TOWN OF CHESHIRE

80 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225
PHONE (413) 743-1690 | FAX (413) 743-0389

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OFFICE OF THE BOARD OF SELECTMEN

Meeting Minutes – February 7, 2023

Pursuant to a notice duly filed with the Town Clerk, a meeting of the Board of Selectmen was held in person at 191 Church Street (Cheshire Elementary School) on Tuesday February 7, 2023, at 6:30 PM

Members Present: Michelle Francesconi, Chair
Shawn McGrath, Vice Chair
Jason Levesque
Ron DeAngelis
Ray Killeen

Others Present: Jennifer Morse, Town Administrator; Corey McGrath, Facilities Manager; Lynn Melchiori; IBerkshires; Mike Tatro, National Grid.

Summary of Votes:

- Vote to approve the Pole Petition of National Grid/Verizon on Fred Mason Road 5-0
- Vote to move forward with Water Dept. proposal from Tighe and Bond, Phase 1 5-0
- Vote to utilize ARPA funds for Water Dept. Proposal from Tighe and Bon, Phase 1 4-1-0
- Vote approve the Facilities Use Form for the Adams Cheshire Softball League 5-0
- Vote to approve the Consent Agenda as amended 5-0
- Vote to move forward with Seasonal Positions for the Cemetery Foreman and Groundskeeper Position 5-0
- Vote to change the official posting location to the town website 5-0
- Vote to approve a one day liquor license for Cheshire Rod and Gun Club, 2/11/23 4-0-1
- Vote to appoint Jennifer Morse as the representative to the HVRSD Union Negations 5-0
- Vote to adjourn at 7:49 p.m. 5-0

M. Francesconi opened the meeting at 6:30 p.m.

Pole Hearing – 6:30 p.m.

M. Francesconi opened the pole hearing on a petition from National Grid and Verizon New England to install (1) JO Pole 5-5 and anchor on Fred Mason Road beginning at a point approximately 0' NW of the centerline of the intersection of Pole 5 and Fred Mason Road and continuing approximately 154' in a SW Direction, West Side of the Road.

Mike Tatro from National Grid joined the board to answer questions regarding the petition. The Town Administrator shared that the information was reviewed by the Highway Department with no concerns.

A motion was made by S. McGrath and seconded by R. Killeen to approve the pole work as indicated in the petition.

Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries : 5-0

J. Levesque asked about tree removal over power lines, the Town Administrator will follow-up with Mr. Tatro.

Water Department – Proposals for Engineering Route 8 (West Mountain to Lanesborough Roads)
The Town Administrator shared that the Water Commissioners are recommending that the Town move forward with the Tighe and Bond proposal for engineering of Route 8 from West Mountain Road to Lanesborough Road. Discussion on approving Task 1 only of the proposal and having the Water Department/Superintendent explore funding opportunities for the remainder of the proposal and construction.
A motion was made by J. Levesque and seconded by S. McGrath to move forward with Phase 1 of the proposal from Tighe and Bond
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

There was discussion on utilizing ARPA funds for the project with questions regarding hydrants, there was discussion on shovel ready projects and the need to move forward for fire safety concerns. R. Killen shared his concerns about utilizing ARPA funds as he felt the water department could have been more prudent with the Wells Park Road/Route 8 and Mill Hill leaks they would have additional funds. R. DeAngelis shared that a lot of infrastructure money will be coming to the state and by making our projects shovel ready it puts the town in a good position.

A motion was made by R. DeAngelis and seconded by M. Francesconi to utilize ARPA funds for the Phase 1 engineering proposal from Tighe and Bond.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- No S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 4-1-0

Adams Cheshire Softball – Facilities Use Form
A motion was made by M. Francesconi and seconded by J. Levesque to approve the request for field use by the Adams Cheshire Softball League
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Consent Agenda

Minutes January 24, 2023
Warrants – Payroll 23-16, Accounts Payable 23-17
~~*Recreation Committee Appointments - Tim Garner, Corey McGrath, Christopher Garner*~~

A motion was made by M. Francesconi and seconded by J. Levesque to approve the Consent Agenda except for the Recreation Committee Appointments.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Board of Selectmen Discussion/Decision Items

a. Cemetery /Groundskeeper Job Descriptions – Seasonal Positions
   The Cemetery Foreman and Groundskeeper job descriptions were reviewed. The Town Administrator shared that they were sent to the Cemetery Commissioner for input and the Commissioners were invited

to the meeting and declined. All positions will be seasonal beginning on May 5, 2023, and ending on September 21, 2023 (20 weeks). The positions will be advertised starting March 1st. The Town Administrator will be reaching out to Hoosac Valley Regional School and McCann Technical School with employment opportunities for students over the age of 16 years. Currently three former cemetery workers are claiming unemployment and costs are estimated to be $8,500. Quotes for early spring and late fall clean up will be obtained, the Town Administrator was asked to get a cost for landscaping services for the entire summer as well.

Discussion regarding the missing folders from the Cemetery office, a letter was sent to a former commissioner requesting the return, the town can take no other legal action. It was suggested to contact a particular former commissioner to seek advice on recreating missing documentation.

A motion was made by J. Levesque and seconded by S. McGrath to move forward with the seasonal position application to the Department of Unemployment.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

b. Official Meeting Posting/Agenda Location – Change to Website
As the current board inside town hall does not meet open meeting law requirements for posting locations, the official posting location will now be the website, notices will still be posted to the board as well.
A motion was made by S. McGrath and seconded by M. Francesconi to make the town website the official posting location for meeting notices/agenda.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

c. Cheshire Rod and Gun Club 0 One Day Liquor License – February 11, 2023
A motion was made by S. McGrath and seconded by R. Killeen to approve the one-day liquor license for the Cheshire Rod and Gun Club on Saturday February 11, 2023.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Abstain, M. Francesconi – Yes
Motion Carries: 4-0-1

d. Town Administrator representative to HVRSD Union Negotiations
A motion was made by S. McGrath and seconded by M. Francesconi to appoint the Town Administrator Jennifer Morse to represent the Town in the HVRSD Union Negotiatons process.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Town Administrator Updates

a. Special Town Meeting Warrant Articles
The Town Administrator shared that counsel sent the Warrant articles late this afternoon for the Sandmill Bridge project. A meeting will need to be set up for early next week to sign the warrant as the Town Clerk is going out on medical leave for a little over a week. A meeting will be held on Monday February 13, 2023, at 7:15 p.m. to sign the warrant. The Town Administrator also shared that an executive session will need to be set up with counsel to review the most recent developments in the Warner vs. Town of Cheshire case.

b. General Code – Bylaw Process

The Town Administrator shared the red line document showing changes made to the sequence and language of the bylaws. Once the bylaws have been approved at Town meeting the board can move forward with amendments to language at a future meeting. The Town Administrator shared that completely changing language at this would complicate the procedure and that time does not allow before Annual Town Meeting.

c. IT Annual Review – Cyber Security Insurance Requirements

The annual review was shared with board members. Two programs are going into effect as required by the town's cybersecurity insurance. Phishing and security training and Multi Factor Authentication for all users.

Announcements from Board Members

J. Levesque inquired on how residents can obtain nomination papers during the Town Clerks absence. The Town Administrator will follow-up with the town clerk.

The board would like the Town Clerk to attend an upcoming meeting regarding the appointment of election officials.

R. Killeen spoke about Airbnb revenue noting that the Town Administrator spoke with the Zoning Enforcement Officer and a bylaw needs to be put into place, the Town Administrator has notified the Planning Board chair.

Public Comment

Jacob Zieminski came forward with documents pertaining to a draft citizen petition that would amend a current marijuana bylaw to include Microbusiness licenses. It was suggested that he speak to the Town Clerk for petition information and the Planning Board. It was recommended to keep the board updated in the process to keep the dialogue open.

Adjournment

A motion was made by M Francesconi and seconded by J. Levesque to adjourn the meeting at 7:49 p.m.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Respectfully submitted,
Jennifer Morse
February 13, 2023

Document List

1. Agenda – February 7, 2023
2. Pole Petition – National Grid/Verizon – Fred Mason Road
3. Adams Cheshire Girls Softball League – Facilities Use Form
4. Water Department Engineering Proposals
5. Draft Minutes – January 24, 2023
6. HVRSD Letter regarding Union Negotiations Representative
7. Poll Staff 2023 list from Town Clerk

8. Highway Department Bi-Weekly Report
9. Water Department Bi-Weekly Report
10. DRAFT citizen petition and documents from citizen

Approved: February 21, 2023

TOWN OF CHESHIRE

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OFFICE OF THE BOARD OF SELECTMEN

Board of Selectmen

Meeting Agenda – February 7, 2023
6:30 PM

Cheshire Elementary School – Cafeteria

1. *Open Regular Meeting, Introductions, Pledge of Allegiance*
2. *Pole Hearing – 6:30 p.m. Petition from National Grid and Verizon New England to install (1) JO pole 5-5 and anchor on Fred Mason Drive beginning at a point approximately 0'NW of the centerline of the intersection of Pole 5 and Fred Mason Dr and continuing approximately 154' in a SW direction, west side of the road.*
3. *Adams Cheshire Softball Facilities Use Form*
4. *Water Department – Proposals for Engineering Route 8 (West Mountain to Lanesborough Roads)*
5. *Consent Agenda*

   Minutes January 24, 2023
   Warrants – Payroll 23-16, AP 23-17
   Recreation Committee Appointments – Tim Garner, Corey McGrath, Christopher Garner

6. *Board of Selectmen Discussion/Decision Items*
   - ***a.*** *Cemetery/Groundskeeper Job Descriptions – Seasonal Positions*
   - ***b.*** *Official Meeting Posting/Agenda location – change to website.*
   - ***c.*** *Cheshire Rod & Gun Club – One Day Liquor License – February 11, 2023*
   - ***d.*** *Town Administrator representative for HVRSD Union Negotiations - Vote*
7. *Town Administrator Updates*
   - ***a.*** *Special Town Meeting Warrant Articles*
   - ***b.*** *General Code – Bylaw Process*
   - ***c.*** *IT Annual Review – Cyber Security Insurance Requirements*
8. *Announcements from Board Members*
9. *Public Comment*
10. *Any other business not reasonably anticipated 48 hours prior to the meeting.*

Submitted by: Jennifer Morse – Town Administrator Posted: 2/2/23 @ 12:30 p.m.

POSTED IN ACCORDANCE WITH THE PROVISIONS OF MGL 30A §§18-25.

Questions contact - Mike Tatro 413-582-7421

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

North Andover, Massachusetts

To the Board of Selectmen
Of Cheshire, Massachusetts

Massachusetts Electric Company d/b/a NATIONAL GRID and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Fred Mason Dr. - National Grid to install (1) JO pole 5-5 and anchor on Fred Mason Dr. beginning at a point approximately 0' NW of the centerline of the intersection of Pole 5 and Fred Mason Dr. and continuing approximately 154' in a SW direction, west side of road.

Location approximately as shown on plan attached.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Fred Mason Rd. - Cheshire, Massachusetts.

30611346

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

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a
NATIONAL GRID Jim Kehrer/lla
BY _____
Engineering Department

VERIZON NEW ENGLAND, INC.
BY Albert E. Bessette
Manager / Right of Way

Dated: December 5, 2022

Cheshire

Questions contact – Mike Tatro 413-582-7421

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

To the Board of Selectmen - Cheshire, Massachusetts

Notice having been given and public hearing held, as provided by law,
IT IS HEREBY ORDERED:
that Massachusetts Electric Company d/b/a NATIONAL GRID and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 5th day of December 2022.

All construction under this order shall be in accordance with the following conditions:
Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Fred Mason Dr. - Cheshire, Massachusetts.

30611346 Filed with this order:

There may be attached to said poles by Massachusetts Electric Company d/b/a NATIONAL GRID and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

Fred Mason Dr. - National Grid to install (1) JO pole 5-5 and anchor on Fred Mason Dr. beginning at a point approximately 0' NW of the centerline of the intersection of Pole 5 and Fred Mason Dr. and continuing approximately 154' in a SW direction, west side of road.

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

I hereby certify that the foregoing order was adopted at a meeting of the
Of the City/Town of ,Massachusetts held on the day of 20 .

City/Town Clerk.
Massachusetts 20 .

Received and entered in the records of location orders of the City/Town of
Book Page

Attest:
City/Town Clerk

I hereby certify that on 20 , at o'clock, M
At a public hearing was held on the petition of
Massachusetts Electric Company d/b/a NATIONAL GRID and VERIZON NEW ENGLAND, INC. for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to erect Poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

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.....
.....
.....
Board or Council of Town or City, Mass.

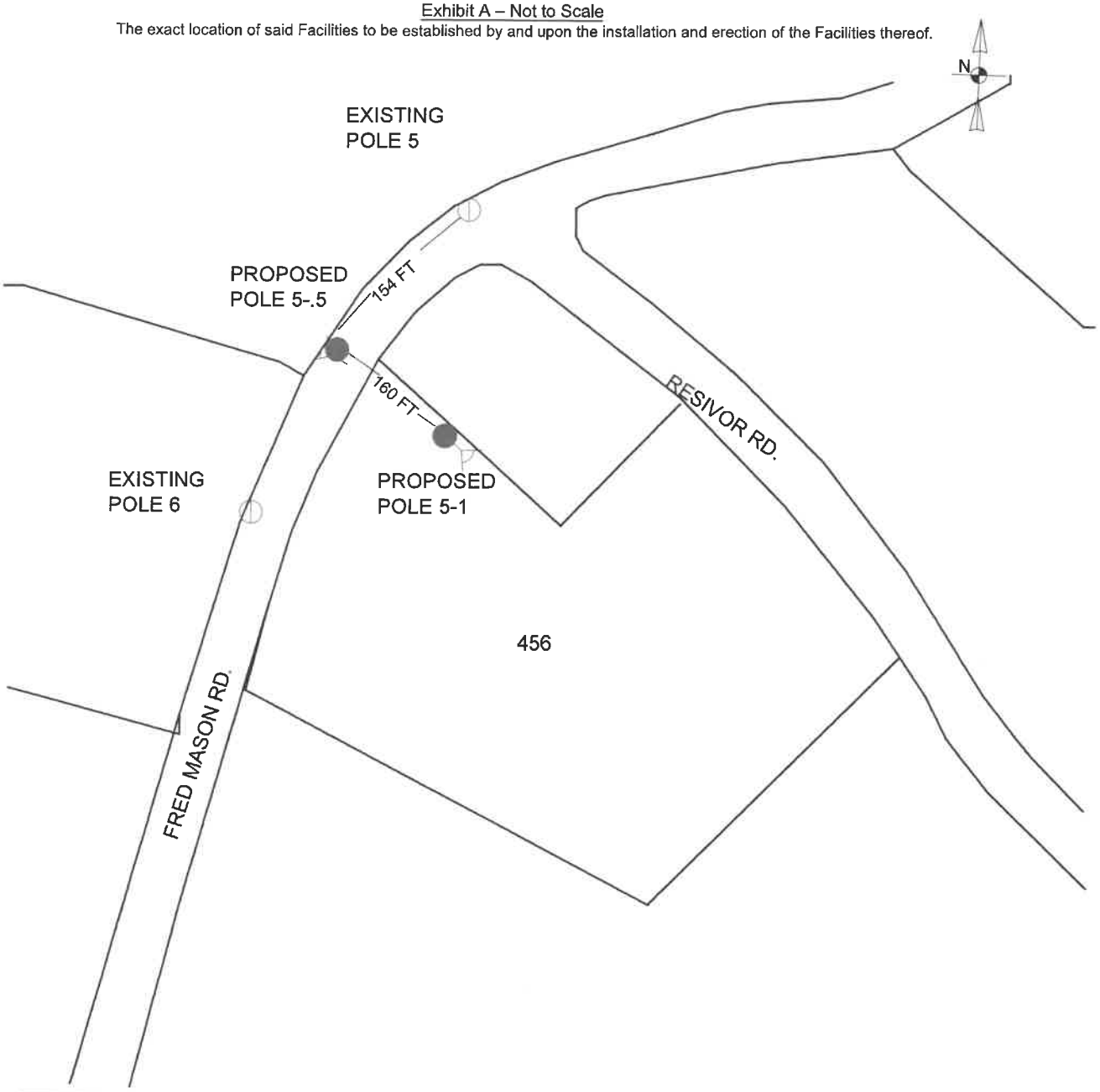
CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of hearing with notice adopted by the of the City of Massachusetts, on the day of 20 and recorded with the records of location orders of the said City, Book , and Page . This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:
City/Town Clerk

Exhibit A – Not to Scale

The exact location of said Facilities to be established by and upon the installation and erection of the Facilities thereof.



ELECTRIC DISTRUBUTION PETITION SKETCH

LEGEND

- EXISTING JO POLE
- PROPOSED JO POLE
- ANCHOR

Owner:

TOWN OF CHESHIRE
FRED MASON RD.
CHESHIRE, MA

nationalgrid

WR# 30611346

Address:
456 FRED MASON RD.
CHESHIRE, MA

Sketch to Accompany Easement for:

NATIONAL GRID TO INSTALL 1 JO POLE & ANCHOR, 154 FT SOUTHWEST OF EXISTING POLE 6, SIDE OF ROAD.

Date: 12/3/2022 Drawn By: MICHAEL TATRO

DRAWING NOT TO SCALE. DISTANCES ARE APPROXIMATE.

TOWN FACILITIES REQUEST FORM

Please read the instructions prior to filling out the facility use form.

1. Print your name, address, and a telephone number at which you can be reached during 8:30 a.m. to 4:00 p.m.
2. Check the facility or facilities you wish to use.
3. Requested use – please be specific as to the nature of the use and/or if you are representing a specific league or organization.
4. Special circumstances – (a) address needs which may not be currently available, i.e. need for tent, chairs, bleachers, decorations, etc. (b) give an estimated attendance which is needed to determine such things as crowd control and parking
5. Provisions for cleanup – there is no charge for normal field maintenance such as mowing grass. However, if you plan on decorating or placing items on the field, lining the field, the town will assess a fee if town workers are required to provide the service to restore the facility to its original state.
6. The Senior Center rental fee is $100, a security deposit of $200 is required to be used for extra cleaning services, loss of property and damage, the security deposit will be returned within 72 hours of the event.

If there are no conflicts with other activities or fees assessed, the Town Administrator, or its representative, will make every effort to authorize this request within three (3) business days. If a conflict is determined or fees are required, this request will be presented at the next meeting of the Board of Selectmen. Special meetings can be arranged for extenuating circumstances.

Applicant name: ACS Girls Softball

Address: P.O. Box 405 **Town/City:** Adams **State:** MA

Telephone: 413-207-4338 **EMAIL:** lou_moser@yahoo.com

Facility Requested:

___ Cheshire School (Café)

✓ Cheshire School Field

___ Little League Field, School Street

___ Senior Center

___ Town Hall Park

___ Street(s) (Specify:_____)

___ Other (Specify:)

TOWN FACILITIES REQUEST FORM

Date(s) of Use: 4/1/23 - 11/1/23

Hour(s) of Use: Weekdays from 4-8pm + weekends from 10am - 2pm

Requested Use: (please be specific as to the nature of the event)

Girls softball practices

Special Circumstances: (i.e., chairs on lawn, decorations at gazebo, tents, etc.)

N/A

Number of Participants/Attendees: 50 approximately

Provisions for Cleanup: (a fee will be assessed if none provided) The league will maintain the field and surrounding area

This application will not be processed without the following information. Liability insurance is required by our insurance carrier.

Insurance: Organizations will need to provide a certificate of insurance.

Name of Insured: Philadelphia Insurance Co.

Policy number or Insurer: PHPK2386503

Policy Expiration Date: 4/21/23

Alcoholic beverages are not allowed on premises, no alcoholic beverages are allowed in Town Buildings.

Special Fees:

Town Common Use for non-residents:	$ 25.00
Daytime Field use (6 hours maximum):	$ 50.00
Nighttime Field use:	$ 75.00
Police Officers x $50 (per patrol person)	$ _____

The Town of Cheshire allows "free" use of its facilities to:

- Non-profit town affiliated functions (i.e. youth/high school sports programs, league field day, etc.), provided the non-profit organization provides proof of its status as a non-profit.
- Town residents: (i.e. weddings at the town common, etc.)
- Town Employees

RULES GOVERNING USE OF TOWN FACILITIES

1. **Absolutely No Alcohol** to be consumed in Town buildings.
2. **No alterations** to structures or grounds.
3. **Property must be kept clean** and returned in clean, useable form.
4. ***Events and activities must be conducted in a well-controlled, responsible manner.***
5. **Use of the Kitchen at the Senior Center:**
    a. Please leave the kitchen, bathrooms and main hall as found
    b. Fill the sink with warm soapy water on departure with used kitchen utensils, the dishwasher is for use by Senior Center staff only.
    c. Please sanitize all surfaces including tables in the main hall with cleaner provided in the kitchen
    d. Stove and microwave can be used for warming, please clean if used.

I/We hereby, by myself, heirs, executors, administrators and officials, release and hold harmless the Town of Cheshire from all liability arising out of my/our use of the town facilities as requested above. I/We accept responsibility for damages to the property.

I/We waive and release any and all rights and claims for damages I/We or my/our guests may have against the town of Cheshire for injuries as a consequence of my/our use of the town facilities.

Applicant Signature Lows A. Moser Date: 1/26/23

Applicant Name (Printed) Lows A. Moser Date: 1/26/23

Facilities Manager ☐ **Approve** ☐ **Disapprove**

Signature: _____ Date: _____

Comments: _____

Town Administrator ☐ **Approve** ☐ **Disapprove**

Signature: _____ Date: _____

Comments: _____

Board of Selectmen ☐ **Approve** ☐ **Disapprove**

Signature: _____ Date: _____

Comments: _____

C-07970-P005
December 16, 2022

Board of Water Commissioners
Town of Cheshire
80 Church Street
Cheshire, MA 01225

Re: **South Street Watermain Replacement Engineering Proposal**

Dear Commissioners:

Tighe & Bond is pleased to submit this proposal to the Town of Cheshire, Board of Water Commissioners for engineering services related to preparation of bidding documents and limited bidding and construction phase services for watermain replacement work on South Street between Lanesboro Road and Church Street/West Mountain Road.

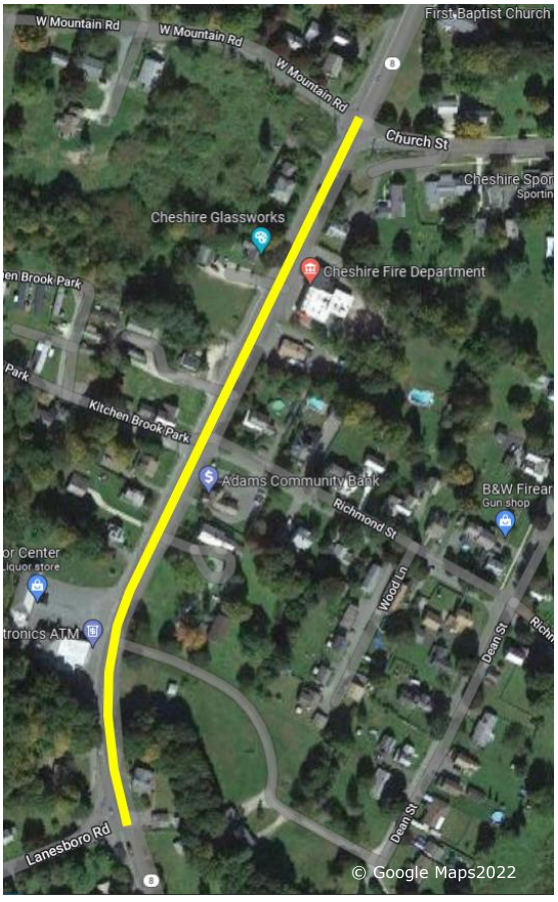
Background

The intent of this project is to replace the existing 4-inch water main in this location with new 8-inch diameter ductile iron mains, hydrants, gate valves, corporations, curb stops and copper service lines within the right-of-way. The work also includes Kitchen Brook Park meter pit structure cover replacement and water main installation via trenchless installation under Kitchen Brook.

Upon visual review of the routing, this section of roadway is in a rural area with overhead power and we understand that in addition to the existing small diameter watermain there are existing buried gas and storm drain lines as well.

We understand the Commission would like to proceed with design with survey but in order to control costs detailed topographic contours was not included. To accommodate this, the survey will include MassGIS LIDAR 2-foot contours.

Also, we typically recommend a geotechnical investigation including 6 to 8 feet deep borings every 200 to 300 feet along the proposed route. This would facilitate determination of soil characteristics, quantifying rock, and identifying groundwater conditions which will minimize the Town's exposure to contractor claims during construction. We understand that the Water Commission has indicated that contractors should not anticipate rock or the need for groundwater pumping, so no geotechnical borings or reconnaissance will be provided.



The extent of the watermain replacement work is as follows:

South Street	~1,550 linear feet of 8-inch pipe replacement
	(6) hydrants and associated gate valve
	(19) services with curb stops and corporations
	(3) fire services with tee, valve and box
	~570 linear feet of copper services

Regarding specifications and details, we understand the Commission used the following materials on the 2012 Furnace Hill Road project, which were based on Commission standards at the time. For verification we ask that the Commission confirm the following requirements/ specifications and/or provide updated Water Commission standards:

1) Class 52 ductile iron push-on and mechanical joint piping
2) Restrained joints in lieu of concrete thrust blocks
3) AWWA C509 Resilient seat gate valves, open left (CCW), Mueller 2360, US Pipe Metroseal Model 250, AFC 2500, Clow 2639 or equivalent.
4) AWWA C502 Mueller Super Centurion 250 Dry Barrell Hydrants, draining, open right (CW), field painted
5) AWWA C800 Mueller, Red Hed, Ford, McDonald ball-type corporations, 1-inch
6) AWWA C800 Mueller, Red Hed, Ford, McDonald ball-type curb stops and boxes, 1-inch
7) ASTM B88, Type K copper services

Scope of Services

Tighe and Bond will complete the following tasks:

Task 1 –Design Services - Design services will include the following:

- **Conduct Kick-Off Meeting** – Tighe & Bond will meet with representative(s) from the Commission to confirm the project scope.
- **Review Existing Information** – We will gather and review available information regarding existing utilities in the project area. We will utilize information recently collected in the project area as part of other utility improvement projects, where possible.
- **Survey** - We will utilize a surveyor to perform a topographic survey of the project corridor. This survey will capture topography, curb lines, edges of pavement, driveway and sidewalk locations, utilities, invert and rim elevations of drainage structures, building corners, and other features as appropriate within the roadway corridor to a limit of 10 feet outside the edge of pavement along the project route. Right-of-Way (ROW) lines shall be located, and abutting property line information shall be approximate per GIS. The survey will be performed by a Tighe & Bond sub-consultant.
- **Basemap Information** – Prepare basemap drawing and visit site of the existing water system and review survey information along the proposed alignment.
- **Design Documents** – Prepare design drawings as follows:
  - Prepare two design drawings showing the plan view of the proposed alignment.

- Prepare two detail drawings providing general notes, abbreviations, and details for hydrant assembly, typical water service, typical trench profile and paylines, minimum restrained lengths, erosion and sediment controls, and surface restoration.
- Prepare one traffic control drawing per MassDOT Access Permit requirements.
- Prepare technical specifications, including Division 0 Bidding & Contract Requirements, Division 1 General Requirements, and Division 2 Site Construction.
- Prepare an opinion of probable construction cost based on our water main replacement drawings to be provided with the final submission.

- **Progress Meetings and Submittals** - Meet with the Town to review the draft design and discuss issues, materials or decisions that may require the Town's input prior to finalizing bid documents.
  - Finalize design documents incorporating Town comments.

Task 2 – Permitting – Permitting services will include the following:

- **MassDOT Permitting** - Prepare MassDOT Permit application required for construction activities within South Street, a roadway under the MassDOT jurisdiction.
- **Environmental Permitting -** Based on a preliminary desktop review, a portion of the limits of work fall within the 200-foot Riverfront Area (and 100-foot Buffer Zone) of Kitchen Brook. There is also a FEMA-mapped 100-year floodplain along Kitchen Brook with elevations ranging between 989 feet (downstream) to 994 feet (upstream) (as measured in National Geodetic Vertical Datum (NGVD) 1929). These areas are subject to protection and jurisdiction under the Massachusetts Wetlands Protection Act (MAWPA; M.G.L. Chapter 131, Section 40), which is administered by the Town of Cheshire Conservation Commission. However, the replacement of existing (and lawfully located) water utilities is exempt from the MAWPA provided there is no substantial change or enlargement of the utility.

  Tighe & Bond will prepare a notification of exempt maintenance activities to be submitted to the Cheshire Conservation Commission. The notification will present the statutory exemption for the proposed work, as well as a brief description of the project, location, and construction-period Best Management Practices (BMPs), and anticipated construction schedule.

Permitting Assumptions:

We have made the following assumptions to develop our permitting scope:

- The Town will coordinate with adjacent property owners if work is shown to occur outside the limits of the roadway right-of-way, even temporarily, including but not limited to collecting signatures for regulatory permit application forms and rights-of-entry.
- The proposed work will not be subject to Massachusetts Environmental Policy Act (MEPA) jurisdiction, nor will the project exceed any MEPA review thresholds and, as such, is not subject to MEPA review.
- Kitchen Brook is not subject to the Massachusetts Public Waterfront Act ("Chapter 91").
- The project will not result in a net fill in floodplain or floodway.
- Neither the project site nor surrounding area are mapped as Priority Habitats of Rare Species or Estimated Habitats of Rare Wildlife.
- The project will not result in the discharge of dredged or fill materials within vegetated wetlands or other Waters of the United States (e.g., Kitchen Brook). As such, the work is not subject to review under Sections 401 and/or 404 of the Clean Water Act.

- The Town of Cheshire has not adopted a local wetlands protection bylaw as of the date of this proposal.
- The Town of Cheshire Conservation Commission will concur that the activities are exempt from the MAWPA and will not require a site visit, meeting attendance, or other coordination.

Task 3 – Bidding – Upon completion of the design documents and in accordance with the project schedule, we will provide bidding services to the Town under M.G.L. Chapter 30, Section 39M – Public Works (Non-Building) Construction Contracts. Bidding services will include the following:

- Advertise the project in the Central Register and in the local newspaper to solicit contractor bids for construction (cost for newspaper advertisements will be billed directly to the Town). Town to complete advertisement in COMMBUYS.
- Solicit wage rates.
- Electronic distribution of contract documents to prospective bidders and others. We will provide up to three (3) paper copies of bidding documents for the Commission's use.
- Respond to bidders questions, and issue addenda, if necessary (1 assumed)
- Tabulate, review, and analyze bids.
- Investigate and evaluate the qualifications of the prospective successful bidder(s).
- Make recommendation to the Commission as to the "lowest qualified bidder" and as to the award of the Construction Contract.
- Prepare Contracts (3 hard copies)

Task 4 – Construction Administration Services - We will provide limited engineering services to administer the construction activity. The Commission will provide all construction observation needs. An allowance will be suggested to complete our services on an as needed basis, as requested by the Commission. This allowance is based on the following work tasks:

- Project Manager to attend pre-construction conference with Commission and General Contractor.
- Receipt/review/processing of shop drawings for the materials and components of the construction (6 assumed).
- Receipt/review/processing of requests for information from the contractor (1 assumed).
- Conduct the general office administration and coordination of the construction contract (assumes 3 weeks active construction).
- Review/process/recommend contractor requests for change orders or other claims related to the work (assumes 1).
- Review/process/recommend periodic payments to the contractor for completed work (assumes 2). Pencil requisition quantities to be confirmed by the Commission's designated construction observer.
- Project Manager to attend up to one (1) on-site meeting with Commission and General Contractor.
- Project Engineer to attend up to four (4) on-site meetings with General Contractor and Commission's construction observer.

Services Not Included in Scope

The following services are not included in our proposed Scope of Services. If these services are required or desired by the Town, we can submit a revised/amended Scope of Services and an anticipated fee for these additional services.

- COMMBUYS advertisement
- Preparation of pipe profiles
- Attendance at Bid Opening
- Easements or land acquisitions assistance
- Geotechnical drilling / Soil sampling / Bedrock cores
- Wetlands delineation or permitting efforts beyond the scope listed under Task 2; additional regulatory reviews will add cost and time to the project schedule to request approval.
- Environmental due diligence research in an effort to determine if contaminated soil and/or groundwater may be encountered during construction activities
- Pavement corings
- Payment for any police details for survey. If required, Police details will be scheduled and billed directly to the Commission.
- Construction observation services
- Road opening and trench permitting (by Contractor)
- Payment of any application or advertisement fees
- Record drawings
- Resident construction observation services to be provided by Commission

Project Schedule

We anticipate the following schedule:

- Task 1 Design – 10 weeks following authorization to proceed
- Task 2 Permitting – 4 weeks following 100% design. Estimated receipt of Permits from Regulators within 6 weeks of submission of permit applications.
- Task 3 Bidding – 4 weeks following approval to bid by Commission, and receipt of MassDOT Access Permit
- Task 4 Construction Administration – 4 weeks (3 weeks active construction)

Fee

Tighe & Bond will perform Task 1 (Design), Task 2 (Permitting) and Task 3 (Bidding) services for a lump sum fee of $29,800, invoiced monthly based on percentage complete. Task 4 (Construction Administration) Tighe & Bond will be performed for a not to exceed fee of $12,600. We will undertake Task 4 on an hourly plus expense basis and you will be billed in accordance with the Company's standard billing rates. For information purposes, the below summary provides the anticipated break out of the project. The summary is presented to give the Commission a better understanding of the how the project budget was developed. Invoices will be submitted based on the total project fee and not individual line item budgets.

Task	Description	Fee Type	Fee
1	Contract Documents	Lump Sum	$ 23,400
2	Permitting Services	Lump Sum	$ 2,500
3	Bidding Services	Lump Sum	$ 3,900
			$29,800
4	Construction Administrative Services	Hourly plus Expenses	$ 12,600
		Total:	**$42,400**

We appreciate the opportunity to provide the above proposal for engineering services. If this proposal is acceptable, please sign and date both copies and return one (1) copy to Tighe & Bond, as our authorization to proceed. If you have any questions or need additional information, please contact me at 413-572-3231 (pmvalinski@tighebond.com).

Very truly yours,
TIGHE & BOND, INC.



Peter M. Valinski, PE
Vice President

Enclosure: Terms & Conditions dated 4-2020

ACCEPTANCE:
On behalf of the Town of Cheshire, the scope, fee, and terms of this proposal are hereby accepted.

_____ _____
Commissioner Date

Enclosure – Terms & Conditions
\\tighebond.com\data\Data\Projects\C\C0797 Cheshire Watermain\005 South Street Water Main\Cheshire - South Street Watermain Replacement (Expanded).docx

"CLIENT" is defined in the acceptance line of the accompanying proposal letter or the name the proposal is issued to; Tighe & Bond, Inc. is hereby referenced as "CONSULTANT"; "PROJECT" is defined in the accompanying proposal letter

1. SCHEDULE OF PAYMENTS

1.1 Invoices will generally be submitted once a month for services performed during the previous month. Payment will be due within 30 days of invoice date. Monthly payments to CONSULTANT shall be made on the basis of invoices submitted by CONSULTANT and approved by CLIENT. If requested by CLIENT, monthly invoices may be supplemented with such supporting data as reasonably requested to substantiate them.

1.2 In the event of a disagreement as to billing, the CLIENT shall pay the agreed portion.

1.3 Interest will be added to accounts in arrears at the rate of one and one-half (1.5) percent per month (18 percent per annum) or the maximum rate allowed by law, whichever is less, of the outstanding balance. In the event counsel is retained to obtain payment of an outstanding balance, CLIENT will reimburse CONSULTANT for all reasonable attorney's fees and court costs.

1.4 If CLIENT fails to make payment in full within 30 days of the date due for any undisputed billing, CONSULTANT may, after giving seven days' written notice to CLIENT, suspend services and retain work product until paid in full, including interest. In the event of suspension of services, CONSULTANT will have no liability to CLIENT for delays or damages caused by such suspension.

2. SUCCESSORS AND ASSIGNS

2.1 CLIENT and CONSULTANT each binds itself, its partners, successors, assigns and legal representatives to the other parties to this Agreement and to the partners, successors, assigns and legal representatives of such other parties with respect to all covenants of this Agreement. CONSULTANT shall not assign, sublet or transfer its interest in this Agreement without the written consent of CLIENT, which consent shall not be unreasonably withheld.

2.2 This Agreement represents the entire and integrated Agreement between CLIENT and CONSULTANT and supersedes all prior negotiations, representations or Agreements, whether written or oral. This Agreement may be amended only by written instrument signed by both CLIENT and CONSULTANT. References to this agreement include these Terms & Conditions, any accompanying proposal or description of services, as well as any other documents referenced or incorporated therein. In the event one or more provisions of any of the foregoing documents conflict with the provisions of these Terms & Conditions, the provisions of these Terms & Conditions shall control.

2.3 Nothing contained in this Agreement shall create a contractual relationship or cause of action in favor of a third party against CLIENT or against CONSULTANT.

3. STANDARD OF CARE

3.1 In providing services, CONSULTANT will use that degree of care and skill ordinarily exercised under similar circumstances by individuals providing such services in the same or similar locality for similar projects.

4. TERMINATION

4.1 This Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In addition, CLIENT may terminate this Agreement for its convenience at any time by giving written notice to CONSULTANT. In the event of any termination, CLIENT will pay CONSULTANT for all services rendered and reimbursable expenses incurred under the Agreement to the date of termination and all services and expenses related to the orderly termination of this Agreement.

5. RECORD RETENTION

5.1 CONSULTANT will retain pertinent records relating to the services performed for the time required by law, during which period the records will be made available upon reasonable request and upon reimbursement for any applicable retrieval/copying charges.

5.2 Samples - All soil, rock and water samples will be discarded 30 days after submission of CONSULTANT's report, unless mutually agreed otherwise or unless CONSULTANT's customary practice is to retain for a longer period of time for the specific type of services which CONSULTANT has agreed to perform. Upon request and mutual agreement regarding applicable charges, CONSULTANT will ship, deliver and/or store samples for CLIENT.

6. OWNERSHIP OF DOCUMENTS

6.1 All reports, drawings, specifications, computer files, field data, notes, and other documents, whether in paper or electronic format or otherwise ("documents"), are instruments of service and shall remain the property of CONSULTANT, which shall retain all common law, statutory and other reserved rights including, without limitation, the copyright thereto. CLIENT's payment to CONSULTANT of the compensation set forth in the Agreement shall be a condition precedent to the CLIENT's right to use documents prepared by CONSULTANT.

6.2 Documents provided by CONSULTANT are not intended or represented to be suitable for reuse by CLIENT or others on any extension or modification of this PROJECT or for any other projects or sites. Documents provided by CONSULTANT on this PROJECT shall not, in whole or in part, be disseminated or conveyed to any other party, nor used by any other party, other than regulatory agencies, without the prior written consent of CONSULTANT. Reuse of documents by CLIENT or others on extensions or modifications of this project or on other sites or use by others on this PROJECT, without CONSULTANT's written permission and mutual agreement as to scope of use and as to compensation, if applicable, shall be at the user's sole risk, without liability on CONSULTANT's part, and CLIENT agrees to indemnify and hold CONSULTANT harmless from all claims, damages, and expenses, including attorney's fees, arising out of such unauthorized use or reuse.

6.3 Electronic Documents - CONSULTANT cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic writeable format. If CONSULTANT provides documents in writeable electronic format for CLIENT's convenience, CLIENT agrees to waive any and all claims against CONSULTANT resulting in any way from the unauthorized use, alteration, misuse or reuse of the electronic documents, and to defend, indemnify, and hold CONSULTANT harmless from any claims, losses, damages, or costs, including attorney's fees, arising out of the unauthorized use, alteration, misuse or reuse of any electronic documents provided to CLIENT.

6.4 Electronic Data Bases – In the event that CONSULTANT prepares electronic data bases, geographical information system (GIS) deliverables, or similar electronic documents, it is acknowledged by CLIENT and CONSULTANT that such PROJECT deliverables will be used and perhaps modified by CLIENT and that CONSULTANT's obligations are limited to the deliverables and not to any subsequent modifications thereof. Once CLIENT accepts the delivery of maps, databases, or similar documents developed by CONSULTANT, ownership is passed to CLIENT. CONSULTANT will retain the right to use the developed data and will archive the data for a period of three years from the date of PROJECT completion.

7. INSURANCE

7.1 CONSULTANT will retain Workmen's Compensation Insurance, Professional Liability Insurance with respect to liabilities arising from negligent errors and omissions, Commercial General Liability Insurance, Excess Liability, Unmanned Aircraft, Cyber Liability, and Automobile Liability during this PROJECT. CONSULTANT will furnish certificates at CLIENT's request.

7.2 Risk Allocation - To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the CONSULTANT to the CLIENT and anyone claiming by or through the CLIENT, for any and all claims, losses, costs or damage, of any nature whatsoever, the liability of CONSULTANT to all claimants with respect to this PROJECT will be limited to an aggregate sum not to exceed $100,000 or CONSULTANT's compensation for consulting services, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

7.3 Damages – Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither CLIENT nor CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the PROJECT or to this Agreement. This mutual waiver of certain damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that may be incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both CLIENT and CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this PROJECT.

7.4 CLIENT agrees that any and all limitations of CONSULTANT's liability or waivers of damages by CLIENT to CONSULTANT shall include and extend to those individuals and entities CONSULTANT retains for performance of the services under this Agreement, including but not limited to CONSULTANT's officers, partners, and employees and their heirs and assigns, as well as CONSULTANT's subconsultants and their officers, employees, and heirs and assigns.

8. DISPUTE RESOLUTION

8.1 In the event of a disagreement arising out of or relating to this Agreement or the services provided hereunder, CLIENT and CONSULTANT agree to attempt to resolve any such disagreement through direct negotiations between senior, authorized representatives of each party. If any disagreement is not resolved by such direct negotiations, CLIENT and CONSULTANT further agree to consider using mutually acceptable non-binding mediation service in order to resolve any disagreement prior to proceeding to litigation.

9. SITE ACCESS

9.1 Right of Entry - Unless otherwise agreed, CLIENT will furnish right-of-entry on the land for CONSULTANT to make any surveys, borings, explorations, tests or similar field investigations. CONSULTANT will take reasonable precautions to limit damage to the land from use of equipment, but the cost for restoration of any damage that may result from such field investigations is not included in the agreed compensation for CONSULTANT. If restoration of the land is required greater than those included in the scope of work, upon mutual agreement this may be accomplished as a reimbursable additional service at cost plus ten percent.

9.2 Damage to Underground Structures - Reasonable care will be exercised in locating underground structures in the vicinity of proposed subsurface explorations. This may include contact with the local agency coordinating subsurface utility information and/or a review of plans provided by CLIENT or CLIENT representatives for the site to be investigated. CONSULTANT shall be entitled to rely upon any information or plans prepared or made available by others. In the absence of physically confirmed underground structure locations, CLIENT agrees to accept the risk of damage and costs associated with repair and restoration of damage resulting from the exploration work.

10. OIL AND HAZARDOUS MATERIALS

10.1 If, at any time, evidence of the existence or possible existence of asbestos, oil, or other hazardous materials or substances is discovered, outside of any agreed scope of work or greater than those anticipated in any agreed scope of work, CONSULTANT reserves the right to renegotiate the fees for CONSULTANT's services and CONSULTANT's continued involvement in the PROJECT. CONSULTANT will notify CLIENT as soon as practical if evidence of the existence or possible existence of such hazardous materials or substances is discovered.

10.2 The discovery of the existence or possible existence of hazardous materials or substances, outside or greater than any proposed in the agreed scope of work, may make it necessary for CONSULTANT to take accelerated action to protect human health and safety, and/or the environment. CLIENT agrees to compensate CONSULTANT for the cost of any and all measures that in its professional opinion are appropriate to preserve and/or protect the health and safety of the public, the environment, and/or CONSULTANT's personnel. To the full extent permitted by law, CLIENT waives any claims against CONSULTANT and agrees to indemnify, defend and hold harmless CONSULTANT from any and all claims, losses, damages, liability, and costs, including but not limited to cost of defense, arising out of or in any way connected with the existence or possible existence of such hazardous materials substances at the site.

11. SITE INVESTIGATIONS

11.1 In soils, groundwater, soil gas, indoor air, or other investigations, conditions may vary between successive test points and sample intervals and for locations at or between where observations, exploration, and investigations have been made. Because of the variability of conditions and the inherent uncertainties in such evaluations, explorations, or investigations, changed or unanticipated conditions may occur that may affect overall PROJECT costs and/or execution. These variable conditions and related impacts on cost and PROJECT execution are not the responsibility of CONSULTANT.

11.2 CLIENT recognizes that special risks occur whenever engineering or related disciplines are applied to provide

information regarding subsurface conditions. Even an agreed sampling and testing program, implemented with appropriate equipment and personnel with the assistance of a trained professional performing in accordance with the applicable professional standard of care, may provide data or information which differs significantly from that discovered or encountered subsequently. Environmental, geological, and geotechnical conditions, that CONSULTANT may infer to exist between sampling points may differ significantly from those discovered or encountered subsequently. The passage of time also should be considered, and CLIENT recognizes that due to natural occurrences or direct, or indirect human intervention at or near the site, actual conditions may quickly change. CONSULTANT shall not be responsible for the identification of emerging contaminants for which no current regulatory provisions exists nor shall CONSULTANT be held liable for not identifying or discussing these compounds even if those compounds are detected at a later date. CLIENT realizes that these risks cannot be eliminated. The services included in this agreement are those agreed to, or selected, consistent with CLIENT's risk preferences and other considerations including cost and schedule.

11.3 By authorizing CONSULTANT to proceed with the site investigation services, CLIENT confirms that CONSULTANT has not created nor contributed to the presence of any existing hazardous substances or conditions at or near the site. CLIENT recognizes that there is an inherent risk in drilling, borings, punching or driving probes, excavating trenches or implementing other methods of subsurface exploration at or near a site contaminated by hazardous materials. Further, CLIENT recognizes that these are inherent even through the exercise of the Standard of Care. CLIENT accepts the risk and agrees to defend, indemnify, and hold CONSULTANT and each of CONSULTANT's subcontractors, consultants, officers, directors, and employees harmless against and all claims for damages, costs, or expenses direct or consequential, in connection with a release of hazardous substances, except to the extent that such claims, damages, or losses are adjudicated to have resulted from CONSULTANT's gross negligence or willful misconduct in the performance of the services.

12. FEDERAL AND STATE REGULATORY AGENCY AUDITS

12.1 For certain services rendered by CONSULTANT, documents filed with federal and state regulatory agencies may be audited after the date of filing. In the event that CLIENT's PROJECT is selected for an audit, CLIENT agrees to compensate CONSULTANT for time spent preparing for and complying with an agency request for information or interviews in conjunction with such audit. CLIENT will be notified at the time of any such request by an agency, and CONSULTANT will invoice CLIENT based on its standard billing rates in effect at the time of the audit.

13. CLIENT's RESPONSIBILITIES

13.1 Unless otherwise stated in the Agreement, CLIENT will obtain, arrange, and pay for all notices, permits, and licenses required by local, state, or federal authorities; and CLIENT will make available the land, easements, rights-of-way, and access necessary for CONSULTANT's services or PROJECT implementation.

13.2 CLIENT will examine CONSULTANT's studies, reports, sketches, drawings, specifications, proposals, and other documents and communicate promptly to CONSULTANT in the event of disagreement regarding the contents of any of the foregoing. CLIENT, at its own cost, will obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CLIENT deems appropriate; and render in writing decisions required by CLIENT in a timely manner.

14. OPINIONS OF COST, FINANCIAL ANALYSES, ECONOMIC FEASIBILITY PROJECTIONS, AND SCHEDULES

14.1 CONSULTANT has no control over cost or price of labor and materials required to implement CLIENT's PROJECT, unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs, competitive bidding procedures and market conditions, time or quality of performance by operating personnel or third parties, and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, CONSULTANT makes no warranty, expressed or implied, that CLIENT's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from any opinions, analyses, projections, or estimates which may be provided by CONSULTANT. If CLIENT wishes additional information as to any element of PROJECT cost, feasibility, or schedule, CLIENT at its own cost will employ an independent cost estimator, contractor, or other appropriate advisor.

15. CONSTRUCTION PHASE PROVISIONS

The following provisions shall be applicable should the CONSULTANT be retained to provide Construction Phase Services in connection with the PROJECT:

15.1 CLIENT and Contractor - The presence of CONSULTANT's personnel at a construction site, whether as onsite representatives or otherwise, does not make CONSULTANT or CONSULTANT's personnel in any way responsible for the obligations, duties, and responsibilities of the CLIENT and/or the construction contractors or other entities, and does not relieve the construction contractors or any other entity of their respective obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction contract documents and for providing and/or enforcing all health and safety precautions required for such construction work.

15.2 Contractor Control - CONSULTANT and CONSULTANT's personnel have no authority or obligation to monitor, to inspect, to supervise, or to exercise any control over any construction contractor or other entity or their employees in connection with their work or the health and safety precautions for the construction work and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except CONSULTANT's own personnel.

15.3 On-site Responsibility - The presence of CONSULTANT's personnel at a construction site is for the purpose of providing to CLIENT an increased degree of confidence that the completed construction work will conform generally to the construction documents and that the design concept as reflected in the construction documents generally has been implemented and preserved by the construction contractor(s). CONSULTANT neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the construction documents.

15.4 Payment Recommendations - Recommendations by CONSULTANT to CLIENT for periodic construction progress payments to the construction contractor(s) are based on CONSULTANT's knowledge, information, and belief from selective observation that the work has progressed to the point indicated. Such recommendations do not represent that

continuous or detailed examinations have been made by CONSULTANT to ascertain that the construction contractor(s) have completed the work in exact accordance with the construction documents; that the final work will be acceptable in all respects; that CONSULTANT has made an examination to ascertain how or for what purpose the construction contractor(s) have used the moneys paid; that title to any of the work, materials, or equipment has passed to CLIENT free and clear of liens, claims, security interests, or encumbrances; or that there are no other matters at issue between CLIENT and the construction contractors that affect the amount that should be paid.

15.5 Record Drawings - Record drawings, if required as part of CONSULTANT's agreed scope of work, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. CONSULTANT is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.

16. DESIGN WITHOUT CONSTRUCTION PHASE SERVICES

The following provisions shall be applicable should the CONSULTANT be retained to provide design services but not be retained to provide Construction Phase Services in connection with the PROJECT:

16.1 It is understood and agreed that the CONSULTANT's Scope of Services under this proposal does not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided by the CLIENT or others. The CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the CLIENT waives any claims against the CONSULTANT that may be in any way connected thereto.

16.2 In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CONSULTANT, its officers, directors, employees and subconsultants (collectively, CONSULTANT) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of the CONSULTANT.

17. SCHEDULE

17.1 The CLIENT agrees that the CONSULTANT is not responsible for damages arising directly or indirectly from any delays for causes beyond the CONSULTANT's reasonable control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters, pandemics, or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants.

17.2 The CONSULTANT's schedule includes reasonable allowances for review and approval times required by the CLIENT, performance of services by the CLIENT's consultants, and review and approval times required by public authorities having jurisdiction over the PROJECT. This schedule shall be equitably adjusted as the PROJECT progresses, allowing for changes in scope, character or size of the PROJECT requested by the Client, or for delays or other causes beyond the Consultant's reasonable control.

18. MISCELLANEOUS TERMS

18.1 GOVERNING LAW **-** The CLIENT and the CONSULTANT agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the jurisdiction where the PROJECT is located, without regard to any conflict of laws provisions, which may apply the laws of other jurisdictions.

18.2 LENDERS' REQUIREMENTS- The CONSULTANT shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the sole judgment of the CONSULTANT, increase the CONSULTANT's contractual or legal obligations or risks, or adversely affect the availability or cost of its professional or general liability insurance.

18.3 CORPORATE PROTECTION - Notwithstanding anything to the contrary contained herein, the CLIENT agrees that as the CLIENT's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the CONSULTANT, a Massachusetts corporation, and not against any of the CONSULTANT's individual employees, officers or directors.

18.4 TITLES - The section headings used in this Agreement are intended principally for convenience and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the parties to this Agreement.

18.5 Upon execution, these terms as incorporated into the accompanying proposal represent the final intent of the parties. Any modification, rescission, or waivers of these terms shall only be effective and binding if agreed to in writing by the parties.

FORESIGHT
LAND SERVICES, INC.

ENGINEERING · SURVEYING · PLANNING · ENVIRONMENTAL SERVICES

*Steven A. Mack, P.E.**
Marc S. Volk
Marc A. LeVasseur

December 7, 2022

Travis Delratez
Cheshire Water Superintendent
80 Church St
P.O. Box 657
Cheshire, MA 01225
413-441-7979
tdelratez@cheshire-ma.gov
water@cheshire-ma.gov

Re: Engineering and Surveying Services for Water Main Replacement South Street, Cheshire - Revised

Dear Travis,

We are pleased to provide a scope of services and fee estimate for engineering and surveying services for work associated with the water main replacement on South Street. We understand per our conversation that the Water Department requires a Topographic and Utilities survey of the section of roadway between West Mountain Road and Richmond Street as well as design plans and details for bidding and construction. In addition, the scope has been updated per discussions with the Water Commissioner on December 1st to include Items 1b., 2b, and 3b for continuation of the water main replacement to Lanesborough Road. Updated prices (1b, 2b) assume the original scope items (1a, 2a) are authorized and performed in the same phase. A separate fee estimate can be provided if projects are segmented. We propose the following:

Item 1a. Topographic & Utility Survey – West Mountain Road to Richmond Street
Under this item we will perform all necessary field survey work, office computations, and drafting necessary to provide a topographic and utility survey of the project area suitable for use in design of the water main replacement. Survey will be on an assumed datum suitable for 1-foot contour intervals. Major natural and man-made features such as roads, buildings, utilities, driveways, trees, stone walls and fences will be shown on the topographic drawing. Drainage Inverts are not included. We anticipate that the Town will locate (and paint) the existing water services for surveying purposes. Approximate Property Lines and Right of Way will be shown since we do not anticipate needing permanent easements for the work. If required, traffic police will be billed as a reimbursable expense.

Cost Item 1a: $3,700

Item 1b. Topographic & Utility Survey – Richmond Street to Lanesborough Road

Under this item we will perform all necessary field survey work, office computations, and drafting necessary to provide a topographic and utility survey of the project area suitable for use in design of the water main replacement. Survey will be on an assumed datum suitable for 1-foot contour intervals. Major natural and man-made features such as roads, buildings, utilities, driveways, trees, stone walls and fences will be shown on the topographic drawing. Drainage Inverts are not included. We anticipate that the Town will locate (and paint) the existing water services for surveying purposes. Approximate Property Lines and Right of Way will be shown since we do not anticipate needing permanent easements for the work. If required, traffic police will be billed as a reimbursable expense.

Cost Item 1b: $3,000

Item 2a. Design plans, Details, and Specifications for Water Main and Service Replacement – West Mountain Road to Richmond Street

Under this item we will develop final design plans, profiles, and details for the proposed water main replacement. Our design will include the following details: hydrants, valves, thrust restraint, pipe bedding and backfill, pavement and sidewalk repair, water service assembly, erosion and sedimentation controls and other water main related details. Plans and details will be suitable for bidding/construction. It is assumed that the main will be replaced with an 8" DIP and typical 1" Type K copper services. No fire lines, design calculations or modeling is included.

Cost Item 2a: $6,250

Item 2b. Design plans, Details, and Specifications for Water Main and Service Replacement – Richmond Street to Lanesborough Road

Under this item we will develop final design plans, profiles, and details for the proposed water main replacement. Our design will include the following details: hydrants, valves, thrust restraint, pipe bedding and backfill, pavement and sidewalk repair, water service assembly, erosion and sedimentation controls and other water main related details. Plans and details will be suitable for bidding/construction. It is assumed that the main will be replaced with an 8" DIP and typical 1" Type K copper services. No fire lines, design calculations or modeling is included.

Cost Item 2b: $4,500

Item 3a. Technical Specifications, Bid Documents, and Bid Phase Services – West Mountain Road to Richmond Street

Prepare a bid package including applicable construction details, special provisions, proposal bid sheets, technical specifications, and traffic management details. Also included are wage rates request, the Central Register notice, newspaper ad and the MassDOT request for pre-qualified bidders list. The Town will be responsible for posting an ad to CommBuys. An opinion of probable cost will be completed for bid purposes. Foresight will administer the bid, respond to bidder's questions, lead the pre-bid site visit, prepare addendums as necessary, and prepare the post-bid summary and contractor recommendation letter.

Cost Item 3a: $3,900

Item 3b. Technical Specifications, Bid Documents, and Bid Phase Services – Richmond Street to Route 8 (Assumes Separate Bid)

Prepare a bid package including applicable construction details, special provisions, proposal bid sheets, technical specifications, and traffic management details. Also included are wage rates request, the Central Register notice, newspaper ad and the MassDOT request for pre-qualified bidders list. The Town will be responsible for posting an ad to CommBuys. An opinion of probable cost will be completed for bid purposes. Foresight will administer the bid, respond to bidder's questions, lead the pre-bid site visit, prepare addendums as necessary, and prepare the post-bid summary and contractor recommendation letter.

Cost 3b: $3,900

Total Cost Items 1a-3b: $25,250

Possible Additional Services Not Included in the Basic Scope of Services:

- Easement Plan Preparation
- Additional Survey of Any Kind
- MassDOT Temporary Access Permit
- As-Built Location of New Construction
- Baseline Control
- Tying Topographic Survey to Specified Datum
- NPDES Stormwater Construction General Permit for Disturbances Over One Acre and Accompanying Storm Water Pollution Prevention Plan (SWPPP)
- Soils Evaluation and Test Borings for Site Design
- Geotechnical Report
- Storm Drainage Analysis
- Design of Stormwater Mitigation or Improvements to Existing Utilities
- Wetlands Delineation/Survey
- Wetlands Protection Act Notice of Intent or Permitting of Any Kind
- Backhoe or Excavator Fees
- Engineer's Opinion of Probable Cost for Construction
- Construction Phase Services
- Final Engineering Design and Construction Plans
- Highway Curb Cut Permitting
- MassDOT Review Process
- Utility Research or Location Services
- Filing Fees of any kind
- Meetings and Correspondence
- Reimbursable Expenses, Mileage, Postage, Printing, Binding, etc…
- Traffic Control of any kind

If this is acceptable, this letter will serve as our agreement for professional services. Please sign and date this letter below and return a signed copy as our authorization to proceed.

We look forward to working with you on this project. Please call if you have any questions.

Sincerely,
Foresight Land Services, Inc.

Marc A. LeVasseur
Vice President and Project Manager

ACCEPTANCE AND NOTICE TO PROCEED:
I hereby accept the terms and conditions contained in this letter agreement and the attached General Provisions for Limited Professional Services, authorize commencement of the work, and grant permission to enter on the land.

Client's Name (Typed or Printed): _____

Authorized Signature: _____

Date: _____

Billing Address: _____

_____

Email Address (for billing): _____

I. CONDITIONS OF AGREEMENT: These General Provisions together with the attached proposal constitute the terms of the Agreement between FORESIGHT LAND SERVICES, INC. a corporation duly organized under the laws of the Commonwealth of Massachusetts ("FORESIGHT), and the "CLIENT" with respect to the performance of the Services described in the attached proposal. The General Provisions also apply equally to the Basic Services as well as any Additional Services authorized subsequently, whether referred to explicitly or not. The proposal with Scope of Basic Services, any Additional Services authorized subsequently, any attachments, and these General Provisions contain all of the terms and conditions of this Agreement, and no oral representations made by either party prior to execution of this Agreement are a part hereof.

II. SCOPE OF SERVICES; STANDARD OF PRACTICE: FORESIGHT will act as an independent consultant representing the CLIENT (but will not be an "Agent" or employee of CLIENT). FORESIGHT agrees to perform the services described in the attached proposal. The Basic Scope of Services and the resultant fee are based on our current understanding of the Project and the assumptions in the proposal. FORESIGHT will carry out its services consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in Western Massachusetts under similar conditions. FORESIGHT makes no other representations concerning its services, express or implied; and offers no warranty or guarantee as part of this Agreement, or any report, opinion, or document generated as a result thereof.

III. ADDITIONAL SERVICES: Services not explicitly agreed to as detailed in this Agreement will be considered Additional Services and subject to increased project fees. Any Additional Services will be provided subject to the CLIENT's authorization.

IV. CERTIFICATIONS, GUARANTEES AND WARRANTIES: Foresight shall not be required to sign any documents, no matter by whom requested, that would result in Foresight having to certify, guarantee or warrant the existence of conditions whose existence Foresight cannot ascertain within the Basic Scope of Services and Standard of Practice. Foresight shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in Foresight's sole judgment, increase Foresight's risk or the availability or cost of its professional or general liability insurance. The Client also agrees not to make resolution of any dispute with Foresight or payment of any amount due to Foresight in any way contingent upon Foresight's signing any such certification. Notwithstanding, as applied to any services under this agreement, the words "certify" and "certification" shall be construed to mean an expression of the Consultant's professional opinion to the best of its information, knowledge and belief, and under no circumstances shall such a statement constitute a warranty or guarantee by the Consultant.

V. ACCESS TO SITE: Unless otherwise stated, FORESIGHT will have access to the Project Site for activities necessary for the performance of the services, and such access will be arranged by the CLIENT. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage. FORESIGHT will take precautions to minimize damage due to these activities, but shall not be held responsible for the restoration of any resulting damage.

VI. LEGAL REPRESENTATION: CLIENT is responsible for obtaining any and all legal advice and representation necessary for this Project, and when applicable, making its attorney available to FORESIGHT whenever necessary relative to the Project. Any opinions, conclusions or recommendations which FORESIGHT may express, or any assistance it may render to CLIENT on applications or processing of permits or approvals for the Project pursuant to this Agreement do not constitute legal advice. Consult your attorney about these matters.

VII. CAVEAT ABOUT SERVICES RELATED TO PERMITS AND APPROVALS: Granting of permits and approvals by municipal or other regulatory agencies often includes discretionary and subjective judgments. Such approvals depend upon many factors over which FORESIGHT has no control. FORESIGHT can therefore give no assurance that approvals will be granted or that any conditions imposed by the permit-granting authority will be acceptable to the CLIENT, or that permits will not be appealed. In consideration of CLIENT's assumption of the potential risks and rewards of the Project, CLIENT hereby waives any claim against FORESIGHT relative to any damages, direct or indirect, which may result from an unfavorable decision, appeal, or denial of any applications for permits or approvals. FORESIGHT shall be liable only for any proven damages resulting solely from FORESIGHT's negligent acts, errors or omissions, subject to the provisions of the Limitation of Professional Liability contained herein.

VIII. OPINION OF PROBABLE COSTS: Any opinions of the probable costs (not to be confused with "estimates") to construct the work recommended, designed, or specified by FORESIGHT are based on our experience and judgment as design professionals familiar with construction. The opinion may be based on a number of assumptions which FORESIGHT cannot control, such as hidden or changed site conditions, the means and methods of construction selected by the Contractor, the cost and extent of labor, equipment, and materials the contractor may employ, contractor's techniques in determining prices, market conditions at the time of bidding, and many other factors. Given the assumptions which must be made, FORESIGHT does not represent that its opinions of probable costs will be accurate. CLIENT therefore waives any claim against FORESIGHT relative to the accuracy of any opinion of probable construction costs prepared by FORESIGHT. If more accurate construction "estimates" is needed, CLIENT should hire a professional estimator.

IX. SERVICES DURING CONSTRUCTION:

If FORESIGHT's services include the performance of any services during the construction phase of the Project, it is agreed that the purpose of any such services (including any visits to the site) will be to enable FORESIGHT to better perform the duties and responsibilities assigned to and undertaken by it as an experienced and qualified design professional, and to provide the CLIENT with a greater degree of confidence that the completed work of the construction contractor or contractors (hereinafter "Contractor") will conform generally to the Contract Documents, and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the Contractor. Any Construction Observation Site Visits will be conducted at intervals appropriate to the stage of construction to allow FORESIGHT to observe the general progress and quality of the Contractor's work, and to enable FORESIGHT to give the CLIENT a greater degree of confidence that the work is being performed in a manner consistent with the construction documents. These Construction Observations shall not be construed as being equivalent to "Inspections" or full-time On-Site Project Representation, and are not represented as being complete or comprehensive. During Construction Observation Site Visits, FORESIGHT shall not be responsible for any of the Construction Activities on the jobsite. FORESIGHT shall have no responsibility for supervising, directing or controlling in any way the Contractor's work. FORESIGHT shall have no authority over nor responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, nor jobsite safety precautions and programs incidental to the work of Contractor, nor for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes, permit conditions, or orders applicable to Contractor furnishing and performing its work. FORESIGHT does not guarantee the performance of the construction contract by the

Contractor, and is not responsible if Contractor fails to furnish and perform its work in accordance with the Contract Documents, nor for any Change Orders that are issued during construction.

X. WORK SCHEDULE: FORESIGHT will endeavor to complete its services within the estimated schedule in the Agreement. If FORESIGHT is obstructed or delayed by any act of the CLIENT or the CLIENT's Contractor or agents, or by any act beyond the control of FORESIGHT including, but not limited to, inclement weather, illness, strikes, unanticipated degree of difficulty encountered in performing said services, or delay created within or by approving agencies, then the scheduled date for completion of the services will be extended an equivalent number of days. Compensation for any resulting additional services may also be required.

XI. PAYMENT TERMS; SUSPENSION OF SERVICES: The CLIENT agrees to pay FORESIGHT for the services rendered under this Agreement according to the amounts and payment methods specified in the Agreement. FORESIGHT will send you periodic invoices. Payment is due when you receive the bill. If you do not pay the balance due within thirty calendar days after the invoice date, FORESIGHT will add a FINANCE CHARGE OF 1½% PER MONTH (18% PER YEAR) to the amount due. In addition, FORESIGHT, at its sole discretion, may give you seven (7) days written notice, and suspend services under this Agreement unless you remit full payment within seven days. FORESIGHT is not liable for any delay or consequential damages which result from such suspension of services. The CLIENT agrees to pay all costs of collection, including reasonable attorneys' fees.

XII. DELIVERY AND REUSE OF ELECTRONIC FILES

In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the Consultant, the Client agrees that all such electronic files are instruments of service of the Consultant, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.

CLIENT agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of the Consultant.

The Client further agrees to waive all claims against the Consultant resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Consultant.

FORESIGHT makes no representation about the electronic files transmitted to CLIENT being compatible with Client's programs and computer systems. If FORESIGHT is required to expend additional effort to reformat electronic files into other formats for CLIENT's use, these efforts shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of ten (10) working days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic files shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy work product documents. In the event of a conflict between the final issued work product documents prepared by the Consultant and electronic files, the final hard-copy documents shall govern.

In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless FORESIGHT, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the Consultant or from any reuse of the electronic files without the prior written consent of the Consultant. Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by the Consultant, and the Consultant makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Consultant be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

XIII. OWNERSHIP AND USE OF DOCUMENTS: FORESIGHT will retain ownership of all documents it prepares or furnishes for this Project. This includes but is not limited to plans, drawings, reports, opinions of probable construction cost, specifications, field notes, computations, test data, computer files, and other such data, whether produced by hand or electronically, in hard copy or on electronic media. These documents are instruments of service prepared by FORESIGHT, and FORESIGHT shall retain all common law, statutory and other reserved rights, including without limitation, the copyrights thereto. FORESIGHT agrees to provide CLIENT with a limited license to use the "Work Products" listed in the Agreement for the intended purposes of the Project, and for information and record reference purposes in connection with the completed Project. Such limited license of the "Work Products" to the CLIENT, however, does not convey to the CLIENT any ownership rights, copyrights, or rights to reuse the Work Products for any other project.. In consideration of full payment for its services, FORESIGHT agrees that it will not release any confidential or proprietary "Work Products" specified in the agreement to any other party without CLIENT's prior consent. CLIENT may use the Work Products for reference information for the specified Project but for no other projects. CLIENT agrees not to re-use (or allow other parties to use) the "Work Products" or information (a) to complete the Project if FORESIGHT's agreement has been terminated or FORESIGHT is no longer involved in the Project; (b) extensions or revisions of the Project without FORESIGHT's involvement; or (c) any other project. If CLIENT wants to re-use or adapt FORESIGHT's previous work, the CLIENT is obligated as a condition precedent to negotiate with FORESIGHT appropriate additional compensation, indemnification clause, and other terms for such re-use or adaptation. If CLIENT re-uses or adapts the work without FORESIGHT's written authorization, consent or involvement, CLIENT assumes all associated responsibilities and risks, and agrees to defend, indemnify and hold harmless FORESIGHT and its sub-consultants, agents, officers and employees, from all direct or indirect claims, damages, losses and expenses, including reasonable attorney's fees and expert witness fees, arising out of or resulting therefrom such unauthorized reuse. Unless specifically stated in this Agreement, FORESIGHT will not provide CLIENT with any "Work Products" on electronic media. If such transfer of data is later agreed to, Special Terms and Conditions for Use of Electronic Data Files will apply in addition to these General Provisions and there may be additional compensation.

XIV. HIDDEN CONDITIONS & HAZARDOUS MATERIALS: FORESIGHT's services do not include studies or investigations regarding Hidden Conditions or Hazardous Materials. A condition is hidden if it cannot be investigated by reasonable visual observation or records reviewed as customary in the performance of the services being rendered. This includes without limitation underground utilities. Hazardous Materials may include, but are not limited to, asbestos, or spills of oil or other pollutants. If CLIENT is aware of or has reason to believe that such Hidden Conditions or Hazardous Materials exist on the site, CLIENT shall notify FORESIGHT. If FORESIGHT has reason to believe that Hidden Conditions or Hazardous Materials may exist on the Project Site, FORESIGHT shall notify the CLIENT. In either case, CLIENT shall authorize and pay for costs associated with the investigation of such a condition and, if necessary, costs necessary to correct said condition. If (1) the CLIENT fails to notify FORESIGHT, or (2) CLIENT fails to authorize such investigation or correction after due notification by FORESIGHT of such a condition, or (3) FORESIGHT has no reason to believe that such a condition exists, the CLIENT is responsible for

PLEASE INITIAL EACH PAGE IN THIS SPACE_____

all risks associated with this condition, and FORESIGHT shall not be responsible for the existing condition nor any resulting damages to persons or property. Unless specifically agreed upon prior to the commencement of service, FORESIGHT shall have no responsibility for the discovery, presence, handling, removal, disposal, or exposure of persons to hazardous materials of any form. In addition, it is agreed that FORESIGHT's liability insurance may not cover costs from claims involving hazardous materials. Therefore, the CLIENT agrees, to the fullest extent permitted by law, to release, defend, indemnify and hold harmless FORESIGHT and its sub-consultants, agents, officers and employees, from and against all claims, damages, losses and expenses, direct and indirect, including but not limited to attorneys' fees and defense costs, arising out of or resulting from the performance, or non-performance, of any services by FORESIGHT or claims against FORESIGHT involving Hidden Conditions or Hazardous Materials.

XV. CHANGED CONDITIONS; PROJECT CHANGES: During the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to FORESIGHT may be revealed, or may arise during the preparation of construction documents or during the construction phase. Changed Conditions may include but are not limited to redesign for owner-requested changes or permit-imposed conditions, changes in design scope during the CD phases resulting from coordination with other disciplines or 'value engineering', issuance of Change Orders during construction, or other unforeseen conditions. To the extent that such Changed Conditions affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, FORESIGHT may call for renegotiation of appropriate portions of this Agreement. FORESIGHT shall notify CLIENT of the changed conditions necessitating renegotiation, and FORESIGHT and CLIENT shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions. If terms cannot be agreed to, the parties agree that either party has the absolute right to terminate this Agreement in accordance with the Termination provision hereof.

XVI. INDEMNIFICATIONS: FORESIGHT and CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damage, liability or cost (including reasonable attorneys' fees and defense costs) to the extent caused by their own negligent acts, errors or omissions and those of anyone for whom they are legally liable, and arising from the project that is the subject of this agreement. Neither party is obligated to indemnify the other in any manner whatsoever for the other's own negligence.

XVII. TERMINATION: In the event of termination of this Agreement by either party, the Client shall within fifteen (15) calendar days of termination pay FORESIGHT for all services rendered and all reimbursable costs incurred by FORESIGHT up to the date of termination, in accordance with the payment provisions of this Agreement. Client may terminate this Agreement for the Client's convenience and without cause upon giving FORESIGHT not less than seven (7) calendar days' written notice. Either party may terminate this Agreement for cause upon giving other party not less than seven (7) calendar days' written notice for any of the following reasons: Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party; Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party; Suspension of the Project or the Consultant's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate; Material changes in the conditions under which this Agreement was entered into including a significant change in the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes. In the event of any termination that is not the fault of FORESIGHT, the Client shall pay FORESIGHT, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by FORESIGHT in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from the termination.

XVIII. ALLOCATION OF RISKS; LIMITATION OF PROFESSIONAL LIABILITY: CLIENT and FORESIGHT have discussed the respective risks, rewards, and benefits of the Project while developing the objectives and Scope of Services. This Agreement represents an equitable allocation of those risks and rewards. In consideration of FORESIGHT's risks, and in order to persuade FORESIGHT to enter into this agreement, CLIENT agrees to limit FORESIGHT's total liability to the CLIENT for or on account of all claims and/or damages of any nature whatsoever caused by or arising out of FORESIGHT's performance of its services on this Project, including but not limited to FORESIGHT's negligent acts, errors or omissions, such that the total aggregate liability of FORESIGHT shall not exceed Fifty Thousand Dollars ($50,000) or FORESIGHT's total fee, invoiced and paid, for services rendered on this Project, whichever is greater. FORESIGHT agrees to maintain Professional Liability Insurance in effect throughout the term of this Agreement. An Insurance Certificate will be sent to CLIENT upon request. In consideration of FORESIGHT procuring and maintaining said insurance, CLIENT agrees to hold personally harmless and hereby releases any and all claims against any director, officer, employee, or agent of FORESIGHT arising from any negligent act, error, or omission now existing or hereinafter arising in connection with the Project. CLIENT agrees that for any and all claims for damages that it may have arising from any negligent act, error, or omission by FORESIGHT, CLIENT shall assert said claim against FORESIGHT directly and not against any of FORESIGHT's directors, officers, employees, or agents.

XIX. CONSEQUENTIAL DAMAGES: Notwithstanding any other provision of the Agreement, CLIENT and FORESIGHT agree that neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the CLIENT or FORESIGHT, their respective employees, directors, officers, agents, consultants, or contractors. Consequential damages may include but are not limited to loss of use, loss of profit, damages due to delays, and/or effect on financing.

XX. DISPUTE RESOLUTION: CLIENT and FORESIGHT agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation, unless the parties mutually agree otherwise in writing. CLIENT and FORESIGHT further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

XXI. APPLICABLE LAW: The offer to perform services under this Agreement has been signed in the Commonwealth of Massachusetts and all terms and conditions of the Agreement shall be interpreted according to Massachusetts laws.

XXII. ACCEPTANCE PERIOD: This Agreement is open for acceptance for a period of thirty (30) days after the offering date on the Agreement, after which time it becomes null and void.

PLEASE INITIAL EACH PAGE IN THIS SPACE_____

80 Run Way | Lee, MA 01238
Phone: (413)243-4122 Fax: 877.335.7282
WWW.BerkshireEngineering.com

Scope of Work for Service Agreement prepared for Cheshire Water Department

Proposal for Work

Date	**Site Location:**	**Invoice Address:**
February 1, 2023	South Street (Route 8) Cheshire, MA 01225 West Mt Road to 104 South Street	Town of Cheshire - Water Department P.O. Box 667 Cheshire, MA 01225 via email: jmorse@cheshire-ma.gov tdelratez@cheshire-ma.gov

Berkshire Engineering, Inc. (BE Inc.) appreciates the opportunity to submit this proposal for professional services associated with engineering design, permitting, and preparation of public bidding documents for waterline replacement within the vicinity of West Mountain Road to 104 South Street. We understand that it is the intention of the Town of Cheshire Water Department to replace the existing water main in the subject area with a new 8-inch ductile iron water main. Additionally, all associated hydrants, gate valves, corporations, and curb stops shall also be replaced. A table listing the extents of the watermain replacement work as defined by the Cheshire Water Commissioners is provided below:

Street	Planned Improvements
South Street	Approx. 1550 LF 8-inch water main (18 approx) services with curb stops and corporation stops. Hydrant(s) as required.

It was also indicated that the contractors should not anticipate bedrock or the need for groundwater pumping during installation of piping and appurtenances. Based on the Town's knowledge of the subsurface conditions, we understand that the need for geotechnical borings to be waived by the Commission. In lieu of conducting geotechnical borings, we recommend that the Town excavate 2 test pits at strategic locations to confirm presence or absence of groundwater at working depths. However, we will respect the discretion of the Water Commissioners in regards to the conducting of subsurface investigations. The presence of Kitchen Brook in the area of #104 South Street may introduce some influence to the levels of groundwater in the area. Any anecdotal understanding or knowledge of subsurface conditions in the area would be beneficial to the design and bidding process.

FIELD WORK

- **Existing Site Investigation and Documentation** — $2,800
  - In coordination with the Town of Cheshire Water Department, conduct investigation of the existing site to identify possible constraints and for most appropriate location to site the new water main.
  - Investigations and documentation of existing conditions shall include: measuring manhole inverts to all piping and establish, to the best extent practicable, elevation and direction of piping, determine the locations of known utilities within adjacent structures.
  - Mark the site for Dig-Safe

- Conduct topographic mapping of the length of the proposed main replacement to aid in conflict avoidance. We anticipate incorporating any available GIS mapping available from the Town and Mass Rural Water Service to include with the project background data. Rights of way and property lines are assumed to be evident and their formal evaluation and determination is not proposed as part of this quote. Formal property survey will not be provided however, any available surveys will be referenced and any recoverable property monumentation will be located for consideration.

- **Coordination with Town Representative** $600-$860
  - One client meeting is anticipated in order to review knowledge of utility locations within the right-of-way and adjacent parcels. ($300)
  - Site observation of test pits conducted by CWD or Town personnel for not more than 4 hours. ($560 optional charge upon request)

DESIGN AND COORDINATION

- **Prepare Design Drawings suitable for Construction** $5,800
  - Prepare design drawings, including plans and details, of the proposed construction suitable for contractor bidding.
  - Using information collected during site investigations and from the 2018 Capital Improvements Plan, and GIS mapping by Mass Rural Water, we will depict locations of any existing services for reconnection, existing hydrants, control valves and other pertinent components along with proposed improvements.
  - Prepare a drawing of recommended profile for crossing beneath Kitchen Brook using horizontal directional drilling techniques.
- **Coordination with Water Commission** $300
  - One client meeting is anticipated in order to review the construction drawings with the Water Commissioners and/or the Water Department Superintendent.

PERMIT APPLICATIONS, REPORTS

- **Permitting**
  - MassDEP Drinking Water Program System Modification – Permit Application File a BRP WS 33, Distribution Modification as required for systems that serve 3,300 people or less, with MassDEP for the replacement of the existing water lines. (DEP BRP WS 33 Permit application Fee – Exempt from Fees) $1,300
  - Portions of the work fall within 200LF of Kitchen Brook (a Perennial Stream). Portions of the work fall within 200' to Kitchen Brook as well as beneath the stream. Work in these areas require that a Notice of Intent be submitted to the Cheshire Conservation Commission to allow the replacement/repair of existing water supply infrastructure to occur within Wetlands Resources jurisdictional under the MA Wetlands Protection Act. $ 2,400
  - MADOT – Prepare Application to allow work to occur within MADOT controlled right of way. Prepare and submit required traffic control plan following determination of desirable routing for water main improvements. $2,300

PROJECT BIDDING

- **Preparation of Bidding and Specification Documents** — $3,500
  - Prepare contractor bidding and specification packages in compliance with Commonwealth of Massachusetts Public Bidding Laws.
  - Bidding documents to be configured to allow the Town to select all or portions of the work as the budget and funding will support.
- **Conduct Project Bidding** — $1,200
  - Solicit, prepare and release bid packages in conformity with current Massachusetts Bidding Laws to contractors requesting bid packages. Submit proper legal ads and notices to Central Register and local newspaper (expense to be borne by Town of Cheshire). The Town's Procurement Officer must notify CommBuys directly of the anticipated bidding. Respond to contractor's inquiries, issue addenda and attend pre-bid meeting as required. The distribution of up to four hard copies and electronic copies (.PDF) of bid packages to the Town and qualified bidders is anticipated.
  - Review contractors' bids for compliance with bidding documents and laws. Report bid status to CWD.

CONSTRUCTION MONITORING

- **Provide Support to CWD during construction of improvements, as needed/hourly** — $1,500 (budget only)
  - Attend pre-construction conference with the Water Commission, Superintendent and General Contractor to establish timelines for construction, format for payment requests, timing for release of funds etc.
  - Perform periodic site visits as required by CWD. We anticipate that daily oversight will be provided by CWD personnel with visits by BEI on a weekly basis.
  - Review contractors' payment requests as requested by CWD.
  - Review any contractor requests for extras and communicate the best position for the Town with CWD.
  - CWD Water Superintendent to maintain field sketches and ties to locations of buried appurtenances on project drawings. Final as-built will not be provided unless requested. A budget amount for completing as-built drawings is not included. We recommend that swing ties be recorded prior to burial of significant system components. Preparation of a plan of ties is recommended.

DELIVERABLE MATERIALS

We will provide you with one hard copies of our reports drawings or bid packages. An electronic copy will also be sent if an email address is provided. Additional copies are available for a reproduction fee upon request. However, we find electronic copies to be a reliable method for maintaining project documents.

SCHEDULES

We are available to commence the preliminary research activities within two weeks of execution of this contract.

FEE

Our estimated fee to complete the project to the point of construction is **$20,460**. Optional and/or necessary work tasks include oversight and coordination of boring test pits conducted with Town personnel .These tasks may increase the budget by an additional **$1,360**nd permitting fees. Costs

associated with construction monitoring as outlined above will be invoiced on an 'as requested basis', budget amount of **$1,500.** Our fee proposal is based on work hours and the rates listed below for similar projects completed by our staff. Please note these fees assume completion of work activities during normal business hours unless otherwise noted. In the event that evening, weekend, or other off-hour attention, rate multipliers may apply but are not anticipated for this project.

STAFF	RATE
Professional Engineer	$140/hour
Design Engineer	$125/hour
Staff Engineer	$110/hour
Field Engineer	$100/hour
Engineering Technician & Clerical	$60/hour
Ground Penetrating Radar/Field Investigation	$100/hour
Check Writing-Administration Fee	10%

Project associated expenses are considered reimbursable and not included in the estimated fee above. These fees may include, permit application fees paid to the Town and/or State approving authorities, public advertising, postage, copies and reproduction expenses.

ACCEPTANCE AND AUTHORIZATION TO PROCEED

We look forward to the possibility of working with you on this project. The standard Terms & Conditions governing the work to be conducted are provided in Attachment 1, which is hereby made part of this Proposal. If you accept this agreement, please execute this document via mail, fax or email acceptance and return it. If you have any questions or comments, please do not hesitate contact us.

Sincerely,



Michael S. Kulig, PE, President
Berkshire Engineering, Inc.

IN WITNESS WHEREOF**,** the parties hereto have caused this SOW to be effective as of the day, month and year first written above.

Client Name: Cheshire Water Department

Signature: _____ By: Berkshire Engineering, Inc.

Date: _____ Name: _____

Signature: _____ By: Berkshire Engineering, Inc.

Date: _____ Name: _____

ATTACHMENT 1: TERMS & CONDITIONS

These Terms and Conditions and the Proposal dated, **February 1, 2023,** prepared and submitted by Berkshire Engineering, Inc. (BE Inc.) to **Cheshire Water Department, (**Client), and any additional services authorized hereunder in writing constitute the "Agreement" between BE Inc. and the Client. No oral representations made by either party prior to execution of this Agreement are part of this Agreement.

Services and Reliance: The services rendered in our proposal will be performed for the sole use of the Client and for this project. Any reuse or reliance on this work by third parties is prohibited and shall only be done with the prior written consent of BE Inc. Any additional services will be agreed to in writing by both parties for an additional fee.

Standard of Care: BE Inc. will perform services under this agreement as an independent consultant and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in Western Massachusetts under similar conditions. No other representation, express or implied, and no warranty or guaranty is included or intended in this Agreement, or in any report, opinion, document, or otherwise. BE Inc. is not responsible for the accuracy and veracity of information provided to us by outside parties with respect to the project Site and adjacent properties.

Any work associated with site layout, construction estimating, construction bidding or construction oversight is not included in this proposal. The plan we will provide is not to be considered a property survey. A property survey may be required if there is insufficient field data exists to establish required property line setbacks with reasonable certainty.

An alternative method of percolation testing may be incorporated based on ground conditions at the discretion of the Soil Evaluator. In the event laboratory analysis testing is required an additional fee for testing will be incurred, this fee is typically offset by the differential time required to take the sample when compared to time required to conduct a percolation test. The alternative perc testing method would exclude the property owner from increase sewage flows at the site (adding a bedroom).

Title 5 regulations require the engineer to monitor septic system construction periodically. These inspections are required under law and shall be the owners/contractors responsible to notify the engineer when inspection services are needed at the site. The service is invoiced separately at the time of the performance.

Termination: Client may terminate this Agreement without penalty upon seven (7) calendar days' written notice to BE Inc., provided that Client shall be obligated for all services performed by BE Inc. on Client's behalf as of the effective date of termination. Such services shall include those rendered up to the date of termination, as well as those reasonable costs associated with the termination itself, such as demobilization. BE Inc. reserves the right to take measures necessary to evaluate the credit history of the Client and subsequently, cancel or modify this proposal as deemed necessary. BE Inc. may suspend services under this Agreement upon seven (7) calendar days' written notice to Client of non-payment of invoices unless the Client pays in full within seven (7) calendar days. If BE Inc. has stopped work on a project for this reason, we will not be held responsible for consequences, financial or otherwise associated with project delays or final completion thereof. In the event of termination for non-payment of invoices Client will be responsible for all reasonable termination costs incurred by BE Inc.

Payment: Invoices for services will be submitted monthly. By signing this Agreement, Client agrees to make payment to BE Inc. upon receipt of the invoice. Any balances on Client's account remaining unpaid for a period of 30 days will incur a service charge of 1-1/2% per month (expressed as an annual percentage rate, the charge is 18%). If said account is turned over for collection, reasonable attorney's fees and costs of collection shall be added to the unpaid balances, whether or not legal action is instituted. The parties to this contract specifically agree BE Inc. has no obligation to release drawings, test results or other documents until the final bill for services associated with the production of those documents has been paid.

Assignment: Neither party to this Agreement shall assign its duties and obligations hereunder without prior written consent of the other party, except BE Inc. may use the services of persons and entities not in its employ, when it is necessary or BE Inc. deems appropriate. Such persons may include, but are not necessarily limited to, surveyors, drilling contractors, and testing laboratories.

Governing Law; Severability: This Agreement shall be governed and enforceable in accordance with the laws of Massachusetts. Any element of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

Right of Entry: Client shall provide to BE Inc., and its subcontractors, access to any Site necessary to perform the Scope of Work included hereunder. Client understands certain tasks, such as field explorations, may cause damage. BE Inc. shall be responsible for such damages to the extent caused by our negligent acts.

Underground Structures: If subsurface explorations are performed, Client will provide BE Inc. with all plans and other information in Client's possession or control concerning Site underground structures. Client agrees to accept the risk of damage associated with repair or restoration of any improvement not located on plans and/or identified in information provided to BE Inc.

Samples & Contaminated Media: Contaminated media generated as part of assessment or project activities are the sole responsibility of the Client. BE Inc. can assist with the proper transportation and disposal of contaminated materials, at the Clients expense. BE Inc. will pay for the transportation and disposal of contaminated materials only if expressly stated in our Scope of Services. Unless expressly requested in writing by the Client, BE Inc. will not retain samples from the Site for long-term storage. Samples for laboratory analyses will be retained and stored for the interim period during transport to the laboratory.

Field Observation Services: BE Inc.'s services will not include the direction or supervision of a contractor or subcontractor other than those contracted directly by BE Inc. Our services do not include responsibility for Health & Safety practices performed by others on the Site.

Ownership of Documents: All reports, boring logs, field data, field notes, photographs, laboratory test data, calculations, estimates, and other documents prepared by BE Inc. are instruments of service and shall remain the sole property of BE Inc., who shall be deemed the author and retain all statutory and common law rights, including, but not limited to, copyrights. BE Inc. shall retain such records for a minimum of three (3) years. At Client's request, BE Inc. will provide reasonable access or copies of such documents. Reproduction costs will be at the Client's expense.

Disclosure of Information: Client will inform BE Inc. of all information in Client's possession or control relevant to the performance of BE Inc.'s services. This information includes, but is not limited to, all prior Site reports, Site plans or maps, waste disposal manifests, permits, and analytical data. Client will indemnify, defend, and hold BE Inc. harmless of and from all loss or damage resulting from any claim which arises, in whole or in part, as a result of information Client fails to disclose to BE Inc.

Limitation of Professional Liability: The owner/client agrees to limit the liability of BE, Inc., to the owner and or Client and to all construction contractors and subcontractors on the project arising from BE Inc.'s negligent acts, errors and omissions such that the total aggregate liability of BE, Inc. will not exceed the contract amount or $25,000, whichever is less.

Consequential Damages: Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the CLIENT or BE, INC., their employees, directors, officers, agents, sub consultants, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

Dispute Resolution: CLIENT and BE, INC. agree all disputes between them arising out of or relating to this Agreement shall be submitted to binding arbitration, unless the parties mutually agree otherwise in writing. CLIENT and BE, INC. further agree to include a similar arbitration provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar provision in all agreements with subcontractors and sub-consultants.

TOWN OF CHESHIRE

80 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225
PHONE (413) 743-1690 | FAX (413) 743-0389

WWW.CHESHIRE-MA.GOV

OFFICE OF THE BOARD OF SELECTMEN

Meeting Minutes – January 24, 2023

Pursuant to a notice duly filed with the Town Clerk, a meeting of the Board of Selectmen was held in person at 191 Church Street (Cheshire Elementary School) on Tuesday January 24, 2023, at 6:30 PM

Members Present: Michelle Francesconi, Chair
Shawn McGrath, Vice Chair
Jason Levesque
Ron DeAngelis
Ray Killeen

Others Present: Jennifer Morse, Town Administrator; Corey McGrath, Facilities Manager; Lynn Melchiori; Peter Traub; Ron Charbonneau; IBerkshires.

Summary of Votes:

- Vote to opt out of Early Voting for May 1, 2023 Annual Town Election 5-0
- Vote to approve the consent agenda except for the January 11, 2023 Minutes 5-0
- Vote to approve the Minutes of January 11, 2024 4-0-1
- Vote to approve Cemetery Groundskeeper seasonal positions 5-0
- Vote to approve Special Town Meeting date of March 6, 2023 5-0
- Vote to approve EDM Proposal for Former Elementary School Change of Use 5-0
- Vote to approve Water Department Generator Contract 5-0
- Vote to adjourn at 7:18 p.m. 5-0

M. Francesconi opened the meeting at 6:30 p.m.

Town Clerk – Annual Town Election Early Voting opt Out.

An informational packet provided by the Town Clerk was reviewed by the board. The Town Clerk is requesting that the Board of Selectmen "opt out" of early voting by mail and in person for the Annual Town Election on May 1, 2023. Any subsequent Special Town Elections would need to be voted separately; this is in accordance with the Vote Act of 2022. S. McGrath verified that absentee voting will still be an available option.

A motion was made by M. Francesconi and seconded by R. Killeen to opt Out of Early Voting for the May 1, 2023 Annual Town Election

Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Provided in the packet was the Annual Town Election information and list of election workers. Discussion regarding Massachusetts General Law Chapter 54, Section 12 and the discussion from late last fall about appointing election workers according to law. The Town Administrator will request that the Town Clerk provide the board with party affiliations and ask the Town Clerk to join the board at a future meeting.

Consent Agenda

Minutes January 11, 2023, January 17, 2023
Recreation Committee Appointments – Tim Garner, Corey McGrath, Christopher Garner
Municipal Hearings Officer Appointment – Jennifer Morse
Chapter 90 Request - $356,950 Spring Paving Projects

A motion was made by M. Francesconi and seconded by J. Levesque to approve the Consent Agenda except for the minutes of January 11, 2023, as J. Levesque was not present.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

A motion was made by M. Francesconi and seconded by S. McGrath to approve the meeting minutes of January 11, 2023.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Abstain, M. Francesconi – Yes
Motion Carries: 4-0-1

Board of Selectmen Discussion/Decision Items

a. Cemetery Laborer & Foreman Job Descriptions

Draft job descriptions were reviewed, and the Town Administrator explained that to apply for seasonal positions with the state the job descriptions must be approved. She also reviewed the seasonal positions and the requirement that the town monitor the positions closely to ensure no more than twenty weeks worked. The Cemetery would have two dedicated workers (one foreman, one groundskeeper) that work May - October Laborer - Discussion on changing the title to Groundskeeper which would allow for flexibility in allowing the employee to work within the Highway Department as well. There was also discussion regarding youth workers and the Town Administrator mentioned the upcoming Hoosac Valley event and will contact McCann as well. Foreman - Discussion on the Foreman reporting to the Cemetery Commission this year, this can be changed if there are organizational changes in the future. The Town Administrator will update the job descriptions and send them to the Water Commissioners for input again. Additional discussion on how many seasonal positions to hire and it was determined at least two possibly four, that will be discussed at a future meeting.

A motion was made by S. McGrath and seconded by M. Francesconi to transition to two – four seasonal Groundskeeper positions.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Town Administrator Updates

a. Special Town Meeting Date – March 6, 2023

The Town Clerk and Moderator are both agreeable to a March 6, 2023, Special Town Meeting date to address the Sandmill Bridge layout and the Lead Service Line inventory and replacement plan. The Town

Administrator noted that she had sent a request to counsel for language for the Sandmill Bridge layout article.

A motion was made by M. Francesconi and seconded by R. DeAngelis to hold a Special Town Meeting on Monday March 6, 2023
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

b. EDM – Elementary School Change of Use Proposal
The proposal was reviewed by the board, EDM will be on site tomorrow Wednesday January 25, 2023, to begin the study.

A motion was made by S. McGrath and seconded by R. Killeen to move forward with the EDM proposal for the Elementary School Change of Use
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

c. Budget Preparation
The first joint meeting with the Finance Committee is at the end of February. Boards/Committee/Department budgets are coming in and the FY24 preliminary budget will be sent to the board by February 14th. After it is initially reviewed budget hearings will be set up.

d. BRPC – Assessment and Procurement
The Town Administrator shared an email regarding the Assessment and information regarding the Procurement Program. Further she shared that the Capital Budget information was provided today however it has not been reviewed.

e. Water Department Generator (received 1/23/23)
The Town Administrator shared that the Generator at the Pumphouse recently had work done as it was not working properly. The contract has expired, and the Water Commissioners are recommending that the new one be signed. The contract is for two years at $950 per year.

A motion was made by R. DeAngelis and seconded by R. Killeen to sign the Generator service contract for the Water Department Pumphouse
Roll Call Vote: R. DeAngelis – Yes, R. Killeen- Yes, S. McGrath- Yes, J. Levesque – Yes, M. Francesconi – Yes
Motion Carries: 5-0

Announcements from Board Members

S. McGrath inquired about the letter in the packet from Eric Whitney regarding the sale of the trailers at HD Reynolds. The Town Administrator will get clarification from the Building Commissioner/zoning Enforcement Officer regarding permitting and process.

M. Francesconi mentioned that the Memorial Day Parade committee had their first meeting. They will be requesting essays from children (discussion on offering gift certificates), looking for businesses to participate. There was discussion about the parade route, and it was suggested that the lineup be on Railroad Street with bikes meeting at the Post Office (if allowed). S. McGrath suggested reaching out to youth sports teams.

M. Francesconi also mentioned the Father-Daughter dance scheduled for Friday February 17, 2023, from 6:30 – 8:30 p.m. at the Former Cheshire Elementary School. Tickets are available at the Cheshire Library and Cheshire Police Station. This event is sponsored by the Recreation Committee.

Public Comment

None

Adjournment

A motion was made by M Francesconi and seconded by J. Levesque to adjourn the meeting at 7:18 p.m.
Roll Call Vote: R. DeAngelis – Yes, R. Killeen – Yes, S. McGrath – Yes, M. Francesconi- Yes
Motion Carries: 4-0

Respectfully submitted,
Jennifer Morse
January 26, 2023

Document List

1. Agenda – 1/24/2023
2. Town Clerk opt Out Information
3. Town Clerk Annual Town Election Information
4. Election Workers
5. Minutes – January 11, 2023
6. Minutes – January 17, 2023
7. Chapter 90 Request – Spring Paving Projects
8. Draft Cemetery Foreman Job Description
9. Draft Cemetery Laborer Job Description
10. EDM Proposal – School Use
11. Email BRPC regarding Assessment Fee
12. Letter HD Reynolds regarding Sale of Utility Trailers
13. Letter from Zoning Enforcement Officer regarding proposed bylaw changes
14. Water Department Bi-Weekly Report
15. Council on Aging Monthly Report
16. Highway Department Bi-Weekly Report

Hoosac Valley Regional School District

191 Church Street
Cheshire, Massachusetts 01225-9523

Aaron Dean
Superintendent of Schools
Telephone 413-743-2939

Lisa Bresett
Assistant to the Superintendent
Telephone 413-743-2939

Erika Snyder
Business Administrator
Telephone 413-743-8401

January 25, 2023

Mr. Jay Green, Town Administrator
Town Hall
8 Park Street
Adams, MA 01220

Ms. Jennifer Morse, Town Administrator
Town Hall
80 Church Street
P.O. Box 647
Cheshire, MA 01225

Dear Mr. Green & ~~Ms. Morse~~, Jennifer

Please be advised that on February 6, 2023 at 6:30 the Hoosac Valley Regional School Committee will hold a meeting at which the Town Administrators or chairs of the selectboard from the member town shall elect one of their members to represent them in collective bargaining pursuant to M.G.L. c. 150E, sec. 1.

Sincerely,

Aaron Dean, Superintendent

The Hoosac Valley Regional School District does not discriminate on the basis of race, color, national origin, sex, gender identity, religion, disability, or sexual orientation

The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts

OFFICE OF THE
TOWN CLERK

80 Church Street
P.O. Box S
Cheshire, MA 01225
Tel. (413) 743-1690 x22
Fax (413) 743-0389
townclerk@cheshire-ma.gov

Poll Staff for 2023

Alison Warner	Democrat	Election Official
		Assistant Election Official

Mary Ellen Baker	Unenrolled
Neil Baker	Unenrolled
Robert Belini	Unenrolled
Carol Daniels	Unenrolled
Nancy Delorey	Unenrolled
Carol Francesconi	Unenrolled

Counters (Tellers)

Sharon Chalmers	Unenrolled
Thomas Chalmers	Unenrolled
Lorraine Faucher	Unenrolled
Denise Gregoire	Unenrolled
Ann Mange	Unenrolled
Stephanie Martin	Unenrolled
Judy Serafin	Unenrolled
Wendy Warner	Unenrolled

Possible New Staff

Robert Daugherty	Unenrolled
Celia Ferro	Unenrolled

Brandi Lightsey	Unenrolled
Gail Miller	Unenrolled
Shawn Tierney	Unenrolled

Heather Emerson has resigned from Election Staff.

Cheshire no longer has Democrat or Republican Town Committees.

Board of Registrar of Voters

Gary Herzog	Republican
Diane Hitter	Democrat
Elizabeth King	Democrat
Christine Emerson	Unenrolled

CBE

1/26/2023

Part I ADMINISTRATION OF THE GOVERNMENT

Title VIII ELECTIONS

Chapter 54 ELECTIONS

Section 12 ELECTION OFFICERS IN TOWNS; PROCEDURE; ELIGIBILITY; EXAMINATIONS

[Section impacted by 2020, 45, Secs. 1 and 1A, as amended by 2020, 92, Secs. 1 to 3, effective March 23, 2020; 2020, 92 Secs. 15 to 17 effective June 5, 2020; 2020, 115, Secs. 6 and 12, effective July 6, 2020; and 2021, 5, Secs. 1 and 2, effective March 16, 2021 and 2020, 255, effective December 31, 2020 as amended by 2021, 5, Secs. 4 to 8, effective March 16, 2021 and 2021, 29, Secs. 51 to 55, effective July 29, 2021, relating to elections in order to address disruptions caused by the outbreak of COVID-19.]

Section 12. The selectmen of every town shall annually, not earlier than July fifteenth nor later than August fifteenth, appoint as election officers for each voting place or precinct, except as provided in section twenty-four, one warden, one deputy warden, one clerk, one deputy clerk, two inspectors and two deputy inspectors, who shall be enrolled voters in the commonwealth, except as otherwise provided in this section. They may, in like manner, appoint two inspectors and two deputy inspectors in addition, and such number of tellers as may be necessary to count the

ballots cast. Said tellers shall be appointed for the counting of said ballots at the close of the polls. In the event that the selectmen fail to appoint such election officers on or before August fifteenth, the board of registrars of voters shall forthwith appoint said officers. The state secretary shall establish a waiver system to allow a town to request to appoint fewer election officers than specified in this paragraph.

The chairman of the town committee of each political party may, not later than June first in each year, file with the registrars a list of enrolled members of such party who desire appointment as election officers. The selectmen shall, not later than April fifteenth of each year, make written notification to the chairman of record of the town committee of each political party that said list must be submitted no later than June first of the same year. Upon the filing of such lists the registrars shall forthwith proceed to the consideration thereof, and shall, on or before June thirtieth submit to the selectmen the names of persons whose names appear on the lists who in their opinion are qualified to act as election officers. The lists submitted by town committees shall contain not more than eight names for each office to be filled. Supplemental lists may be filed with the selectmen and registrars by the said chairman at any time before the appointments are made, for the purpose of filling vacancies which may occur in the original lists. No person shall be appointed as an election officer until he is found qualified to act as such as herein provided. Appointments shall be made from the original list before any names are taken from any supplemental list. All persons listed on the original list who have not been appointed as election officers shall be notified by certified mail of the appointment of a person listed on the supplemental list at least five days prior to such appointment.

If, upon the expiration of fifteen days after notice given in writing prior to June fifteenth in any year by the selectmen to the chairman of any political committee who has not filed original or supplemental lists, and to the chairman of the state committee of such political party, neither the state nor town chairman shall have filed such lists, the selectmen may appoint as election officers registered voters in the commonwealth, except as otherwise provided in this section and recommended by the town clerk, who in the opinion of the selectmen, are qualified to act as such.

Not more than 2 such election officers may be appointed who: (1) are 16 or 17 years of age; (2) are residents of the commonwealth; (3) are United States citizens when appointed; (4) are able to speak, read and write the English language; (5) have provided a letter from a parent or guardian giving permission for them to serve as election officers; (6) have provided a letter from their school principal giving permission for them to be absent from school to serve as election officers if the election or a training will take place when school is in session or, if home schooled, have provided a copy of the document indicating approval to be home schooled; and (7) agree to attend required training sessions. If an election officer under this paragraph attends a school that encourages or requires community service, serving as an election officer may be considered a community service activity. In no case shall a person 16 or 17 years of age serve as an election officer on the day of an election for more than the number of hours permitted for such a person to work pursuant to section 66 of chapter 149.

The registrars may, if they deem it necessary, conduct examinations of persons whose names appear on the lists filed hereunder. Five days' notice shall be given of any such examination. The chairman of each

town committee may appear and be heard either in person or by counsel, during the conduct of such examinations.

Weekly Report

Friday – Plowing until 1700hrs, returned at 1930 to treat blacktop after a snow squall.

Saturday – Nothing

Sunday – 6-11pm treating/plowing

Monday – 4am-7pm plowing

Tuesday – 6am-33-pm treating/scraping remaining slush, sand gravel roads, work on broken equipment, snow removal around town hall.

Wednesday – Work on equipment, check roads, treat plow roads.

Thursday – Treated roads in morning, started cleaning trucks and going over equipment. 2 loads of salt pushed in shed.

Friday – Treated gravel roads, moved snow bank on corner of Wells PRK, potholes on Lakeshore DR, washed trucks/loader, filled hot box with cold patch for Monday.

Sat/Sun – nothing

Monday – Road check, met with Jen/Andy about sidewalks, safetynet meeting with representative, treated gravel roads, unloaded the lift, filled potholes on Curran/Outlook/Fred Mason/Ingalls, refilled hot box

Tuesday – Corey (330) check roads, call in other guys at 4am for treating roads from overnight snow, Pittsfield for supplies, fixed hydraulic line on T3, new tooth on backhoe/greased machine. Assisted McGrath with toilet back up, 1 load of salt in shed.

Wednesday – Checked icy spots, unboxed/prepped lift, front breaks on F150, landscape trailer inside to prep for fix, patching on Main St/116/Sandmill/Fales/Henry Wood/Stewart White

Thursday – Started installing the lift, stripped boards of trailer, 3 loads of salt into shed, washed 2 trucks.

Water Department Bi-Weekly Report

Day, Date	Activity
1/20/23	– WORKED ON GENERATOR WITH FM. – – meet with selectman ABOUT HOURLY PAY – – Plowed well's SNOW STORM –
1/22/23	Checked Pump's
1/23/23	– Checked Pump AND WATER SYSTEM – – Plowed Pump House 3 TIMES (BAD SNOW STORM) – – DID TIES FOR MAPPING –
1/24/23	– WENT TO CLASS (LOW INCOME FINANCING) – – PLOW TANK OUT (LOT OF SNOW) – – Plowed HYDRANT'S – – (WENT TO COMMISIONERS MEETING)
1/25/23	– Checked TOWN WATER AND PUMPS – – Plowed well Field – (SNOWSTORM) – – WORKED ON TIES FOR MAPPING –
1/26/23	– Checked Pump AND WATER SYSTEM – – WORKED ON A.S.R. (ANNUAL STATISTICAL REPORT) – – Plowed AND Shoveled FIRE HYDRANTS –
1/27/23	– Checked WATER SYSTEM AND PUMPS – – Shoveled REST OF HYDRANTS OUT – – WORKED ON A.S.R. –
1/30/23	– INSTALLED NEW METER AND METER HORN HOUSE #82 LAKESHORE DRIVE – – MWWA CAME OUT LISTENDED FOR LEAK'S ON MAIN'S – – ~~Checked Pump And WATER SYSTEM~~ –
1/31/23	– Checked Pump AND WATER SYSTEM – – WENT TO CARR-HARDWARE – – DID TOWN BACKFLOW'S –
2/1/23	– Checked TOWN WATER SYSTEM AND PUMP'S – – DID MONTHLY REPORT FOR DEP – – WORKED AND CLEANED LMI PUMP AT PUMP HOUSE –
2/2/23	– Checked TOWN WATER SYSTEM AND PUMP'S – – LOOKED AND LISTEND FOR LEAK'S (cold) – – WORKED ON CHECK VALVE FOR STREET FLUSHING –
2/3/23	– Cheked TOWN WATER SYSTEM AND PUMPS – – WORKED ON Bi-weekly REPORT AND TIME CARDS – – WORKED ON PAPER'S FOR COMMISIONERS –
UP COMMING EVENT'S	WORKING ON A.S.R. FOR DEP.

CHESHIRE
MASSACHUSETTS

Town of Cheshire- Citizen's Petition for Warrant Article

At least 10 signatures of registered voters are required for an Annual Town Meeting
At least 100 signatures of registered voters are required for a Special Town Meeting

1. The petition will be the Sponsor name listed in the Warrant and should be the first registered voter(s) [as denoted by '*' in line numbers on page 2] to sign this Petition Form. The first petitioner will be designated the primary speaker in support of the Article at Town Meeting unless the first petitioner informs the Town Moderator prior to Town Meeting that another designee will be the primary speaker in support of the Article at Town Meeting.
2. The deadline for submission of a petition will be determined by the Select Board, and will be the final date that the warrant is closed for the first Town Meeting (Annual or Special) to be held after the petition signatures are certified.
3. The language of your article will be voted at Town Meeting EXACTLY as worded in your submission. Before gathering signatures, please consult the Select Board office to confirm that the language of your Article is actionable.
4. Warrant article language must be repeated at the top of all signature pages submitted.
5. In accordance with M.G.L. c 39 Section 10, the written requests of registered voters for insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence, with street and number, if any. *The Select Board shall submit such written requests to the Town Clerk/Registrars of Voters who shall check and forthwith certify the number of signatures so checked and certified shall be counted.*

The undersigned registered voters of the Town of Cheshire, Massachusetts hereby request that the following warrant article be placed on the next Town Meeting Warrant (Annual or Special, whichever occurs first):

Town of Cheshire Marijuana By-Law Amendment – Adjustment of Zoning to include Microbusiness License Types in A-R Zone

"To see if the Town of Cheshire will vote to:

Update/Adjust Marijuana Zoning By-Laws to include additional license type Microbusiness in the Protective and Planning Zoning By- Law June 2015 – Per MGL 94G (Recreational Marijuana Legislature.) and state oversight Cannabis Control Commission -Microbusiness is a small business type of cultivation license which Cultivation is currently permitted by law in A-R Zone

Current language - Section 8.7 Marijuana Establishments

(c) Designated Locations for ME's and Medical Marijuana Treatment Centers

(1) **Marijuana Cultivation Facilities** may be sited within the Agricultural Residential (A-R) zone district on parcels at least 5 acres in size, upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.

(2) Medical Marijuana Treatment Centers and all types of ME's, except for **Cultivation Facilities**, may be sited in the Marijuana Overlay District (Figures 1a & 1b, below), upon Town of Cheshire, Massachusetts June 2015 Protective and Planning Zoning Bylaw 49 the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations

Article Proposed language- Section 8.7 Marijuana Establishments

(c) Designated Locations for ME's and Medical Marijuana Treatment Centers

(1) **Marijuana Cultivation Facilities and** **Microbusiness Facilities (a small business-limited) license** may be sited within the Agricultural Residential (A-R) zone district on parcels at least 5 acres in size, upon the approval of a Special Permit and Site Plan, as per Section 10 of the Zoning Bylaw and the Town of Cheshire Special Permit Rules & Regulations.

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, or act on anything relating thereto."

CHESHIRE
MASSACHUSETTS

Town of Cheshire- Citizen's Petition for Warrant Article

Town of Cheshire Marijuana By-Law Amendment –
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, or act on anything relating thereto."

#	Printed Name	Signature	Address	Date
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Municipal Equity

These recommendations were created to assist municipalities in creating equitable cannabis policies to mirror the Social Equity Program established by the Commission.

Given the unique opportunity to build a large and lucrative industry, the Cannabis Control Commission (Commission) encourages municipalities to build the licensee selection process in a way that prioritizes the community's individual needs and the Commonwealth's commitment to an equitable industry and economic justice.

Below is a list of recommendations from this guidance, the state-level licensing process, and other jurisdictions nationwide.

Allow Various Types of Businesses

The Commission created a wide variety of license types, all authorized under state law, to encourage the participation of businesses of all sizes. Each license type involves distinct areas of business operations that create jobs in distinct fields. Municipalities that want to encourage development of small businesses may want to consider what type of licenses they wish to allow within the community, such as microbusinesses, craft cooperatives or other cultivators and manufacturers that agree to operate on a limited scale. The Commission recommends that community leaders attend an applicant's community outreach meeting, where residents and municipal officials may raise specific concerns. Applicants may then take the opportunity to address those concerns and move forward to negotiate a host community agreement and otherwise progress through any local selection process.

Consider Whether Caps are Necessary

The Commission reviews each application and determines whether the application satisfies the requirements of the Commission's regulations on adult-use cannabis, 935 CMR 500. Such an approach leaves room for businesses of all sizes, rather than forcing a large number of qualified applicants to compete for a small number of licenses – a process that tends to perpetuate existing inequities. It is a common misconception that communities must act quickly and comprehensively now to determine the future of cannabis sales in the community. In order to open in a community, the businesses will need to satisfy the regulatory requirements of local control, including a signed agreement with the community.

Zoning

Communities should give serious consideration to zoning marijuana businesses based on the nature of their primary business operations. State law establishes a 500-foot buffer around K-12 schools; a municipality may choose to reduce the size of that buffer. The Commission suggests that additional buffer zones or separation requirements may not be necessary and cautions communities against acting arbitrarily.

Host Community Agreements

Once a community establishes zoning and a local licensing process, if it chooses to do so, the Commission recommends that municipalities clearly identify the local permits and license required to operate Marijuana Establishments, as well as the process for initiating negotiations of a host community agreement and a timeline for completion of those negotiations, with deadlines for both the applicant and the municipality.

Selection Process

The Commission recommends that municipalities alternate signing Host Community Agreements with Economic Empowerment applicants and non-Economic-Empowerment applicants. In deciding which companies with which to negotiate a Host Community Agreement, the Commission recommends instituting an objective, transparent selection process intentionally focused on repairing past inequities, beginning with prioritizing review for state-designated Economic Empowerment applicants. The Commission further recommends that municipalities consider preferences for state-designated Social Equity Program participants, or applications from companies owned by marginalized groups. As part of the selection process, consider evaluating the company's diversity plan and plan to positive impact communities disproportionately harmed, either in the municipality or generally.

Explore more topics and questions about municipal equity and access related resources below.



Are caps on licenses necessary?

Massachusetts law imposes no statewide cap on the number of marijuana licenses that may be issued. Instead, the Commission reviews each application and determines whether the application satisfies the requirements of the Commission's regulations on adult-use cannabis, 935 CMR 500 and whether the applicant is suitable or unsuitable for licensing. Such an approach leaves room for businesses of all sizes, rather than forcing a large number of qualified applicants to compete for a small number of licenses – a process that tends to perpetuate existing inequities.

The Commission will not issue a license to an applicant unless (a) the applicant is compliant with local bylaws and ordinances; (b) the applicant has held a Community Outreach Meeting within six months of applying for licensure; and (c) the applicant and municipality have executed a Host Community Agreement. As the municipal guidance previously issued by the Commission outlines, there are several options available to communities to determine if and how cannabis commerce fits into the fabric of the community. It is a common misconception that communities must act quickly and comprehensively now to determine the future of cannabis sales in the community. In order to open in the community, the businesses will need to satisfy the regulatory requirements of local control, including a signed agreement with the community.

The Commission respects the local control that is granted to municipalities under M.G.L. ch. 94G and encourages communities to consider how cannabis commerce fits into their long-term municipal planning processes. This may include limiting the number and type of Marijuana Establishments, but there is no requirement that communities take that action. Municipalities may limit the number of Marijuana Establishments in accordance with M.G.L. ch. 94G §3. Communities that voted yes on Question 4 must allow at least the number of establishments that is equal to 20% of liquor licenses issued in their communities pursuant to M.G.L. ch. 138, §15 for sales for consumption off-premises (including "package stores").

What license types will be allowed in the municipality?

State law and Commission regulations create the following license types: cultivators, product manufacturers (sometimes known as "processors" or "producers" of cannabis oils or concentrates), retailers, transporters, testing laboratories, research facilities, microbusinesses, and craft cooperatives, marijuana couriers, marijuana delivery operators, and social consumption establishments. More details about each license type can be found in the Commission's **Guidance on Licensure**.

The Commission created a wide variety of license types, all authorized under state law, to encourage the participation of businesses of all sizes. Each license type involves distinct areas of business operations that create jobs in distinct fields. For example, independent testing labs may create jobs for scientists, while microbusinesses and cooperatives may create jobs for those with expertise in agriculture, and transporters may create jobs for drivers. Municipalities that want to encourage development of small businesses may decide to consider what type of licenses they wish to allow within the community, such as microbusinesses, craft cooperatives or other cultivators and manufacturers that agree to operate on a limited scale. Marijuana couriers, marijuana delivery operators, and social consumption establishments are currently exclusively available to equity program participants and represent a great opportunity for municipalities to support equity businesses.

Once the community has established its local zoning bylaws, ordinance and/or regulations, the Commission recommends that community leaders attend an applicant's Community Outreach Meeting, where residents and municipal officials may raise specific concerns. Applicants may then take the opportunity to address those concerns and move forward to negotiate a Host Community Agreement (see the Commission's Guidance on Host Community Agreements) and otherwise progress through any local selection process.

The Commission is collecting information relative to social consumption and delivery licenses and intends to have draft regulations prepared in February 2019. Under state law, the local controls

outlined under M.G.L. ch. 94G, §3 apply to any Marijuana Establishment, including social consumption facilities and delivery businesses if those licenses are authorized under the Commission's regulations.

Should a local tax be authorized?

A municipality may adopt a tax of up to three percent on adult-use cannabis retail sales by a vote of its legislative body. In many state and local jurisdictions, Massachusetts included, a portion of cannabis tax revenue is earmarked for restorative justice, jail diversion, workforce development, industry specific technical assistance, and mentoring services. Equity goals may similarly be supported by designating part of the local tax or community impact fee, if adopted as part of the Host Community Agreement, for similar local programs. If a community impact fee is included as part of the Host Community Agreement, the Commission encourages communities to consider lowering community impact fees for Economic Empowerment applicants.

How should each license type be zoned?

According to feedback from the Cannabis Advisory Board Subcommittee on Market Participation and public feedback to the Commission, real estate is one of the primary hurdles for small businesses and businesses owned by people from marginalized communities. When municipalities impose overly strict zoning rules and large buffer zones, they sharply limit the number of parcels available to potential operators. This favors large businesses with substantial financial resources that can outbid other potential operators and overpay for a lease or purchase of property—often at the expense of smaller, local companies—and tends to direct large rewards to a small handful of landlords and property owners.

Overly strict local zoning in other states has also led to complaints that cannabis businesses were crowded into small sections of a municipality, often areas with a vulnerable or low-income population. One study examined the locations of Medical Marijuana Treatment Centers (MTCs) in Los Angeles and report that MTCs were located in primarily commercially zoned areas with greater road access, density of on- and off-premise alcohol outlets, and percentage of Hispanic residents (Thomas and Freisthler, Examining the locations of medical marijuana dispensaries in Los Angeles, Drug Alcohol Review, 2017).

Please note that Chapter 351 of the Acts of 2016 exempted the cultivation of marijuana from the agricultural exemption in the Zoning Act, M.G.L. ch. 40A §3, therefore retaining local control over

the placement of Marijuana Establishments. The law allows, but does not mandate, municipalities to pass bylaws and ordinances governing the "time, place, and manner" of Marijuana Establishments (cultivators, retailers, manufacturers, testing labs, and any other licensed cannabis-related businesses) as well as businesses dealing with cannabis accessories. Additional municipal action is not, however, a requirement, meaning that a municipality could determine that a proposed cannabis-related use falls under an existing use authorized by its bylaws or ordinances.

Therefore, the Commission's recommendation is to zone cannabis businesses based on the nature of their primary business operations. It may be most appropriate, for example, for cultivators, microbusinesses, and cooperatives to be zoned, respectively, as agricultural, industrial, and manufacturing businesses, while cannabis retailers would be zoned in the same manner as any other retailer. Manufacturers, as defined as a Marijuana Establishments, may be appropriate for multiple zones, as they may encompass small microbusinesses or companies creating edibles in commercial kitchens.

If a community has concerns about the new types of businesses, the Community Outreach Meeting required by the Commission for licensure gives community residents and prospective applicants a chance to discuss their concerns and formalize the solutions in a Host Community Agreement (see next section).

State law establishes a 500-foot buffer around K-12 schools. A municipality may choose to reduce the size of that buffer. It is unclear whether buffer zones around other uses, such as parks, are legally permissible. The Commission suggests that additional buffer zones or separation requirements may not be necessary and cautions communities against acting arbitrarily.

The Commission has made the prevention of diversion of cannabis to individuals under 21 a priority. Current studies do not show any evidence that medical marijuana dispensaries increase youth access and use of cannabis (Yuyan et al. Medical marijuana availability, price, and product variety, and adolescent marijuana use, J Adolescent Health, 2018; Johnson et al. The design of medical marijuana laws and adolescent use and heavy use of marijuana: analysis of 45 states from 1991-2011, Drug and Alcohol Dependence, 2017). Another recent study showed that overall, the availability of dispensaries within 5- and 25-mile buffers were not associated with recent or current adolescent cannabis use (Shi, Yuyan, The availability of medical marijuana dispensaries and adolescent marijuana use, Preventive Medicine, 2016).

A prominent meta-analysis of studies estimating the effects of medical marijuana laws reported that none of the studies found significant changes in past-month marijuana use following medical marijuana law enactment compared to non-medical marijuana states (Sarvet et al., Medical marijuana laws and adolescent marijuana use in the United States: a systematic review and meta-analysis, Addiction, 2017).

While there have been no definitive studies on the impact of the presence of adult-use cannabis dispensaries on youth access, the Commission has acted to ensure that licensees understand their

responsibilities. The regulations issued by the Commission include extensive provisions around labeling, packaging, and marketing, as well as Marijuana Establishment employee training, positive identification checks upon entry to a Marijuana Establishment, and inspectional protocols that include a spot check and "secret shopper" program. In addition, the Commission launched a statewide campaign to educate the public about the safe use of marijuana and the risks associated with failing to use it safely. Preventing diversion to children and adolescents is a critical part of this campaign.

Current research suggests that marijuana dispensaries are not associated with increased crime. One study found that the density of medical marijuana was unrelated to property and violent crimes in local areas (Freisthler et al., A micro-temporal geospatial analysis of medical marijuana dispensaries and crime in Long Beach California, Addiction, 2016). However, the Commission also acknowledges that crime occurs at Marijuana Establishments as it does at any similar business.

With this in mind, the Commission adopted – and will enforce – stringent security protocols intended to ensure the safety and security of the staff and consumers at Marijuana Establishments as well as the general public in the areas around Marijuana Establishments. Security provisions include requirements that licensees share safety plans with local law enforcement and emergency responders; cameras that record 24 hours per day; perimeter alarm systems; and incident reporting protocols. The Commission also requires the seed-to-sale tracking of all cannabis and cannabis products offered by licensed Marijuana Establishments in Massachusetts.

Like overly restrictive zoning, separation requirements between Marijuana Establishments prolong inequities by exacerbating the scarcity of appropriate real estate. We encourage municipalities to carefully consider whether such separation requirements are necessary Medical marijuana laws and adolescent marijuana use in the United States: a systematic review and meta-analysis, Addiction, 2017).

What is the process and timeline for prospective licensees?

Section 56 of Chapter 55 requires the Commission to prioritize review and licensing decisions for prospective licensees who demonstrate experience in or business practices promoting economic empowerment in communities disproportionately impacted by high rates of arrest and incarceration for drug offenses, in addition to Marijuana Establishments. There are 123 applicants that qualify as Economic Empowerment applicants certified by the Commonwealth. In accordance with the Commission's mandate to promote and encourage full participation in the adult-use cannabis industry by those disproportionately harmed communities, the Commission's recommendation is for municipalities to prioritize review for these Economic Empowerment applicants at the local level as well. In other words, those prospective licensees should be reviewed for suitability before others.

Some municipalities in Massachusetts are considering prioritizing applicants by allowing them to move forward exclusively for a certain period of time. For example, a municipality may consider only Economic Empowerment applicants and applicants who are local residents for the first six months.

We recommend that municipalities alternate signing Host Community Agreements with Economic Empowerment applicants and non-Economic-Empowerment applicants. Regardless of the entity or entities designated to oversee the selection of Marijuana Establishments, the Commission recommends that it begin by designing an objective selection process and clear timeline for prospective licensees. For example, a certain period to demonstrate intent to apply, a certain period for Community Outreach Meetings, a certain period to discuss concerns and ways to address those concerns with the overseeing entity, a certain period for applying objective criteria and selecting which applicants proceed, and finally, a set period for negotiating a host community agreement that reflects the concerns raised and plan to address them. The timeline should include deadlines for both the applicant and the entity overseeing the process.

In order to make the local control process more accessible, the Commission recommends utilizing local media, social media, and partnerships with community organizations to disseminate the information as broadly as possible. Local forums with question-and-answer sessions will allow the municipality to announce the process as well as interact with prospective licensees and anticipate their questions.

For More Information

View **Guidance for Municipalities on Equity and Host Community Agreements**.

Municipal Equity Resources

The Commission seeks to support municipalities in establishing fair, transparent, and equitable licensing processes for marijuana businesses at the local level in accordance with state law. The agency is required by **M.G.L. c. 94G, 4(a½)(iv)** to establish procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement, and to positively impact those communities.

Along with its **Guidance for Municipal Equity and Host Community Agreements**, the Commission has posted resources below that may be of interest to cities and towns as they develop their own equity programs. Various municipalities have independently adopted these models, ordinances, and/or policies, and the

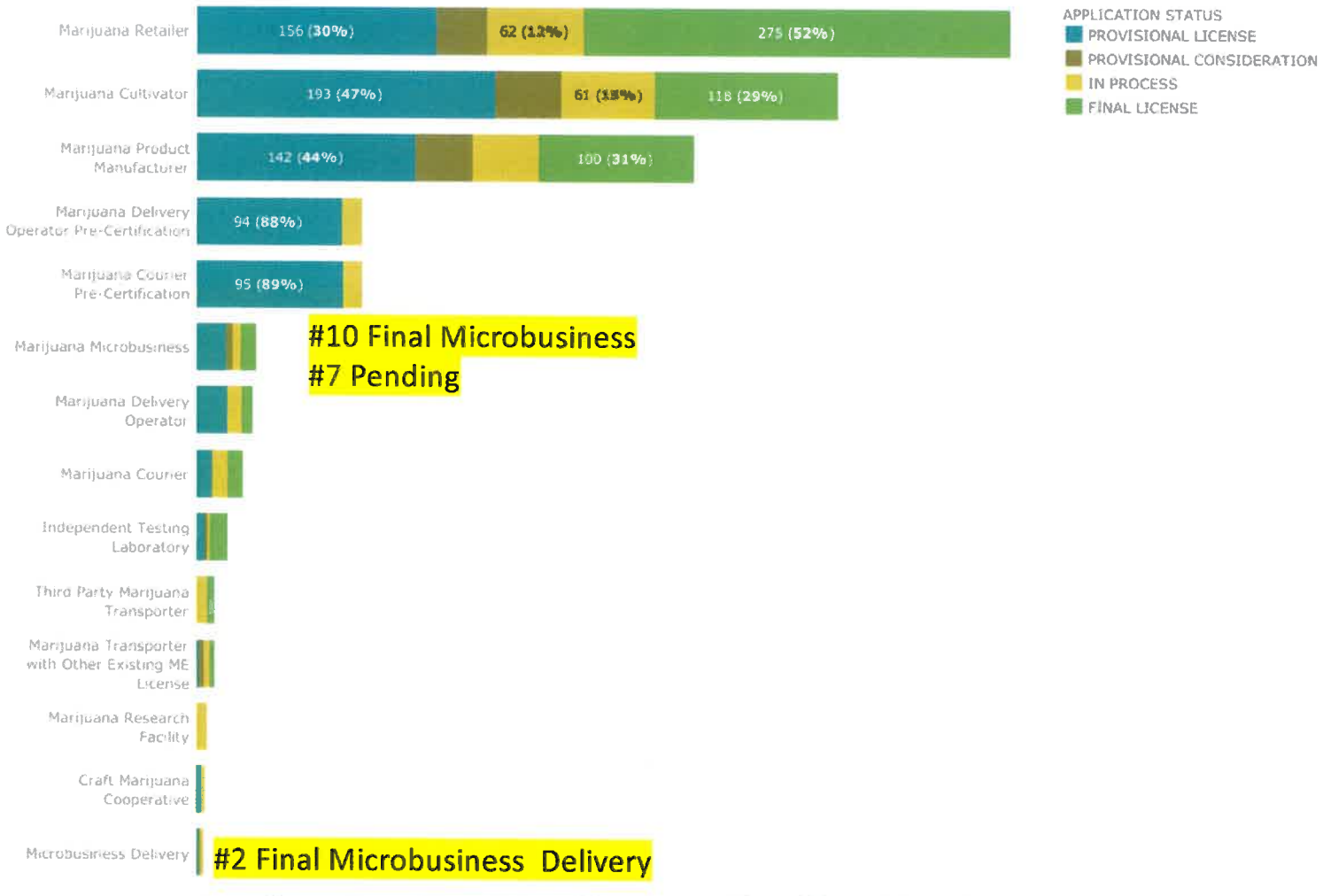
Commission does not endorse or oversee any of them. For specific questions regarding a municipality's cannabis licensing process, please contact the city or town directly.

Cities and towns could consider encouraging increased participation in their local cannabis ecosystem by offering equity licensing applicants the following incentives:

- Reduced community impact fees;
- Exclusive access to Host Community Agreements, or guaranteeing equity applicants a percentage of all available Host Community Agreements;
- Expediting the zoning and permitting process, or waiving certain requirements for them altogether; or
- Offering technical assistance, training, and/or loans or grants.

As of February 2022, the following municipalities incorporate equity into their local licensing ordinances and/or programs:

- **Boston**: The City of Boston requires the approval of equity applicants on a 1:1 basis with general applicants. The City of Boston has also implemented a **Cannabis Equity Program** that offers grants and technical assistance to equity applicants and licensees.
- **Cambridge**: The City of Cambridge has incorporated an equity exclusivity period for licensing adult-use Marijuana Establishments.
- **Lee**: The Town of Lee reviews Marijuana Establishments' community impact costs annually, and if the Town incurs no costs, licensees are exempt from paying the community impact fee that year.
- **Newton**: The City of Newton allows delivery licensees, currently available exclusively to equity applicants, to be cited "as-of-right" and they are not required to seek a Special Permit.
- **Northampton**: The City of Northampton has eliminated all community impact fees for Marijuana Establishments.
- **Somerville**: The City of Somerville prioritizes Certified Economic Empowerment Applicants, Somerville residents, Co-ops, and certain operational Medical Marijuana Treatment Centers during an exclusivity period for licensing adult-use Marijuana Establishments.



#10 Final Microbusiness
#7 Pending

#2 Final Microbusiness Delivery

https://masscannabiscontrol.com/applicants-licensees/

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