

**Town of Milton, Massachusetts**  
**CONTRACT FOR THE PROVISION OF**  
**EQUITY AUDIT AND SYSTEMATIC IMPLEMENTATION**

This Contract is made as of this 21<sup>st</sup> day of January, 2021, by and between the Milton Public Schools, Milton, Massachusetts ("Schools"), by the Milton School Committee ("Committee"), with an address of Milton Public Schools, 25 Gile Road, Milton, MA, 02186, and Cambridge Education, LLC, a Limited Liability Company organized under the laws of Delaware, with a principal office located at 111 Wood Avenue South, 5<sup>th</sup> Floor, Iselin, New Jersey, 08830-4112 ("Contractor").

All prior contracts, if any exist between the Schools and the Contractor, are hereby terminated and shall be of no force and effect.

1. Scope

In consideration of the obligations herein contained, the Contractor shall provide an Equity Audit and Systematic Implementation for the Schools, as set forth in the Solicitation for Written Quotes, dated September 9, 2020 ("Solicitation"), issued by the Committee, which is incorporated herein by reference.

2. Standard of Care

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

3. Term

The term of this Contract shall commence as of the date set forth in the first line of the first paragraph above and shall extend until the Contractor has achieved final completion of the Contractor's services, as determined by the Schools.

4. Incorporation of the Solicitation/Order of Priority of Contract Documents

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

Highest Priority:	Amendments to Contract (if any)
Second Priority:	Contract
Third Priority:	Addenda to the Solicitation (if any)
Fourth Priority:	Solicitation
Fifth Priority:	Contractor's Response.

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5. Payment

In consideration for performance of the work in accordance with the requirements of this Contract, the Schools shall pay the Contractor the fixed sum of fifty thousand dollars and zero cents (\$50,000).

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

Payment shall be made to the Contractor for work completed in accordance with this Contract. All requests for payment shall be submitted to the Schools as an invoice and shall specify all services rendered.

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

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

Should it be necessary for the Contractor to engage the services of a specialized contractor or companies other than those originally proposed in the Contractor's response to the Solicitation, the Contractor shall take such measures only with the Schools' prior written approval. Charges for such services, with no mark-up, shall be billed directly to the Schools unless otherwise agreed upon by the parties.

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

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

6. Warranty

DELETED – NOT APPLICABLE.

7. Compliance with Laws

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

8. Insurance

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

- a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts and employer's liability insurance in the amount of \$1,000,000/\$1,000,000/\$1,000,000.
- b. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
- c. Automobile Liability Insurance, covering all leased, owned, non-owned, and hired vehicles - Combined single limit of \$1,000,000.
- d. Professional Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. If written on a claims-made basis, each such policy shall remain in effect for at least six (6) years following the termination of this Contract.
- e. Excess Liability Insurance, Umbrella Form - \$1,000,000 each occurrence and \$2,000,000 aggregate, which shall be following form, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation

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insurance.

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

“Notwithstanding any other provision herein, should any of the above policies be cancelled or materially amended before the expiration date thereof, the issuing company will mail thirty (30) days prior written notice thereof to the named certificate holder and to the Superintendent of Schools, Milton Public Schools, 25 Gile Road, Milton, MA 02186 before such cancellation or amendment shall take place.”
- h. Certificates evidencing such insurance in five (5) copies shall be furnished to the Schools at the execution of this Contract. Such certificates shall not merely name the types of policy provided, but shall specifically refer to this Contract and shall state that such insurance is as required by this Contract. The Contractor shall make no claims against the Schools or its officers for any injury to any of its officers or employees or for damage to its equipment arising out of work contemplated by the Contract.
- i. The Contractor shall also be required to provide to the Schools with its proof of insurance coverage endorsements or riders to the policies of commercial general liability insurance, automobile liability insurance, and excess liability insurance, umbrella form, which indicate that the Schools is named as an additional insured on each such policy.
- j. No insurance shall be obtained from an insurer which:
  - (1) is not licensed to sell insurance in the Commonwealth of Massachusetts; or
  - (2) is not authorized to provide insurance as an excess or surplus lines insurer, and does not have a current Best's rating of A or better.
- k. Failure to provide and continue in force such insurance as aforesaid shall be deemed a material breach of this Contract and shall operate as an immediate termination thereof.

9. Indemnification

The Contractor shall compensate the Schools for all damage to Schools or Town of Milton, Massachusetts (“Town”) property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall

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

10. No Personal Liability

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

11. Familiarity with Area of Work

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

12. Performance Bond

DELETED – NOT APPLICABLE.

13. Labor and Materials Payment Bond

DELETED – NOT APPLICABLE.

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14. Independent Contractor Status/Key Personnel

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

The Contractor's team members assigned to this project are stated in the Response submitted by the Contractor attached hereto. There shall be no change to these personnel assignments without the prior written consent of the Schools, which consent shall not be unreasonably withheld. In the event substitution of personnel is requested by the Contractor or the Schools, written notice of such request shall be timely provided in writing to the other party. The Schools shall have authority to reject any proposed replacement personnel if it reasonably and timely deems such proposed replacement to be unsatisfactory.

15. Use of Alcohol and Controlled Substances Prohibited

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

16. No Smoking

Pursuant to Massachusetts General Laws (M.G.L.) c. 270, §22, the Commonwealth of Massachusetts Smokefree Workplace Law, the Contractor, its officers, employees, agents, and representatives shall refrain from smoking and from using tobacco products in any public building in the Town.

17. Criminal Background Screening

For each employee of the Contractor who is rendering services under this Contract, the Contractor shall, subject to its confidentiality and privacy obligations owing to its employees and third parties, provide a written

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confirmation to the Schools that such employee passed the Contractor's pre-employment criminal background screen. In the event that any employee refuses to permit the Contractor to provide such information to the Schools, the Contractor shall not assign such employee to perform services for the Schools, and such employee shall not be authorized to perform services for the Schools. The Schools shall be permitted to keep such information in its files.

18. *Delays/Force Majeure*

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

19. *Termination*

- a. If the Contractor shall breach any provision of this Contract, which breach is not cured within twenty-one (21) days of written notice thereof from the Schools to the Contractor, the Town shall have the right to terminate this Contract upon written notice to the Contractor.
- b. If any assignment shall be made by the Contractor or by any guarantor of the Contractor for the benefit of creditors, or if a petition is filed by the Contractor or by any guarantor of the Contractor for adjudication as a bankrupt, or for reorganization or an arrangement under any provision of the Bankruptcy Act as then in force and effect, or if an involuntary petition under any of the provisions of the Bankruptcy Act is filed against the Contractor and such involuntary petition is not discharged within ninety (90) days thereafter, in any event the Schools may terminate this Contract upon written notice to the Contractor.
- c. The Schools may terminate this Contract upon written notice to the Contractor if a source of money to fund the Contract is lost during the Contract term. In the alternative, the parties may agree in writing to amend the Contract to provide for a Contract price which represents a reduced appropriation for the Contract term.
- d. The Schools may also terminate this Contract for convenience upon thirty (30) days' written notice to the Contractor.

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

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

20. Notices

Except as otherwise provided in this Contract, each notice required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail, return receipt requested, to the parties at the following address or such other address or addresses as to which a party shall have notified the other party in accordance with this Section 20.

If to the Schools: James F. Jette, Interim Superintendent  
Milton Public Schools  
25 Gile Rd Milton,  
MA 02186

With a copy to: Kevin S. Freytag  
Murphy, Hesse, Toomey & Lehane, LLP  
300 Crown Colony Drive, Suite 410  
Quincy, MA 02169

If to the Contractor:

21. License

The Schools shall have unlimited rights, for the benefit of the Schools, in all data collected and any analysis thereof, specifications, notes and other work developed in the performance of this Contract, including the right to use same on any other project of the Schools, without additional cost to the Schools; and with respect thereto, the Contractor agrees and hereby grants to the Schools an irrevocable royalty-free and nonexclusive license to all such data and analysis. The Contractor shall obtain similar irrevocable royalty-free nonexclusive licenses from the Contractor's consultants, if used, consistent with this Contract.



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22. **Certifications**

The Contractor hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for or in connection with, the award of this Contract.

The Contractor hereby certifies that no consultant to or subcontractor for the Contractor has given, offered or agreed to give any gift, contribution or offer of employment to the Contractor, or to any other person, corporation or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Contractor.

The Contractor hereby certifies that no person, corporation or other entity, other than a bona fide full time employee of the Contractor, has been retained or hired by the Contractor to solicit for or in any way assist the Contractor in obtaining this Contract upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Contract to the Contractor.

The Contractor hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty of the Massachusetts General Laws and that the Contractor has filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R.

The Contractor is hereby prohibited from receiving any extra payments for work for basic services that should have reasonably been anticipated by the Contractor.

The Contractor shall maintain all books, records and accounts related to the Project in compliance with the following:

1. The Contractor shall make, and keep for at least six (6) years after final payment, books, records and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Contractor.
2. Until the expiration of six (6) years after final payment, the Owner, the Office of the Inspector General and the Commissioner of Capital Asset Management and Maintenance shall have the right to examine any books, documents, papers or records of the Contractor and of its subcontractors and consultants that directly pertain to, and involve transactions relating to the Project and to the Contractor or its consultants in relation to the Project.
3. The Contractor shall describe any change in the method of maintaining

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records or recording transactions which materially affects any statements filed with the Schools, including in the Contractor's description the date of the change and reasons therefor, and shall accompany said description with a letter from the Contractor's independent certified public accountant approving or otherwise commenting on the changes.

4. The Contractor has filed a statement of management on internal accounting controls prior to the execution of this Contract.
5. The Contractor has filed prior to the execution of this Contract and will continue to file annually, an audited financial statement for the most recent completed fiscal year.
6. The Contractor shall file with the Schools a statement of management as to whether the system of internal accounting controls of the Contractor and its subsidiaries reasonably assures that:
  - (a) Transactions are executed in accordance with the management's general and specific authorization;
  - (b) Transactions are recorded as necessary (i) to permit preparation of financial statements in conformity with generally accepted accounting principles, and (ii) to maintain accountability for assets;
  - (c) Access to assets is permitted only in accordance with management's general or specific authorization; and
  - (d) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.
7. The Contractor shall also file annually with the Schools a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
  - (a) whether the representations of management are consistent with the result of management's evaluation of the system of internal accounting controls; and
  - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the Contractor's financial statements.
8. During the term, the Contractor shall annually file with the Commissioner of Capital Asset Management and Maintenance and the Owner of this Contract a financial statement prepared by an independent certified public accountant on the basis of an audit by such accountant. The final statement filed shall include the date of final payment. All statements shall be

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accompanied by an accountant's report. Such statements shall be made available to the Owner upon request.

9. Records and statements required to be made, kept or filed in compliance with the provisions of this Contract shall not be public records, as defined in section seven of chapter four of the Massachusetts General Laws.

23. **Miscellaneous Provisions**

- a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Norfolk County, MA, and in no other court or jurisdiction.
- b. No action or failure to act by the Schools shall constitute a waiver of a right or duty afforded to the Schools under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner by the Schools shall be construed as a waiver or in any way limit the legal or equitable remedies available to the Schools. No waiver by the Schools of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.
- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing performance under this Contract, report the same to the Schools in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the Schools, or by Federal, State or Local laws or regulations as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public, or unless the Contractor has been required to release such information by final judgment or order of a court of competent jurisdiction, or unless the Town has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the Schools vis-à-vis the media or the public at-large without the Schools'

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express, written consent in advance.

- g. Prior to commencing performance under this Contract, the Contractor shall furnish the Schools, in writing, the names, addresses and telephone numbers of not fewer than two (2) principal employees who are to be contacted in the event of an after-hours emergency.
- h. By entering into this Contract, the Contractor certifies under penalties of perjury that its Response was made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.
- i. By entering into this Contract, the Contractor certifies under the penalties of perjury, pursuant to M.G.L. c.62C, Section 49A(b), that it has complied with all laws of the Commonwealth relating to taxes; to reporting of employees and contractors, and to withholding and remitting child support.
- j. The Contractor understands that the Massachusetts Conflict of Interest Law, Chapter 268A of the Massachusetts General Laws, applies to the Contractor with respect to the services required to be provided under this Contract. The Contractor and its officers, employees, agents, subcontractors and affiliated agencies shall not participate in any activity which constitutes a violation of the Massachusetts Conflict of Interest Law or which creates an appearance of a violation of the Massachusetts Conflict of Interest Law.
- k. Prevailing wage rates, as contained in the Response documents, shall be paid, pursuant to M.G.L. c.149, §§26-27G, if they are applicable.
- l. The Contractor shall not discriminate against or exclude any person from participation herein on grounds of race, color, religious creed, national origin, sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap. The previous sentence shall include, but not be limited to, the following: advertising, recruitment; hiring; rates of pay or other forms of compensation; terms; conditions or privileges of employment; employment upgrading; transfer; demotion; layoff; and termination. The Contractor shall take affirmative actions to insure that applicants are employed, and that employees are treated during their employment, without regard to race, color, religious creed, national origin,

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sex, gender identity, sexual orientation (which shall not include persons whose sexual orientation involves minor children as the sex object), age, genetic information, ancestry, children, marital status, veteran status or membership in the armed services, the receiving of public assistance, and handicap.

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

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Milton Public Schools

Cambridge Education, LLC  
(Printed Name of Contractor)

by: the Milton School Committee

by:

Sheila Egan Varela  
Sheila Egan Varela, Chair

[Signature]  
Signature

S. Elaine Craghead  
S. Elaine Craghead, Vice Chair

Renée Chandonnet  
Printed Name

Margaret M. Eberhardt  
Margaret M. Eberhardt

Resource Manager  
Printed Title

Kevin P. Donahue  
Kevin P. Donahue

Ada Rosmarin  
Ada Rosmarin

Elizabeth R. White  
Elizabeth R. White

Dated: March 1, 2021

Dated: January 7, 2021

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

Murphy, Hesse, Toomey & Lehane, LLP

By: [Signature]  
Kevin S. Freytag, Esq.

Dated: 3.8.21