

**City of Fall River Massachusetts**  
**Office of the City Clerk**

RECEIVED

2014 DEC 19 A 11:59

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

ALISON M. BOUCHARD  
CITY CLERK

**DECEMBER 19, 2014**  
**MEETINGS SCHEDULED FOR NEXT WEEK**  
**CITY COUNCIL CHAMBER**

INÊS LEITE  
ASSISTANT CITY CLERK

**TUESDAY, DECEMBER 23, 2014**

**6:00 P.M. COMMITTEE ON FINANCE**

1. Discussion of loan order for Fall River Park Renovation Project – \$380,000
2. Discussion of loan order for upgrading of street lights – \$2,960,000

**AGENDA**

**7:00 P.M. REGULAR MEETING OF THE CITY COUNCIL OR IMMEDIATELY FOLLOWING THE COMMITTEE ON FINANCE MEETING IF THAT MEETING RUNS PAST 7:00 P.M.**

**PRIORITY MATTERS**

1. \*Mayor and order regarding land adjacent to the former landfill (Objected to 12-9-14)

**PRIORITY COMMUNICATIONS**

2. Traffic Commission recommending amendments to the traffic ordinances

**COMMITTEE REPORTS** – None

**ORDINANCES**

Second Reading and Enrollment:

3. \*Proposed ordinance – Fall River Highlands Local Historic District

**RESOLUTIONS** – None

**CITATIONS**

4. Mark A. Sullivan – retirement from Citizens for Citizens

**ORDERS – HEARINGS FOR TONIGHT**

Street acceptance:

5. Waldron Road, from Airport Road to dead end

Auto repair shop license:

6. Joseph Bilan, 72 Huard Street, BP Auto Service Repair, Inc. located at 1091 So. Main Street

**ORDERS – HEARINGS TO BE SCHEDULED** – None

**ORDERS – NO HEARING REQUIRED** – None

**ORDERS – MISCELLANEOUS**

7. Police chief's report on licenses
8. Auto repair shop license renewals
9. Auto body shop license renewals

**ADA Coordinator: Gary P. Howayeck, Esq. 508-324-2650**

One Government Center • Fall River, MA 02722  
TEL 508-324-2220 • FAX 508-324-2211 • EMAIL [city\\_clerks@fallriverma.org](mailto:city_clerks@fallriverma.org)

**COMMUNICATIONS – INVITATIONS – PETITIONS**

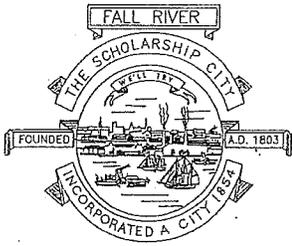
10. \*Claims
11. \*Mass Development re revenue bond for Young Men's Christian Assoc. Southcoast, Inc.
12. Zoning Board of Appeals Minutes – September 18, 2014
13. Zoning Board of Appeals Minutes – November 20, 2014

**BULLETINS – NEWSLETTERS – NOTICES**

14. Final Report - Waldron Road, from Airport Road to dead end
15. Environmental Notification Form for repairs/improvements to Copicut Reservoir Dam

  
City Clerk

*F. Maria*



**City of Fall River  
Massachusetts  
Office of the Mayor**

**WILLIAM A. FLANAGAN**  
*Mayor*

November 25, 2014

Honorable Members of the City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Dear Members of the City Council:

It is respectfully requested that the City Council approve the Fall River Park Renovation Project loan order.

The City has been awarded a \$264,691 grant to make improvements to five city parks – Abbott Court, Kennedy Park, Maplewood Park, North Park, and Ruggles Park, which will include installation of new basketball courts in each of these parks.

The state funding source, Massachusetts Executive Office of Energy and Environmental Affairs Division of Conservation Services, requests a certified copy of the Council's vote to raise, borrow, or appropriate an amount equal to the total project cost of \$378,130, by the end of the calendar year. Your expeditious approval is appreciated.

Respectfully Submitted,

*W. A. Flanagan*  
William A. Flanagan  
Mayor

**CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC - 9 2014**

*a/c placed on file*

CITY CLERK  
FALL RIVER, MA

**RECEIVED**  
2014 DEC - 2 A 11: 09

City of Fall River, *In City Council*

LOAN ORDER  
Various City Park Repairs

ORDERED, that the City hereby appropriates Three Hundred and Eighty Thousand Dollars (\$380,000) to pay costs of repairs to five City parks, and for the payment of all other costs incidental and related thereto. To meet this appropriation, the City Treasurer, with the approval of the Mayor, is authorized to borrow said sum under and pursuant to M.G.L. Chapter 44, Section 7(25) or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The Mayor and any other appropriate officials of the City are authorized to apply for and accept any grants, gifts or other amounts that may be available to the City to defray costs of these projects. The amount authorized to be borrowed by this Order shall be reduced to the extent of any grants or gifts that the City may receive on account of these projects, and

BE IT FURTHER ORDERED, that the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City to be issued pursuant to this Order, and to provide such information and execute such documents as such officials of the Commonwealth may require.

CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC - 9 2014

*authorized to be published,  
as amended and referred to  
the Committee on Finance  
(Cs. Pereira opposed)*

City of Fall River, *In City Council*

A RESOLUTION TO FILE AND ACCEPT GRANTS WITH AND FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS FOR THE PARKLAND ACQUISITIONS AND RENOVATIONS FOR COMMUNITIES PROGRAM FOR IMPROVEMENTS TO THE FOLLOWING FIVE CITY PARKS: ABBOTT COURT, KENNEDY PARK, MAPLEWOOD PARK, NORTH PARK, AND RUGGLES PARK

- Whereas: The Five Parks are by and far community-wide assets and the preservation and improvements to these facilities are a City priority as evidenced in the most recent Open Space and Recreation Plan; and
- Whereas: The Five Parks are dedicated to park and recreation purposes under M.G.L. Chapter 45, Section 14; and
- Whereas: The Parks' renovations, guided in principal by the Master Plan, will greatly enhance these facilities with improved recreational areas; and
- Whereas: The main focus of the Plan's Natural Resources, Open Space, and Recreation element is to improve Fall River's open space and opportunities for recreation. This overall cost and fiscal budget constraints prevented the City from proceeding forward with implementation of the project; and
- Whereas: The project was to be implemented over time, by priority as fiscal resources were available, with the intention of securing grant funding, when and if available, to assist in this effort; and
- Whereas: The Executive Office of Energy and Environmental Affairs (EEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Parkland Acquisitions and Renovations for Communities grant program (301 CMR 5.00); and
- Whereas: The Fall River Parks Project will cost a total of \$378,130 (Three Hundred Seventy Eight Thousand One Hundred Thirty Dollars). The City will allocate \$378,130 for the Fall River Parks Project.

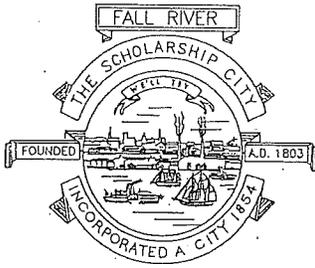
NOW, THEREFORE, BE IT

1. That the City Administrator be and is hereby authorized to file and accept grants from the Executive Office of Energy and Environmental Affairs; and
2. That the City Administrator be and is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Community Maintenance Department; and
3. That this resolution shall take effect upon passage.

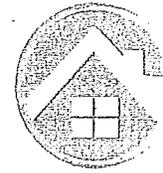
CITY OF FALL RIVER  
IN CITY COUNCIL

DEC - 9 2014

*Referred to the  
Committee on Finance*



City of Fall River  
Massachusetts  
Community Development Agency



**buyfallrivernow**

WILLIAM A. FLANAGAN  
*Mayor*

MICHAEL P. DION  
*Executive Director / CFO*

December 8, 2014

Kenneth Pacheco, Director  
City of Fall River  
Office of Community Maintenance  
One Government Center  
Fall River, MA 02722

RE: Matching Funds for Parkland Acquisitions and Renovations for Communities Grant Program

Dear Mr. Pacheco:

I am writing to express my full support of the City of Fall River's Parkland Acquisitions and Renovations for Communities (PARC) Grant to make improvements to three City parks: Abbott Court, North Park, and Ruggles Park. The Community Development Agency will provide matching funds through the Community Development Block Grant Program (CDBG) in the amount of \$56,720.00. These three parks are located in low-income census tracts and are eligible for CDBG funding. The matching funds will be used for the installation of basketball courts, fencing and netting. The proposal to replace the existing basketball courts at each park, which are in disrepair, with new equipment and surfacing will improve opportunities for safe recreation and play.

For the past 40 years, CDA has provided Community Development Block Grant (CDBG) funding to the City of Fall River for parks and playground improvements. CDA and the City have partnered successfully to provide safe and beautiful parks, and the CDA is dedicated to working with the City to see these park projects through to completion and to increasing and improving recreational opportunities in Fall River.

Please contact me with any questions you may have.

Sincerely,

  
Michael P. Dion  
Executive Director/CFO

*Finance 2*



**City of Fall River  
Massachusetts  
Office of the Mayor**

**RECEIVED**

2014 DEC -5 P 2:24

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

**WILLIAM A. FLANAGAN**  
*Mayor*

December 5, 2014

The Honorable City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

Honorable Members of the Council:

I am placing before you for your consideration and approval the following item:

RE: Loan Orders for Capital Equipment in Fiscal Year 15

I respectfully request you ask the City Council to approve the following

Upgrade for City Street Lights                      \$3,000,000

I have attached copies of the Loan Order prepared by Bond Counsel.

Should you have any concerns in regards to this matter, please do not hesitate to contact me.

Sincerely,

William A. Flanagan  
Mayor

Cc: Cathy Ann Viveiros, City Administraton  
John L. Nunes, Director of Financial Services/Treasurer

**CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC - 9 2014**

*2/c placed on file*

City of Fall River, In City Council

LOAN ORDER  
Upgrading of Street Lights

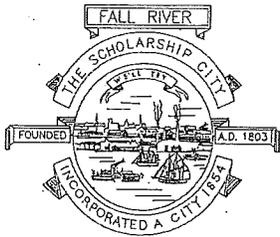
ORDERED, that the City hereby appropriates Two Million Nine Hundred and Sixty Thousand Dollars (\$2,960,000) to pay costs of upgrading street lights throughout the City, and for the payment of all other costs incidental and related thereto. To meet this appropriation, the City Treasurer, with the approval of the Mayor, is authorized to borrow said sum under and pursuant to M.G.L. Chapter 44, Section 7(14) or pursuant to any other enabling authority, and to issue bonds or notes of the City, therefore

BE IT FURTHER ORDERED, that the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City to be issued pursuant to this Order, and to provide such information and execute such documents as such officials of the Commonwealth may require.

CITY OF FALL RIVER  
IN COUNCIL

DEC - 9 2014

*Authorized to be published,  
~~As Amended~~ and referred  
to the Committee on Finance*



# City of Fall River Massachusetts

## Department of Community Maintenance

CEMETERIES • MUNICIPAL BUILDINGS • PARKS • SANITATION • ENGINEERING  
STREETS & HIGHWAYS • TRAFFIC & PARKING • VEHICLES

**WILLIAM A. FLANAGAN**  
*Mayor*

**KENNETH C. PACHECO**  
**Director**

December 4, 2014

Cathy Ann Viveiros  
City Administrator  
One Government Center  
Fall River, MA 02722

RECEIVED  
2014 DEC -5 A 11:55  
CITY CLERK  
FALL RIVER, MA

Dear Cathy:

This letter is a request through the Mayor to the City Council for the appropriation of \$3,000,000.00 for the fourth phase of the Energy and Infrastructure Phased Upgrade and Savings Program. The \$3,000,000.00 amount represents the planning, audit and construction of the entire inventory of streetlights both common and decorative. This project will be a combination of retrofitting and /or replacement of each non-LED fixture. This phase of the overall energy saving program, administered by Ameresco has the potential of capturing substantial rebates from National Grid. The rebate period ends on December 31, 2014. I ask that this request receive priority in light of this deadline. Thank you for your consideration of this request.

Sincerely,

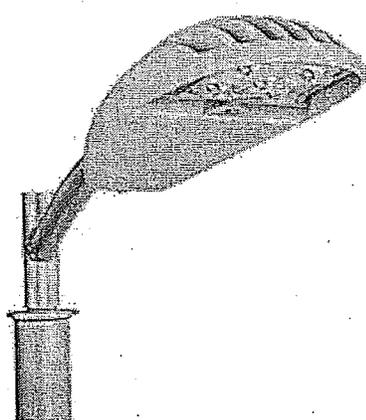
Kenneth C. Pacheco  
Director of Community Maintenance

**City of Fall River**  
**Energy Infrastructure Phased Upgrade and Savings Program**

**Phase 4: LED Streetlighting**

Cost: \$2,959,126  
Savings: \$408,957+ annually

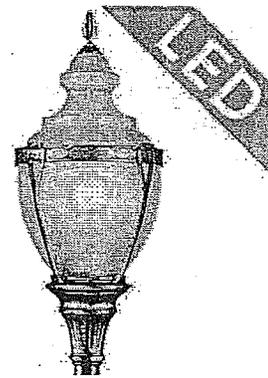
The existing streetlights primarily use “yellow” high- pressure sodium (HPS) lamps of wattages ranging from 50W to 400W. The recommended LED systems will operate in the color temperature range which will produce a white light. “White” light improves visibility, aesthetics and safety as compared to “yellow” light. LED technology is much more energy efficient whereby the replacement fixtures will range in wattages from only 34W to 168W. In addition, the life of LEDs will virtually eliminate maintenance (costs).



*New LED street lights will not only improve aesthetics but will also provide substantial energy savings.*

Nearly 6,000 roadway fixtures will be replaced and upgraded and with a 10-year manufacturer warranty.

In addition to the roadway fixture inventory, the City also owns several hundred decorative lighting (poles). Much of the decorative lighting will need additional work, i.e. new globes and/or arms and/or poles, as well as, electrical wiring in cases.



Ameresco will provide GPS mapping of all fixture locations throughout the City for record.



**City of Fall River  
Completed Energy Infrastructure Upgrades**

**Phase 1: Lighting**

Cost: \$690,000 (100% ARRA EECBG-funded)  
Savings: \$99,165+/year

**Phase 2: Comprehensive project, including Government Center & Council Chambers HVAC systems**

Cost: \$4,900,000  
Savings: \$267,303+/year

**Phase 3: Library Elevator and Chiller**

Cost: \$208,512 (100% funded from excess Utility rebates)

City Of Fall River Energy Conservation Measures (ECMs)	Lighting System Improvements	Lighting Controls	Energy Management System Upgrade - VAV Box Control	Energy Management System Upgrade - New HVAC	Vending Miser	P.C Load Management	HVAC System Improvements - Option 1	Elevator System Upgrade	Power Factor Correction	Add Additional Circuits to Generator	Replace Chiller	Replace Boilers	Roof Repairs Contingency
Facility	1	2	3B	3C	5	6	7A	8	11	14			X
Government Center	1	1	2	2	2	2	2	2	2	2			2
City Council Chambers	1	1		2			2						
Lord MS	1	1											
Borden ES	1	1											
Talbot MS	2	2			2	2							
Durfee HS	2	2			2	2						2	
Doran ES	2	2			2	2							
Greene ES	2	2			2	2							
Silvia ES	2	2			2	2							
Old Kuss MS					2	2							
Letourneau ES											2		
Main Library								3			3		

**THIRD AMENDMENT TO  
ENERGY SERVICES AGREEMENT**

**THIS THIRD AMENDMENT TO ENERGY SERVICES AGREEMENT** (this "*Amendment #3*") is entered into as of \_\_\_\_\_, 2014, by and between Ameresco, Inc., a Delaware corporation having its offices at 111 Speen Street, Suite 410, Framingham, Massachusetts 01701 ("*Ameresco*"), and City of Fall River, having its principal place of business located at One Government Center, Fall River, Massachusetts 02722 ("*Customer*" or "*City*").

**WITNESSETH:**

**WHEREAS**, Ameresco and Customer are parties to that certain Energy Services Agreement dated as of April 4, 2011, (the "*Original ESA*"), a Change Order 001 – Phase 1 dated as of November 19, 2012, a First Amendment dated as of January 14, 2013, a Change Order 001 – Phase 2 dated as of July 16, 2013, and a Second Amendment dated as of September 24, 2013 (collectively the "*Modified ESA*") ; capitalized terms used and not otherwise defined herein shall have the meaning given to such terms in the Original ESA;

**WHEREAS**, Ameresco and Customer wish to amend the Modified ESA as expressly set forth in this Amendment #3.

**NOW, THEREFORE**, in consideration of the covenants and mutual agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

**SECTION 1 Amendments to Modified ESA**

1.1 Section 6, Table 6(a) is deleted in its entirety and replaced with the following:

*Table 6(a)*

<b>Year</b>	<b>Guaranteed Savings</b>
1	\$356,536
2	\$367,232
3	\$799,474
4	\$823,459
5	\$848,162
6	\$873,607
7	\$899,816
8	\$926,810
9	\$954,614
10	\$983,253
11	\$1,012,750
12	\$1,043,133
13	\$1,074,427
14	\$1,106,660
15	\$1,139,859
16	\$1,174,055
17	\$1,209,277
18	\$1,245,555
19	\$1,282,922
20	\$1,321,409

1.2 Attachment A is hereby amended by adding the following properties thereto:

Facility	Address
Street Lighting	Various

1.3 Attachment B is hereby amended by adding the following ECMs into the Scope of Services (the "Phase 4 ECMs"):

<b>City of Fall River - Phase 4</b> <b>Energy Conservation Measures (ECMs)</b>		<b>Street Lighting Upgrades</b>
<b>Facility</b>		<b>23</b>
Street Lights		<b>X</b>

The specific scope of work attached hereto as Additions to Attachment B is hereby incorporated into Attachment B.

1.3 Attachment E is hereby amended by incorporating the attached Additions to Attachment E into Attachment E for use with the Phase 4 ECMs.

1.4 Attachment F is hereby amended by replacing the Contract Cost with Eight Million Seven Hundred Five Thousand Two Hundred Fourteen Dollars and No Cents (\$8,705,214.00). For the Phase 4 ECMs only, the Indirect Pricing shall equal a fixed price of \$943,888. The amended Contract Cost is comprised of the following two components:

- Original ESA (Phase 1): \$659,695
  - Change Order 001 – Phase 1: (\$22,118)
  - Amendment 1 (Phase 2): \$4,997,832
  - Change Order 001 – Phase 2: (\$97,832)
  - Amendment 2 (Phase 3): \$208,512
  - This Amendment 3: \$2,959,126
- Total Contract Cost: \$8,705,214**

1.5 Attachment E, subsection (c) is hereby amended by deleting the table of monitoring costs and inserting in place thereof the following:

Year	Monitoring
1	\$29,216
2	\$30,093
3	\$52,057
4	\$53,618
5	\$55,227
6	\$56,884
7	\$58,590
8	\$60,348
9	\$62,158
10	\$64,023
11	\$65,944
12	\$67,922
13	\$69,960
14	\$72,059
15	\$74,220
16	\$76,447
17	\$78,740
18	\$81,103
19	\$83,536
20	\$86,042

1.6 The Notice to Proceed and evidence of funding required by Section 1(a)(ii) shall apply with respect to the Phase 4 ECMs.

**SECTION 2 Representations and Warranties.**

Each Party warrants and represents to the other that:

2.1 it has all requisite power, authority, licenses, permits and franchises, corporate or otherwise, to execute and deliver this Amendment #3 and perform its obligations hereunder;

2.2 its execution, delivery and performance of this Amendment #3 has been duly authorized by, and is in accordance with, as to Ameresco, its organic instruments and, as to Customer, by all requisite municipal, city council or other action and are not in breach of any applicable law, code or regulation;

2.3 this Amendment #3 has been duly executed and delivered by the signatories so authorized, and constitutes its valid and binding obligation;

2.4 it has not received any notice of, nor to the best of its knowledge there is no, pending or threatened violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform its obligations hereunder;

2.5 the persons executing this Amendment #3 are duly authorized to do so; and

2.6 Customer represents and warrants to Ameresco that Customer has obtained all necessary governmental, legal, administrative and any other approval necessary for it to enter into this Amendment #3.

**SECTION 3 Additional Provisions**

3.1 The Modified ESA and this Amendment #3 set forth the entire understanding of the Parties relating to the subject matter hereof and thereof and supersede all prior agreements and understandings among or between any of the parties relating to the subject matter hereof and thereof. This Amendment #3 shall be deemed to be a part of the Modified ESA and the rights and obligations of the Parties shall be governed by and interpreted, construed and enforced in the manner specified in the Modified ESA. Except as amended hereby, the terms and provisions of the Modified ESA are hereby ratified, confirmed and approved in all respects.

3.2 In the event that any provision of this Amendment #3, or the application of any such provision, shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Amendment #3, and the application of the provisions other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

3.3 This Amendment #3 shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts. In the event of any ambiguity or conflict in meaning, the terms of this Amendment #3 shall not be construed against the drafting Party based upon that Party's having drafted this Amendment #3.

3.4 This Amendment #3 may be executed in several counterparts, including counterparts by facsimile, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

*[signature page follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Amendment #3 to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**CITY OF FALL RIVER**

**AMERESCO, INC.**

**MAYOR**

**Vice President - Development**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**CORPORATION COUNSEL**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

**CITY AUDITOR**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

**DIRECTOR OF COMMUNITY MAINTENANCE**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

**PURCHASING AGENT**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

*[Signature page to Amendment #3]*

ADDITIONS TO ATTACHMENT B

## ECM: Street Lighting

The existing fixtures use “yellow” high- pressure sodium (HPS) lamps of wattages ranging from 50W to 400W. The recommended LED systems will operate in the color temperature range which will produce a white light. “White” light improves visibility, aesthetics and safety as compared to “yellow” light. LED technology is much more energy efficient whereby the replacement fixtures will range in wattages from only 34W to 168W. In addition, the life of LEDs will virtually eliminate maintenance (costs).

The scope of work is based on the streetlight inventory provided by the City and National Grid and is summarized below. The new LED system assumes a standard 1-1 lighting fixture change-out. Replacement fixtures are based on CREE XSP1 & XSP2 fixtures, or equal with a 10-year manufacturer warranty.

Location	Lamp Type	Post Description	Post Style	Post Qty	Pre kWh	Post kWh	kWh Saved
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	50W HPS	34 WATT LED/NEW	new LED cobrahead	11	2,805	1,144	1,661
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	70W HPS	48 WATT LED/NEW	new LED cobrahead	552	198,168	57,408	140,760
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	100W HPS	48 WATT LED/NEW	new LED cobrahead	4,712	2,323,016	490,048	1,832,968
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	150W HPS	134 WATT LED/NEW	new LED cobrahead	2	1,444	1,044	400
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	250W HPS	134 WATT LED/NEW	new LED cobrahead	650	824,850	339,300	485,550
per *City of Fall River, Account 53018-93000, Lighting Inventory as of March 2, 2009	400W HPS	168 WATT LED/NEW	new LED cobrahead	56	109,872	40,936	68,936
				<b>5,983</b>	<b>3,460,155</b>	<b>929,880</b>	<b>2,530,275</b>

Price includes material and installation per National Grid terms. Disposal of existing fixtures is also included. We assume that all existing devices, as defined in the National Electric Code, which includes but not limited to switches, fuses, outlets, wiring, etc. are in acceptable condition in order to implement the scope outlined. Existing junction boxes, existing poles, existing mounting surfaces and existing structures are assumed to be in acceptable condition to allow the installation of a new fixture, or retrofit of an existing fixture. Required upgrades to meet safety or other codes can be performed as needed however. Overall the upgrade will provide improved visibility when compared to the existing streetlight system. However, compliance with any recommended practice, standard, or code is neither assumed nor guaranteed.

We have assumed 15% of the inventory is located on busy streets that will require police coverage and have included that cost. Additional police coverage and corresponding costs would be the responsibility of the City.

Ameresco will compile product specification sheets for all specified equipment. These documents will be submitted to the City for review and comment prior to construction. Upon approval, these will constitute the construction documents. Ameresco will provide GPS mapping of each fixture during construction. Upon completion of construction, the documents will be revised as needed to reflect “As-Built” conditions, and submitted in multiple for record.

In addition to the roadway fixture inventory, the City also owns several hundred decorative lighting (poles). Much of the decorative lighting will need additional work, i.e. new globes and/or arms and/or poles, as well as, electrical wiring in cases. It is not feasible to determine the overall exact scope of work, so we have carried a contingency budget in this project.

Lamp Type	Pre Style	Pre Qty	Post Description	Post Style	Post Qty	Pre kWh / fixture	Pre kWh Total	kWh / fixture	Post kWh Total	kWh Saved
50W HPS	cobra	11	34 WATT LED/NEW	new LED cobrahead	11	255	2,805	104	1,144	1,661
70W HPS	cobra	552	48 WATT LED/NEW	new LED cobrahead	552	359	198,168	104	57,408	140,760
100W HPS	cobra	4,712	48 WATT LED/NEW	new LED cobrahead	4,712	493	2,323,016	104	490,048	1,832,968
150W HPS	cobra	2	134 WATT LED/NEW	new LED cobrahead	2	722	1,444	522	1,044	400
250W HPS	cobra	650	134 WATT LED/NEW	new LED cobrahead	650	1,269	824,850	522	339,300	485,550
400W HPS	cobra	56	168 WATT LED/NEW	new LED cobrahead	56	1,962	109,872	731	40,936	68,936
					<b>5,983</b>		<b>3,460,155</b>		<b>929,880</b>	<b>2,530,275</b>

**ADDITIONS TO ATTACHMENT E**

**ECM 23: Street Lighting Upgrades**

**Energy Savings Calculation Methodology**

**Savings Algorithm:**

$$Savings = BaselineEnergy - PostEnergy$$

$$BaselineEnergy = \sum_{buildings} \sum_{fixtures} \left( kW_{Base} \times Hrs_{Base(peak/offpeak)} \times \$/kWh_{(peak/offpeak)} \right)$$

$$PostEnergy = \sum_{buildings} \sum_{fixtures} \left( kW_{Retro} \times Hrs_{Base(peak/offpeak)} \times \$/kWh_{(peak/offpeak)} \right)$$

**Where:**

- kW x Hrs<sub>Base</sub> - Base fixture kWh, as per lighting audit calculation included in the energy audit
- kW x Hrs<sub>Retro</sub> - Retrofit fixture kWh, as per lighting audit calculation included in the energy audit, subject to metering described below
- \$/kWh<sub>peak</sub> - Unit cost of peak electric energy, as per Unit Prices section
- \$/kWh<sub>offpeak</sub> - Unit cost of offpeak electric energy, as per Unit Prices section

**Metering Plan**

Ameresco will measure the post-installation fixture input power for a statistically significant sample size of the retrofit fixtures at commissioning to verify the savings. The measured sample values will be used to prove to the utility that the installed fixtures meet the applicable “bin” in the rate tariff. The final approved “binning” of the installed fixtures will be used to recalculate the actual savings. If the final “binning” results in a shortfall, Ameresco may take corrective action for the guaranteed savings to occur. The resulting savings will become the actual savings for this ECM.

Ameresco will use a calibrated hand held RMS meter (Fluke or equivalent) to measure power readings (kW, V, Amps, PF) from the lighting systems. These measurements can include individual fixtures or single lighting circuits with multiple fixtures of the same type and will continue until the sample size for each lighting group has been achieved. Fixtures to be metered must have at least 100 hours of operation following retrofit. Measurements shall be made only after the fixtures have reached steady state operating temperature.

**Measurement and Verification Report Services**

**ECM 23: Street Lighting Upgrades**

Ameresco will perform a yearly site inspection of a sampling of the lighting systems to ensure that the lamp and ballast technologies that were installed are in operation and that future replacement lamps and ballasts are at least as efficient as the Ameresco installed technologies. The observations during this inspection will be made part of the Annual Reconciliation Report.

## Operations and Maintenance Savings

$$AnnualSavings = \$\frac{MAINT}{year} \times (1 + Esc)^{(CurrentYear-2013)}$$

The maintenance savings breakdown per measure is as follows:

ECM	\$MAINT/year
ECM 23: Street Lighting Upgrades	\$55,660
<b>Totals</b>	<b>\$55,660</b>

ECM 23 O&M savings are based on reduced material replacements costs due to replacing old lamps and ballasts with new.

The variable "Esc" equals 3.0% for the term of the project and is described in the Unit Prices section.

## Unit Prices Section

The following base unit prices are based on unit prices for the City, as provided for purposes of the Phase 4 ECMs. These unit prices were utilized in calculating the financial savings associated with modified energy use.

### Electricity Costs:

$$\$/kW = Base\_kW \times (1 + Esc)^{(CurrentYear-2014)}$$

$$\$/kWh_{peak} = Base\_kWh_{peak} \times (1 + Esc)^{(CurrentYear-2014)}$$

$$\$/kWh_{offpeak} = Base\_kWh_{offpeak} \times (1 + Esc)^{(CurrentYear-2014)}$$

*The base for each location is listed in the following table.*

### Utility Escalation:

$$Esc = 3.0\%/yr$$

For the purposes of the calculations set forth in this verification plan, the Parties stipulate that all Base Year utility rates and avoided maintenance cost savings shall be cumulatively escalated at three percent (3.0%) for each successive twelve (12) month period. This escalation rate will be fixed for the full term of the project and applied annually to all energy unit prices.

**Utility Rate Tables:**

The following table presents the utility rates applicable to this project.

Facility	Electric Demand \$/kW	Electric Peak \$/kWh	Electric Off-Peak \$/kWh	Natural Gas \$/Therm
Street Lighting	\$-	\$0.1396	\$0.1396	\$-



City of Fall River  
Massachusetts  
Office of the Mayor

RECEIVED

2014 DEC -4 P 4:26

CITY CLERK  
FALL RIVER, MA

WILLIAM A. FLANAGAN  
Mayor

December 4, 2014

Joseph Camara  
Council President  
Fall River City Council  
One Government Center  
Fall River, MA 02722

RE: Land Adjacent to the Former Landfill

Dear Council President:

I am respectfully requesting the Council grant authorization for the City to accept two Deeds of Gift. As you know the City and Browning-Ferris Industries has been collaborating on the final capping of the City's former Municipal Landfill. Attached hereto is a letter from Ken Pacheco detailing the City's opportunity to be relieved of the significant liability that it would have otherwise faced to cap portions of the adjacent properties on which municipal solid waste was apparently disposed many years ago. In order for this to happen, the City needs to accept Deeds of Gift from the Fall River Freeholders Limited Partnership and Rex Cut Products Inc. to portions of their respective properties. The Planning Board has endorsed an Approval Not Required Plan that creates these two parcels.

Thank you for your attention to this matter.

Sincerely,

William A. Flanagan  
Mayor

cc: Cathy Ann Viveiros, City Administrator  
Kenneth Pacheco, Director of Community Maintenance

CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC - 9 2014

*a/c+ placed on file*

# City of Fall River, *In City Council*

ORDERED, that the City Council of the City of Fall River hereby grants permission to accept gifts of land on Airport Road particularly Lot 115 consisting of 4.48 acres, more or less from Fall River Freeholders, Ltd. Partnership and Lot 117 consisting of 2.82 acres, more or less from Rex Cut Products, Inc. both as shown on a plan entitled "Approval Not Required Plan of Land in Fall River Massachusetts, prepared by SITEC, Inc and dated November 17, 2014 and endorsed by the Fall River Planning Board. The execution of a Quitclaim Deed shall be in a form acceptable to the Corporation Counsel.

CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC - 9 2014

*Objected to and laid  
on the table in accordance  
with the City Charter*



# City of Fall River Massachusetts

Department of Community Maintenance  
CEMETERIES • MUNICIPAL BUILDINGS • PARKS • SANITATION • ENGINEERING  
STREETS & HIGHWAYS • TRAFFIC & PARKING • VEHICLES

**WILLIAM A. FLANAGAN**  
*Mayor*

**KENNETH C. PACHECO**  
*Director*

December 1, 2014

Hon. William A. Flanagan, Mayor  
City of Fall River  
One Government Center  
Fall River, MA 02722

Re: Acceptance of Gifts of Land Adjacent to Former Landfill

Dear Mr. Mayor:

As you know Browning-Ferris Industries, Inc. ("BFI") has informed the MassDEP and the City of Fall River that it intends to complete final capping and closure of the existing permitted landfill in the Spring of 2015. As part of the final capping and closure process, BFI has agreed to also cap approximately 7.3 acres of land currently owned by Fall River Freeholders Limited Partnership and Rex Cut Products, Inc, respectively, which are directly adjacent to the landfill and contain municipal solid waste that apparently was placed there as part of the former operation of the municipal landfill. As you also know, in order for BFI to cap these areas, the City would need to acquire the two parcels of land that comprise this adjacent area. The City has contacted the owners of these two parcels and the owners have agreed to gift these parcels to the City.

Please accept this letter as a request that the City accept the following:

1. Deed of Gift of Lot 115 as shown on a plan entitled "Approval Not Required Plan of Land in Fall River Massachusetts, prepared by SITEC, Inc and dated November 17, 2014 consisting of 4.48 acres, more or less from Fall River Freeholders, Ltd. Partnership;
2. Deed of Gift of Lot 117 as shown on a plan entitled "Approval Not Required Plan of Land in Fall River Massachusetts, prepared by SITEC, Inc and dated November 17, 2014 consisting of 2.82 acres, more or less from Rex Cut Products, Inc.

As a condition of both Deeds of Gift, the City would be required to indemnify the respective owners of any liability, damages or costs associated with the presence of municipal solid waste on the parcels being conveyed or associated with the capping process (including long term operation and maintenance of the cap as constructed). I have been informed that the City would most likely be responsible for these costs as they arise from the presence of municipal solid waste on these parcels and so the indemnity merely allows Fall River Freeholders and Rex Cut to avoid the protracted legal costs of a lawsuit requiring the City to pay these costs.

CITY CLERK  
FALL RIVER, MA

2014 DEC -4 P 4: 26

RECEIVED

Pursuant to the City's agreement with BFI, the costs of capping these parcels (including long term operations and maintenance of the cap once constructed) will be paid by BFI from revenues from the acceptance and placement of soils pursuant to an Administrative Consent Order from MassDEP. The City will only be responsible for a portion of these costs if the revenue from the acceptance and placement of these soils does not cover the costs of construction and maintenance of the cap. At the present time, and given the current market conditions, the revenue from the acceptance and placement of these soils is projected to be more than sufficient to cover these costs and so there does not appear to be any substantial likelihood that the City will be required to pay a portion of these costs.

In light of the foregoing, the acceptance of these Deeds of Gift, and the agreement with BFI will allow the City to avoid the cost of capping these parcels of land and thereby avoid the approximately \$1.8 Million of costs that City would incur if it had to cap these parcels itself.

Please contact me if you have any questions or comments.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mark B. C. R. S.", written in dark ink.

**City of Fall River**  
*Office of the Corporation Counsel*

**WILLIAM A. FLANAGAN**  
Mayor

**ELIZABETH SOUSA**  
Corporation Counsel



**GARY P. HOWAYECK**  
Assistant Corporation Counsel

**CHRISTY M. DIORIO**  
Assistant Corporation Counsel

December 2, 2014

Committee on Health and Environmental Affairs  
Chairman Michael Miozza  
One Government Center  
Fall River, MA 02722

RE: BFI/City of Fall River Agreement

Dear Mr. Chairman:

As per the request of the Committee please find attached the Agreement between BFI and the City of Fall River relating to the proper capping of the buried waste on land adjacent to the landfill.

If you have any further questions please do not hesitate to contact me.

Sincerely,

*Elizabeth Sousa*  
Elizabeth Sousa

Encl/ES

cc: Cathy Ann Viveiros, City Administrator  
Kenneth Pacheco, Director of Community Maintenance

CITY CLERK  
FALL RIVER, MA

2014 DEC -2 P 4: 28

RECEIVED

## AGREEMENT

This Agreement (the "Agreement") is entered into this \_\_\_ day of November, 2014 by and between Browning-Ferris Industries, Inc. (BFI), a Massachusetts corporation having a principal office at 18500 North Allied Way, Phoenix AZ 85054 and a local place of business at 1080 Airport Road, Fall River, Massachusetts 02720, and the City of Fall River (the "City") a Massachusetts municipal corporation having its principal offices at One Government Center, Fall River, Massachusetts 02722.

WHEREAS, consistent with modern solid waste management processes/as required by Massachusetts Department of Environmental Protection (MassDEP), BFI is closing and capping the Fall River Landfill (the "Landfill");

WHEREAS, solid waste has been discovered buried on (i) approximately seven acres of property, hereinafter referred to as "subject property" never owned or operated by BFI adjacent to the Landfill; and (ii) outside of the existing and permitted Landfill on approximately one acre of BFI's property, which needs to be capped for proper disposal;

WHEREAS, the property that has never been owned or operated by BFI consists of: (i) the rear portion of a parcel of land adjacent to the Landfill currently owned by Fall River Freeholders Limited Partnership ("Freeholders"), (ii) the rear portion of a second parcel of land adjacent to the Landfill currently owned by the Lea Manufacturing Company aka "Rex-Cut Products Company" ("Rex-Cut"), and (iii) on the Northwest corner of the City's right of way for Horvitz Road adjacent to the Landfill (collectively the "Off-Site Property") as depicted on the plan entitled SITEC Environmental Off-Site Waste Area Conceptual Final Closure Plan dated August 27, 2014 (the "Off-Site Waste Plan");

WHEREAS, based upon a review of historical records, it appears that the buried waste was disposed of at a time when the City operated the Landfill and when the area was part and parcel of the original landfill;

WHEREAS, BFI and the City have agreed to cooperate in the capping of the buried waste as set forth in this Agreement and the Corrective Action Plan dated October 29, 2014 (the "Corrective Action Plan");

WHEREAS, the City agrees that BFI may accept and use mildly contaminated soil under the cap to grade and shape the buried waste areas as described in the Corrective Action Plan;

WHEREAS, the parties intend to apply to the MassDEP for approval of the Corrective Action Plan; and

WHEREAS, the City intends on making all reasonable efforts to obtain a letter of intent from Rex-Cut and Freeholders which shall set out the terms of acquiring the subject property and obtaining the necessary permission for BFI to file all applications required for approval of the Corrective Action Plan by November 20, 2014. Acquisition of the subject property shall be contingent on the approval of the Mayor and City Council. Once the City has acquired the subject property the City intends to provide access to BFI for proper capping of the buried waste and implementation of the Corrective Action Plan on the Off-Site Property;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The parties will cooperate fully with each other in applying to the MassDEP for any and all approvals required under applicable law to implement the Corrective Action Plan including, at a minimum, complying with the relevant portions of the MassDEP's Revised Guidelines for Determining Closure Activities at Inactive

Unlined Landfill Sites (the "Guidelines") including holding a public information session on the Corrective Action Plan, entering into a mutually acceptable Administrative Consent Order with the MassDEP; and applying for and obtaining a MassDEP BWPSW25 - CAD permit.

2. The parties recognize that the Corrective Action Plan may need to be modified or amended as a result of the MassDEP approval process, to reflect actual conditions in the field such as discovery of additional areas of buried waste and as necessary or convenient for the ease or expense of implementation of such plan. The parties agree to cooperate fully in making such modifications provided that such modifications do not materially affect the environmental benefit, cost, duration or difficulty of implementing the Corrective Action Plan. All references herein to the Corrective Action Plan shall be deemed to refer to the plan as so modified or amended.

3. Within 90 days after the Effective Date (as defined below) of this Agreement the City will take title to those portions of the Freeholders and Rex-Cut properties as are depicted on the Off-Site Waste Plan as "proposed limit of acquisition." The City hereby grants BFI, BFI's contractors and subcontractors and other authorized employees, representatives and agents, full access and permission to enter upon the Off-Site Property to implement the Corrective Action Plan and all other work or actions required or contemplated thereunder (including, without limitation, the permanent placement, presence and maintenance of the buried waste, grading and shaping materials, capping system and all other related features such as a perimeter access road and drainage swales) and to perform routine post closure monitoring and maintenance. It is expressly understood and agreed that "routine post-closure monitoring and maintenance" of the

Off-Site Waste Area will be limited to inspecting, maintaining and repairing the cap system, associated storm water management features, and perimeter roadway; periodic environmental monitoring of monitoring points, if any, located on the Off-Site Waste Area; and filing requisite reports of the same with the MassDEP all as described in a MassDEP approved post-closure plan. It is furthermore understood and agreed that "routine post-closure monitoring and maintenance" expressly excludes any responsibility or liability for the waste underneath the capping system on the Freeholders, Rex-Cut or City properties and for any soil, landfill gas, groundwater or surface water contamination or remediation arising from such buried waste.

4. BFI will notify the City twenty-four (24) hours prior to entering the Off-Site Property to commence the Corrective Action Plan.

5. In performing the Corrective Action Plan on Off-Site Property, BFI, its contractors and subcontractors and its other authorized employees, representatives and agents shall use best practices and their solid waste disposal industry experience in accordance with the Corrective Action Plan and the MassDEP CAD permit.

6. At its sole cost and expense, the City shall have the right to monitor implementation of the Corrective Action Plan on Off-Site Property. BFI shall provide the City with detailed reports related to the implementation of the Corrective Action Plan and the efforts made to secure sufficient revenues to cover the cost of the Corrective Action plan. These reports shall be provided every 30 days and until completion.

7. The City shall not interfere with, but shall cooperate fully with all aspects of the Corrective Action Plan.

8. The parties acknowledge that BFI, its contractors, subcontractors, and other authorized employees, agents and representatives do not currently have, and will not hereby acquire any interest in the Freeholders, Rex-Cut or City properties other than the access right expressly granted by this Agreement and the Administrative Consent Order contemplated by this Agreement and shall not be deemed to be owner, operator or otherwise legally responsible for such properties under applicable law. Nothing contained herein and no action taken by BFI pursuant to this Agreement or said Administrative Consent Order, in connection with the Corrective Action Plan or otherwise with respect to the Rex-Cut, Freeholders, or the City properties shall be deemed to constitute an admission by BFI or to render BFI legally responsible or in any other way liable for existing waste buried on those properties or any damage arising therefrom and BFI hereby expressly disclaims any responsibility or liability whatsoever for the same. .

9. Before entering the Off-Site Property to implement the Corrective Action Plan, BFI, at its own expense, shall procure and maintain, or require its contractors, subcontractors or other authorized representatives or agents to procure and maintain, throughout the implementation of the Corrective Action Plan, policies of liability insurance issued by insurance companies duly qualified or licensed to issue policies of insurance in the Commonwealth of Massachusetts reasonably acceptable to the City, that are primary as to any other existing, valid and collectible insurance, insuring the City against loss or liability caused by or in connection with BFI's (or its contractor's, subcontractor's or duly authorized representatives' or agents') activities on the Off-Site Property, in amounts not less than those described in this Paragraph. BFI shall deliver to

the City a certificate evidencing these policies, that the City is named as an additional insured (other than Worker's Compensation), and that the policies will not be canceled prior to thirty (30) days advance written notice to the City. These policies shall include:

- A. Commercial General Liability Insurance Occurrence Form, or the equivalent, including Blanket Contractual Liability, that shall have combined single limit coverage of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, for Bodily Injury and Property Damage, including Personal Injury; and
- B. Workers' Compensation Insurance as required by law, and Employers' Liability Insurance that shall have a minimum limit of at least \$1,000,000 per employee and per accident.

10. BFI agrees to make reasonable best efforts consistent with the Corrective Action Plan to secure sufficient revenues from the acceptance of grading and shaping material used on Off-Site Property to cover the cost of the Corrective Action Plan on Off-Site property at no cost to the City. If the revenues received by BFI for the acceptance of grading and shaping materials used on Off-Site Property do not cover the reasonable costs incurred by BFI in implementing the Corrective Action Plan on Off-Site Property, BFI shall notify the City of the shortfall in revenues and BFI agrees to amortize any shortfall over the remaining term of the Landfill and Transfer Station Agreement. Such amortization shall be calculated by dividing the total amount owed by the remaining months in the then remaining term of the Landfill and Transfer Station Agreement, as that term may be adjusted from time to time, plus interest on the balance due at a rate of ten percent (10%)

per annum, which shall be paid by the City monthly in addition to the amount due from the City to BFI under said Agreement.

11. The City shall not assess, charge or collect and BFI, its contractors, subcontractors; other authorized employees, agents, representatives; and any vendor, transporter or generator of grading and shaping material (including, without, limitation mildly contaminated soil) shall not be required to pay any tax, fee or any other amount to the City on account of the transportation, delivery, acceptance, use or disposal of the grading and shaping material or any other materials used by or incorporated into the implementation of the Corrective Action Plan.
12. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby, and such illegal or invalid part, term, or provision shall be deemed not to be a part of this Agreement.
13. This Agreement is binding on the parties' successors and assigns.
14. This Agreement together with the Administrative Consent Order identified above constitute the entire agreement between the parties relating to the implementation of the Corrective Action Plan and supersedes all prior agreements, communications, and understandings between them, if any, written or oral. No other promises or agreements shall be binding or shall modify this Agreement unless signed by the parties hereto.
15. The Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

16. All notices or other submissions required or appropriate under the Agreement shall be sent by first class mail, nationally recognized overnight delivery service or certified mail, return receipt requested, to the addressees described in below:

If to BFI:

Browning-Ferris Industries, Inc.  
144 Turnpike Road, Suite 230  
Southborough, Massachusetts 01772  
Attn: Area President

cc.

Republic Services, Inc.  
18500 N. Allied Way  
Phoenix, AZ 85054  
Attn: General Counsel

If to the City:

Corporation Counsel  
City of Fall River  
One Government Center  
Fall River, Massachusetts 02722

17. The parties to this Agreement and their representatives signing below state that such representatives are authorized to sign this Agreement on behalf of the parties and to bind the parties to this Agreement.

18. This Agreement may be executed in counterparts each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument and shall be enforceable against the party executing same.

19. The Effective Date of this Agreement is the date on which the last party signs this Agreement.

20. This Agreement is entered into on the basis of law, regulations, permit terms, conditions, facts and expectations as of the Effective Date of this Agreement. Any Change in Law or

Unforeseen Circumstance that occurs after the Effective Date of this Agreement shall excuse the affected party from performance hereunder for the time necessary to meet the requirements of the Change in Law or alleviate the Unforeseen Circumstance, except for obligations to make payment.

21. "Unforeseen Circumstance" means any event that is beyond the reasonable control of the relevant affected party to this Agreement and is not caused by the intentional act or lack of reasonable due diligence of such party and which adversely affects the performance by such party. Unforeseen Circumstance shall include an act of God (except for weather conditions normal for the geographic area), Change in Law, earthquake, flood, fire or similar casualty, an act of public enemy, war blockade, insurrection, riot, general arrest or restraint of government or people, civil disturbance, strike, labor dispute or any similar occurrence.
22. "Change in Law" means any change, amendment, expansion, or change of interpretation or application of the same of any state, federal, or local constitution, law, regulation, rule, ordinance, standard or permit condition, or the application of any City ordinance or regulation after the Effective Date of this Agreement which materially and adversely affects the cost and design, construction or operation of the Corrective Action Plan.
23. Except as expressly stated and provided in this Agreement, the parties disclaim any express or implied representations, warranties, covenants, indemnities and releases.
24. This Agreement is subject to the express condition that the City Council and the Mayor approve the acquisition of the subject property on or before December 15, 2014 and that MassDEP has granted all final approvals for all aspects of the Corrective Action Plan within 280 days of the Effective Date of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as a sealed instrument as of the dates set forth below their respective signatures.

Browning-Ferris Industries, Inc.

By: [Signature]  
Title: VP

City of Fall River:

[Signature] 11/10/2014  
Director of Community Maintenance Date

[Signature] 11-7-14  
City Administrator Date

Approved as to Form, Manner  
And Execution

[Signature] 11-7-14  
Corperation Counsel Date

[Signature] 11-7-14  
Mayor Date

Customer: City of Fall River ("Customer")  
 Customer Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 City: Fall River State: MA Zip: \_\_\_\_\_  
 e-Mail: \_\_\_\_\_ Start Date: 10 / 14 / 2014

Company: Browning-Ferris Industries, Inc. a Republic Services company ("Republic")

152-184



**SERVICE AGREEMENT FOR MUNICIPAL SOLID WASTE (NO SPECIAL WASTE) Landfill and Transfer Station**

ACCOUNT NUMBER \_\_\_\_\_  
 Company E-MAIL \_\_\_\_\_

( ) Gate Rate(s) is (are) subject to change without notice  
 ( ) Agreement Specific Rate(s) and Terms: **MINIMUM** \_\_\_\_\_  
 Tons(s) per month **MINIMUM CHARGE** \$ \_\_\_\_\_ Per ton or \_\_\_\_\_ Per cubic yard or \_\_\_\_\_  
 ADDITIONAL TERMS \_\_\_\_\_

**TYPE OF WASTE**  
 Municipal Solid Waste RATE \$64.50\* Per ton or \_\_\_\_\_ Per cubic yard or \_\_\_\_\_  
 Construction and Demolition \$ \_\_\_\_\_ Per ton or \_\_\_\_\_ Per cubic yard or \_\_\_\_\_  
 Debris \$ \_\_\_\_\_ Per ton or \_\_\_\_\_ Per cubic yard or \_\_\_\_\_  
 Other: \_\_\_\_\_ \$ \_\_\_\_\_ Per ton or \_\_\_\_\_ Per cubic yard or \_\_\_\_\_  
 Fuel/Rec. Fee \_\_\_\_\_ Environmental Rec. Fee \_\_\_\_\_  
 Estimated Monthly Tonnage \_\_\_\_\_ Admin Fee \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_  
 (AUTHORIZED SIGNATURE)

CUSTOMER NAME (PLEASE PRINT) \_\_\_\_\_ DATE OF AGREEMENT \_\_\_\_\_

**TERMS AND CONDITIONS**

1. **Additional Terms:** The Disposal Fee (as defined below) will increase on July 1, 2015 by three percent (3%) and again on each July 1 thereafter during the Initial Term (as defined below) and the Renewal Term (as defined below) by three percent (3%) ("Disposal Fee Adjustment").  
 Upon the execution of this Agreement and the complete execution of both the Administrative Consent Order by and among Republic, Customer and the Department of Environmental Protection and the Remediation Agreement by and between Republic and Customer, this Agreement shall replace in its entirety the Services Agreement for Municipal Solid Waste by and between Republic and Customer dated as of October 14, 2014, which is deemed terminated.  
 Customer acknowledges and agrees that (i) the obligation of Republic (or any of its affiliates) to pay any host fees to Customer shall cease upon Closure (as defined below) of the Fall River Landfill located at 1080 Airport Road, Fall River, MA 02720 (the "Fall River Landfill"); and (ii) any materials deposited at the Fall River Transfer Station ("Disposal Facility") shall not be subject to any host fees payable to Customer or any affiliate thereof. "Closure" means the date the Fall River Landfill ceases accepting waste materials for disposal in the Fall River Landfill, excluding quantities of waste and/or materials for closure, post-closure and/or remediation purposes.  
 2. **Delivery of Acceptable Waste.** Customer shall deliver all Acceptable Waste (as defined below) generated in the area served by Customer whether collected by Customer or Customer's subcontractor to the Disposal Facility.

DOES FACILITY HAVE A HAZARDOUS WASTE GENERATOR I.D. NUMBER?  YES  NO  
 Rate based on \_\_\_\_\_ lbs/yd.  
 FOR OFFICE USE ONLY

TERMINAL	SALES REPRESENTATIVE	TAX CODE	TAX EXEMPTION NUMBER	TRANS CODE	START/POD/DEF	DRUG/PLTS
REF/BL	CE/EA/PP/CA	CREDIT LIMIT	CONTRACT APPROVAL	ENTERED BY	DATE	

## TERMS AND CONDITIONS

### 3. Delivery Procedures: Operation of the Disposal Facility.

(a) Acceptance of Acceptable Waste. Republic shall have the right in its sole discretion to reject delivery of any waste offered for acceptance by Customer that does not constitute Acceptable Waste. "Acceptable Waste" means all waste that is authorized to be disposed of at the Disposal Facility under then applicable federal, state and local laws, regulations, ordinances, rules, permits, licenses, and governmental orders or directives (collectively "Applicable Laws") and checked on the first page of this Agreement and that is not Unacceptable Waste (as defined below).

(b) Operation of the Disposal Facility/Procedures. Customer's delivery of Acceptable Waste to the Disposal Facility, which shall occur only during the Disposal Facility's posted hours, shall be governed by the procedures applicable to customers utilizing the Disposal Facility as Republic may modify such procedures from time to time. Notwithstanding anything in this Agreement to the contrary, Republic shall have the right in its sole discretion, to close the Disposal Facility, in whole or in part, either temporarily or permanently, at any time for any reason and the delivery of Acceptable Waste shall be suspended or adjusted accordingly. Upon any such permanent closure, Republic shall have the right to terminate this Agreement.

(c) Customer's Compliance with Applicable Laws. Customer shall collect, transport and deliver waste to the Disposal Facility in compliance with all Applicable Laws and the procedures referenced in Section 3(b).

(d) Title to Waste. Customer represents and warrants to Republic that either Customer or its customer shall hold clear title, free of all liens, claims and encumbrances, to the waste delivered by Customer to the Disposal Facility. Title to, and risk of loss and responsibility for, Acceptable Waste delivered to the Disposal Facility by Customer shall pass at the time such Acceptable Waste is removed from the delivery vehicle at the Disposal Facility. Title to Unacceptable Waste shall remain with Customer or its customer and shall never be deemed to pass to Republic.

4. Term. Unless sooner terminated pursuant to Section 7, this Agreement shall commence as of the start date indicated on the first page of this Agreement (Effective Date) and shall remain in full force and effect for sixty (60) consecutive months following the Effective Date (Initial Term). Upon mutual agreement of Republic and Customer the Initial Term may be extended for one twenty-four (24) consecutive month term (Renewal Term). Upon expiration or termination of this Agreement the obligations of Customer to deliver and of Republic to accept Acceptable Waste shall terminate; provided, however, that all other rights and obligations of the parties under this Agreement (including those with respect to payment and indemnification) shall survive such expiration or termination.

### 5. Disposal Fees.

(a) Fees. Customer shall pay Republic the Disposal Fee for all Acceptable Waste Customer delivers to the Disposal Facility as set forth on the first page of this Agreement (the "Disposal Fee").

(b) Payment; Deposit. Republic shall transmit an itemized invoice to Customer of all Disposal Fees and other charges under this Agreement on a periodic basis as set forth on the first page of this Agreement. Customer shall pay all invoices within thirty (30) days after receipt of invoice. If Customer does not make payment by such date, Customer shall pay a late payment fee in an amount equal to the lesser of (i) one and one-half percent (1.5%) per month or portion thereof on the amount past due or (ii) the maximum amount allowed by Applicable Law. Customer also shall pay a fee of \$50 (which Republic may increase from time to time by notice to Customer) for each check submitted by Customer that is an insufficient funds check or is returned or dishonored. At any time after Republic becomes concerned about Customer's creditworthiness or after Customer has made any late payment, Republic may request, and if requested Customer shall pay, a deposit in an amount equal to one month's charges under this Agreement.

(c) Taxes and Other Charges; Cost Increases. In addition to the Disposal Fee, Customer shall pay all federal, state, local or other taxes, fees (including host fees), surcharges or similar charges related to the acceptance or disposal of Acceptable Waste or the operations or activities of the Disposal Facility that are imposed by law, ordinance, regulation, agreement with a governmental authority, governmental audit or otherwise (collectively, "Taxes/Host Fees/Charges"). In addition, Republic shall have the right to increase the

Disposal Fee from time to time by the pro rata amount (determined by relative tonnage of Acceptable Waste delivered by Customer and accepted by Republic for processing at the Disposal Facility divided by the total tonnage of waste processed at the Disposal Facility) of any increase in operating costs or capital costs of the Disposal Facility as a result of a change in Applicable Laws. Any such increase shall be effective immediately upon written notice by Republic to Customer.

(d) Disposal Fee Adjustment. In addition to the adjustments described in Section 5(c), the Disposal Fee shall be increased as set forth on the first page of this Agreement.

### 6. Unacceptable Waste.

(a) Delivery of Unacceptable Waste. Customer agrees that it shall not deliver any Unacceptable Waste to the Disposal Facility. If Customer delivers waste that contains both Acceptable Waste and Unacceptable Waste, the entire delivery shall constitute Unacceptable Waste if the Unacceptable Waste cannot be separated from the Acceptable Waste through the reasonable efforts of Republic, as Customer's agent to cause such separation, with the cost of such separation to be paid by Customer.

(b) Weighting and Inspection of Waste by Republic. Republic shall weigh all waste at the Disposal Facility and the weight so determined shall be final and conclusive on both Customer and Republic. Republic shall have the right, but not the obligation, to inspect any of Customer's trucks to determine whether the waste delivered is Acceptable Waste or Unacceptable Waste. Customer acknowledges and agrees that any failure by Republic to perform from any such inspection or to detect Unacceptable Waste despite such inspection shall in no way relieve Customer from its obligation to deliver only Acceptable Waste or from its other obligations under this Section 6.

(c) Rejection of Unacceptable Waste. If Customer delivers Unacceptable Waste to the Disposal Facility, Republic may, in its sole discretion, (i) reject such Unacceptable Waste at Customer's expense, or (ii) if Republic does not discover such Unacceptable Waste in time to reject and reload such Unacceptable Waste, after giving Customer telephonic notice thereof and a reasonable opportunity to dispose of such Unacceptable Waste, Republic may, as Customer's agent, dispose of such Unacceptable Waste at a location authorized to accept such Unacceptable Waste in accordance with all Applicable Laws and charge Customer all direct and indirect costs incurred due to handling, delivery and disposal of such Unacceptable Waste, unless Customer otherwise elects to arrange for disposal of the Unacceptable Waste. If Customer elects to dispose of such Unacceptable Waste, it shall do so within such time period as Republic reasonably deems necessary or appropriate in connection with the operation of the Disposal Facility, including the preservation of the health and safety of its employees, if after electing to do so Customer does not dispose of the Unacceptable Waste within such time period, Republic may dispose of such Unacceptable Waste as Customer's agent, without further notice to Customer, and Customer shall pay the direct and indirect costs set forth above. Notwithstanding the foregoing, no notice shall be required by Republic to Customer for Republic to dispose of Unacceptable Waste as Customer's agent in emergency situations where in Republic's reasonable judgment a delay in such disposal could constitute a hazard to the Disposal Facility or any person on, about or near the premises.

(d) Definition of Unacceptable Waste. For the purposes of this Agreement, "Unacceptable Waste" means: (i) any material that is not Acceptable Waste; (ii) any material that by reason of its composition, characteristics or quantity is defined as a "hazardous material," "hazardous waste," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "toxic substance," "toxic waste," "toxic pollutant," "contaminant," "pollutant," "infectious waste," "medical waste," "radioactive waste," or "sewage sludge" under any Applicable Law; (iii) any material that requires other than normal handling, storage, management, transfer or disposal; or (iv) any other material that may present a substantial endangerment to public health or safety, may cause applicable air quality or water effluent standards to be violated by the normal operation of the Disposal Facility, or because of its size, durability or composition cannot be disposed of at the Disposal Facility or has a reasonable possibility of otherwise adversely affecting the operation or useful life of the Disposal Facility.

### 7. Default.

(a) Events of Default. Each of the following shall be an event of default by Customer under this Agreement: (i) Customer fails to pay any amount due as and when the same becomes due under this

Agreement, or (ii) Customer fails to perform any other term, covenant or agreement contained in this Agreement on its part to be performed and such failure continues for a period of thirty (30) days after written notice to Customer specifying the nature of such failure and requesting that it be remedied.

(b) Remedies on Default. Whenever any event of default by Customer shall have occurred and be continuing, Republic shall have the following rights and remedies, which shall be in addition to any other remedies provided by Applicable Law or this Agreement: (i) upon the end of any applicable grace period in this Section 7, Republic shall have the option to immediately terminate this Agreement unless during such period Customer has taken remedial steps the effect of which would be to enable Customer to cure such event of default within an additional fifteen (15) day period following the expiration of such grace period; and (ii) if Customer is then in default, Republic shall have the option, without terminating this Agreement, to stop accepting Acceptable Waste delivered by Customer until such default is cured or this Agreement is terminated. If Republic stops accepting Acceptable Waste, Customer shall pay Republic a service interruption fee in an amount determined by Republic in its discretion up to the maximum amount allowed by Applicable Law.

8. Indemnification. Customer shall indemnify, defend (upon request by Republic) and hold harmless Republic and its officers, directors, employees, agents, affiliates, parent, subsidiaries, successors and assigns (the "Republic Indemnified Parties") from and against any and all claims, counterclaims, suits, demands, actions, causes of actions, setoffs, fines, attachments, judgments, debts, losses, liabilities, damages, costs, expenses or other liabilities (including attorneys' fees, expert witness fees, litigation expenses, and court or other costs incurred in any proceeding) of any nature whatsoever (collectively, "Losses"), whether arising out of a claim or loss of or damage to property or injury to or death of any person, including any Republic Indemnified Party, or otherwise, caused by or arising out of (a) Customer's breach of this Agreement, or (b) Customer's negligence or willful misconduct.

9. Insurance. Customer acknowledges that Republic typically requires Customer, during the term of this Agreement, to maintain the following insurance coverages:

**Workers' Compensation:**

Coverage A  
Coverage B – Employer's Liability

Statutory  
\$1,000,000 each Bodily Injury by Accident  
\$1,000,000 policy limit Bodily Injury by Disease  
\$1,000,000 each occurrence Bodily Injury by Disease

**Automobile Liability:**

Bodily Injury/Property Damage  
Combined – Single Limit

\$3,000,000  
Coverage applies to all owned, non-owned, hired and leased vehicles (including trailers) and must include MCS-90 endorsement for pollution liability coverage.

**Commercial General Liability:**

Bodily Injury/Property Damage  
Combined – Single Limit

\$2,000,000 each occurrence  
\$3,000,000 general aggregate (including products/completed operations)

Customer represents and warrants to Republic that it is self insured and does not carry any independent or third party insurance coverage. Customer acknowledges and agrees that it will be fully and solely responsible for any Losses suffered by Republic as a result of Customer's breach of this Agreement.

**10. General**

(a) Force Majeure. Except for Customer's obligation to pay the Disposal Fee and all Tax/Host Fees/Charges, neither party hereto shall be liable for its failure to perform hereunder due to contingencies beyond a party's reasonable control, including, but not limited to, strikes, labor disputes, riots, terrorist acts, compliance with or changes in Applicable Law, fires, the loss, suspension, revocation or non-renewal of any permit, license or approval with respect to Disposal Facility and/or acts of God ("Force Majeure"). Any failure or delay in performance because of a Force Majeure event shall not constitute a breach of this Agreement, but

shall entitle the affected party to be relieved of performance during the term of such event and for a reasonable time thereafter.

(b) Independent Contractor. Customer and Republic shall perform their obligations under this Agreement as independent contractors. Neither party nor any of its employees, agents or subcontractors shall be, purport to be, or be deemed, the agent of the other party.

(c) Assignment; Binding Effect. Customer may not assign this Agreement without Republic's prior written consent, which Republic may grant or withhold in its sole discretion. Republic may assign this Agreement without the consent of Customer, and Customer acknowledges and agrees that any such assignment by Republic shall release Republic from any liability under this Agreement from and after the date of the assignment. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assignees.

(d) Entire Agreement. This Agreement supersedes all prior agreements, written or oral, with respect to the subject matter of this Agreement. Only a written instrument signed by both parties hereto may modify this Agreement.

(e) Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions hereof shall continue in full force and effect without being impaired or invalidated in any way. The parties agree to replace any invalid or unenforceable provision with a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

(f) Waiver. No delay or omission by a party in exercising any right under this Agreement shall operate as a waiver of that or any other right. A waiver or consent given by a party on any occasion is effective only in that instance and shall not be construed as a bar to or waiver of any right on any other occasion.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the state in which the Disposal Facility is located, without giving effect to any choice of law provision or rule (whether of the state in which the Disposal Facility is located or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state in which the Disposal Facility is located.

(h) Waiver of Jury Trial; Attorneys' Fees. By execution and delivery of this Agreement, each of the parties knowingly, voluntarily and irrevocably: (i) waives any right to trial by jury; and (ii) agrees that any dispute arising out of this Agreement shall be decided by court trial without a jury. If any legal action or any other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and other costs (including litigation related costs and expert witness fees) leading up to and incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

(i) Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained in this Agreement.

(j) Counterparts; Third Party Beneficiaries. This Agreement may be executed in two or more original, facsimile or pdf counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. This Agreement is intended to be solely for the benefit of the parties hereto and their successors and permitted assignees and is not intended to and shall not confer any rights or benefits on any other third party not a signatory hereto, except as provided in Section 8 of, or expressly provided in, this Agreement.

The undersigned individual signing this Agreement on behalf of the Customer acknowledges that he or she has read and understands the terms and conditions of this Agreement and that he or she has the authority to sign the Agreement on behalf of Customer.

See Attached Signature page

CONTRACT ENDORSEMENT

The attached Contract/Agreement by and between the City of Fall River and Republic Services is hereby endorsed.

In *Witness Whereof*, the City of Fall River has caused the hands and seals of its authorized representatives to be affixed hereto this 21<sup>st</sup> day November

[Signature] 11/18/14  
Director of Community Maintenance Date

[Signature] 11/19/14  
City Auditor Date

Replacing earlier contract  
15-168  
15-184

[Signature] 11-24-14  
City Administrator Date

Administratively reviewed and approved

[Signature] 11-18-14  
Corporation Counsel Date

Approved as to form and manner of execution

[Signature] 11/21/14  
Mayor Date

Solid waste disposal is exempt from 30B requirements.  
[Signature] MCG  
[Signature] MCG

# City of Fall River, *In City Council*

3

BE IT ORDAINED by the City Council of the City of Fall River, as follows:

That Chapter 38 of the Revised Ordinances of the City of Fall River, Massachusetts, 1999, which chapter relates to Historical preservation be amended as follows:

By inserting Article IV, HIGHLANDS LOCAL HISTORIC DISTRICT, and inserting under said Article the following new sections to read as follows:

## **Section 38-150. PURPOSE.**

The purpose of this ordinance is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Fall River, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture. The Highlands Local Historic District is to be administered by the Fall River Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

## **Section 38-151. DEFINITIONS.**

The terms defined in this section shall be capitalized throughout this Ordinance. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Ordinance the following terms shall have the following meaning:

### **ALTERATION, TO ALTER**

The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

### **BUILDING**

A combination of materials forming a shelter for persons, animals or property.

### **CERTIFICATE**

A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Ordinance.

### **COMMISSION**

The Historic District Commission as established in this Ordinance.

### **CONSTRUCTION, TO CONSTRUCT**

The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

### **DISPLAY AREA**

The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The display area of an individual letter SIGN or irregular shaped SIGN shall

be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face ill opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

**DISTRICT**

The Fall River Local Historic District as established in this Ordinance consisting of one or more DISTRICT areas.

**EXTERIOR ARCHITECTURAL FEATURE**

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

**PERSON AGGRIEVED**

The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

**SIGNS**

Any symbol, design or device used to Identify or advertise any place of business, product, activity or person.

**STRUCTURE**

A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

**TEMPORARY STRUCTURE or BUILDING**

A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

**38-152. DISTRICT.**

The DISTRICT shall consist of the area as depicted in Section 38-161, (Appendices) of this Ordinance.

**38-153. COMMISSION**

a. The DISTRICT shall be overseen by a COMMISSION consisting of seven members, to be appointed by the Mayor, two members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

b. The COMMISSION shall include, if possible, one member from two nominees solicited from the Fall River Preservation Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Fall River one member from two nominees of the Board of Realtors covering Fall River; and one property owner from within each of the DISTRICT areas. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Mayor may proceed to make appointments as it desires.

c. The Mayor may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three-year terms thereafter.

d. Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

e. Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

f. A majority of members of the COMMISSION shall constitute a quorum.

**38-154. COMMISSION POWERS AND DUTIES.**

a. The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Ordinance. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

b. The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Ordinance or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of Its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the City Clerk.

c. The COMMISSION, after a public hearing duly posted and advertised at least fourteen (14) days in advance In a conspicuous place In Fall River Government Center and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

d. The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the City Clerk.

e. The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

f. The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

**38-155. ALTERATIONS AND CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE.**

a. Except as this Ordinance provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the Commission shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

b. No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of AN EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a building or structure within a district shall be issued by the City or any department thereof until a CERTIFICATE as required under this Ordinance has been issued by the COMMISSION.

**38-156. PROCEDURES FOR REVIEW OF APPLICATIONS.**

a. Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application.

b. The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

c. If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the commission under the provisions of this Ordinance, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

d. If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Ordinance, it shall hold a public hearing on the application, except as may otherwise be provided in this Ordinance. The

COMMISSION shall hold such a public hearing within forty- five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Fall River Government Center and in a newspaper of general circulation in Fall River. Such notice shall identify the time, place and purpose of the public hearing. Concurrently a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December and to such other persons as the COMMISSION shall deem entitled to notice.

e. A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses a public hearing on an application for a CERTIFICATE, notice of such application be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

f. Within sixty (60) days after the filing of an application for a CERTIFICATE or within such further time as the applicant may allow in writing, the COMMISSION shall issue a certificate or disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features, which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

g. The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.

h. In issuing CERTIFICATES the COMMISSION may as it deems appropriate impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose if this Ordinance.

i. If the COMMISSION determines that the construction or alteration for which all application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT the COMMISSION shall issue a CERTIFICATE of Appropriateness.

j. If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE

involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Ordinance. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall Issue a CERTIFICATE of Hardship.

k. The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the City Clerk and the Building Commissioner. The date of issuance of a certificate or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the City Clerk.

l. If the COMMISSION should fail to issue a CERTIFICATE or disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

m. Each CERTIFICATE Issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

n. A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written appeal with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the City Clerk within forty-five (45) days after the request and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 40C, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the City Clerk.

**38-156. CRITERIA FOR DETERMINATIONS.**

a. In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES In the surrounding area.

b. In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the building or structure both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in

the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or ordinance.

c. When ruling on applications for CERTIFICATES on solar energy systems as defined in Section IA of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

d. The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

**38-157. EXCLUSIONS.**

a. The COMMISSION shall exclude from its purview the following:

Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify;

Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level;

Storm windows and doors, screen windows and doors, and window air conditioners;

The color of paint;

The color of materials used on roofs;

Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purpose, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in display area, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly;

The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence;

Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions;

Nothing in this Ordinance shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT

3

which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this Ordinance.

### **38-158. CATEGORICAL APPROVAL.**

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Fall River Government Center and in a newspaper of general circulation in Fall River, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be constructed or altered without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Ordinance.

### **38-159 ENFORCEMENT AND PENALTIES.**

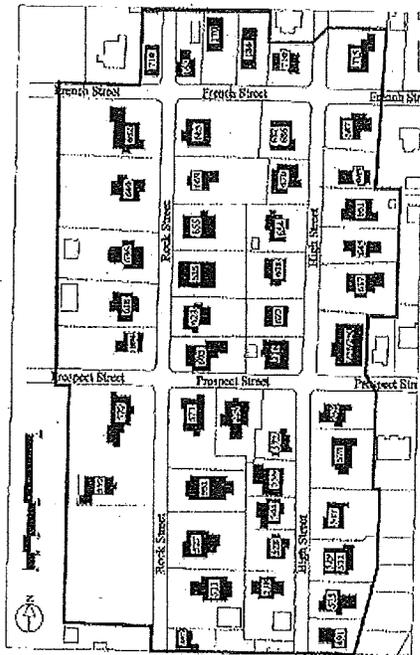
- a. The COMMISSION shall determine whether a particular activity is in violation of this Ordinance or not, and the COMMISSION shall be charged with the enforcement of this Ordinance.
- b. The COMMISSION, upon a written complaint of any resident of Fall River or owner of property within Fall River, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the City of Fall River to prevent, correct, restrain or abate violation of this Ordinance. In the case where the COMMISSION is requested in writing to enforce this Ordinance against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.
- c. Whoever violates any of the provisions of this Ordinance shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.
- d. The COMMISSION may designate the Building Commissioner of the City of Fall River to act on its behalf and to enforce this Ordinance under the direction of the COMMISSION.

### **38-160. VALIDITY AND SEPARABILITY.**

The provisions of this Ordinance shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall continue to be in full force and effect.

**38-161. APPENDICES**

The following map is incorporated in and made part of this Article.



CITY OF FALL RIVER  
IN CITY COUNCIL  
DEC 09 2014

*Passed through  
first reading*



RECEIVED

2014 DEC -5 A 10: 52

CITY CLERK 14-289  
FALL RIVER, MA

City of Fall River  
Notice of Claim

1. Claimant's name: Kim Besky Rogo
  2. Claimant's complete address: 16 Hedstuge Ct
  3. Telephone number: Home: 508 9891628 Work: \_\_\_\_\_
  4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
hit a pothole and tire went flat
  5. Date and time of accident: 11/5/14 Amount of damages claimed: \$ 23500.
  6. Exact location of the incident: (include as much detail as possible):  
I was going to Jerry Remys on Duval street
  7. Circumstances of the incident: (attach additional pages if necessary):  
I have pictures and I have receipt from BMW
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

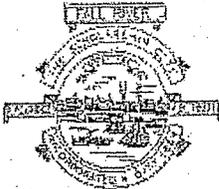
Date: 11/5/14 Claimant's signature: Kim Besky Rogo

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	
Copies forwarded to: <input type="checkbox"/> City Clerk <input type="checkbox"/> Law <input type="checkbox"/> City Council <input type="checkbox"/> City Administrator <input checked="" type="checkbox"/> DPW	Date: <u>12/5/14</u>



RECEIVED

City of Fall River  
Notice of Claim

2014 DEC -4 P 12: 01

CITY CLERK 14-290  
FALL RIVER, MA

- 1. Claimant's name: Tonya Melendez
- 2. Claimant's complete address: 824 County St. Fall River, MA 02723
- 3. Telephone number: Home: 508-491-6220 Work: 781-774-1785
- 4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
property damage cause by a pothole
- 5. Date and time of accident: 11/21/14 6:34 pm Amount of damages claimed: \$ 329.90
- 6. Exact location of the incident: (include as much detail as possible):  
heading west on Duelliy street between laurel and vale street  
(almost in front of the car wash)
- 7. Circumstances of the incident: (attach additional pages if necessary):  
I was driving west on Duelliy street from laurel and hit a pothole almost in front of the car wash before vale st. it popped my tire so I pulled over & a tow truck driver was already there fixing another drivers tire that also popped from the same pothole.
- 8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 12/2/14

Claimant's signature: Tonya Melendez

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	
Copies forwarded to: <input checked="" type="checkbox"/> City Clerk <input checked="" type="checkbox"/> Law <input checked="" type="checkbox"/> City Council <input checked="" type="checkbox"/> City Administrator <input checked="" type="checkbox"/> DPW	Date: <u>12/5/14</u>



10

RECEIVED

City of Fall River  
Notice of Claim

2014 DEC -5 A 10: 53

CITY CLERK 14-291  
FALL RIVER, MA

- 1. Claimant's name: Doris O Bilodeau
- 2. Claimant's complete address: 34 Greenlawn St Fall River, MA 02720
- 3. Telephone number: Home: 1-508-673-2295 Work: n/a
- 4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
A tree located on city property fell
- 5. Date and time of accident: 11/24/2014 <sup>approx early afternoon</sup> Amount of damages claimed: \$ 600 -
- 6. Exact location of the incident: (include as much detail as possible):  
In front of 34 Greenlawn St.

7. Circumstances of the incident: (attach additional pages if necessary): A tree located on the sidewalk area in front of my property fell due to wind on 11/24/2014 causing electric wires to come down. The electric company came out and did repairs but advised me to contact my own electrician to make repairs to property owned by me. I have contacted the City on many different occasions to advise them

that this tree was rotting away and starting to lean  
 8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No  
I have a 2PERCENT wind ded so the repair is under the ded.

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

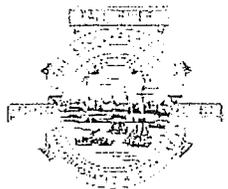
Date: 12-2-14 Claimant's signature: Doris Bilodeau

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	
Copies forwarded to: <input checked="" type="checkbox"/> City Clerk <input type="checkbox"/> Law <input type="checkbox"/> City Council <input type="checkbox"/> City Administrator <input checked="" type="checkbox"/> <u>DAW</u>	Date: <u>12/5/14</u>



RECEIVED

2014 DEC 10 A 10:12

City of Fall River  
Notice of Claim

CITY CLERK 14-292  
FALL RIVER, MA

1. Claimant's name: SLANE GRANJA
2. Claimant's complete address: 507 Grand Ave., Pawtucket, RI 02861
3. Telephone number: Home: 401-305-7837 CELL: 401-523-0226 Work: 401-523-0226
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
VEHICLE DAMAGE DUE TO POT HOLE
5. Date and time of accident: 12.6.14 7:40 AM Amount of damages claimed: \$ 901.09 - 952.06
6. Exact location of the incident: (include as much detail as possible):  
PLYMOUTH AVE.
7. Circumstances of the incident: (attach additional pages if necessary):  
TRAVELLING ON PLYMOUTH AVE TOWARDS ROBESON ST.  
TO TAKE MY SON TO DENTIST (MR. BUCCINO) HIT  
A POT HOLE SUSTAINING DAMAGE TO MY VEHICLE.  
2 TIRES, 2 STEEL RIMS, 1 HUBCAP
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 12.9.14

Claimant's signature: Slane Granja

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	Date: <u>DEC 10 2014</u>
Copies forwarded to: <input checked="" type="checkbox"/> City Clerk <input checked="" type="checkbox"/> Law <input checked="" type="checkbox"/> City Council <input checked="" type="checkbox"/> City Administrator <input checked="" type="checkbox"/> <u>DPW</u>	



10

RECEIVED

City of Fall River  
Notice of Claim

2014 DEC 11 P 3:52

CITY CLERK 14-293  
FALL RIVER, MA

1. Claimant's name: Sarah Nhem
2. Claimant's complete address: 536 Montaup St
3. Telephone number: Home: 508-916-0870 Work: 508-675-5757 Ext #3307
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Pot hole damage
5. Date and time of accident: 12-1-14 @ 6:00pm Amount of damages claimed: \$ 309.25
6. Exact location of the incident: (include as much detail as possible):  
Stafford Road, near Maplewood Park
7. Circumstances of the incident: (attach additional pages if necessary):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 12-11-14 Claimant's signature: [Signature]

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:	
Copies forwarded to: <input checked="" type="checkbox"/> City Clerk <input type="checkbox"/> Law <input type="checkbox"/> City Council <input type="checkbox"/> City Administrator <input checked="" type="checkbox"/> DPW	Date: <u>12/11/14</u>

Council  
10



RECEIVED

2014 DEC 15 A 9:13

City of Fall River  
Notice of Claim

CITY CLERK  
14-294

1. Claimant's name: MA Diane Cardoso

2. Claimant's complete address: 94 Oak St Apt # Fall River MA 02720

3. Telephone number: Home: 774-488-9860 Work: \_\_\_\_\_

4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
PROPERTY Damage to Car, POT Hole

5. Date and time of accident: Nov, 29, 2014 Amount of damages claimed: \$ 180.00

6. Exact location of the incident: (include as much detail as possible):  
Right in front of Seabra Market pot hole on Stafford Rd

7. Circumstances of the incident: (attach additional pages if necessary):  
There were no Circumstances other than property Damage to vehicle.

8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: Dec 12 2014

Claimant's signature: Diane Cardoso

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:  
Copies forwarded to:  City Clerk  Law  City Council  City Administrator  DPW Date: DEC 15 2014

MetLife Auto & Home®  
Northeast Field Claim Office  
Attention: Claims  
P.O. Box 6040  
Scranton, PA 18505  
(800) 854-6011

10

RECEIVED

MetLife®

2014 DEC 15 P 1:15

CITY CLERK #14-295  
FALL RIVER, MA

December 10, 2014

Fall River City Clerk's Office  
1 Government Center  
Fall River, MA 02722

Our Customer: Beth A. Jean  
Claim Number: ALH28682 GQ  
Date of Loss: December 9, 2014  
Your Vehicle: Fire Truck  
Your Driver: Gerald Nientimp

Dear Fall River City Clerks Office:

We have received notice of a claim from our insured, Beth A. Jean. It is our understanding that you insure the at-fault party, Fall River Fire Department.

Please accept this letter as notice of our claim. We have attached a form with detailed information regarding the facts of the loss. We request that your claim information be forwarded to the e-mail address listed below, or feel free to contact us if you wish to discuss the claim in further detail.

Thank you for your assistance with this matter.

Sincerely,

Nicole Zocco-Files  
Metropolitan Property and Casualty Insurance Company  
Senior Claim Adjuster  
(800) 854-6011 Ext. 3846  
Fax: (866) 947-0184  
Email: nzoccofiles@metlife.com



#14-296 10

DEVANE & DEVANE  
ATTORNEYS AT LAW

100 ARMISTICE BOULEVARD  
PAWTUCKET, RI 02860  
PHONE: 401.727.3404  
FACSIMILE: 401.727.3407  
DEVANEDEVANELAW@VERIZON.NET

MICHAEL A. DEVANE, ESQUIRE

WILLIAM E. DEVANE, ESQUIRE

November 28, 2014

City of Fall River  
City Clerk, 2<sup>nd</sup> Floor  
One Government Center  
Fall River, MA 02722

RE: Richard Finn

Dear Sir or Madam:

RECEIVED  
2014 DEC 16 A 10:46  
CITY CLERK  
FALL RIVER, MA

Please be advised that Mr. Richard Finn of 120 Eddy Street, Fall River, Massachusetts, phone # 508-677-1684 did slip and fall in the roadway at the corner of Beattie and Tobin Streets in an area where paving and construction had been undertaken in the early morning hours on November 5<sup>th</sup>, 2014.

Mr. Finn tripped and fell when his foot sunk in or around a manhole cover and was injured severely when his tibia and fibula snapped as a result of the fall.

Mr. Finn claims damages in the amount of \$250,000.00 for his debilitating injuries.

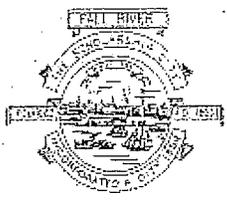
This will confirm that this office has been retained to represent Mr. Richard Finn in connection with the above matter.

Sincerely,



William Devane, Esq. #649646  
100 Armistice Boulevard  
Pawtucket, RI 02860

WED:skb



RECEIVED

2014 DEC 16 A 10:46

City of Fall River  
Notice of Claim

CITY CLERK #14-297  
FALL RIVER, MA

1. Claimant's name: Lynn M Matten  
2. Claimant's complete address: 328 Thelma Ave Somerset MA 02724  
3. Telephone number: Cell Home: 508-408-3346 Work: \_\_\_\_\_

4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
Pot hole / Sewer Drain Cap Damage

5. Date and time of accident: 12/2/14 5pm Amount of damages claimed: \$ 1131.48

6. Exact location of the incident: (include as much detail as possible):  
Brownell under Railroad Tracks

7. Circumstances of the incident: (attach additional pages if necessary):  
I was on Brownell St going towards Lindsey St There was a pot hole under the Railroad Tracks I tried to avoid the pot hole but because the Sewer Drain Cover is raised (no orange paint on Drain Cover to advise that it was raised) my right tire still hit the pot hole and the Drain cover ->

8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 12/15/14 Claimant's signature: Lynn M Matten

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:  
Copies forwarded to:  City Clerk  Law  City Council  City Administrator  DPW Date: 12/16/14



#14-298 10

RECEIVED

City of Fall River  
Notice of Claim

2014 DEC 16 A 10:46

1. Claimant's name: Stephanie Trenholm CITY CLERK  
FALL RIVER, MA
2. Claimant's complete address: 278 County St. Fall River, MA. 02723
3. Telephone number: Home: 508-674-4749 Work: \_\_\_\_\_
4. Nature of claim: (e.g., auto accident, slip and fall on public way or property damage):  
2 flat tires
5. Date and time of accident: 12-9-14 7:55am Amount of damages claimed: \$ 302.75
6. Exact location of the incident: (include as much detail as possible):  
The pothole in front of 126 Shore St. Fall River
7. Circumstances of the incident: (attach additional pages if necessary):  
I had 4 brand new tires put on my car on 12-5-14. On 12-9-14 I hit the pothole in front of 126 Shore St. and got 2 flats on my drivers side and had to buy 2 more tires. I am including receipts from both dates. I am also including a picture of the pothole. more on back →
8. Have you submitted a claim to any insurance company for damages arising from this incident? If so, name and address of insurance company:  Yes  No

Be sure to attach the original of any bills issued or any written estimates of repair or replacement costs. (Any documents that you provide will become the property of the City of Fall River; therefore, please retain copies of any such documents for your files.) Attach any other information you believe will be helpful in the processing of your claim (for example, names and addresses of any witnesses, written medical records if personal injury was sustained).

I swear that the facts stated above are true to the best of my knowledge.

Date: 12-14-14

Claimant's signature: S. Trenholm

WHEN TO FILE: If your claim is based on a defect in a public way, you must file within 30 days of the incident. If your claim is based on the negligence or wrongful act or omission of the City or its employees, you must file within two years of the incident. PLEASE KEEP A COPY OF THIS FORM FOR YOUR RECORDS.

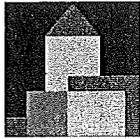
**Return this from to : City Clerk, 2<sup>nd</sup> Fl., One Government Center, Fall River, MA 02722**

You should consult with your own attorney in preparing this claim form to understand your legal rights. The Office of the Corporation Counsel is unable to provide legal assistance to private citizens.

For official use only:

Copies forwarded to:  City Clerk  Law  City Council  City Administrator  JDW

Date: 12/10/14



# MASSDEVELOPMENT

RECEIVED

2014 DEC 15 P 12:31

99 High Street  
Boston, Massachusetts  
02110

Tel: 617-330-2000  
800-445-8030

Fax: 617-330-2001

www.massdevelopment.com

December 3, 2014

City Council  
City of Fall River  
One Government Center  
Fall River, MA 02722

CITY CLERK \_\_\_\_\_  
FALL RIVER, MA

Dear Members of the Council:

On November 20, 2014 the Massachusetts Development Finance Agency gave preliminary approval to issue a revenue bond on behalf of Young Men's Christian Association Southcoast, Inc. The proposed project would be located at various Massachusetts locations listed on the attached summary included for your information. The bond would be issued pursuant to Chapter 23G and 40D of the General Laws.

The Agency's policy is to advise the appropriate local and regional planning agencies to ascertain the relationship of a proposed project to any existing state, local or regional comprehensive plan.

The purpose of this letter is to notify you of the project and to request that you advise in the event that the proposed project conflicts with an existing local or regional comprehensive plan. If you would like further information on the project, or if you would like the Agency to consider any comments you may have, please give me a call.

Sincerely,

Joseph Grivers  
Vice President

Enclosure: Summary

cc: Greenberg Traurig, LLP  
One International Place  
Boston, MA 02110  
Attn: Jean M. Deluca, Esq.

JG/jck

**YOUNG MEN'S CHRISTIAN ASSOCIATION SOUTHCOAST, INC.**

REQUEST: To assist the applicant in financing a not for profit project, approval of the proposed project for a MassDevelopment 501(c)(3) Tax-Exempt Bond issue is requested.

BOARD ACTION: Approve the resolution authorizing Official Action for a MassDevelopment 501(c)(3) Tax-Exempt Bond.

BORROWER: Borrower: Young Men's Christian Association Southcoast, Inc. (together, with any parent, subsidiary, or other affiliate) 25 South Water Street New Bedford, MA 02740  
User(s): Same

<u>PROJECT LOCATIONS:</u>	271 Sharps Lot Road Swansea, MA 02777	25South Water Street New Bedford, MA 02740	38 Reservation Road Mattapoisett, MA 02739
	276 Gulf Road Dartmouth, MA 02748	16 Reservation Road Mattapoisett, MA 02739	Snows Pond Road Rochester, MA 02770
	199 North Main Street Fall River, MA 02720	33 Charge Pond Road Wareham, MA 02571	0 Pine Street Fall River, MA 02720

PROJECT: Proposed is the financing and/or refinancing of project costs associated with the acquisition and renovation of a former religious /educational property located at 271 Sharps Road, Swansea. The property, currently being used by the Grace Baptist Church and the New England Christian Academy, is scheduled to be acquired by the Young Men's Christian Association Southcoast, Inc. The property will house the YMCA's new Swansea Branch, which will offer traditional YMCA fitness programs and services to families in Swansea, Somerset and surrounding communities. These programs support healthy living, youth development and social responsibility. The YMCA also provides childhood education and childcare services for the community

The property being acquired is comprised of approximately 36 acres of land, several athletic fields, a playground, parking lot, maintenance garage and two commercial buildings totaling 26,600 square feet and 16,800 square feet respectively. The collective properties are expected to be re-zoned for recreational use by the seller prior to the sale of the facility.

Proceeds of the tax-exempt bond will also be used to refund a prior 2005 Massachusetts Development Finance Agency Bond Issue, refinance bank debt previously incurred to fund capital expenditures, and to furnish funds needed to pay issuance costs, soft costs and the cost associated with breaking a prior fixed rate derivative swap, which was integrated with the 2005 bond.

This new financing is expected to enable the YMCA the ability to restructure prior debt, while supporting a greater availability for traditional YMCA services and programs

The borrower's prior \$8,218,908 Massachusetts Development Finance Agency Revenue Bond YMCA Southcoast Issue, Series 2005 was used to fund several projects and to refund two prior MassDevelopment tax-exempt bonds issued in 2001 and 2003.

Bond proceeds were originally used to construct a new 2,352 square foot addition to the Wareham YMCA, fund capital improvements to the Fall River YMCA, refinance existing bank debt, acquire equipment and furnishings, fund renovations to the New Bedford YMCA's Wellness Center, cover existing and future development costs and costs of issuance.

GUIDELINE ISSUES: None

BOND AMOUNT: \$11,000,000

INSTITUTION: Established in 1867, the Young Men's Christian Association Southcoast, Inc. is a nonprofit charitable organization committed to strengthening communities that it serves through youth development, healthy living and social responsibility.

The organization serves over 35,000 people in 17 communities from the greater Fall River area to the Cape Cod Canal and offers programs for all ages and abilities. Programs include health & fitness, swimming, competitive sports, youth activities, karate, leadership training, aerobics, weight training, after school enrichment, child care, summer camps, senior wellness and more. All activities stress positive values that enrich the individual, strengthen the family and enhance the quality of life for all members of the community.

The Young Men's Christian Association Southcoast, Inc. maintains their general administrative office in the City of New Bedford. The YMCA's core management group oversees the operations of five branches within Southeastern Massachusetts including: Dartmouth, Fall River, Mattapoissett, New Bedford, and Wareham, and operates outdoor camps in Mattapoissett, Wareham, Dartmouth, and Rochester.

On November 26, 2013, MassDevelopment closed a \$5,000,000 New Market Tax Credit transaction with the YMCA of Southeastern MA Restoration Inc., an affiliate of the Young Men's Christian Association Southcoast, Inc. The financing will help facilitate the renovation and expansion of the YMCA's downtown Fall River facility, as well as the purchase an abutting building that will be demolished to provide additional parking. This will be the YMCA's fourth tax-exempt bond series issued through MassDevelopment.

EMPLOYMENT: Full-Time equivalent employment in state: 100  
Borrower projected new employment at site: 30  
MDFA calculated new construction jobs: 3

PUBLIC PURPOSE BENEFIT: The acquisition and the renovation of a commercial building in Swansea will expand the YMCA Southcoast's capacity to meet a growing demand for its programs and services, which promote healthy living and provide for a higher quality of life.

PRINCIPALS: Peter C. Bullard, Chairman  
Steven D. Romsey, 1st Vice Chairman  
Margaret D. Xifaras, 2nd Vice Chairman  
Dr. Brian K. Bowcock, Treasurer:  
Kathleen R. Corkum, Clerk

SOURCES & USES:

<u>Sources:</u>	
<b>Total:</b>	<b>\$11,000,000</b>
<u>Uses:</u>	
<b>Total:</b>	<b>\$11,000,000</b>