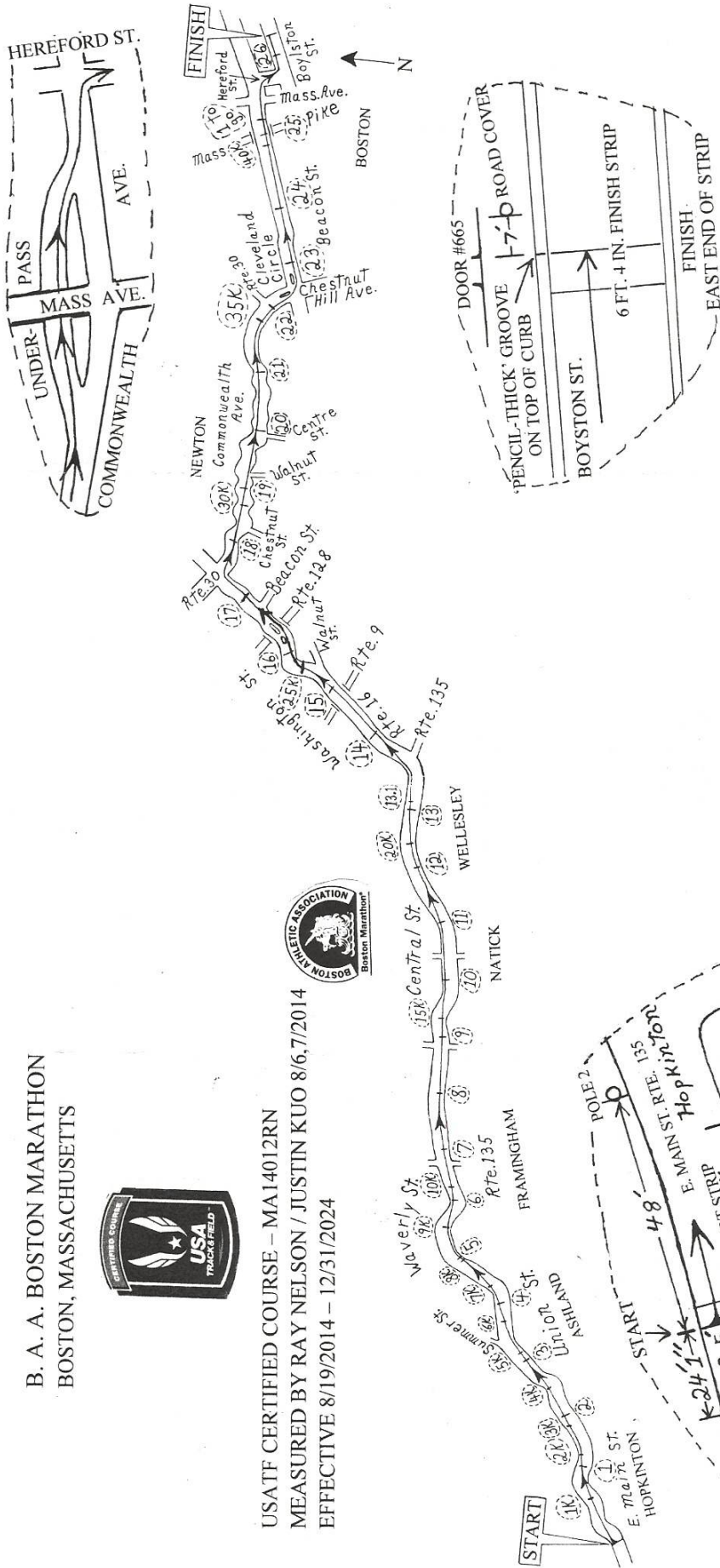
Boston Marathon Course Infrastructure
Natick

Mile Marker	Group	Location	Side of road
8	Water	W Central St After Newfield Drive Across from Comcast Building	BOTH
8.4	Athlete Toilets	Municipal Parking Lot W Central St before Mill St Across from 182 W Central St	LEFT
8.4	Medical	Henry Wilson Memorial Park Before Mill Street	LEFT
8.85	Water	Across from 127 W Cental St Shopping Plaza	BOTH
9.2	Athlete Toilets	VFW Parking Lot 113 W Central Street	LEFT
9.3	Pro Fluids	109 W Central St FIDO Dag Opark	BOTH
10.1	Water	W Central Street after Palmer Avenue	BOTH
10.15	Athlete Toilets	Municipal Parking Lot on W Central St after Palmer Ave	RIGHT
10.2	Police Toilets	Natick Town Common E Central Street	RIGHT
10.2	Police Toilets	Municipal Parking Lot Across from Town Common	LEFT
10.8	Medical	E Central Street Grassy area at Marion St	LEFT
11.2	Water	University Drive & E Central Street 173 E Central Street	BOTH
11.75	Athlete Toilets	Near Natick/Wellesley Line West of Pond Road Grassy Area on side of road	LEFT

B. A. A. BOSTON MARATHON BOSTON, MASSACHUSETTS



USATF CERTIFIED COURSE - MA14012RN
MEASURED BY RAY NELSON / JUSTIN KUO 8/6,7/2014
EFFECTIVE 8/19/2014 - 12/31/2024



BOSTON MARATHON – MEASURED BY RAY NELSON / JUSTIN KUO 8/6,7/2014
SPLIT DESCRIPTIONS

1K – 0.62 MI. – 21.8 FT. BEFORE POLE 65 (R), 0.2 MILE AFTER E. END OF PRESTWICK DR. (R)

MILE 1 – ON EAST MAIN ST., HOPKINTON, 42 FT. BEFORE PEACH ST. SIGNPOST (L), 12 FT. BEFORE STOP SIGN (R) AT EAST END OF LEGACY FARMS RD. (R)

2K – 1.24 MI. – 15.5 FT. BEFORE BEGINNING OF DRIVEWAY #112 (R), 71.8 FT.

BEFORE POLE 32 (R), 84.8 FT BEFORE MAILBOX POST #111 (L)

3K – 1.86 MI. – 4 FT. AFTER W. END OF WOODLAND RD. (R), 30 FT. BEFORE POLE 2 (R)

MILE 2 – ON WEST UNION ST., ASHLAND, IN MIDDLE OF DRIVEWAY #272 (R) AT EAST END OF RESIDENCE #272, 58.5 FT. AFTER POLE 119

4K – 2.48 MI. – IN ASHLAND, JUST BEFORE FRANKLIN RD. (L), 5 FT. AFTER POLE 89X

MILE 3 – IN ASHLAND, JUST AFTER DRIVEWAY #66, 8 FT. BEFORE POLE 65 (R)

5K – IN ASHLAND, AT EAST END OF VOYAGERS LN., 6 FT. BEFORE DUNKIN DONUTS SIGN AT #41 W. UNION ST.

6K – 3.728 MI. – 3 FT. BEFORE FIRST FRONT DOOR TO #208 (R), 13 FT. AFTER POLE 31X (R)

MILE 4 – IN ASHLAND AT #62 UNION ST. (R) (AT BEGINNING OF FITZY’S CAR WASH), AT TOM’S AUTO BODY (L), 3 FT. BEFORE POLE 44/15 (L), 136 YD. BEFORE BEGINNING OF FOUNTAIN ST.(L)

7K – 4.35 MI. – AT #13 UNION ST., 29 FT. BEFORE MILE MARKER POST 15/2 (R), 52.4 FT. BEFORE POLE 31

8K – 4.97 MI. – 9.5 FT. BEFORE POLE 48/1X (R), 12.5 FT. BEFORE ‘ENTERING FRAMINGHAM’ SIGN

MILE 5 – 141 FT. AFTER ‘ENTERING FRAMINGHAM ST., 10 FT. BEFORE DOUBLE POSTED SIGN FOR WAVERLY ESTATES 1100-1114 (R), 10 FT. AFTER POLE 129 (R)

9K – 5.59 MI. – JUST BEFORE ENTRANCE TO #875 K.C.R. INC. (L), 9.5 FT AFTER NO PARKING SIGN (R), 33.8 FT. BEFORE POLE 99X

MILE 6 – EVEN WITH LEADING EDGE OF WAVERLY MARKET (R) #684 WAVERLY ST., 20 FT. BEFORE POLE 77 (L), 3 FT. AFTER END OF ‘BEC’ ROAD COVER AT FAR (L), BIG PARKING LOT (L), 45 YD. AFTER END OF BETHANY RD. (R)

10K – 7 FT. BEFORE END OF BUILDING #596 (R), 2 FT. AFTER 3 HR. PARKING SIGN (R), 130 YD. AFTER END OF MELLEN ST. (R)

MILE 7 – IN FRAMINGHAM ON WAVERLY ST. @ 40 YD. AFTER END OF BEAVER ST. (R), EVEN WITH LAMPPOST AT END OF SHELL STATION

MILE 8 – IN NATICK ON W. CENTRAL ST., 1 FT. BEFORE DOUBLE POSTED SIGN “DEERFIELD FOREST” (R), @ 35 YD. BEFORE NEWFIELD DR. (R), 10 FT. AFTER POLE 2 (L), 200 YD. AFTER END OF KENDALL LN. (R)

*8.725 MILES AT END OF SPEEN ST.

BOSTON MARATHON – MEASURED BY RAY NELSON / JUSTIN KUO 8/6,7/2014

MILE 9 – JUST BEFORE DRIVEWAY TO UNNAMED BLDG. (L), JUST BEFORE # 113 CENTRAL ST. (AMERICAN LEGION W/ FLAGPOLE), 44 FT. BEFORE ‘SHARE THE ROAD’ SIGN (R), 60 FT. BEFORE POLE 67 (L)

15K – 9.32 MI. – 12 FT. AFTER EAST END OF FIRST DRIVEWAY TO MIDDLESEX PATH (L), 24 FT. BEFORE POLE 196-50 (L), 10 FT. BEFORE BEGINNING OF STORM DRAIN (L)

MILE 10 – 60 YD. AFTER END OF WASHINGTON AVE. (L), 10 FT. BEFORE LEADING EDGE OF #43 CENTRAL ST. (RED HOUSE), JUST BEFORE BEGINNING OF DRIVEWAY #38 (R), 30 FT. BEFORE JCT 27 SIGN (R)

MILE 11 – IN NATICK, 25 FT. AFTER FRONT DOOR TO 154 EAST CENTRAL ST. (JESAMONDO) (L)

*11.72 MILES AT ‘ENTERING WELLESLEY’ SIGN, BEFORE POND ST.(R)

MILE 12 - 100 YD. AFTER ACCESS ROAD TO ATHLETIC FIELDS / TENNIS COURTS, 16 FT. BEFORE LAMPPPOST 7 (L), 85 FT. BEFORE ‘MILE 22.8’ SIGN (R)

20K – 12.427 MI. – 55YD. AFTER EAST END OF MAIN ENTRANCE TO WELLESLEY COLLEGE, 9 FT. AFTER POLE 59 (L)

MILE 13 – 5 FT AFTER FRONT DOOR TO #73 CENTRAL ST. (WILLIAM RAVEIS REAL ESTATE), JUST BEFORE CROSS ST. (R), 5 FT. AFTER METER 6073 (L)

HALF MARATHON – AT #13 CENTRAL ST. (JUNIPER), 20 FT. AFTER EAST END OF ABBOTT ST. (R), EVEN WITH ROAD COVER (L), 1 FT. AFTER LAMPPPOST (R)

MILE 14 – IN WELLESLEY ON WASHINGTON ST., 40 YD. BEFORE ENTRANCE TO PARKING LOT TO TENNIS COURTS (R), 3 FT. AFTER ‘NO PARKING’ SIGN (L), 12 FT. BEFORE BEGINNING OF STORM DRAIN (R), 3 FT. BEFORE ‘NO PARKING SIGN (R), 45 FT. BEFORE LAMPPPOST 262 (R)

MILE 15 – AT FRONT DOOR #189 WASHINGTON ST.(L), 25 YD, BEFORE BEGINNING OF WOODLAWN AVE., 24 FT BEFORE CROSSWALK, 102 YD. AFTER END OF GRANTLAND RD. (R)

25K – 15.53 MI. – IN WELLESLEY, JUST BEFORE #71 WASHINGTON ST., JUST AFTER HILLSIDE RD. (L), 3 FT. BEFORE BEGINNING OF STORM DRAIN (L), 9 FT. BEFORE LAMPPPOST 57 (L)

MILE 16 – IN NEWTON, JUST BEFORE DRIVEWAY #2344 WASHINGTON ST. (R), @ 35 YD. AFTER CONCORD ST., 14 FT. BEFORE POLE 252

MILE 17 – IN NEWTON, AT BEGINNING OF DRIVEWAY 1890 (R), 15 FT. AFTER POLE 202 (R), @ 110 YD. AFTER ENTRANCE TO WOODLAND GOLF CLUB (L)

*17.45762 MILES AT TRAFFIC SIGN POST AT CORNER OF WASHINGTON ST. AND COMMONWEALTH AVE. AT FIRE STATION (R)

BOSTON MARATHON – MEASURED BY RAY NELSON / JUSTIN KUO 8/6,7/2014

MILE 18 – 14 FT. BEFORE CROSSWALK AT EXETER ST. (R), 3 FT. AFTER ROAD COVER IN MIDDLE OF EXETER ST.

30K – 18.64 MI. – AFTER WAUWINET RD, AT END OF #1230 COMMONWEALTH AVE. (R), 6 FT. BEFORE STORM DRAIN (R), 11 FT. BEFORE POLE ‘COM/1223’ (L)

MILE 19 – JUST BEFORE BEAUMONT AVE. (L) AT CITY HALL (R), 56 FT. BEFORE STORM DRAIN (L), 15 FT. AFTER LAMPPOST ‘COM/1063’

MILE 20 – AFTER CENTRE ST., OPPOSITE E. END OF FRONT DOOR #615 COMMONWEALTH AVE (L), 10 FT. BEFORE BEGINNING OF DRIVEWAY TO SINGLE CAR GARAGE AT E. END OF WHITE FENCE (R)

MILE 21 – IN CHESTNUT HILL, 15 FT. BEFORE FRONT DOOR TO #176 COMMONWEALTH AVE. (ENGLISH TUDOR HOUSE), 8 FT. BEFORE NO PARKING SIGN (R), 53 YD. BEFORE BEGINNING OF OLD COLONY RD. (R).

35K – 21.748 MI. – IN BRIGHTON ON COMMONWEALTH AVE., EVEN WITH SIDEWALK AT BEGINNING OF WADE ST. (R), 34 FT. AFTER LAMPPOST 1544

MILE 22 – AT BEGINNING OF CHESTNUT HILL DRIVEWAY (R), OPPOSITE RESERVOIR TOWERS (L), EVEN WITH RCN ROAD COVER (L), 3.5 FT BEFORE END OF CURB (L)

MILE 23 – IN BROOKLINE JUST BEFORE WINTHROP, 1 FT. BEFORE CROSSWALK AT #1665 BEACON ST. (NAIL PRO), EVEN WITH TRAFFIC LIGHT POST W/ SIGN ‘DO NOT ENTER, ONE WAY’ (L)

MILE 24 – IN BROOKLINE, 2.5 FT. BEFORE BEGINNING OF DRIVEWAY #1265 (R), @ 40 YD. AFTER CHARLES ST. (R)

40K – 24.85 MI. – IN BOSTON, AT #841 BEACON ST.(METAL OVERHEAD DOOR TO MIELE SHOWROOM), 34 FT. AFTER END OF MINER ST. (R), EVEN WITH ‘BWSC’ SQUARE ROAD COVER (R)

MILE 25 – ON MASS PIKE OVERPASS, 4 FT. BEFORE LAMPPOST R-17150 W/ ‘BEACON ST. / BLANSFORD ST. STEPS’ SIGNS (L)

1 MILE TO GO – AT KENMORE SQ. EVEN WITH #532 7/ELEVEN (R), 7 FT. AFTER ‘BOSTON DRAIN’ ROAD COVER (FAR R)

*631 YD. FROM CORNER OF HEREFORD / BOYLSTON AT END OF STORM DRAIN TO FINISH

MILE 26 – AT #841 BOYLSTON ST. (15 FT. AFTER E. END OF ENTRANCE / EXIT DOORS TO WALLGREENS PHARMACY) (L), 4 FT. BEFORE ‘GAS’ SMALL SQUARE ROAD COVER (L)



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 1

DATE (MM/DD/YYYY)

07/05/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Northeast, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 37205191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com																					
INSURED Boston Athletic Association 185 Dartmouth Street, 6th Floor Boston, MA 02116	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>National Casualty Company</td><td>11991</td></tr><tr><td>INSURER B:</td><td>National Union Fire Insurance Company of P</td><td>19445</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	National Casualty Company	11991	INSURER B:	National Union Fire Insurance Company of P	19445	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER D:																						
INSURER E:																						
INSURER F:																						

COVERAGES

CERTIFICATE NUMBER: W29558702

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y		AIP-00034502874-00	06/30/2023	06/30/2024	<table><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 500,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 5,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 3,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 1,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 3,000,000	PRODUCTS - COMP/OP AGG	\$ 1,000,000		\$
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	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				<table><tr><td>PER STATUTE</td><td>OTH-ER</td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$</td></tr></table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$						
PER STATUTE	OTH-ER																				
E.L. EACH ACCIDENT	\$																				
E.L. DISEASE - EA EMPLOYEE	\$																				
E.L. DISEASE - POLICY LIMIT	\$																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is included as an Additional Insured as respects to General Liability. Coverage is primary and non-contributory, Excess Liability is follow form.

CERTIFICATE HOLDER**CANCELLATION**

Town of Natick Natick Selectmen 13 East Central Street Natick, MA 01760	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> <p><i>Jula M Powers</i></p>
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ACORD 25 (2016/03)

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SR ID: 24375292

BATCH: 3039209



Joan McNamara <jmcnamara@natickma.org>

Re: 128th Boston Marathon Parade Permit Request

Brian Lauzon <lauzon@natickpolice.com>
To: Joan McNamara <jmcnamara@natickma.org>

Tue, Jan 9, 2024 at 1:00 PM

Joan,

As in the past we would recommend that the Select Board approve this request. Over the next months we will be working with the BAA and our counterparts to prepare for this event.

Respectfully submitted,

D/C Lauzon

On Mon, Jan 8, 2024 at 11:01 AM Joan McNamara <jmcnamara@natickma.org> wrote:

Hi Brian,

Kindly give me your recommendation for the Boston Marathon parade request.

Best,

Joan

JOAN M. McNAMARA

Executive Assistant to the Town Administrator
and Select Board

TOWN OF NATICK

[13 East Central St., Natick, MA](#)

(t) 508-647-6400 x 1402

(f) 508-647 6401

----- Forwarded message -----

From: **Will Pollard** <wpollard@baa.org>

Date: Fri, Jan 5, 2024 at 3:47 PM

Subject: 128th Boston Marathon Parade Permit Request

To: [Selectboard@natickma.org](#) <[Selectboard@natickma.org](#)>

Cc: Lauren Proshan <lproshan@baa.org>

Members of the Natick Select Board:

Please see attached request for a permit regarding the 128th Boston Marathon, to be held on April 15th, 2024. We are looking forward to working with Natick as planning proceeds over the coming weeks and months in preparation for April's event.

Please let us know what additional information may be helpful while evaluating this request.

Thank you

Will Pollard

Will Pollard | Operations Manager

Boston Athletic Association

185 Dartmouth Street, 6th Floor

Boston, MA 02116

wpollard@baa.org