



# Town of York

186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-2557

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207) 363-1011

Harbor Master  
(207)363-1000

Senior Center/  
General Assistance  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

## SELECTMEN'S MEETING 7:00 P.M. MONDAY JUNE 13th, 2011 YORK LIBRARY

### Call to Order-

### Pledge of Allegiance

#### A. Minutes

-May 23rd, 2011 Selectmen's Meeting Minutes

#### B. Chairman's Report

#### C. Manager's Report

#### D. Awards

1. Professional Services agreement with SMRT, Inc.

#### E. Reports

**F. Citizens Forum** - The citizen's forum is open to any member of the audience for comments on items listed on this meeting agenda. All comments should be respectful in tone and should be directed to the chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the town manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the town manager's office.

#### G. Approval of Warrant #50

#### H. PUBLIC HEARINGS

1. Proposed School Impact Fee Amendment

#### I. ENDORSEMENTS

##### License Applications

- Nancy St. Pierre M & N Concessions Services, LLC (Victualers)
- John Lamarre dba Roast N Crumb (Victualers)
- Margaret Fennelly dba Sweet Josie's Candy Shoppe (Victualers)
- Beauport Inn, LLC dba Beauport Inn (Bed & Breakfast)

**J. Old Business**

1. Property Redemption: 206 Ogunquit Road

**K. New Business**

1. Discussion of Proposed School Impact Fee Amendment.
2. Discussion of LD 477 Regarding Motorcycle Noise.
3. Correction to January 10<sup>th</sup>, 2011 Minutes.
4. Appointments to the Municipal Building Committee.
4. Special Event Permit Application: York Hospital Breast Cancer Walk for Hope.
5. Special Event Permit Application: ESA Surf Contest.
6. Special Event Permit Application: York Village Fire Department Field Day.

**L. Other Business**

**M. Citizens Forum**

**Adjourn**

**SELECTMEN'S MEETING**  
**7:00 P.M. MONDAY May 23rd, 2011**  
**YORK LIBRARY**

**Attendees:** Tracy Jackson-McCarty, Edward W. Little, Kinley Gregg, Scott Fiorentino, Robert G. Yandow, Town Manager Kathryn Danylik, Recorder and Members of the Press & Public.

Ms. Andrews was not present at the meeting.

**6:30 PM-Interview**

**Call to Order-** Ms. Jackson-McCarty called the meeting to order at 7:00 PM.

**Pledge of Allegiance**

**A. Minutes**

-April 25<sup>th</sup>, 2011 Selectmen's Meeting Minutes.

-May 2<sup>nd</sup>, 2011 Selectmen's Meeting Minutes.

Moved by Mr. Little and seconded by Ms. Jackson-McCarty to approve the April 25<sup>th</sup> 2011 Selectmen's Meeting Minutes and May 2<sup>nd</sup>, 2011 Selectmen's Meeting Minutes. Without objection so ordered.

**B. Chairman's Report**

Chairman Jackson-McCarty thanked the citizens of York for coming out to vote and supporting the Town. Mr. Yandow and town staff worked very hard on a fiscally responsible budget this year.

**C. Manager's Report**

Mr. Yandow thanked the voters for approving the operating budget and also the Police Station and Connector Road. Both of these projects are crucial to York's future.

Mr. Yandow reported that the two bridges on Route 103 will be open by Friday at the latest.

Mr. Yandow stated that the traffic signal on Route 1 at Southside and Birch Hill Road should be completed by mid June.

Mr. Yandow reported that once the two bridges on Route 103 are completed, work on Sewall Bridge will begin. Sewalls Bridge will be closed for 12-18 months.

#### **D. Awards**

#### **E. Reports**

**F. Citizens Forum** - The citizen's forum is open to any member of the audience for comments on items listed on this meeting agenda. All comments should be respectful in tone and should be directed to the chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the town manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the town manager's office.

Public Comment: None

#### **G. Approval of Warrant #47**

Moved by Mr. Little and seconded by Ms. Gregg to approve Warrant #47. Vote 4-0 motion passes.

#### **H. PUBLIC HEARINGS**

##### **1. New License Applications**

- John and Michelle Cirrone dba Country View Motel & Guesthouse (Bed and Breakfast, Hotel/Motel with Cooking Facilities)
- John DiGiacomo dba Momma Angies Italian Kitchen and Sports Lounge (Victualers, Liquor, Special Amusement)
- Dan Poulin dba Fat Tomato Grill (Victualers)

Moved by Mr. Little and seconded by Ms. Gregg to open the public hearing on the new license applications.

Public Comment: None

Moved by Mr. Little and seconded by Ms. Gregg to close the public hearing on the new license applications.

#### **I. ENDORSEMENTS**

##### **License Applications**

- Mark Anastas dba Liquid Dreams (Victualers)
- Dan Poulin dba Fat Tomato Grill (Victualers)
- Molly Johnson dba Rocky Acres (Victualers)
- Barbara Sheff dba Candleshop Inn (Bed & Breakfast)

- William Burnham dba York Beach Bowling Alley (Victualers, Coin-Op Amusement, Bowling Alley)
- William Burnham dba Surfside (Victualers, Liquor)
- Jim and Mike Manos dba York Beach Dairy Bar (Victualers)
- Stadig Eneterprises dba Bosn's Landing (Victualers, Liquor)
- Nicole Hill dba Molly-O's Restaurant (Victualers)
- Martha Danilowicz dba Wicked Good Ice Cream (Victualers)
- Woody & Rowena Kislowski dba York's Best Seafood (Vicualers)
- Janet B. Stone dba Oceanside Store (Victualers)
- John & Michelle Cirrone dba County View Motel and Guest House (Hotel/Motel with Cooking Facilities, Bed and Breakfast)
- Lucia Velasco-Evans dba Lucia's Kitchen (Victualers)
- John DiGiacomo dba Momma Angies Ititalian Kitchen & Sports Lounge (Victualers, Liquor, Special Amusement)
- Joe Barberi dba York's Wild Kingdom (Coin-Op Amusement)
- Agnes & John Biagioni dba The Candy Corner (Victualers)
- Carolyn Garrett dba Ice Cream House (Victualers)
- Erik Heyland dba Microtel Inn & Suites (Victualers, Hotel/Motel with Cooking Facilities)
- Kibecca Inc dba Shore Road Restaurant, Deli and Market (Victualers)

Moved by Mr. Little and seconded by Ms. Gregg to approve the following licenses: Mark Anastas dba Liquid Dreams (Victualers), Dan Poulin dba Fat Tomato Grill (Victualers), Molly Johnson dba Rocky Acres (Victualers), Barbara Sheff dba Candleshop Inn (Bed & Breakfast), William Burnham dba York Beach Bowling Alley (Victualers, Coin-Op Amusement, Bowling Alley), William Burnham dba Surfside (Victualers, Liquor), Jim and Mike Manos dba York Beach Dairy Bar (Victualers), Stadig Eneterprises dba Bosn's Landing (Victualers, Liquor), Nicole Hill dba Molly-O's Restaurant (Victualers), Martha Danilowicz dba Wicked Good Ice Cream (Victualers), Woody & Rowena Kislowski dba York's Best Seafood (Vicualers), Janet B. Stone dba Oceanside Store (Victualers) -John & Michelle Cirrone dba County View Motel and Guest House (Hotel/Motel with Cooking Facilities, Bed and Breakfast), Lucia Velasco-Evans dba Lucia's Kitchen (Victualers), John DiGiacomo dba Momma Angies Ititalian Kitchen & Sports Lounge (Victualers, Liquor, Special Amusement), Joe Barberi dba York's Wild Kingdom (Coin-Op Amusement), Agnes & John Biagioni dba The Candy Corner (Victualers), Carolyn Garrett dba Ice Cream House (Victualers), Erik Heyland dba Microtel Inn & Suites (Victualers, Hotel/Motel with Cooking Facilities), Kibecca Inc dba Shore Road Restaurant, Deli and Market (Victualers), subject to taxes, fees, and inspections being current and compliant with the usual noise stipulations. Vote 4-0 motion passes.

## **J. Old Business**

**K. New Business**

**1. Election of Chair and Vice-Chair.**

Moved by Mr. Little and seconded by Mr. Fiorentino to elect Ms. Jackson-McCarty as Chairman. Vote 4-0 motion passes. Ms. Gregg questioned whether a secret ballot should be used.

Moved by Ms. Jackson-McCarty and seconded by Mr. Little to elect Ms. Andrews as Vice-Chairman. Vote 4-0 motion passes.

**2. Establish a Fixed Schedule of Meetings.**

Moved by Ms. Gregg and seconded by Mr. Little to establish a fixed schedule of meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of the month. Vote 4-0, motion passes.

**3. Adopt the Selectmen's Policy Manual as the Board's Rules of Procedure.**

This issue was tabled until the next meeting.

**4. Adopt the Selectmen's Policy Entitled: "Disbursement of Wages to Municipal Employees."**

Moved by Ms. Gregg and seconded by Mr. Little to adopt the Selectmen's Policy Entitled: "Disbursement of Wages to Municipal Employees." Vote 4-0 motion passes.

**5. Adopt Selectmen's Policy Entitled "Order of Municipal Officers."**

Moved Ms. Gregg and seconded by Mr. Little to adopt Selectmen's Policy Entitled "Order of Municipal Officers." Vote 4-0, motion passes.

**6. Call a Special Budget Referendum in accordance with Article II, Section 14, § F. of the Town of York Home Rule Charter.**

This action is not necessary.

**7. Adopt the Town Budget as Certified by the Town Clerk and Approved by the Voters Per Article 2, Section 14.B, of the Town of York Home Rule Charter.**

Moved by Mr. Little and seconded by Ms. Gregg to adopt the town budget as certified by the Town Clerk and approved by the voters per Article 2, Section 14.B, of the Town of York Home Rule Charter. Vote- 4-0 motion passes.

**8. Approval of Parking Lease with York Wild Kingdom.**

Moved by Mr. Little and seconded by Ms. Gregg to authorize the Town Manager to enter into a parking agreement with the York Wild Kingdom for use of an unimproved parking area owned by the Town of York and located adjacent to the York Wild Kingdom access road. Vote 4-0 motion passes.

**9. Special Event Permit Application: Memorial Day Parade.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the VFW Post 6977 Memorial Day Parade which will be held on Monday, May 30<sup>th</sup> 2011 from 9:00 AM to approximately 12:00 PM. Vote 4-0, motion passes.

**10. Special Event Permit Application: Air Force Band of Liberty.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation Department which will be hosting the Air Force Band of Liberty at Ellis Park on Sunday, August 7<sup>th</sup> from 7:00 PM to 9:00 PM. Vote 4-0, motion passes.

**11. Special Event Permit Application: York Days Craft Fair.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation Department which will be holding the York Days Craft Fair on Saturday and Sunday, August 6<sup>th</sup> and 7<sup>th</sup> from 10:00 AM to approximately 5:00 PM on the York Beach Ball Field. Vote 4-0, motion passes.

**12. Special Event Permit Application: Summer Lighting of the Nubble.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation Department which will be holding the Christmas in July Lighting of the Nubble Celebration on Sunday, July 31<sup>st</sup> from 8:00 PM to approximately 9:00 PM. Vote 4-0, motion passes.

**13. Special Event Permit Application: York Days 5k Road Race.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for York Parks and Recreation Department which will be holding the York Days 5K Road Race on Sunday, July 31<sup>st</sup> 2011 from 8:00 AM to 10:30 AM. Vote 4-0, motion passes.

**14. Special Event Permit Application: 4 on the 4<sup>th</sup> Road Race.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation Department which will be holding the 4 on the 4<sup>th</sup> Road Race on Monday, July 4<sup>th</sup> from 8:00 AM to approximately 10:00AM. Vote 4-0, motion passes.

**15. Special Event Permit Application: Nubble Light Concert Series.**

Moved by Mr. Little and seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation Department which will be hosting the Nubble Concert Series at Sohier Park on Saturday, July 9<sup>th</sup> and Monday, August 1<sup>st</sup> and Saturday, August 27<sup>th</sup> from 7:00 PM to 9:00 PM. Vote 4-0, motion passes.

**16. Board and Committee Appointments: York Village Sub-Committee, Conservation Commission.**

Moved by Mr. Little and seconded by Ms. Gregg to appoint Stu Dawson as the citizen at large member of the York Village Sub-Committee and Michael Mahlman as an alternate member of the Conservation Commission. Vote 4-0 motion passes.

**L. Other Business**

**M. Citizens Forum**

**Adjourn**

Moved by Mr. Little and seconded by Ms. Gregg to adjourn at 7:40 PM.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 10, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> Professional Services agreement with SMRT for Design of Police Station and Connector Road Projects	

<b>TO:</b> Board of Selectmen
<b>FROM:</b> Robert G. Yandow, Town Manager
<b>RECOMMENDATION:</b> Approve Professional Services Agreement
<b>PROPOSED MOTION:</b> I move to approve a professional services agreement with SMRT, Inc. for final design services for the York police station and connector road projects in an amount not to exceed \$436,811 for basic services.

**Discussion:** In December of 2009 the Town of York issued a Request for Qualifications (RFQ) for architectural design services for a new police station. These services included site selection, programming, design and construction administration. As a result of this solicitation the town received responses from seven (7) architectural firms. A committee was established to conduct initial interviews with all seven responders and select a smaller number of responders for second interviews. That committee consisted of two members of the Board of Selectmen, two members of the police department and the town manager. The committee was assisted by local architect Glen MacWilliams who developed a written instrument for use in evaluating the seven architectural firms.

In February, 2006 the committee interviewed the seven architectural firms. As a result of the interviews, four firms were initially selected for second interviews; however some due diligence eliminated one of the firms from contention. The remaining three firms were SMRT, Inc; Oest Associates, Inc and Kaestle Boos Associates, Inc.

On March 28, 2006 the second interviews were conducted with the three remaining firms. After the interviews were complete the committee selected SMRT and the preferred architectural firm based on the established evaluation criteria. The committee ultimately recommended SMRT, Inc. as the police station project architects to the Board of Selectmen.

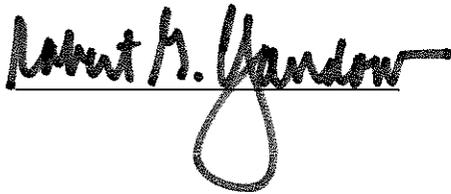
On June 26, 2006 the Board of Selectmen awarded a contract to SMRT for Pre-Architectural Services related to the design and location of a police station in an amount not to exceed \$50,000. The \$50,000 had previously been set aside by the Board of Selectmen for a new police station facility planning costs.

Subsequent to this initial contract with SMRT, the Board of Selectmen, over time, has approved additional contracts with SMRT for review of the Horn/York Wild Kingdom properties, the suitability of the Blinn property and the most recent contract for concept design, resource compensation and cost estimating for the police station and connector road projects.

The Municipal Building Committee is recommending that the Board of Selectmen approve the final design contract with SMRT based on their initial selection as project architects and the previous phases of work that the firm has completed on the police station project. Municipal Building committee Chair Bob Reed will present the proposal to the Board of Selectmen.

<b>FISCAL IMPACT:</b> \$436,811
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By:

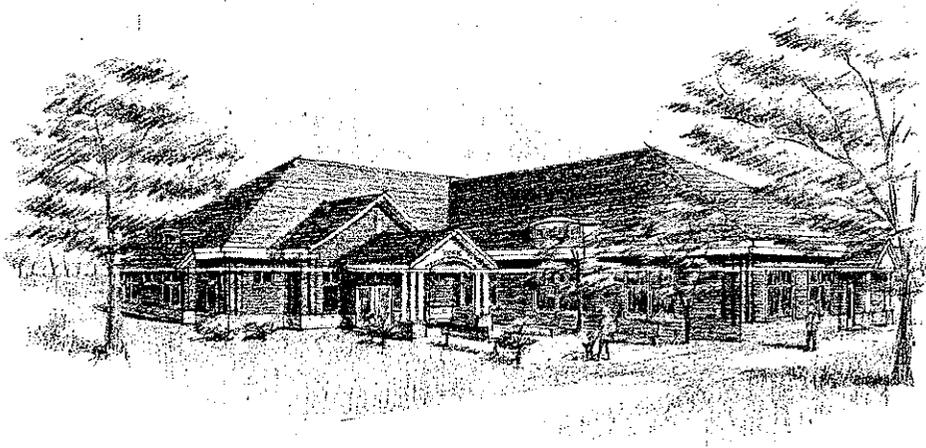


Reviewed By: \_\_\_\_\_



Town of York

# Public Safety Building Route 1/York Beach Connector Road



**Draft Contract**

**June 7, 2011**



## Agenda

Town of York - Contract Meeting  
June 7, 2011

- Overall goal - get as much program as we can for \$6,810,539 and \$1,626,882 respectively.
- One contract with itemized invoicing?
- AIA contract suite:
  - Owner / Architect: AIA B101 - 2007
  - Owner / CM at Risk: AIA A133 - 2009
  - General Conditions: AIA A201 - 2007
  - SMRT Supplementary General Conditions
- Basic Services portion of fee:
  - What is included in "basic services" and what is not (see Summary Scope of Services).
  - What is a contingency for and how is it best managed.
  - "Cost of the work" x percentage
    - Building project at 7% (reduced from 7.7%)
    - Road project at 4.5% (reduced from 8% - recommend use remainder as additional contingency)
    - Combined 6.52% (before SD credit)
  - Begin with costs as currently established, including escalation.
  - Provide credit for 50% SD complete (building and road projects).
  - Revise fixed fee as necessary at end of DD as established by CM (GMP).
  - Prorate for spent fee if different.
- Review Exhibit D - Fee Calculation spreadsheet:
  - Overall calculations
  - Permitting (additional wetland impacts)
  - In-lieu fee risk
- Review draft Contract and Total Project Cost spreadsheets.
- Other Additional Services? (Article 4)
- Review RFP for Construction Management-at-Risk
- Next steps
  - Authorize SMRT contract
  - Release RFP for CMs
  - Final negotiations related to road alignment
  - Prepare / issue RFPs for Geotech, Phase I ESA and Survey
  - Sole-source for wetlands and traffic permitting support?
    - Stantec
    - Gorrill - Palmer

January 27, 2011  
Rev June 7, 2011

**Town of York Police Station  
Summary Scope of Services  
D-R-A-F-T**

1. Basic Services
  - Schematic Design
  - Assistance in Construction Manager Selection (2 days)
  - Design Development
  - Construction Documents
  - Bid/Negotiations
  - Construction Administration (12 Months)
  - Design of Basic Signage (Code required, room numbers if consistent with construction room numbers, sign signage for the front entrance and directional control.)
  - Construction of basic "working" study models to aid visualization of design intent (cardboard or computer graphic models.)
  - Design of raceways for Technology and Communications wiring systems.
  - Disciplines included in-house
    - Architectural Design
    - Landscape Architecture
    - Civil Engineering
    - Structural Engineering
    - Mechanical Engineering (incl. Geothermal)
    - Electrical Engineering
    - Plumbing Design
    - Interior Design (building components)
2. Site Permitting Services (Additional Services)
  - Site permitting document preparation, including technical meetings, public meetings and agency follow-up
  - Traffic permitting
  - Wetlands and vernal pool buffer permitting support
3. Other Additional Services not included in Basic Services
  - LEED Submission Preparation
  - Commissioning
  - Special Inspections
  - Security systems
  - Communications Electronics Systems
  - FF&E Design and Procurement
  - Geothermal Test Boring and Thermal Conductivity Testing (Rev. 6/7/11)

Our general practice is to finalize the architectural fee at the end of Design Development, so that it relates to the actual construction cost, as established by a Construction Manager in concert with the Building Committee.

# DRAFT AIA® Document B101™ - 2007

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 13th day of June in the year 2011  
(In words, indicate day, month and year)

BETWEEN the Architect's client identified as the Owner:  
(Name, address and other information)

Town of York  
186 Main Street  
York, ME 03909

and the Architect:  
(Name, address and other information)

SMRT, Inc.  
144 Fore Street  
P.O. Box 618  
Portland, ME 04101

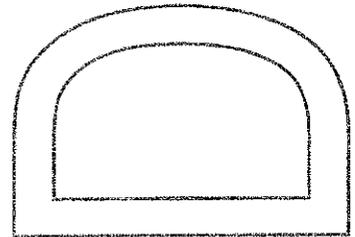
for the following Project:  
(Name, location and detailed description)

Sample Public Safety Building project and Route 1/York Beach Connector Road project. The Public Safety Building project will include an approximately 19,000 SF police station, 3,600 SF Storage Building, access road, parking, related utilities and stormwater management facilities. The Connector Road project will include a through road between the Police Station access road and Route 1, including related stormwater management facilities. There are no utilities included in the Connector Road project.

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.



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TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 ARCHITECT'S RESPONSIBILITIES
- 3 SCOPE OF ARCHITECT'S BASIC SERVICES
- 4 ADDITIONAL SERVICES
- 5 OWNER'S RESPONSIBILITIES
- 6 COST OF THE WORK
- 7 COPYRIGHTS AND LICENSES
- 8 CLAIMS AND DISPUTES
- 9 TERMINATION OR SUSPENSION
- 10 MISCELLANEOUS PROVISIONS
- 11 COMPENSATION
- 12 SPECIAL TERMS AND CONDITIONS
- 13 SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

Refer to Exhibit A-1, A-2, A-3 and A-4 for drawings of proposed building floor plan, building rendering, site plan and connector road plan.

Design Services and Additional Services shall be provided as described in Articles 3 and 4.

Owner's Consultants are:

Geotechnical Engineer

Hazardous materials specialist (as required)

Surveyor

Archaeology specialist (as required)

Architect's Consultants are:

Wetlands Scientist

Traffic Engineer

The anticipated procurement method is Construction Manager at Risk (where Construction Manager is the Constructor).

The Budget for the Cost of the Work will be established by the Construction Manager, however it is currently anticipated to be as follows:  
Public Safety Building project - \$5,837,766 (Cost of the Work) and \$6,810,539 (total project cost, including all fees and expenses);  
Connector Road project - \$1,412,985 (Cost of the Work) and \$1,626,882 (total project cost, including all fees and expenses).

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date:  
April, 2012 (to be established by the CM)
- .2 Substantial Completion date:  
January, 2013 (to be established by the CM)

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:  
*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

- .1 General Liability
  - \$1,000,000 each occurrence
  - \$2,000,000 general aggregate
  - \$2,000,000 products complete
  - \$1,000,000 personal and advertising injury
- .2 Automobile Liability
  - \$1,000,000 combined single limit
- .3 Workers' Compensation
  - \$1,000,000 employer's liability - each accident
  - \$1,000,000 employer's liability - each employee
  - \$1,000,000 employer's liability - policy limit

4 Professional Liability

~~\$2,000,000 per claim~~  
~~\$2,000,000 aggregate~~

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall, in collaboration with the Construction Manager, submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as approximated set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

**§ 3.2 SCHEMATIC DESIGN PHASE SERVICES**

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 ~~The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.~~

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 ~~Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.~~

**§ 3.2.5** Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

**§ 3.2.5.1** The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

**§ 3.2.5.2** The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

**§ 3.2.6** The Architect shall collaborate with the Construction Manager to submit to the Owner an estimate of the Cost of the Work prepared by the Construction Manager in accordance with Section 6.3.

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### **§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES**

**§ 3.3.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

**§ 3.3.2** The Architect shall collaborate with the Construction Manager to update the estimate of the Cost of the Work.

**§ 3.3.3** The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### **§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner Construction Manager in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms prepared by the Construction Manager.

§ 3.4.4 The Architect shall collaborate with the Construction Manager to update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 BIDDING OR NEGOTIATION-PHASE SERVICES

#### § 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. reviewing the Construction Manager's pricing and Guaranteed Maximum Price offer. The Architect shall make recommendations for revisions of approval.

#### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the ~~Owner~~ Construction Manager in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 ~~distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;~~
- .3 assisting the Construction Manager in organizing and conducting a pre-bid conference for prospective bidders; and
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; ~~and~~
- .5 ~~organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.~~

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### § 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 ~~procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- .2 ~~organizing and participating in selection interviews with prospective contractors; and~~
- .3 ~~participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.~~

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The

Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

**§ 3.6.1.3** Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### **§ 3.6.2 EVALUATIONS OF THE WORK**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment

### **§ 3.6.4 SUBMITTALS**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

**§ 3.6.4.2** In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 CHANGES IN THE WORK**

**§ 3.6.5.1** The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 PROJECT COMPLETION**

**§ 3.6.6.1** The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract

Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 ADDITIONAL SERVICES**

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. In the below table, CM means Construction Manager.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Additional Services	Responsibility (Architect, Owner, CM or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Owner Completed	
§ 4.1.2 Multiple preliminary designs	NP	
§ 4.1.3 Measured drawings	NP	
§ 4.1.4 Existing facilities surveys	NP	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	NP Completed??	
§ 4.1.6 Building information modeling	NP	
§ 4.1.7 Civil engineering	Architect	
§ 4.1.8 Landscape design	Architect	
§ 4.1.9 Architectural Interior Design (B252™-2007)	Architect	See §4.2
§ 4.1.10 Value Analysis (B204™-2007)	NP	
§ 4.1.11 Detailed cost estimating	CM	
§ 4.1.12 On-site project representation	NP	
§ 4.1.13 Conformed construction documents	NP	
§ 4.1.14 As-designed record drawings	Architect	Issued for Construction Documents
§ 4.1.15 As-constructed record drawings	CM	
§ 4.1.16 Post occupancy evaluation	Architect	
§ 4.1.17 Facility Support Services (B210™-2007)	NP	
§ 4.1.18 Tenant-related services	NP	
§ 4.1.19 Coordination of Owner's consultants	Architect	Site related
§ 4.1.20 Telecommunications/data design	Owner	See §4.2
§ 4.1.21 Security Evaluation and Planning (B206™-2007)	NP	
§ 4.1.22 Commissioning (B211™-2007)	Architect	Hourly Service

§ 4.1.23	Extensive environmentally responsible design	Architect/ NP	
§ 4.1.24	LEED® Certification (B214™-2007)	Architect	Hourly Service
§ 4.1.25	Fast-track design services	NP	
§ 4.1.26	Historic Preservation (B205™-2007)	NP	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	NP	Available Additional Service
§ 4.1.28	Site/Environmental Permitting Services	Architect	Hourly Service
§ 4.1.29	Land Survey Services	Owner	
§ 4.1.30	Geotechnical Services	Owner	
§ 4.1.31	Traffic Engineering Services	Architect	Hourly Services under § 4.1.28
§ 4.1.32	Hazardous Materials Specialist	NP	
§ 4.1.33	Archaeological Specialist	NP	
§ 4.1.34	Start-Up Assistance	NP	
§ 4.1.35	Code Required Special Inspections	Architect	Hourly Service
§ 4.1.36	Signage Design	Architect	See §4.2
§ 4.1.37	Telecommunications Systems Design	NP	See §4.2
§ 4.1.38	Building Security Systems Design	NP	Available Additional Service
§ 4.1.39	Building Video Systems Design	NP	Available Additional Service
§ 4.1.40	Specialty Lighting Design	NP	Available Additional Service
§ 4.1.41	Acoustical Design	NP	Available Additional Service
§ 4.1.42	Vibration Design	NP	Available Additional Service
§ 4.1.43	Operating Cost Modeling	NP	Available Additional Service
§ 4.1.44	Coord. of Work by Owner's other Contractors	NP	
§ 4.1.45	Assistance in CM RFO solicitation/selection	Architect	
§ 4.1.46	Geothermal System Consultant	NP	Available Additional Service
§ 4.1.47	Owner requested changes to prior completed work per 4.3.1.1, 4.3.1.3, or 4.3.2.3	NP	Available Additional Service

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.2.1 Architectural Interior Design: Building components only; design services for furnishings procurement not included, but could be as an Additional Service.

§ 4.2.2 Signage Design: Code required signs, room numbers and site signage for front entrance (Police Station) and direction controls (Police Station) is included.

§ 4.2.3 Telecommunications Systems Design: Scope includes design of raceways for technology and communications wiring systems, including termination boxes for telecommunications, video, security electronics and information technology systems. Radio, telephone and data systems design services, which include design of wiring, terminations, hubs, servers, switches, towers, antennas, electronics, etc., are not included but are available as Additional Services.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- 1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;

- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, more than twethree (23) a-public presentations, meetings or hearings;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of subcontract bidders or persons providing proposals; or
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Owner Requested Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services, 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier February 28, 2013.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Tenwenty ( 120 ) visits to the site by the Architect over the duration of the Project during construction
- .3 One ( 1 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One ( 1 ) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed by February 28, 2013 within ( 3 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.2.1 The Owner's contingency sum during the construction phase shall start at no less than 5% of the Cost of the Work. The contingency shall be used, as required, to pay for increased project costs due to claims presented as a result of possible or perceived hidden conditions and possible or perceived omissions, ambiguities or inconsistencies in the construction drawings and specifications. The Owner further agrees to refrain from making any claim by way of direct or third-party action against the Architect with respect to any payments made within the limit of the 5% contingency because of changes to documents made to clarify intent.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating-subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through

the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Construction Manager Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall collaborate with the Construction Manager to make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, ~~without additional compensation as an additional service,~~ shall modify the Construction Documents as necessary to comply with the Owner's budget for

the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. ~~The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.~~

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Where electronic data is representative of original documents issued in printed form, original documents shall govern in the event of any inconsistency. Refer to Exhibit C - SMRT, Inc. Electronic Transfer Agreement.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

**§ 8.2 MEDIATION**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to ~~litigation in a court of competent jurisdiction~~ binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by ~~litigation in a court of competent jurisdiction~~ binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for ~~litigation~~ binding dispute resolution but, in such event, mediation shall proceed in advance of ~~legal~~ binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If a ~~legal~~ arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 8.2.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other (Specify)
- 

**§ 8.3 ARBITRATION**

**§ 8.3.1** If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

**§ 8.3.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

~~§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

**§ 8.3.4 CONSOLIDATION OR JOINDER**

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

**ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

**§ 9.4** Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

**§ 9.5** The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

**§ 9.6** In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

**§ 9.7** Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 No failure or delay on the part of either party to this Agreement to exercise its rights hereunder shall be or operate as a waiver, release or relinquishment of any rights or powers conferred under this Agreement.

§ 10.10 Should any component be omitted from the Architect's drawings or specifications, whether due to Architect's error or other reason, the Architect shall not be responsible for paying the cost to add such component to the extent that such components would otherwise be necessary to the project. In no event will the Architect be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Basic Services Fee to be established as 6.51% of the Cost of the Work. Preliminary, for the sake of invoicing, a Cost of the Work is estimated at \$7,250,751 for both projects and preliminarily amounts to, after the credit for 50% SD, \$436,811. Final basis of this agreement will be the Cost of the Work as estimated at Design Development approval, or as mutually agreed at some point thereafter. See Exhibit D - Fee Calculation.

**Hourly Services**

- Permitting - Permitting related services for both projects, including those of the Architect's consultants, shall be performed on an hourly basis.
- LEED Documentation - LEED documentation related services shall be performed on an hourly basis.
- Commissioning - Commissioning related services shall be performed on an hourly basis.
- Special Inspection - Special Inspections related services shall be performed on an hourly basis.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Additional Services shall be performed hourly per the rates attached as Exhibit B or may be negotiated subsequent to identification of the scope of additional services to be provided.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows: (Insert amount of, or basis for, compensation.)

Additional Services shall be performed hourly per the rates attached as Exhibit B or may be negotiated subsequent to identification of the scope of additional services to be provided.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus fifteen percent (15%), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Forty	percent (	40	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Refer to Exhibit B.

Employee or Category

Rate

**§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long-distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses; and
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10%) of the expenses incurred.

**§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE**

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

\$10,000 (or "to be negotiated")

**§ 11.10 PAYMENTS TO THE ARCHITECT**

§ 11.10.1 An initial payment of \$ (\$) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

Wall Street Journal prime rate plus one percent (1%) per annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

**ARTICLE 13 SCOPE OF THE AGREEMENT**

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- ~~.2 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:~~



- .3 Other documents:  
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

- ~~Exhibit A-1. Proposed building floor plan~~
- ~~Exhibit A-2. Proposed building rendering~~
- ~~Exhibit A-3. Proposed site plan~~
- ~~Exhibit A-4. Proposed connector road plan~~
- ~~Exhibit B. Schedule of Professional Hourly Billing Rates~~
- ~~Exhibit C. Electronic Transfer Agreement~~
- ~~Exhibit D. Fee Calculation~~

This Agreement entered into as of the day and year first written above.

**OWNER**

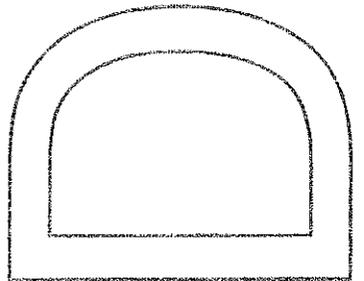
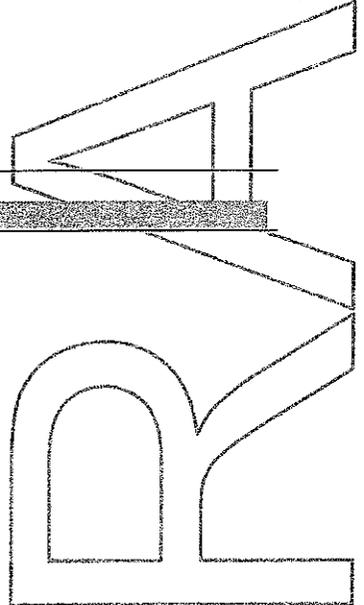
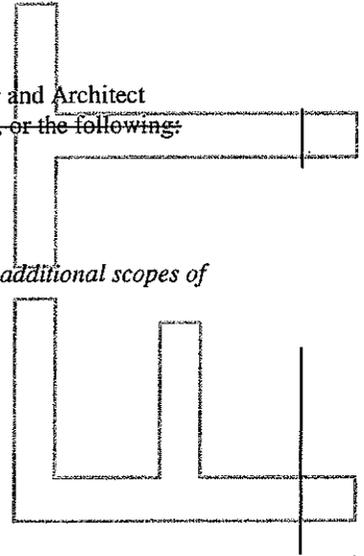
**ARCHITECT**

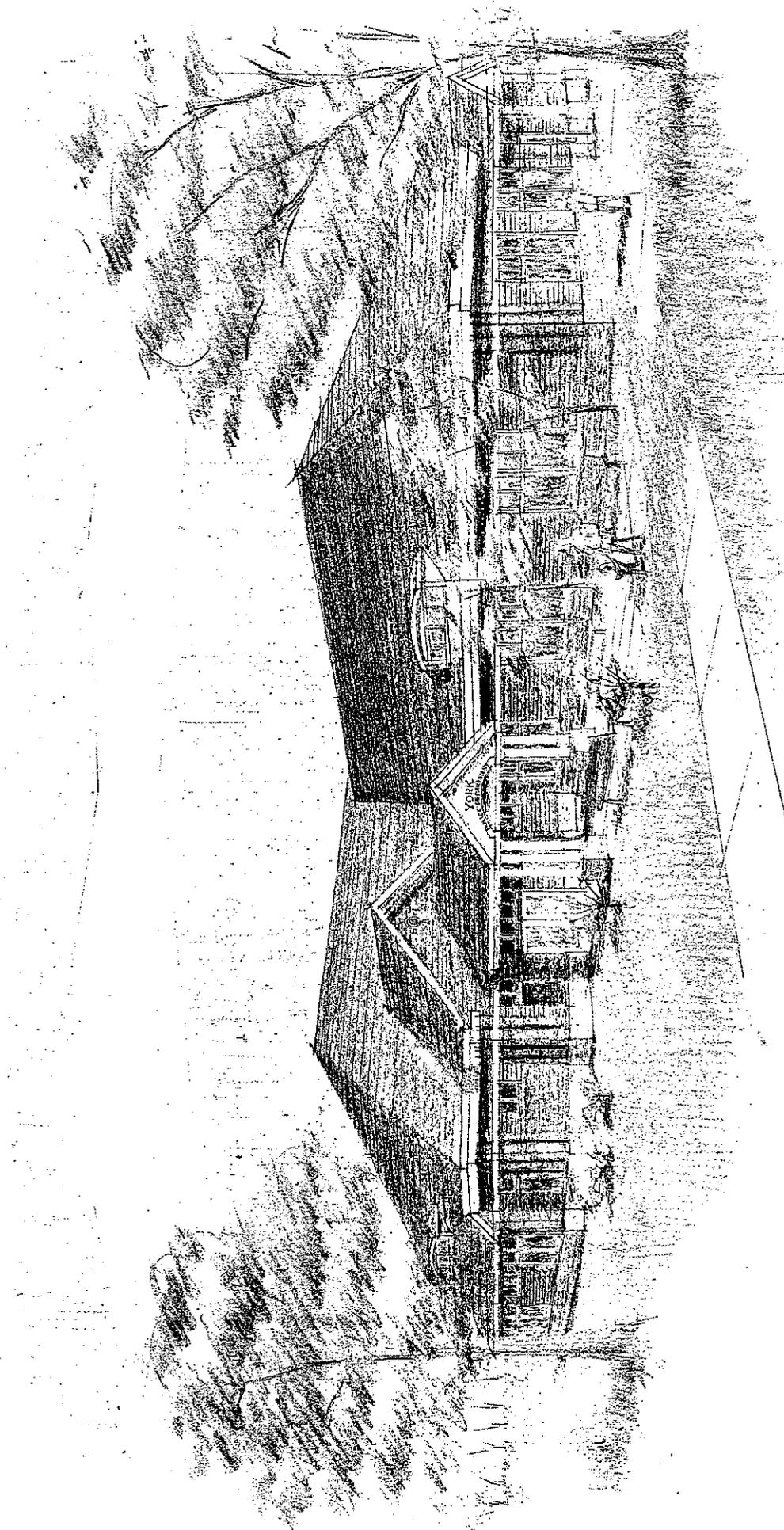
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(Signature)

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(Printed name and title)





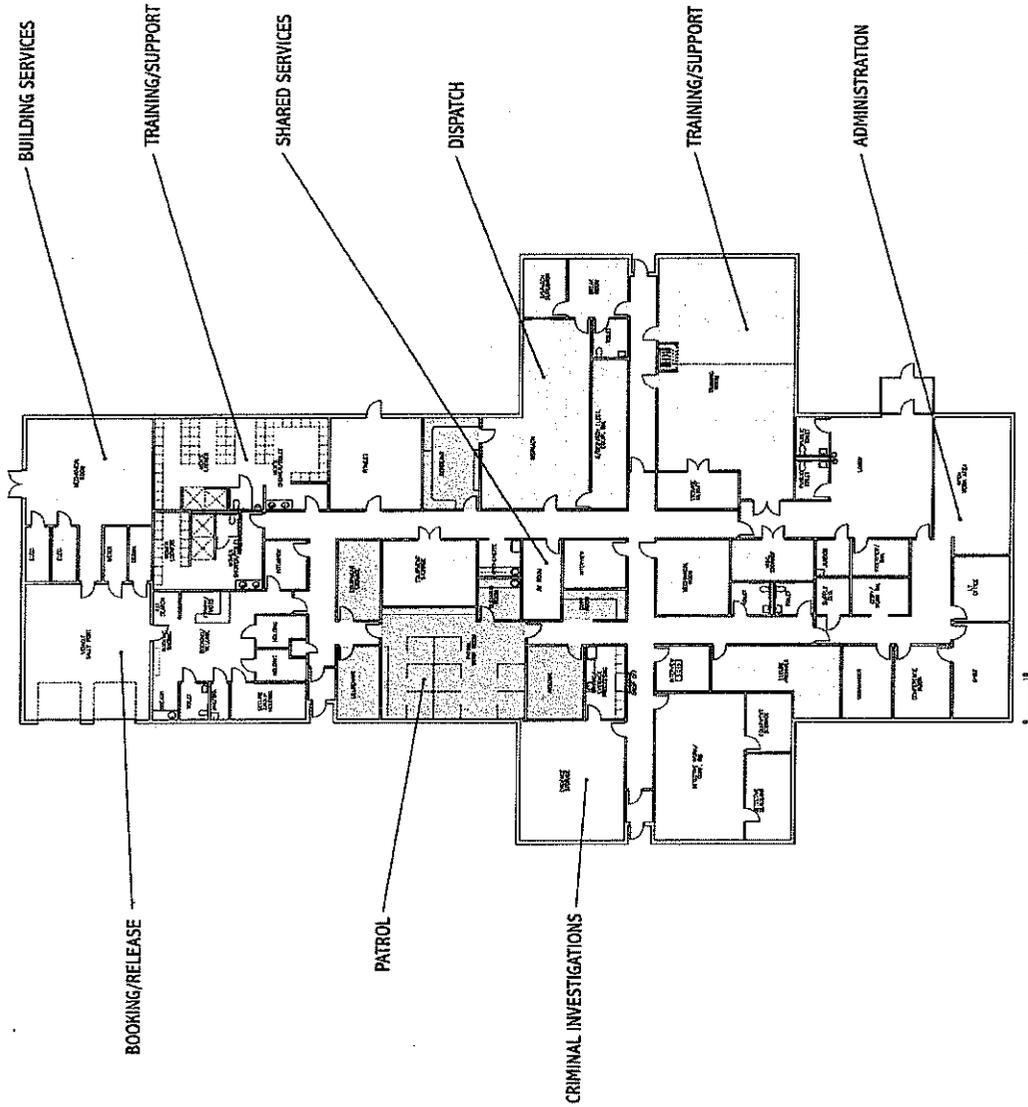
March 2011



Perspective



York Police Station - York, Maine

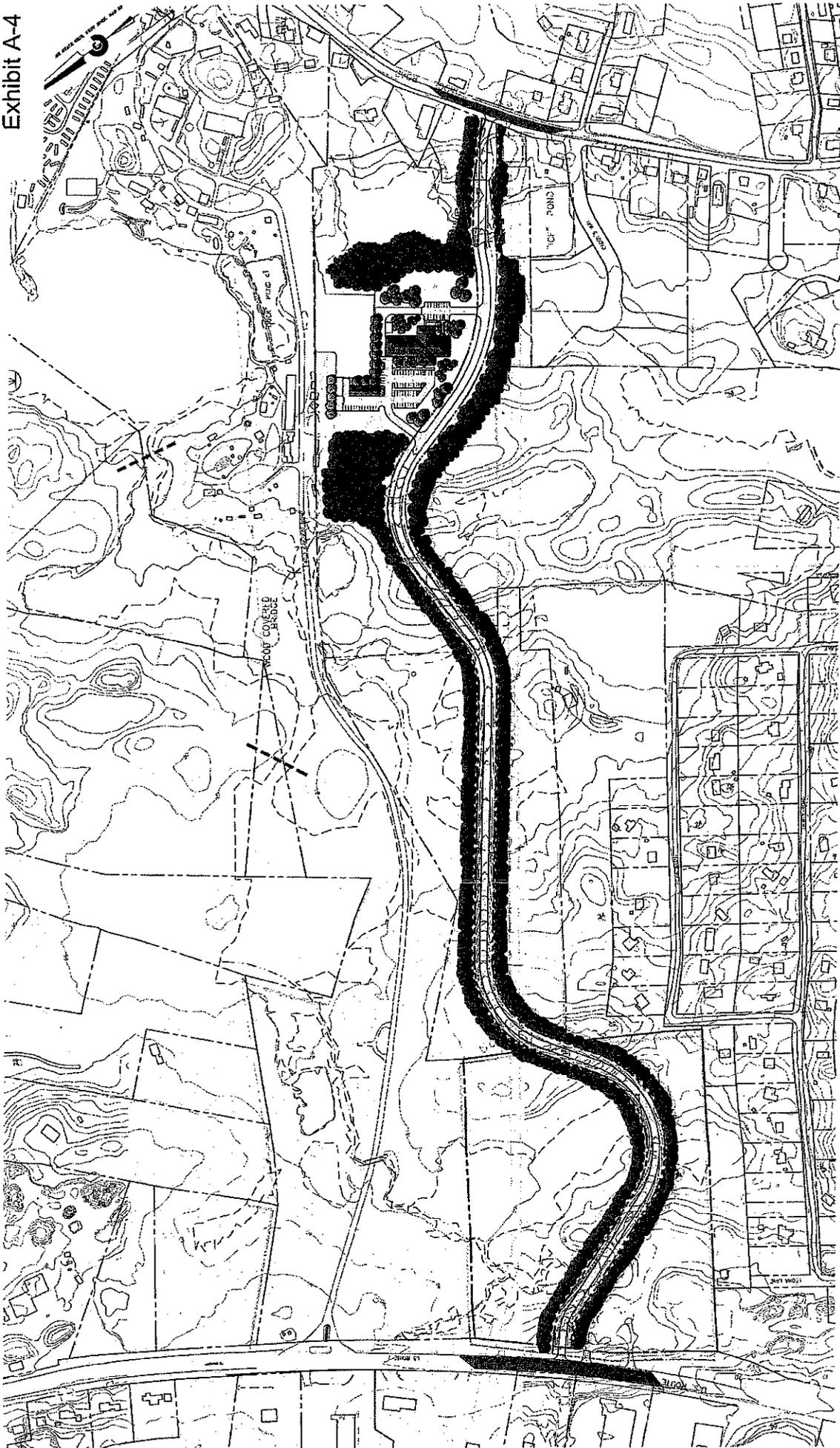


March 2011

Floor Plan









**SCHEDULE OF PROFESSIONAL HOURLY BILLING RATES**  
**Effective January 1, 2011 through December 31, 2011**

Senior Principal/Engineering Director	\$190
Principal	\$170
Project Manager	\$160
Senior Architect	\$160
Senior Engineer	\$155
Sr. Interior Designer	\$115
Sr. Commissioning Agent	\$130
Sr. Landscape Architect	\$120
Architect	\$110
Engineer	\$135
Commissioning Agent	\$120
Landscape Architect	\$110
Architectural Intern/Landscape Arch Intern	\$ 95
EIT	\$ 95
Interior Designer	\$ 95
Senior Designer	\$ 95
Intern Interior Designer	\$ 80
Asst. Project Manager	\$ 80
Designer	\$ 80
Clerical	\$ 70
Senior Consultant/Regulatory Specialist	\$195
Reproductions	Cost plus 10%
Travel	\$0.51 per mile
Other Reimbursables	Cost plus 10%
Consultants	Cost plus 15%

*SMRT reserves the right to adjust its billing rates annually.*



ARCHITECTURE ENGINEERING PLANNING INTERIOR DESIGN COMMISSIONING

**AUTHORIZATION STATEMENT For Electronic Transfer**

**Project No.:** \_\_\_\_\_ **Project Name:** \_\_\_\_\_

**ORDERED BY:** \_\_\_\_\_

**DESCRIPTION OF SERVICE:** Providing electronic site drawing information.

**FEE BASIS:**  \$250 (Minimum \$250 per request)  Fee Waived

**TERMS AND CONDITIONS:** All documents and information prepared by SMRT, Inc. for this project, including information in electronic format, are instruments of our service, and are for use solely with respect to this project. SMRT, Inc. retains all common law, statutory and other reserved rights, including the copyright for these instruments of service.

Use of design information in electronic format from SMRT, Inc. does not represent review or approval of the user's work by the design professional. Making this information available in electronic format, in no way implies that the recipient is required by SMRT, Inc. to use it. Use of information supplied by SMRT, Inc. in electronic format is at the sole risk and liability of the user. The user agrees to waive any claim against SMRT, Inc. and our employees, and to defend, indemnify, and hold them harmless from any claim or liability that allegedly arises from the use of information furnished in electronic format.

The decision to use design information in electronic format obligates the user to verify the accuracy of the design against hardcopy representation of the design bearing the same issuance date. Information supplied in electronic format represents the most current status of the design at the date of the drawing's issuance. It is the user's responsibility to verify that the electronic information in their possession stays current throughout the life of the project, and to update the information as required to maintain it current. The user is also responsible to compare design information received in electronic format with field measurements and conditions prior to their making use of the information.

Information provided in digital format is for the sole information and use of the authorizing entity. Further copying or transfer of this information is prohibited by copyright. Payment for information in electronic format is due in full prior to transmittal of the information.

**AUTHORIZATION:** I/We hereby grant permission or have obtained permission for SMRT, Inc. to perform the above services.

**APPROVED/ACCEPTED BY:** \_\_\_\_\_

**SIGN HERE:** \_\_\_\_\_

Print or type signer's name here: \_\_\_\_\_

**SMRT, INC.**

\_\_\_\_\_  
 , Project Manager

**Date:** \_\_\_\_\_

**cc:** \_\_\_\_\_, SB (if fee charged), File /23.2

**York Police Department**  
2/15/2011 (Latest Rev 6/7/11)  
Site at Ridge Road End

**D R A F T - This cost sheet includes the out-building and the road to the development site, including utilities, curb and walk.**

Expense Item	Comment	Concept Budget	
<b>PROPERTY</b>			
1	Land	Owned	\$0
2	Site Preparation/ Demolition	Included in const. costs below	\$0
3	Environmental Assessment	N/A	\$0
4	Road to Site (1000')		\$330,941
5	Utilities to site		\$173,938
6	Specialty Construction	Out Building at 3,600 SF	\$205,900
7	Sloped granite curb & walk	Included in Building/Site Construction.	\$0
8	Other LEED Silver Premiums		\$109,000
9	Ledge Allowance		\$25,000
10	Hazardous Materials	Abatement Allowance	\$10,000
11	Tele/Data Service to Site	Included in Power to Site (excludes Fiber Optic)	\$0
12	<b>Building/Site Construction</b>	<b>Based on 19,000 SF x \$221/SF (incl. Site)</b>	<b>\$4,195,575</b>
13	Tele/Data Wiring		\$0
14	Tele/Data Equipment		\$0
15	<b>Furnishings and Equipment</b>		<b>\$150,000</b>
16	Dispatch		\$375,000
17	Antenna		\$65,000
18	Signs	Included in Building/Site Construction.	\$0
19	Escalation	Escalation to 3rd qtr 2012 (3.5%)	\$197,412
		<b>Total Cost of the Work (lines 4 - 19)</b>	<b>\$5,837,766</b>
<b>ADMINISTRATIVE</b>			
20	Builder's Risk Insurance	By Owner. Assume \$0.25/\$100 of construction.	\$10,489
21	Bond Fees	Allowance - Confirm	\$5,000
22	Legal Fees and Expenses	Allowance - Confirm	\$10,000
23	Advertising	Allowance	\$5,000
24	LEED Documentation		\$50,000
25	Estimating Contingency	Included in Site/Building Construction above	\$0
26	Permits	Building	\$22,500
27	Construction Contingency	5% of Site/Building Construction	\$291,888
<b>FEES AND SERVICES</b>			
28	Arch./Engineering	Percentage of construction (7.0% - Partial SD Credit)	\$377,995
29	A/E Reimbursible Expenses	Allowance. Assume 5% of A/E fee.	\$18,900
30			
31	Geothermal Testing		\$20,000
32	Commissioning		\$20,000
33	Site Permitting	Local/DEP Permitting - Hourly Estimate	\$60,000
34	Construction Manager Fees	Pre-Construction only; Const. Fee included above	\$10,000
35	Presentation Model	None anticipated.	\$0
36	Survey/Geotech	Early investigations, topo & boundary, full geotech	\$20,000
37	Abatement Monitor		\$0
38	Document Reproduction	Allowance - Bid documents.	\$18,000
39	Testing	Allowance	\$18,000
40	Special Inspections	Allowance (if required)	\$10,000
41	Project Record Documents	Contractor provided marked drawings included.	\$0
42	Moving/Storage Expenses		\$5,000
		<b>TOTAL</b>	<b>\$6,810,539</b>

**York Police Department**  
2/2/2011 (Latest Rev 6/6/11)  
Road \_ Without Utilities

**D R A F T - This cost sheet reflects the road from the station to Route 1, without utilities.**

	Expense Item	Comment	Concept Budget
<b>PROPERTY</b>			
1	Land	Owned	\$0
2	Site Preparation/ Demolition	N/A	\$0
3	Environmental Assessment	N/A	\$0
4	Oil Storage Tank	N/A	\$0
5	Water		\$0
6	Force main		\$0
7	Sidewalk		\$0
8	Street Lights		\$0
9	Ledge Allowance		\$10,000
10	Tele/Data Service to Site	N/A	\$0
11	Road Construction	Based on 3,700 LF x \$365/LF	\$1,350,203
12	Tele/Data Wiring	N/A	\$0
13	Tele/Data Equipment	N/A	\$0
14	Furnishings and Equipment	N/A	\$0
15	Radio Equipment	N/A	\$0
16	Building Security Systems	N/A	\$0
17	Signs	Approx.	\$5,000
18	Escalation to Q3 2012		\$47,782
		<b>Total Cost of the Work (lines 4 - 18)</b>	<b>\$1,412,985</b>
<b>ADMINISTRATIVE</b>			
19	Builder's Risk Insurance	By Owner. Assume \$0.25/\$100 of construction.	\$3,376
20	Bond Fees	Allowance - Confirm	\$2,500
21	Legal Fees and Expenses	Allowance	\$5,000
22	Advertising	Allowance	\$2,500
23	Owner's Representative	N/A	\$0
24	Estimating Contingency	Included in Construction above	\$0
25	Permits		\$0
26	Construction Contingency	7.5% of Construction	\$101,265
<b>FEEES AND SERVICES</b>			
27	Arch/Engineering	Percent of construction (4.5% - Partial SD credit)	\$58,816
28	A/E Reimbursible Expenses	Allowance. Assume 5% of A/E fee.	\$2,941
29	Arch. Site Representative	N/A	\$0
30	Pre-Architectural Svcs		\$0
31	Commissioning	Recommended	\$0
32	Site Permitting	Assuming simultaneous with Police Station	\$10,000
33	Construction Manager Fees		\$0
34	Presentation Model	None anticipated.	\$0
35	Survey/Geotech	Topo & boundary, add'l geotech recommendations	\$15,000
36	Abatement Monitor	Not Required	\$0
37	Document Reproduction	Allowance - Bid documents.	\$5,000
38	Testing	Allowance.	\$7,500
39	Special Inspections	N/A	\$0
40	Project Record Documents	Contractor provided marked drawings included.	\$0
41	Moving/Storage Expenses	N/A	\$0
		<b>TOTAL</b>	<b>\$1,626,882</b>

Exhibit D

York Public Safety Building and Connector Road Fee Calculation

Public Safety Building Project

Cost of the Work	\$5,837,766
Fee percent	7.00%
Initial Fixed Fee	\$408,644

Connector Road Project

Preliminary Cost of the Work	\$1,412,985
Fee percent	4.50%
Initial Fixed Fee	\$63,584

Combined Project

Combined Initial Cost of the Work	\$7,250,751
Combined Fixed Fee Value	\$472,228
Combined Fee as Percent	6.51%

Permitting - Public Safety (Hourly)**	\$60,000
Permitting - Connector Road (Hourly)	\$10,000
Total Permitting Hourly Budget	\$70,000

Proposed Permitting Consultants

SMRT Prime	
Stantec Wetlands/Mitigation	
Gorrill-Palmer Traffic	

Other Proposed Fees

Commissioning (Hourly)	\$20,000
Special Inspections (Hourly)	\$10,000
LEED Documentation (Hourly)	\$50,000
Geothermal Testing (Est.)	\$20,000

\*\*Note: The permitting fee hourly budget is based on the Connector Road alignment at the Ridge Road end to be as indicated on Exhibit A-3 (on the "Cragin Property" adjacent to the substation, not through the 50' wide easement as currently established, adjacent to the Post Office). Realignment the east end of the road to the north (on the Cragin property - to the existing easement) will require additional time and effort to reestablish the wetland fill quantiles, negotiate with the regulators, expand the mitigation plan and may make in-lieu fee payments for wetland impacts harder to avoid.

Basic Services Fee Breakdown

Phase	Allocation	Amount
SD	15%	\$70,834
DD	20%	\$94,446
CD	40%	\$188,891
BN	5%	\$23,611
CA	20%	\$94,446
		<b>\$472,228</b>

Original Fee

Credits for 50% SD

Police	\$30,648.27
Road	\$4,768.82
Total	<b>\$35,417.10</b>

Credit to Town for work already completed

Revised Basic Services After SD Credit

Phase	Allocation after credit	Amount
SD		\$35,417
DD		\$94,446
CD		\$188,891
BN		\$23,611
CA		\$94,446
		<b>\$436,811</b>

Revised Fee

Fee Summary		Amount
Total Basic Services Fee		\$436,811
Other Budgets		
Commissioning Budget		\$20,000
Special Inspections Budget		\$10,000
Permitting Budget		\$70,000
LEED Documentation Budget		\$50,000
Geothermal Testing Budget		\$20,000
Subtotal Hourly Budget		\$170,000
Total Projected Fee		\$606,811
Not Including expenses		

**TOWN OF YORK- (186 York Street, York Me 03909)**  
**BUSINESS LICENSE APPLICATION**



Business Name M and T concession services LLC  
 Business Location 23 Railroad Ave.  
York Beach, Me. 03910  
 Telephone Number 207-337-1253 or 363-4911

OWNER'S Name and Mailing Address Nancy St. Pierre  
P.O. Box 1176  
York Beach, ME 03910

APPLICANT'S Name and Mailing Address same as above

Is applicant same operator as prior year?  Yes  No

INSPECTION DATA (Office Use Only)		
DEPARTMENT	DATE	INITIALS
Zoning/Land Use		
Building Structural		
Electrical		
Plumbing		
Fire		
Tax Collector		

**APPLICATION FEE IS \$50.00 PLUS \$25 PER SUBSEQUENT LICENSE. PLEASE CHECK APPLICABLE BOX(ES) BELOW AND ADD THE FEE INDICATED TO YOUR APPLICATION FEE. MAKE CHECK PAYABLE TO THE TOWN OF YORK.**

MAP/LOT: <u>94 / 82</u> License Year: <u>2011</u> No. Of Seats: <u>0</u> No. Of Parking Spaces: <u>0</u> New License (One Time \$30 Fee): YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> License Renewal: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Bed and Breakfast License: # of Rooms _____ Hotel/Motel with Cooking Facilities: # of Rooms _____ Is Your Establishment Closed for More Than 120 Consecutive Days? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	REQUESTING THE FOLLOWING LICENSES: <input checked="" type="checkbox"/> \$25.00 Victualers <input type="checkbox"/> \$25.00 Liquor <input type="checkbox"/> \$25.00 Special Amusement <input type="checkbox"/> \$25.00 Bottle Club <input type="checkbox"/> \$25.00 Theater <input type="checkbox"/> \$25.00 Dance Hall <input type="checkbox"/> Coin-OP Amusement (\$75 each or \$250 for 3 or more) Nature of Entertainment (If Applicable): _____ _____ Bed and Breakfast (\$10 Per Room): Total _____ Hotel/Motel with Cooking Facilities (\$25 Per Every 10 Rooms): Total _____
---	--

Have you ever been convicted of a Felony? YES (Please Explain) \_\_\_\_\_ NO

I certify the above statements are true and understand false statements may be cause to revoke a license.

April 19, 2011  
Date

Nancy St Pierre  
Applicant's Signature

**Please Read and Initial the Following Statements:**

- NS I understand that a license is required before operating or conducting any business or activity governed by the Town of York Licensing Ordinance.
- NS I understand that a Town of York Business License must be filled out COMPLETELY and all fees are to be paid before my license is considered for re/approval
- NS I understand that before my business license is issued I must have and pass a full inspection by the Town of York Code Enforcement Office and Fire Department.
- NS I understand that as a business owner I am responsible for calling and setting up an appointment for an inspection and any necessary follow-up inspection with the Code Enforcement Office and Fire Department
- NS I understand that I will not be granted re/approval of a business license through the Town of York until all inspections and taxes on my business are made current and compliant.

Business Owner Signature Nancy St Pierre

Business Manager Signature (If Applicable) \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town Manager for the Board of Selectmen

Issued pursuant to the provisions of Title 30A MRSA Chapter 3811 through 3814

AMT. RECD. 75.00 RECEIPT NO. 4053 RECEIPT DATE 4.27.11 MI PM MM MS

## *License Certificate*

No. 010-098

*Municipality of York, Maine  
Office of the Municipal Clerk  
Date: July 26th, 2010*

*To all whom these presents may concern:*

*Know Ye, that MSLN Concessions Residing at 23 Railroad Avenue, York Beach Me 03910  
Receipt of which is hereby acknowledged, having complied with all the requirements  
of Law, MSLN Concessions has been duly licensed for a Virtualers License in the Municipality of  
York, Maine.*

*This License is subject to the strict observance of all Laws and Regulations in such case  
made and provided, and is to continue the 30th day of May 2011 unless sooner revoked.*

Mary-Anne Szeniewski  
*Municipal Clerk*

*Seating Capacity: N/A*

# State of Maine

DEPARTMENT OF HEALTH AND HUMAN SERVICES

EST ID 9432

EATING PLACE - TAKEOUT

HAMBURGER  
PO BOX 1176  
YORK BEACH ME 03910-1176

M & N  
HAMBURGER  
YORKS WILD KINGDOM  
YORK

ISSUED  
04/23/2010  
EXPIRES  
05/30/2011

BRENDA M. HARVEY  
COMMISSIONER

**TOWN OF YORK- (186 York Street, York Me 03909)**  
**BUSINESS LICENSE APPLICATION**



Business Name ROAST-N-CRUMB  
 Business Location 519 US RT 1  
YORK, ME 03909  
 Telephone Number 207-363-1595

OWNER'S Name and Mailing Address MICHELLE ESTER C/O ESTER OIL + PROPANE  
HIGHWAY PLAZA  
US RT 1 YORK, ME 03909

APPLICANT'S Name JOHN LAMARINE C/O ROAST-N-CRUMB  
 and Mailing Address 519 US RT 1 # 5  
YORK, MAINE  
03909

Is applicant same operator as prior year?  Yes  No

INSPECTION DATA (Office Use Only)		
DEPARTMENT	DATE	INITIALS
Zoning/Land Use		
Building Structural		
Electrical		
Plumbing		
Fire		
Tax Collector		

**APPLICATION FEE IS \$50.00 PLUS \$25 PER SUBSEQUENT LICENSE. PLEASE CHECK APPLICABLE BOX(ES) BELOW AND ADD THE FEE INDICATED TO YOUR APPLICATION FEE. MAKE CHECK PAYABLE TO THE TOWN OF YORK.**

MAP/LOT: <u>48/43</u> License Year: <u>2011 - 2012</u> No. Of Seats: <u>25</u> No. Of Parking Spaces: <u>93</u> New License (One Time \$30 Fee): YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> License Renewal: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> Bed and Breakfast License: # of Rooms <u>—</u> Hotel/Motel with Cooking Facilities: # of Rooms <u>—</u> Is Your Establishment Closed for More Than 120 Consecutive Days? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	REQUESTING THE FOLLOWING LICENSES: <input checked="" type="checkbox"/> \$25.00 Victualers <input type="checkbox"/> \$25.00 Liquor <input type="checkbox"/> \$25.00 Special Amusement <input type="checkbox"/> \$25.00 Bottle Club <input type="checkbox"/> \$25.00 Theater <input type="checkbox"/> \$25.00 Dance Hall <input type="checkbox"/> Coin-OP Amusement (\$75 each or \$250 for 3 or more) Nature of Entertainment (If Applicable): <u>N/A</u> Bed and Breakfast (\$10 Per Room): Total <u>N/A</u> Hotel/Motel with Cooking Facilities (\$25 Per Every 10 Rooms): Total <u>N/A</u>
--	--

Have you ever been convicted of a Felony? YES (Please Explain) NO

I certify the above statements are true and understand false statements may be cause to revoke a license.

Date 5/12/2011

Applicant's Signature John Lamarine

**Please Read and Initial the Following Statements:**

- I understand that a license is required before operating or conducting any business or activity governed by the Town of York Licensing Ordinance.
- I understand that a Town of York Business License must be filled out COMPLETELY and all fees are to be paid before my license is considered for re/approval
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- I understand that I will not be granted re/approval of a business license through the Town of York until all inspections and taxes on my business are made current and compliant.

Business Owner Signature John Lamarine

Business Manager Signature (If Applicable) \_\_\_\_\_

Date \_\_\_\_\_

Town Manager for the Board of Selectmen \_\_\_\_\_

Issued pursuant to the provisions of Title 30A MRSA Chapter 3811 through 3814

AMT. RECD. 75 RECEIPT NO. 3184 RECEIPT DATE 5-23-11 MI PM MM MS

**TOWN OF YORK- (186 York Street, York Me 03909)**  
**BUSINESS LICENSE APPLICATION**



Business Name Sweet Josias Candy Shoppe  
 Business Location 7 Railroad Ave -

Telephone Number 351-1169

OWNER'S Name and Mailing Address Margaret Fenelly  
36 Norton Ave -  
York Beach, Me 103910

APPLICANT'S Name and Mailing Address Same

Is applicant same operator as prior year?  Yes  No

INSPECTION DATA (Office Use Only)		
DEPARTMENT	DATE	INITIALS
Zoning/Land Use		
Building Structural		
Electrical		
Plumbing		
Fire		
Tax Collector		

**APPLICATION FEE IS \$50.00 PLUS \$25 PER SUBSEQUENT LICENSE. PLEASE CHECK APPLICABLE BOX(ES) BELOW AND ADD THE FEE INDICATED TO YOUR APPLICATION FEE. MAKE CHECK PAYABLE TO THE TOWN OF YORK.**

<p>MAP/LOT: _____                  License Year: <u>2011</u>                  No. Of Seats: <u>N/A</u>                  No. Of Parking Spaces: _____                  New License (One Time \$30 Fee): YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>                  License Renewal: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>                  Bed and Breakfast License: # of Rooms _____                  Hotel/Motel with Cooking Facilities: # of Rooms _____                  Is Your Establishment Closed for More Than 120 Consecutive Days? YES <input type="checkbox"/> NO <input type="checkbox"/></p>	<p><b>REQUESTING THE FOLLOWING LICENSES:</b></p> <p><input checked="" type="checkbox"/> \$25.00 Victualers  <input type="checkbox"/> \$25.00 Liquor  <input type="checkbox"/> \$25.00 Special Amusement  <input type="checkbox"/> \$25.00 Bottle Club  <input type="checkbox"/> \$25.00 Theater  <input type="checkbox"/> \$25.00 Dance Hall  <input type="checkbox"/> Coin-OP Amusement (\$75 each or \$250 for 3 or more)</p> <p>Nature of Entertainment (If Applicable): _____</p> <p><input type="checkbox"/> Bed and Breakfast (\$10 Per Room): Total _____</p> <p><input type="checkbox"/> Hotel/Motel with Cooking Facilities (\$25 Per Every 10 Rooms): Total _____</p>
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Have you ever been convicted of a Felony? YES (Please Explain) \_\_\_\_\_ NO

*I certify the above statements are true and understand false statements may be cause to revoke a license.*

Date 5/20/11 Applicant's Signature Margaret Fenelly

**Please Read and Initial the Following Statements:**

- I understand that a license is required before operating or conducting any business or activity governed by the Town of York Licensing Ordinance.
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- I understand that I will not be granted re/approval of a business license through the Town of York until all inspections and taxes on my business are made current and compliant.

Business Owner Signature Margaret Fenelly Business Manager Signature (If Applicable) \_\_\_\_\_

Date 5/20/11 Town Manager for the Board of Selectmen \_\_\_\_\_

Issued pursuant to the provisions of Title 30A MRSA Chapter 3811 through 3814

AMT. RECD. 15 RECEIPT NO. 1133 RECEIPT DATE 5-20-11 MI PM MM MS

No. 010-078

Municipality of York, Maine  
Office of the Municipal Clerk  
Date: June 14<sup>th</sup>, 2010

To all whom these presents may concern:

Know Ye, that Sweet Josie's Candy Shoppe Residing at 7 Railroad Avenue, York Beach, Me 03910  
Receipt of which is hereby acknowledged, having complied with all the requirements  
of Law, Sweet Josie's Candy Shoppe has been duly licensed for a Victualers License in the  
Municipality of York, Maine.

This License is subject to the strict observance of all Laws and Regulations in such case  
made and provided, and is to continue the 30th day of July 2011 unless sooner revoked.

Mary-Anne Szeniewski  
Municipal Clerk

Seating Capacity: N/A

**TOWN OF YORK- (186 York Street, York Me 03909)**  
**BUSINESS LICENSE APPLICATION**



Business Name BEAUFORT INN  
 Business Location 339 CLAY HILL RD  
 Telephone Number 207-641-2400

OWNER'S Name and Mailing Address BEAUFORT INN, LLC  
PO Box 811  
OGUNQUIT, ME. 03907

APPLICANT'S Name and Mailing Address PAUL HASELTINE  
PO Box 1236  
OGUNQUIT ME. 03907

Is applicant same operator as prior year?  Yes  No

INSPECTION DATA (Office Use Only)		
DEPARTMENT	DATE	INITIALS
Zoning/Land Use		
Building Structural		
Electrical		
Plumbing		
Fire		
Tax Collector	<u>6/6/11</u>	<u>current MA</u>

**APPLICATION FEE IS \$50.00 PLUS \$25 PER SUBSEQUENT LICENSE. PLEASE CHECK APPLICABLE BOX(ES) BELOW AND ADD THE FEE INDICATED TO YOUR APPLICATION FEE. MAKE CHECK PAYABLE TO THE TOWN OF YORK.**

<p>MAP/LOT: _____                  License Year: <u>2011</u>                  No. Of Seats: _____                  No. Of Parking Spaces: _____                  New License (One Time <u>\$30 Fee</u>): <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO                  License Renewal: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>                  Bed and Breakfast License: # of Rooms <u>5</u>                  Hotel/Motel with Cooking Facilities: # of Rooms _____                  Is Your Establishment Closed for More Than 120 Consecutive Days? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/></p>	<p><b>REQUESTING THE FOLLOWING LICENSES:</b>  <input type="checkbox"/> \$25.00 Victualers  <input type="checkbox"/> \$25.00 Liquor  <input type="checkbox"/> \$25.00 Special Amusement  <input type="checkbox"/> \$25.00 Bottle Club  <input type="checkbox"/> \$25.00 Theater  <input type="checkbox"/> \$25.00 Dance Hall  <input type="checkbox"/> Coin-OP Amusement (\$75 each or \$250 for 3 or more)                  Nature of Entertainment (If Applicable):  <input checked="" type="checkbox"/> Bed and Breakfast (\$10 Per Room): Total <u>\$50.00</u>  <input type="checkbox"/> Hotel/Motel with Cooking Facilities (\$25 Per Every 10 Rooms): Total _____</p>
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Have you ever been convicted of a Felony? YES (Please Explain) \_\_\_\_\_ NO

*I certify the above statements are true and understand false statements may be cause to revoke a license.*

6/2/2011  
 Date

[Signature]  
 Applicant's Signature

**Please Read and Initial the Following Statements:**

- I understand that a license is required before operating or conducting any business or activity governed by the Town of York Licensing Ordinance.
- I understand that a Town of York Business License must be filled out COMPLETELY and all fees are to be paid before my license is considered for re/approval
- I understand that before my business license is issued I must have and pass a full inspection by the Town of York Code Enforcement Office and Fire Department.
- I understand that as a business owner I am responsible for calling and setting up an appointment for an inspection and any necessary follow-up inspection with the Code Enforcement Office and Fire Department
- I understand that I will not be granted re/approval of a business license through the Town of York until all inspections and taxes on my business are made current and compliant.

Business Owner Signature \_\_\_\_\_

Business Manager Signature (If Applicable) [Signature]

6/2/2011  
 Date

\_\_\_\_\_  
 Town Manager for the Board of Selectmen

Issued pursuant to the provisions of Title 30A MRSA Chapter 3811 through 3814



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 8, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action  <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
Regular <input checked="" type="checkbox"/> Work Session <input type="checkbox"/>	
<b>Subject:</b> property redemption by Eric Edwards	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Stephen H. Burns, Community Development Director
<b>RECOMMENDATION:</b> I recommend the Board remove the conditions imposed on the property redemption by Eric Edwards.
<b>PROPOSED MOTION:</b> I move to remove the previously imposed condition #4 regarding a conservation restriction preventing future construction of buildings on the redemption of property located at 206 Ogunquit Road.

**Discussion:** The property in question is about a 1 acre corner of a much larger lot which falls mostly in the Town of South Berwick. Where it falls in York, much of the surrounding land is owned by the State and by conservation organizations. When I received an internal e-mail about possible redemption of this land, I suggested that we consider restricting building or road development because of the nature of the surrounding parcels. The next time I heard about this was at the Selectmen's meeting on May 8<sup>th</sup>, where a vote was taken to allow redemption with these development restrictions. As nobody spoke to oppose the conditions, I assumed the property owner knew about them the proposed restrictions and didn't object. That was not, in fact, the case. The property owner, Mr. Edwards, never knew about the recommended conditions until after the vote. It seems unfair to me that he never knew about my recommendations until after the vote. In effect, he never had the chance to argue his case. Because the land in question is only a small corner of a larger lot, imposing these

restrictions is not particularly important for the Town. To resolve the fairness issue, I believe it would be appropriate for the Board of Selectmen to allow the property to be redeemed without these development restrictions.

Prepared By: \_\_\_\_\_

Reviewed By: Robert H. Gannon



# Town of York

186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-2557

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center/  
General Assistance  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

www.yorkmaine.org

*May 3<sup>rd</sup>, 2011*

*RE: Redemption of property located at Map 0098/ Lot 0013-A: 206 Ogunquit Road*

*Please be advised that on May 2<sup>nd</sup>, 2011 the Board of Selectmen approved the redemption of your property. The Board voted to give you 60 days or until July 1<sup>st</sup>, 2011 to reclaim your property by making all taxes and fees current and complying with all conditions set forth in the Tax Lien Memo. Once all conditions set forth are adhered to and all taxes and fees have been paid, a quitclaim deed will be signed by the Board of Selectmen and then forwarded to the York County Registry of Deeds for recording. Please see the attached memo for the conditions set forth for redemption of your property.*

*If you have any other concerns or questions please feel free to contact me. Thank you. 363-1000*

*Sincerely,*

*Kathryn Danjlik  
Assistant to the Town Manager*

*cc: Mary-Anne Szeniewski, Tax Collector*

*Attachment*



---

TO: Board of Selectmen

FROM: Kathryn Danylik

DATE: April 29, 2011

RE: Tax Foreclosure Redemption –Map 0098/ Lot 0013-A: 206 Ogunquit Road.

Eric Edwards, former owner of property which the Town identifies as Map 0098/ Lot 0013-A, located at 206 Ogunquit Road, York, Maine, is requesting the authority to redeem this property on which the Town has tax liens for Fiscal Years 2002, and 2003. The Town has foreclosed on this property as of January 18th, 2005, for non-payment of the 2002 tax lien. Eric Edwards has requested redemption of this property.

We are recommending to the Selectmen that Eric Edwards be allowed to redeem this property providing the following conditions are met:

*Condition #1* – Eric Edwards pay all current taxes, interest and lien costs owed, which totals \$672.91 as of April 30<sup>th</sup>, 2011. (Please note this figure may have added interest due on the date payment is made.)

*Condition #2* – Eric Edwards pay Town Administrative costs involved with the processing of the foreclosure disposition, a total of \$200.00. This amount covers the cost of issuing a Quit Claim Deed and the Administrative cost to process this redemption.

*Condition #3* – Eric Edwards shall pay in full all current taxes, interest, administrative costs and lien costs, which totals **\$872.91** by no later than July 1<sup>st</sup>, 2011. (Please note this figure may have added interest due on the date payment is made.)

*Condition #4* – A conservation restriction is placed on the property that would prevent any future construction of buildings and/or roads in York.

**PARCEL INFORMATION**

**MAP/LOT/UNIT**     Map 0098 Lot 0013-A

**OWNER (S)**     Owner listed is Eric Edwards

**PARTY REQUESTING REDEMPTION**     Eric Edwards has requested he be allowed to redeem the property.

**SIZE OF LOT**     1.3 Acres

**ASSESSED VALUE**

**DESCRIPTION OF FORECLOSURE ACTION**     The Town has filed tax liens on this property for the fiscal year(s) 2002 and 2003. The 2002 lien matured and was foreclosed on January 18<sup>th</sup>, 2005.

**TAXES OWED/PAID**     The Tax Collector has confirmed taxes have been outstanding on this property since 1999. The total amount of taxes, interest and lien cost owed is \$672.91 as of April 30th, 2011 which breaks down as follows:

<b>1999</b>	<b>\$ 15.70</b>
<b>2000</b>	<b>\$ 17.00</b>
<b>2001</b>	<b>\$ 19.00</b>
<b>2002</b>	<b>\$ 41.00</b>
<b>2003</b>	<b>\$ 60.14</b>
<b>2004</b>	<b>\$ 76.13</b>
<b>2005</b>	<b>\$ 73.60</b>
<b>2006</b>	<b>\$ 75.70</b>
<b>2007</b>	<b>\$ 75.33</b>
<b>2008</b>	<b>\$ 71.86</b>
<b>2009</b>	<b>\$ 74.65</b>
<b>2010</b>	<b>\$ 72.80</b>

**PLANNING DEPARTMENT ANALYSIS**     Recommend that a conservation restriction be placed on the property preventing any future building construction and/ or road construction in York. This restriction would be consistent with the policy recommendation for Future Land Use of the Comprehensive Plan for this area.

Eric Edwards

11 Salt Meadows  
Cusack Road  
Hampton, NH 03842

603-926-4790 Home Phone  
603-944-1823 Cell Phone

ejedwardswoodworks@comcast.net

March 29, 2011

Town of York, Maine  
Board of Selectmen  
186 York Street  
York, ME 03909

Dear Sirs,

In 1998 My Wife and I purchased a 38.08 acre ( 1980's survey) wooded parcel of land with frontage on Ogunquit Road in South Berwick. One back corner, approximately 1.3 acres, is located in the town of York. While we did not have trouble paying the yearly taxes, we did not keep up payment as our mailing address records were not corrected upon our moving; for unknown reasons. As a result we have not had contact with the Town of York for quite some time. We Moved, life got busy and 10 years have flown by.

The Bank holding our note for the Property pays the South Berwick Portion of our taxes directly and we failed to realize that the Town of York Taxes were not being Paid. I assumed my wife was receiving invoices and paying the York taxes. My wife assumed the note holding Bank was paying all the land taxes. The South Berwick Tax bill includes 37.9( orig deeded acres S. Berwick map 5, lot 22b) acres and it was logical that my wife thought we were paid up as we are being taxes on the entire lot by South Bewick. Obviously, South Berwick getting more and The Town of York not receiving what was owed.

Recently, upon reviewing some files we realized our error and I promptly made my way to the Town Offices where I learned that the Town of York had taken the 1.3 acre portion for back taxes owed. I do wish we had received some indication or letter to inform us of our lack of payment so that we could have averted this situation. I assume the Town received a forwarding address from the Post Office upon our moving.

The 1.3 acre Property is on York Map 0098/ 0013/A. The remote 1.3 acres portion is 1700+ ft from Ogunquit Rd. The Ogunquit River bisects my property and therefore the 1.3 acre corner is not readily accessible.

We are asking permission from the Town of York Board of Selectmen to redcem ownership of the 1.3 acres. Upon recommendation, we will promptly pay ,The Town of York, back taxes owed and update all mailing and contact information. Thank you for your consideration.

Sincerely yours,



Eric Edwards

006664

State of Maine  
Notice of Impending Automatic Foreclosure  
Title 36, M.R.S.A. Section 943

December 16, 2004

IMPORTANT: DO NOT DISREGARD THIS NOTICE. YOU WILL LOSE YOUR PROPERTY UNLESS YOU PAY YOUR 2002 PROPERTY TAXES, INTEREST AND COSTS.

EDWARDS JUDITH A/ERIC J  
C/O YORK TOWN OF  
186 YORK STREET  
YORK, ME 03909

You are the party named on a tax lien certificate filed on July 10, 2003, and recorded in Book 13138, Page 167 in the York County Registry of Deeds. This filing has created a tax lien mortgage on the real estate described therein.

Map & Lot: 0098-0013-A  
Location: 206 OGUNQUIT ROAD

On January 18, 2005, the tax lien mortgage will be foreclosed and your right to recover your property by paying the taxes, interest and costs that are owed will expire.

IF THE TAX LIEN FORECLOSES, THE TOWN OF YORK WILL OWN YOUR PROPERTY.

If you cannot pay the property taxes you owe, please contact me to discuss this notice.

\*\*\*\*\*  
\* IF YOU ARE A DEBTOR IN BANKRUPTCY,\*  
\* THIS NOTICE DOES NOT APPLY TO YOU.\*  
\*\*\*\*\*

Principal	41.00
Interest	5.89
Lien Costs	37.84
Fee	0.00
Cert Mail Fee	4.42
<u>Total</u>	<u>89.15</u>

\_\_\_\_\_  
Deputy Treasurer  
Elizabeth McCann  
Town of York  
County of York

Amount due as of January 18, 2005. Please contact the Tax Collector at 363-1003 for the amount due on any desired payment date.

## Kathryn Danylik

---

**From:** Stephen H. Burns  
**Sent:** Thursday, April 28, 2011 1:06 PM  
**To:** Kathryn Danylik; Mary-Anne Szeniaowski; Richard C. Mace; Jennie McCann  
**Subject:** RE: Redemption

Kathryn,

This property is located in one the large, unfragmented block of undeveloped land that surrounds Mount Agamenticus. It is located among a large concentration of parcels owned by the Town, State and private conservation organizations, and I believe it should be retained for conservation purposes. At the very least, a conservation restriction should be placed on this lot prior to redemption to prevent development of any roads or structures within the Town of York. Either of these options would be consistent with the policy recommendations of Future Land Use recommendations of the Comprehensive Plan for this area.

Steve

Stephen Burns  
Community Development Director  
Town of York, Maine  
186 York Street, York, ME 03909  
i: [www.yorkmaine.org](http://www.yorkmaine.org)  
e: [sburns@yorkmaine.org](mailto:sburns@yorkmaine.org)  
p: (207) 363-1007

---

**From:** Kathryn Danylik  
**Sent:** Wednesday, April 27, 2011 9:55 AM  
**To:** Mary-Anne Szeniaowski; Stephen H. Burns; Richard C. Mace; Jennie McCann  
**Subject:** Redemption

Hi  
Mr. Edwards would like to redeem his property located on Map 0098/ Lot 0013-A. This is a 1.3 acre portion of a larger property that is located in South Berwick. Please let me know if you have any issues with it.  
Thanks  
Kathryn

*Kathryn M. Danylik*  
Assistant to the Town Manager  
Town of York, Maine  
186 York Street, York, ME 03909-1314  
i: [www.yorkmaine.org](http://www.yorkmaine.org)  
e: [kdanylik@yorkmaine.org](mailto:kdanylik@yorkmaine.org)  
p: (207) 363-1000, Ext. 222  
f: (207) 363-1019

CONFIDENTIALITY: The information contained in this electronic mail message and any electronic files attached to it may be confidential information, and may also be the subject of legal professional privilege and/or public interest immunity. If you are not the intended recipient you are required to delete it. Any use, disclosure or copying of this message and any attachments is unauthorized. If you have received this electronic message in error, please inform the sender or contact [town@yorkmaine.org](mailto:town@yorkmaine.org). This footnote also confirms that this email message has been checked for the presence of computer viruses.

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## Kathryn Danylik

---

**Subject:** FW: Map 0098 Lot 0013 A

*Kathryn M. Danylik*  
Assistant to the Town Manager  
Town of York, Maine  
186 York Street, York, ME 03909-1314  
i: [www.yorkmaine.org](http://www.yorkmaine.org)  
e: [kdanylik@yorkmaine.org](mailto:kdanylik@yorkmaine.org)  
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**From:** Kathryn Danylik  
**Sent:** Thursday, April 28, 2011 10:25 AM  
**To:** Richard C. Mace  
**Subject:** FW: Map 0098 Lot 0013 A

1999: \$15.70  
2000: \$17.00  
2001: \$19.00  
2002: \$41.00  
2003: \$60.14  
2004: \$76.13  
2005: \$73.60  
2006: \$75.70  
2007: \$75.33  
2008: \$71.86  
2009: \$74.65  
2010: \$72.80

*Kathryn M. Danylik*  
Assistant to the Town Manager  
Town of York, Maine  
186 York Street, York, ME 03909-1314  
i: [www.yorkmaine.org](http://www.yorkmaine.org)  
e: [kdanylik@yorkmaine.org](mailto:kdanylik@yorkmaine.org)  
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AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> April 13, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> May 2, 2011	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> Request to amend the School Impact Fees	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Stephen H. Burns, Community Development Director
<b>RECOMMENDATION:</b> I recommend the Board amend their School Impact Fee Regulations to exempt all elderly and elderly congregate housing from the requirement to pay this fee.
<b>PROPOSED MOTIONS:</b> (after the 2 required public hearings have been held): I move to approve the proposed amendment to the School Impact Fee Regulations.

**Discussion:** Two public hearings must be held before the Regulations can be amended. The first public hearing is scheduled for May 2<sup>nd</sup>. The second public hearing will be at a subsequent meeting. The proposed motion must wait until after the second hearing has been completed.

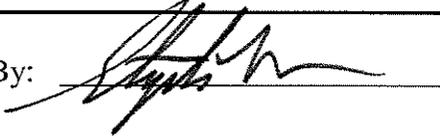
The amendment itself is described in the attachment.

**FISCAL IMPACT:** Uncertain, but some impact fees will be foregone. Few of these units would meet the threshold to pay the fee because they don't apply to one- or two-bedroom units, so the financial impact should be rather small over time.

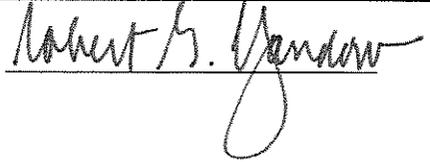
**DEPARTMENT LINE ITEM ACCOUNT:**

**BALANCE IN LINE ITEM IF APPROVED:**

Prepared By:



Reviewed By:



PLEASE NOTE: Legislative Information *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this Act provides a defense for mufflers or exhaust systems of motor vehicles and motorcycles to violations of excessive or unusual noise; and

**Whereas,** it is important to enact this law immediately as motorcycle traffic is at its peak during the spring and summer months and the effective date of this legislative session's enacted laws will likely occur in late summer or early fall; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 29-A MRSA §1912, sub-§6,** as amended by PL 2005, c. 314, §11, is repealed and the following enacted in its place:

**6. Defense for noise violations by motor vehicles and motorcycles.** The following are defenses to a violation of subsection 1 or 3.

A. If a muffler or exhaust system of a motor vehicle as defined in section 101, subsection 42, not including a motorcycle, does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J#1169 adopted by the Society of Automotive Engineers in May 1998, subsections 1 and 3 do not apply. A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not emit noise in excess of 95 decibels as measured in accordance with standards and specifications outlined in standard J#1169 adopted by the Society of Automotive Engineers in May 1998. Measurements must be made by a participating certified inspection station.

B. Subsections 1 and 3 do not apply to a muffler or exhaust system of a motorcycle that does not emit noise, as measured in accordance with standards and specifications outlined in standard J#2825 adopted by the Society of Automotive Engineers in May 2009, in excess of 92 decibels at an idle and emits noise that does not measure:

(1) More than 96 decibels using the set RPM test or swept RPM test for an engine configuration other than a 3#cylinder or 4#cylinder engine configuration; or

PUBLIC Law, Chapter 158, LD 477, 125th Maine State Legislature  
An Act Relating to Noise Violations by Motor Vehicles, Including Motorcycles

(2) More than 100 decibels using the set RPM test or swept RPM test for a 3#cylinder or 4#cylinder engine configuration.

A person served with a Violation Summons and Complaint charging a violation of subsection 1 or 3 must provide satisfactory evidence that the muffler or exhaust system does not exceed decibel levels as described in this paragraph. Measurements must be made by a participating certified inspection station.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 26, 2011.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 9, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
Regular <input checked="" type="checkbox"/> Work Session	
<b>Subject:</b> Correction to January 10 <sup>th</sup> , 2011 Minutes	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Kathryn Danylik
<b>RECOMMENDATION:</b>
<b>PROPOSED MOTION:</b> I move to accept the corrected minutes of January 10 <sup>th</sup> , 2011.

**Discussion:** There is an error in the minutes of January 10<sup>th</sup>, 2011 regarding the deadline extension for the Charter Commission. The Board approved a 12 month extension for the Charter Commission however the minutes read that the Board approved a 9 month extension. After an inquiry by Dave Marshall I checked the recording of the meeting and confirmed that the Board did in fact approve a 12 month extension.

<b>FISCAL IMPACT:</b>
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

*Robert H. Gandon*

Moved by Ms. Andrews and seconded by Mr. Estes to cease all code enforcement related appointments for Timothy DeCoteau and to appoint Benjamin McDougal as the Primary Code Enforcement Officer, Primary Building Official, and Primary Local Plumbing Inspector, with the authority to enforce all state-adopted building codes and standards. The term of these appointments shall be indefinite, at the pleasure of the Town Manager. Vote 4-0 motion passes.

### **3. Request for Time Extension from Charter Commission**

Moved by Mr. Estes and seconded by Ms. Andrews to approve a nine month extension for the Charter Commission. Vote 4-0 motion passes.

### **4. Quit Claim Deed for 21 Axholme Road**

Moved by Mr. Estes and seconded by Ms. Andrews to approve the quitclaim deed transferring ownership of 21 Axholme Road to Frank Patstone. Vote 4-0 motion passes.

### **5. Budget Discussion FY12**

Mr. Yandow presented to the Board updated FY12 budget information based of the direction given at the previous Board of Selectmen's Meeting.

Mr. Estes stated that he thought that we had talked about cutting \$150,000 in the paving program. Mr. Yandow stated that he thought that the reduction was \$60,000. Mr. Estes stated that he wouldn't normally suggest it but we have so many capital projects that include paving that we could get away with this year.

Mr. Yandow stated that he wants to make sure that the Board is aware that if we cut the paving program that we will fall a little further behind in our normal paving schedule.

Ms. Andrews stated that she did some research into salt use and we salt much heavier in this town then other towns. Ms. Andrews suggested that we could maybe cut some of the salt budget and not salt so aggressively.

Mr. Yandow stated that in terms of salt use it would take a change in our clear roads policy. We could cut back on the salt but it would take a policy change.

Mr. Yandow will take the suggestions of cutting the paving program further and the salt program and develop a revised budget. The Board will meet on Tuesday, January 18<sup>th</sup> 2011 to continue the budget discussion.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 9, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
Regular <u>X</u> Work Session	
<b>Subject:</b> Special Event Permit: York Hospital Breast Cancer Walk for Hope	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Kathryn Danylik
<b>RECOMMENDATION:</b>
<b>PROPOSED MOTION:</b> I move to approve the Special Event Permit Application for the York Hospital Breast Cancer Walk for Hope that will be held on Thursday, August 4 <sup>th</sup> 2011 from 3:00 PM to 9:00 PM.

**Discussion:** All appropriate departments have been notified and have given approval. Due to the large size of the group the York Beach Fire Department has requested that the group bring in porta-potties for the event at the York Beach Ball Field.

<b>FISCAL IMPACT:</b>
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By:

*Kathryn Danylik*

Reviewed By:

*Robert S. Gendron*



# Town of York, Maine Special Event Permit Application

Application for a special event permit is hereby presented to the York Town Manager, 186 York Street, York, ME 03909

Date: June 1, 2011

Event Applicant Name: York Hospital Breast Cancer <sup>Walk for Hope</sup> Phone #: 207-351-1324

Address: 10 Chestnut Ln City: York State: Me Zip: 03909

Organization Name: York Hospital Breast Cancer <sup>Survivors</sup> Phone #: 207-351-1324

Organization Address: 10 Chestnut Lane <sup>mailing add.</sup>

City: York State: Me Zip: 03909

Date of Event: Aug 4, 2011 Day of Week: Thursday

Starting Time: 3:00 PM Ending Time: 9:00 P.M

Assembly Area: York Beach Ball Park

Dispersal Area:

Down Church St to Long Sands Beach

Event Route:  
Down Church St to Long Sands Beach  
and back to the Ball Field

Approximate Number of Persons (If more than 500, Insurance coverage needed) 300

Describe number of bands, vehicles, signs, floats, or other articles carried or displayed along with method of participation (walking, bicycles, motorcycles etc):

walking

Describe how group is organized and supervised to insure order York Police Dept  
help us with the walk

Purpose of the Event To raise money for Breast Cancer Patient  
Survivors research

The above information is true to the best of my knowledge and belief.

Signature of Applicant Joan J Noel

Joan Noel

**For Town Use Only:**

Reviewed by:

**Department**

**Initials**

Police Department

\_\_\_\_\_

Public Works

\_\_\_\_\_

Parks/Recreation

\_\_\_\_\_

Village Fire

\_\_\_\_\_

York Beach Fire

\_\_\_\_\_

Code Enforcement

\_\_\_\_\_

Special Conditions \_\_\_\_\_

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Town Manager

\_\_\_\_\_

Date



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 9, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
Regular <u>  X  </u> Work Session	
<b>Subject:</b> Special Event Permit: ESA Surfing Contest	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Kathryn Danylik
<b>RECOMMENDATION:</b>
<b>PROPOSED MOTION:</b> I move to approve the Special Event Permit Application for the ESA Surfing Contest that will be held on Saturday, June 18 <sup>th</sup> from 7:00 AM to 5:00 PM.

**Discussion:** All appropriate departments have been notified and have given approval. Surfers must adhere to the surfing ordinance and follow all beach rules.

<b>FISCAL IMPACT:</b>
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By: Kathryn Danylik

Reviewed By: Robert M. Gendron



# Town of York, Maine Special Event Permit Application

This application for a special event permit is hereby presented to the York Town Manager, 186 York Street, York, ME 03909.

Date: 5-13-11

Name of Event: ESA. Surfing Contest #2 2011 Season

Type of Event: Surfing Contest

Organization Name: EASTERN Surfing ASSO. Phone #: 603-944-2418

Organization Address: 7 Shirley TERR City: Hampton State: NH Zip: 03842

Applicant Name: Lenny Nichols Phone #: 603-944-2418

Applicant Address: 7 Shirley Terr City: Hampton State: NH Zip: 03842

Contact Name for Day of Event: Lenny Nichols Contact Phone # 603 944 2418

Date of Event: 6-18 & 7-9 Day of Week: Saturday

Starting Time: 7:00 am Ending Time: 5:00 PM.

Assembly Area: Surf area off of Beacon St.

Dispersal Area: E Long Swamps Beach.

Event Route: NO ROUTE | Beach Site off of Beacon St

Approximate Number of Persons Attending (If more than 500, Insurance coverage needed)

75

Describe number of bands, vehicles, signs, floats, or other articles carried or displayed along with method of participation (walking, bicycles, motorcycles etc):

3 Pop Up tents & 3 tables - 1 Flag - 6 chairs -

Describe how group is organized and supervised to insure order: 2 Directors - 1 Comp. Director

5 Judges - Timed - organized heats of 20 min ea. - (strict timer)

Purpose of the Event: Provide Maine members with Local Contest at their Home BEACH - A qualification of Contest Area

The above information is true to the best of my knowledge and belief.

Signature of Applicant: Lenny Nichols Invitation



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> June 9, 2011	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> June 13, 2011	
Regular <u>X</u> Work Session	
<b>Subject:</b> Special Event Permit: York Fire Department Field Day	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Kathryn Danylik
<b>RECOMMENDATION:</b>
<b>PROPOSED MOTION:</b> I move to approve the Special Event Permit Application for the York Fire Department Field Day that will be held on Saturday, August 20 <sup>th</sup> 2011 from 11:00 AM to 3:00 PM.

**Discussion:** The Fireman's Muster will be held at Moulton Park in York Harbor after the Parade. This is an annual event. All appropriate departments have been notified and have given approval.

<b>FISCAL IMPACT:</b>
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By:

*Kathryn Danylik*

Reviewed By:

*Robert H. Gendron*



# Town of York, Maine Special Event Permit Application

This application for a special event permit is hereby presented to the York Town Manager, 186 York Street, York, ME 03909.

Date: 6/1/11

Name of Event: York Fire Dept. Field Day

Type of Event: Parade / field events

Organization Name: York Fire Department Phone #: 363-1015

Organization Address: Firehouse Dr. City York State: ME Zip: 03909

Applicant Name: Amanda Bruno Phone #: ~~207-451~~ 363-1015

Applicant Address: same City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Name for Day of Event: Armand Gregoire Contact Phone # 363-1015

Date of Event: August 20, 2011 Day of Week: Saturday

Starting Time: 11am Ending Time: 3pm

Assembly Area: Woodbridge Rd & Rte 1A.

Dispersal Area: Yorkst. and Long Sands Rd

Event Route: Woodbridge Rd to Long Sands Rd.

Approximate Number of Persons Attending (If more than 500, insurance coverage needed)  
<500

Describe number of bands, vehicles, signs, floats, or other articles carried or displayed along with method of participation (walking, bicycles, motorcycles etc):

25+ fire trucks / floats

Describe how group is organized and supervised to insure order: \_\_\_\_\_

Purpose of the Event: Annual Fireman's field Day

The above information is true to the best of my knowledge and belief.

Signature of Applicant: Amanda Bruno

**For Town Use Only:**

Reviewed by:

**Department**

**Initials**

Police Department

\_\_\_\_\_

Public Works

\_\_\_\_\_

Parks/Recreation

\_\_\_\_\_

Village Fire

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York Beach Fire

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Code Enforcement

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Special Conditions \_\_\_\_\_

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Town Manager

\_\_\_\_\_

Date