

# NANTUCKET MEMORIAL AIRPORT COMMISSION

**October 14, 2014**  
**Agenda**

1. Review and Approve:
  - a. Agenda
  - b. 8/12/14 Minutes
  - c. 9/9/14 Minutes
  - d. Ratify 9/24/14 Warrant
  - e. Ratify 10/8/14 Warrant
2. Public Comment
3. Pending Leases/Contracts as Set Forth on Exhibit 1, which Exhibit is Herein Incorporated by Reference
4. Pending Matters
  - a. **070913-1** TON Memorandum of Understanding (MOU) Update
    - i) Review Draft of new MOU for Discussion and Possible Vote
  - b. **042214-2** Formerly Used Defense Site (FUDS) Status
5. **101414-1** Commission Non-Grant Related Document Signatures Policy Revision
6. Finance
  - a. **101414-2** FY 15 Quarterly Report
  - b. **101414-3** FY 16 Budget Process
  - c. **090914-4** FY16 Capital Requests Update
7. **022613-2** Master Plan and Sustainability Program Update
8. Manager's Report
  - a. Other Project Updates
  - b. RFP/Bid Status
  - c. Operations Update
  - d. August Statistics
9. Sub-Committee – Reports
10. Commissioner's Comments
11. Public Comment
12. Executive Session – G.L. c.30A, §21
  - a. Review ES minutes of 8/28/12, 9/18/12, 12/4/12, 12/11/12, 2/26/13, 4/23/13, 5/28/13, 8/27/13, 9/10/13, 9/24/13, 10/8/13, 10/22/13, 11/12/13, 12/10/13, 1/14/14, 2/25/14, 3/11/14, 3/25/14, 4/22/14, 6/24/14, 7/15/14 and 8/12/14 for possible release; and 9/9/14 for review and possible release.



Town of Nantucket  
**NANTUCKET MEMORIAL AIRPORT**  
14 Airport Road  
Nantucket Island, Massachusetts 02554

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*Commissioners*  
Daniel W. Drake, Chairman  
Arthur D. Gasbarro, Vice Chair  
Andrea N. Planzer  
Jeannette D. Topham

**DRAFT**

**AIRPORT COMMISSION MEETING**

**August 12, 2014**

The meeting was called to order at 5:12 PM by Chairman Daniel W. Drake with the following Commissioners present: Arthur D. Gasbarro, Vice Chair, and Jeanette D. Topham.

Commissioner Andrea N. Planzer participated remotely by phone due to geographical distance.

Mr. Drake announced that due to some conference phone issues Mr. Bouscaren, the newly appointed, but not yet sworn in, Airport Commissioner may not have been able to dial in and is not connected to the meeting.

The meeting took place in the 1<sup>st</sup> Floor meeting room at the Public Safety Facility, 4 Fairgrounds Rd.

Airport employees present were, Thomas Rafter, Airport Manager, Mae Williams, Administrative Assistant and Janine Torres, Office Manager.

Mr. Drake announced the meeting was being recorded.

Mr. Drake asked for comments on the Agenda. Hearing none the Agenda was approved.

Mr. Drake asked for comments on the four sets of minutes presented for approval: 6/10/14 and 6/24/14 regular meeting minutes; and 2/11/14 and 5/27/13 executive session minutes. Ms. Planzer noted a typographical error on the 6/10/14 minutes under Pending Matters, second to last line, "purview" is misspelled. Ms. Topham noted Mr. Sylvia's name was incorrectly spelled in the 6/24/14/ minutes under Statistics. Ms. Topham made a **Motion** to approve the four sets of minutes as corrected. **Second** by Mr. Gasbarro and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

Mr. Gasbarro made a **Motion** to ratify the 7/23/14 and 8/6/14 Warrants. **Second** by Ms. Topham and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

**Public Comment**  
None.

**Pending Leases/Contracts – Mr. Rafter presented the following Leases and Contracts:**

- **RTT Concierge** – a license agreement for GA ramp driving privileges for fee income of \$1,500
- **Air Wisconsin Airlines (US Airways)** – a seasonal airline agreement for rental income of \$11,000, plus fee income of \$1,500, plus Landing fees.
- Sherrill Tree Inc – a contract for the purchase of a skid mounted sprayer for \$14,426 from the capital budget.
- Kevin Conrad Heating & Cooling – a contract amendment to extend the expiration date of the contract to install air conditioning in the gift shop by one (1) month with no additional cost.
- FAA – Other Transactional Agreement (OTA) for the Air Traffic Control Tower Modernization Project to increase the total funds available by \$420K bringing the total funds available to \$4,795,000.

Ms. Topham asked if RTT Concierge was the only company providing this service. Mr. Rafter explained there is one other company with ramp driving privileges noting the Airport also has fees for taxis, livery and courtesy buses picking up passengers at the Airport.

Mr. Gasbarro made a **Motion** to approve the license, lease agreement and contracts as noted on Exhibit 1. **Second** by Ms. Topham and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

#### **Pending Matters**

**070913-1 TON Memorandum of Understanding (MOU) Update** – Mr. Rafter reported we are still waiting for the Procurement Office to issue the Town's updated Procurement Policy, explaining we are waiting for the update before drafting a new MOU.

**042214-2 Formerly Used Defense Site (FUDS) Status** – Mr. Drake noted the Army Corps of Engineers (ACE) letter was discussed with Town Counsel who pointed out the investigation could involve risks beyond the MRS site. Mr. Drake stated the Commission needs to make a decision on the proposed lease with GJ Smith, Inc. without knowing the extent of the risks if we were to proceed with the lease. Ms. Topham made a **Motion** to terminate the open Bunker Lease Procurement matters. **Second** by Mr. Gasbarro. During discussion, Mr. Gasbarro expressed his disappointment; but added there is too much risk for the Airport. Ms. Topham concurred. Ms. Planzer asked if there were any other options to which Mr. Drake responded only against the advice of Counsel. The Motion **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

Discussion moved to other options, away from Bunker Road, that may be available noting if there were, it would have to be put out to bid and there was no guarantee Mr. Smith would be the winning bidder. A **Motion** was made by Ms. Topham directing the Airport Manager to seek other land that may be available to put out to bid for leasing purposes. **Second** by Mr. Gasbarro and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

## Various Personnel Matters

- **Job/Classification Plan Study Update** – Mr. Rafter reported a meeting with Mr. Jacobs to discuss the scope has been scheduled.
- **Ratify Changes to Non-Union Personnel Manual** – Mr. Rafter presented the proposed revision to Section III “Work Schedules and Overtime” of the Administrative Personnel Manual noting Town Counsel has made revisions. Mr. Drake noted Counsel had stricken “whenever practicable” from the Exempt Employee section. Mr. Drake had suggested the language foreseeing instances where the Manager may not be available to approve overtime. Mr. Drake suggests adopting the policy as amended but revisiting this phrase. Ms. Planzer objected to the term “whenever practicable” stating its meaning was too broad. Mr. Gasbarro suggested “or designee” as alternate language. After brief discussion, the matter was tabled to allow Town Counsel to suggest better language.

## 071514-1 FY14 Financial Update

Mr. Rafter presented the 4<sup>th</sup> Quarter report for FY14 that will be presented to the Board of Selectman on August 20<sup>th</sup> noting the subsidy from the Town is \$305K, down from \$1.1M subsidy needed in FY13. Of the \$1.3M of Retained Earnings applied to balance the budget, only \$172K was used allowing \$1.169M to be rolled over into Retained Earnings.

Mr. Rafter noted a re-payment agreement to the Town is being drafted for the advance made by the Town.

Mr. Rafter also reported the Airport is working with the Town on the Fixed Asset listing.

Mr. Gasbarro commented the results of FY14 were due to a reduction of Expenses and hopes the Master Plan process will suggest opportunities to increase Revenue’s through the overall Rate Structure, such as a Peak Seasonal Pricing concept for ramp parking, so that the General Fund Subsidy can be eliminated altogether. Mr. Rafter agreed with the concept of increasing revenue’s but cautioned where the emphasis should be, noting there are other opportunities and alternatives in creating revenue. Mr. Gasbarro noted the timing of the Master Plan process is crucial to the formulation of FY16 Budget. Mr. Rafter added the Town has asked for a financial forecast to aide in the re-payment agreement; and the Master Plan Financial consultant will be producing a 5 Year Forecast which will be a valuable tool.

**022613-2 Master Plan and Sustainability Program Update** – Mr. Rafter noted the consultant [Jacobs] has not provided a weekly report for several weeks and will reach out to Mr. Chamberlain.

Mr. Rafter reported meeting with Jacobs to review Chapter 6, “Facility Requirements” and it is in the process of being finalized.

Mr. Rafter reported receiving the analysis on the terminal special needs and will be meeting with the consultant later in the week to review noting this will be part of the overall Alternatives Analysis.

Mr. Rafter will also discuss with Mr. Chamberlain the scheduling of the next Advisory Group meeting.

Mr. Rafter presented a MassDOT Grant Award noting it is not additional money, but simply a carryover of previously awarded money into the new fiscal year.

Mr. Gasbarro made a **Motion** to accept the MassDOT Grant in the amount of \$22,341.81. **Second** by Ms. Topham and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye



**GA/Administration Building Change Order Update** – Mr. Rafter presented revised Change Order #19 for the hand dryers explaining that the original Change Order was rejected and negotiated to the amount presented, \$5,963.31. It was noted there is approximately \$10K on additional change orders that are currently in contention.

Mr. Rafter reported an “interim” final pay requisition is currently being processed; and the Airport is still waiting for the “actual” final pay requisition to be received. The actual final will include the credits for the punch list items completed by the Airport. Mr. Drake asked for the punch list items for the next meeting.

Mr. Rafter reported receiving quotes to install irrigation and grass/sod at the building and any required contracts will be presented at the next meeting.

### **Manager’s Report**

**Other Project Updates** – Mr. Rafter reported:

- **Air Traffic Control Tower** – The 10% design review meeting took place. There are some long lead items, for example the rotating beacon that will be purchased in advance. Discussion regarding the project schedule indicated completion may be back on track for May 2015 completion. The preliminary construction cost estimate is high and the team is working to refine it.
- The contracts for both the **Security Upgrades** and **ARFF Vehicle** have been sent to MassDOT for final signature.
- Mr. Karberg has arranged a group of Worcester Polytechnic Institute students to provide re-design of the Airport’s website beginning in October.

**Discussion of ID Deposit Complaint** – Mr. Rafter acknowledged a complaint from one individual concerned over the \$300 refundable deposit requirement for an Airport ID badge. Mr. Rafter explained the past history of significant amount of lost/unreturned badges within our general aviation community and the increase to \$300 several years ago resulted in the reduction of the loss/unreturned rate. The Transportation Security Administration (TSA) conducts audits each year and has established a very low limit as an acceptable loss ratio. Exceeding this limit can be very costly and time consuming to the Airport because it would require rebadging everyone. There are currently over 400 badges issued.

**Operations** – Mr. Rafter reported:

- A meeting took place this week with Bill McGrath to review terms of a new lease agreement for his hangar.
- Our required full-scale emergency drill exercise is scheduled for September 24<sup>th</sup>. There is a requirement that airport commissioners and airport administrative personnel take certain NIMS (National Incident Management Systems) training. Dates are being coordinated with the consultant to provide this training.
- Fuel sales over the Boston Pops weekend were down over \$40K from last year.
- The Lease agreement with Parks & Rec for the Delta fields has expired and we are researching the terms of that agreement before drafting a new one.
- Loss of revenue from the parking lot operations is being identified and will be rectified through several means including the police department, internal procedures and system training by the manufacturer. Mr. Gasbarro suggested additional signage indicating a penalty for violators which may deter some of the scofflaw’s.

**Statistics** – Mr. Rafter reported the June 2014 statistics:

- Operations are up 8.39% compared to June 2013. FYTD Operations are down 5.72%
- Enplanements are down .03% compared to June 2013. FYTD Enplanements are down 0.68%
- Jet fuel gallons sold is down 8% from June 2013. FYTD Jet fuel gallons sold is up 2.58%.

- Avgas gallons sold is up 32% from June 2013. FYTD AvGas gallons sold is down 1%.
- Noise complaints were up 76% from June 2013. FYTD Noise complaints are down 29.63%. Mr. Rafter noted Mr. Karberg has a good handle on the complaint process and is working on recommendations to the tracking system to present to the Sub-Committee.

### **Sub-Committee Reports**

None.

### **Commissioner's Comments**

Mr. Drake pointed out the TON's Electronic Communication Policy has been included in the meeting packet.

### **Public Comment**

None.

Having no further business, Ms. Topham made a **Motion** to enter into Executive Session, not to reconvene in Open Session, to review Executive Session Minutes as enumerated on the Agenda as well as to conduct strategy session with respect to collective bargaining where if held in Open Session could have a detrimental effect on the bargaining position of the Airport Commission.

**Second** by Mr. Gasbarro and **Passed** by the following roll-call vote:

Mr. Drake – Aye  
Mr. Gasbarro – Aye  
Ms. Planzer – Aye  
Ms. Topham – Aye

Meeting adjourned at 6:01 pm.

Respectfully submitted,

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Janine M. Torres, Recorder

### Master List of Documents Used

8/12/14 Agenda including Exhibit 1

6/10/14 Draft Minutes

6/24/14 Draft Minutes

2/11/14 Executive Session Minutes

5/27/14 Executive Session Minutes

7/23/14 Warrant Approval Sheet

8/6/14 Warrant Approval Sheet with accompanying emails:

7/26/14 Planzer to Crooks re Merchants Bonding Co Invoice Payment

7/29/14 Planzer to Torres/Crooks subject 8.6.14 Warrant Batches

7/29/14 Drake to Crooks/Torres re Merchants Bonding Co Invoice Payment

RTT Concierge 2014 License Agreement

Air Wisconsin 2014 Lease Agreement

Sherrill Tree Inc Contract

Proposed Revision / Existing Language Section III Administrative Personnel Manual

4<sup>th</sup> Quarter FY14 Enterprise Update

MassDOT Standard Contract Form re Master Plan Update

GA/Admin Bldg Construction Change Order Log

8/7/14 Email from Turner to Torres/Rafter/Tallman subject: ID Deposit Waiver

Town of Nantucket Electronic Communication Policy effective 6/4/14

June 2014 Statistics

Town of Nantucket  
**NANTUCKET MEMORIAL AIRPORT**  
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*Commissioners*  
Daniel W. Drake, Chairman  
Arthur D. Gasbarro, Vice Chair  
Anthony G. Bouscaren  
Andrea N. Planzer  
Jeanette D. Topham

**DRAFT**

**AIRPORT COMMISSION MEETING**

**September 9, 2014**

The meeting was called to order at 5:01pm by Chairman Daniel W. Drake with the following Commissioners present: Arthur D. Gasbarro, Vice Chair, Anthony G. Bouscaren, Andrea N. Planzer and Jeanette D. Topham.

The meeting took place in the 1<sup>st</sup> floor meeting room at the Public Safety Facility, 4 Fairgrounds Rd. Nantucket MA.

Airport employees present were: Thomas Rafter, Airport Manager, Janine Torres, Office Manager, Jamie Miller, Business & Finance Manager, Lara Hanson, Operations Superintendent, David Sylvia, Training & Compliance Officer, and Mae Williams, Administrative Assistant.

Mr. Drake asked for comments on the Agenda. Hearing none, the Agenda was adopted.

Mr. Drake announced the meeting was being recorded.

**Public Comment**

None

**Election of Officers**

Mr. Drake introduced and welcomed Mr. Bouscaren to the Commission. The election of officers had been postponed previously until Mr. Bouscaren was sworn in.

Nominations for Chairman: Mr. Gasbarro nominated Daniel Drake. Second by Ms. Topham. No other nominations for Chairman were made. The Vote for Mr. Drake was unanimous.

Nominations for Vice Chair: Ms. Topham nominated Arthur Gasbarro. Second by Ms. Planzer. No other nominations were made. The Vote for Mr. Gasbarro was unanimous.

**Master Plan and Sustainability Plan** – Mr. Rafter noted Chapters 6 and 7 contain sensitive security information so some content has been redacted. Mr. Rafter emphasized to the Commission that Chapter 6 (Facility Requirements) and Chapter 7 (Alternative Improvement Concepts) are critical Chapters that require careful scrutiny as they will ultimately contribute to the Airport Layout Plan (ALP). The ALP, which the FAA must approve, is critical for FAA funding eligibility noting if a project is not listed on the ALP, it will not be eligible for a grant. In vetting the various chapters, Mr. Rafter proposes having the Commissioners review and comment back to him before presenting to the Advisory Committee.

Mr. Rafter asked the Commission to consider a public workshop to enable simultaneous communication to the Board of Selectmen, Town Administration, and the general public. A final draft for Chapter 6 is provided in the packet. The final draft of Chapter 7 will be available shortly. Mr. Rafter emphasized the need for feedback from the Commissioners.

Mr. Rafter turned the meeting over to Bill Richardson from Jacobs Engineering, the Project Manager for the Master Plan.

Mr. Richardson reviewed his presentation on the status of the Master Plan:

**Schedule:** Jacobs spent the summer and early fall reviewing the alternative concepts derived from the last Advisory Group meeting and are now looking at how to proceed with the implementation plan starting with Chapters 6 and 7. This will tie into the Financial Feasibility Plan based on the priorities the Commission determine, eventually leading into the Airport Layout Plan which outlines the next 5, 10, up to 20 years of projects. Project priorities are set through the annual Capital Improvement Program with the FAA and the State.

Mr. Drake asked if the next step after this meeting would be a meeting with the Advisory Committee. Mr. Rafter responded he is first looking for input from the Commission, then the Advisory Committee, and then a public workshop. The next formal meeting would be with the Advisory Committee sometime in October with a broader public meeting sometime in November. Concurrently the financial feasibility study will be worked on.

**Master Plan Issues:** Mr. Richardson reviewed the five (5) issues the FAA and State wanted addressed in the Master Plan: Safety and Security, Capacity, Efficiency, Revenue Enhancements and Environmental/Sustainability Concepts. These issues are addressed throughout the remaining Master Plan chapters.

**Master Plan Status:**

- Chapter 6 – Facility Needs – final draft presented for Commission review and comment.
- Chapter 7 – Alternative Improvements Concepts – final draft will be presented within two weeks for Commission review and comment.
- Chapter 8 – Priorities/Implementation Plan (Oct/Nov) - Developed after Advisory Committee meets and Commission sets priorities.
- Chapter 9 – Financial Feasibility Plan (Nov/Dec)
- Chapter 10 – Airport Layout Plan (Dec)

**Non-Aviation Revenue Sources:** Mr. Richardson presented a map indicating potential non-aviation revenue sources including new Bunker Area lease parcels, surplus parcels for sale, lease or swap, potential for major solar development, and Terminal/Administration building flex-space rentals. The map indicated 100 plus acres available to the airport that is worth looking at offering significant opportunity for leasing.

Discussion took place regarding the potential uses of the different parcels, the inclusion of the Planning Dept. in the discussions, and the need for FAA approval for any land use.

Discussion moved to the use of some acreage designated for aviation use and whether there is a need for additional hangars. Mr. Rafter recalls Chapter 7 includes proposals for at least 3 different possible hangar development parcels. There will also be alternatives listed.

**Next Steps, Milestones & Schedule:** Mr. Richardson reviewed the next steps which include:

- Commission Review and Comment to prioritize 5/10/20 year improvement plan followed by an Advisory Committee meeting. The Commission repeated their concern that the previous Advisory Committee meeting were mostly informational and the next meeting should allow for a full afternoon of interactive discussion. Mr. Rafter adds that the Committee should also be asked to weigh in on the prioritization of the projects and the alternatives.
- Public Workshop after the Commission and Advisory Committee have fully vetted.
- Completion of Financial Feasibility Plan. During discussion Mr. Drake inquired as to the amount of stress testing by the FAA as to the alternatives in the financial planning. Do they consider the economy and/or geopolitical events, for example? Mr. Richardson responds they do, keeping in mind that they want to see the airport succeed and want to see it sustainable. Mr. Rafter interjects that typically in a Master Plan, the FAA is more concerned with the capital aspect. Prior to the Master Plan the airport had met with the FAA requesting latitude in seeking operating revenue and revenue enhancements so that the Grant Assurances and self-sustainability can be met. They allowed this latitude which is why this Master Plan is a little broader than a typical one.
- Develop the Airport Layout Plan depicting future improvements for FAA approval.

Mr. Drake expressed the need to develop a Master Plan that we can live with and adhere to and not simply end up on the shelf. Mr. Gasbarro agreed, noting the Master Plan should be a guidance document. Mr. Rafter stated that this is the reason that we need to carefully review Chapters 6 and 7.

Discussion turned to the difference between the Airport Improvement Program (AIP) and the Airport Layout Plan. Mr. Richardson states that the Airport Layout Plan is a physical document that lays out the physical improvements; and, the Capital Improvement Plan (CIP) is the financial feasibility plan that prioritizes the projects illustrated on the ALP. Mr. Rafter added the AIP is the actual federal funding program for projects listed on the CIP.

Mr. Gasbarro requests a menu depicting the 5/10/20 year plan. Mr. Richardson noted a menu was discussed today and is in draft form and will be distributed.

In conclusion, Mr. Drake encouraged everyone to review material once it is received.

Mr. Drake noted the need to go back to the beginning of the Agenda to review minutes.

Ms. Topham made a **Motion** to approve the 7/15/14 Minutes. **Second** by Ms. Planzer and **Passed** unanimously.

Upon request, Mr. Drake tabled the Minutes of 8/12/14 until the next meeting to allow time to review.

Ms. Topham makes **Motion** to ratify the 8/20/14 and 9/3/14 Warrants. **Second** by Mr. Gasbarro and **Passed** by a vote of 4 to 1 with Ms. Planzer abstaining.

Mr. Gasbarro makes **Motion** to approve the 9/10/14 Warrant. **Second** by Ms. Topham and **Passed** unanimously.

Mr. Drake noted he addressed with Mr. Rafter the issue of a batch being added to the 9/3 Warrant after it has already been signed by two Commissioners.

**Pending Leases and Contracts** – Mr. Rafter presented the following Leases and Contracts:

- **Tradewind Aviation** –A General Aviation Agreement for \$11,000 FBO Building Use Fee, plus \$1,500 Annual Business Fee, plus Landing Fees.
- **US Airways** – A terminal office space agreement for \$6,960 rental income plus \$1,500 Annual Business Fee.

- **KOBO Utility** – A \$5,850 Contract for underground piping for the irrigation system for the General Aviation Building funded through a Capital Budget.
- **MHQ Equipment and Supply** – A \$56,745 Contract for purchase of 2014 Ford F250 for the Operations Department Building funded through the Capital Budget.

Ms. Planzer made a **Motion** to approve the Leases with Tradewind Aviation and US Airways, Inc. **Second** by Ms. Topham and **Passed** unanimously.

Ms. Topham made a **Motion** to approve the Contracts with KOBO Utility and MHQ Equipment and Supply. Ms. Planzer **Seconded**. The Motion **Passed** unanimously.

Mr. Rafter commended Ms. Miller on a tremendous job creating a new interactive report for the airlines to submit their monthly enplanements and landing fees, noting its use will be a major improvement.

### **Pending Matters**

#### **070913-1 TON Memorandum of Understanding (MOU) Update**

Mr. Rafter stated that a meeting was held last week with the Towns Procurement Officer and Finance Department representatives to review the new Procurement by Department Procedure. Mr. Rafter noted basic parameters were discussed of what will go into the new MOU. A draft should be complete for the next meeting.

#### **042214-2 FUDS Formerly Used Defense Site Status**

Tenants have been notified of the Army Corps of Engineers chosen contractor and plan to start a more in depth investigation of the FUDS Site. The affected parties were notified that we cancelled the outstanding Bunker Lease procurement. As instructed by the Commission, alternate parcels for a new RFP have been identified on Sun Island Road. The next step is to have the parcels appraised for Fair Market Value, the first step in the procurement process. We have received a rent relief request from one tenant in the Bunker area due to the impact of the FUDS issue. It needs to be reviewed with Legal Counsel.

### **Various Personnel Matters**

**Job/Salary Compensation Study** - Mr. Rafter stated the DI Jacobs proposal for the salary compensation and classification study came in under the \$5,000 amount the Commission previously authorized. The first step is a review of the current job descriptions. However, this presented a challenge in that positions titles are described differently when comparing the job descriptions on file, the Union handbook and payroll reports. Once organized, Mr. Rafter will send them to Mr. Jacobs. Mr. Rafter will try to get a schedule to the Commission as soon as possible.

**Ratification to the Changes of Non-Union Personnel Manual** - Mr. Rafter reported Legal Counsel has provided language to the Exempt Employee section of the policy to address the concerns expressed by the Commission at the last meeting. Mr. Gasbarro suggested adding “appointed by the Manager” after “or by designee” to the language inserted by Counsel. After brief discussion, Mr. Drake asked for adoption of the policy as modified by Counsel and corrected by the Commission. The Policy was unanimously adopted.

### **DOT Grant Awards and Associated Assurances**

**090914-4 Chairman Signing Authority** – Mr. Rafter explained each year, we must update the signing authority for Grant paperwork. Mr. Gasbarro made a **Motion** to endorse the Letter of Authorization dated September 9, 2014 for the Airport Commissioners to authorize Daniel W. Drake, Chairman, to sign Federal or State contracts, grants or other agreements, on behalf of the entire Commission. **Second** by Ms. Topham and **Passed** unanimously.

#### **090914-2 Security Upgrades**

Mr. Gasbarro made a **Motion** to accept the MassDOT Security Upgrades Grant for \$19,400.00 and associated Grant Assurances. **Second** by Ms. Planzer and **Passed** unanimously.

#### **090914-3 ARFF Vehicle**

Mr. Gasbarro made a **Motion** to accept the MassDOT ARFF Vehicle Grant for \$31,875.00 and associated Grant Assurances. **Second** by Ms. Topham and **Passed** unanimously.

Mr. Rafter remarked the Grant Assurances require Board of Selectman acceptance and are on their 9/10/14 Agenda. Mr. Rafter took this opportunity to report the Finance Department will require 3 (three) or more Commissioners signatures on Town Contracts. This will be incorporated into the new MOU and a revised Commission Policy will be prepared for the next meeting.

#### **090914-4 FY16 Capital Requests**

Mr. Rafter presented the FY16 Airport Capital Requests to the Town which included projected total cost, eligible federal and state reimbursement amounts and net cost to the Airport for the following items:

- Paint/Repair Fuel Farm Pipes
- Passenger Stair Truck/Ramp
- Lektro Aircraft Tug
- Snow Plow/Blower
- Utility Vehicle
- Ramp Rehabilitation
- Ground Service Equipment (GSE) Garage Design
- FBO Site Rehab
- 1988 Loader Re-Pinning/Transmission Overhaul
- Environmental Impact Report (EIR)

Mr. Rafter indicated one more item may be added, a regeneration pad for the fuel trucks, which may be required by laws pertaining to emissions standards. Additionally, the EIR could range anywhere from zero dollars to the max of \$500K mostly depending on the outcome of the Master Plan process and the FAA Airport Improvement Program.

Discussion led to two items of concern. The estimated cost of \$150K for the GSE design seems significantly high. Mr. Rafter agreed to review and noted the process of determining the location of the building adds to the cost; and, the FBO Site rehab may have been included in a previous year's Capital item and may not be needed.

**Motion** by Mr. Gasbarro to adopt FY16 Airport Capital requests with the possible adjustment to the discussed line items. **Second** by Ms. Topham and **Passed** unanimously.

#### **090914-5 Review and Approve of FY15 Disadvantaged Business Enterprise (DBE) Plan**

Mr. Rafter explained one requirement of FAA Grant Assurances that we have an approved DBE plan. The plan was prepared by Jacobs and reviewed by Mr. Rafter noting Mr. Sylvia will be responsible to implement and update accordingly.

After brief discussion, Ms. Topham made **Motion** to approve adoption of the Disadvantaged Business Enterprise Program. **Second** by Ms. Planzer and **Passed** unanimously.

#### **Managers's Report**

**Other Project Updates** – Mr. Rafter reported:

- Control Tower pre-qualifications draft has been completed and is being reviewed by Jacobs and the FAA.



- Security and ARFF vehicle contracts are fully executed. May-June 2015 time frame expected for delivery of the ARFF vehicle.
- FUDS consultant will be on-site September 25<sup>th</sup> to brief the stakeholders with further investigations to be completed in March or April.

**RFP/Bid Status** – Mr. Rafter reported:

- Due to a recommendation from Mr. Karberg, we are currently out to bid for brush cutting services.

**Operations** – Mr. Rafter reported:

- National Grid submitted a request for an easement to place a pad mounted transformer on Airport property located on Madequecham Valley Road. Mr. Rafter indicated this was odd as all other transformers are on the ocean side of the road. Mr. Drake learned from Town Administration that easements on Town owned land, including the Airport, require a Town Meeting vote. The Contractor was made aware.
- Met with Mr. Santos and he will provide a request to negotiate a new Lease for his hangar; and, will work with Mr. McGrath regarding issues with the combined roof. Mr. Santos and Mr. McGrath have received letters regarding the required repairs. We will be drafting a new Lease agreement with Mr. Santos and Mr. McGrath for hangars 5 & 6 respectively.
- Mass. Department of Transportation, Secretary Davey, is planning a visit September 11<sup>th</sup> at 10:00 a.m. A tour of the Airport is planned.
- On September 17<sup>th</sup>, the BOS is holding a housing workshop. Libby has distributed a draft of seasonal requirements and capacities. We responded in terms of the Airport's requirements and Mr. Rafter indicated he is in the process of drafting a letter to various State and Federal agencies that may have a need for seasonal or annual housing on Nantucket.
- FY16 Budget instructions are expected from TON next week.
- The FAA Compliance presentation is postponed until the October 28<sup>th</sup> meeting. Discussion of workshop vs. regular meeting resulted in a regular meeting with a minimum Agenda due to time constraints of Mr. Vick's presentation. An invitation to the TON is advised.
- The Airport is on the agenda for Finance Committee 9/11 Agenda regarding the FY14 budget.
- Passenger Facility Charge was instituted 7/1/14 with \$46,783.00 collected thus far and anticipate \$60K for September collections.
- National Incident Management System (NIMS) training requires Airport Administrative personnel and Commissioners to participate. Mr. Rafter will be coordinating with a training consultant to provide training.
- Full scale Emergency Drill exercise is scheduled for 9/24/14 from 8am-3pm.
- We have had two unannounced TSA inspections. Staff passed with flying colors.
- Mr. Karberg participated on a panel at the National Association of State Officials regarding the Carbon-Neutral Program process and reportedly did an outstanding job.
- A Tenant Meeting is tentatively scheduled for September 18<sup>th</sup>.
- A Holiday's for Heroes event is scheduled on the Island this week; but, arrival plans need to be verified.

**Statistics** – Mr. Rafter reported the July statistics:

- Operations are up 2% from July 2013
- Enplanements are up .86% from July 2013
- Jet A fuel gallons sold is down 1% but sales dollars is up 1% compared to July 2013
- Avgas fuel gallons sold is up 1%
- Freight is up 10.7% from July 2013
- Noise complaints are up 68% from July 2013 noting several repeat complainers

### Sub-Committees Assignments

After brief discussion the Sub-Committee assignments are as follows:

- Financial Policy – All Commissioners
- Long-Range Plans/Airfield Policy/Facilities/Maintenance – Drake, Gasbarro, Planzer
- Personnel – Drake, Topham
- Noise/Environmental/Energy – Gasbarro, Bouscaren
- Service/Public Relations – Bouscaren, Topham

Mr. Drake suggested the Long-Range Plans Sub-Committee meet before the Public Outreach session for the Master Plan.

Mr. Gasbarro noted the Environmental Sub-Committee will plan a meeting now that Mr. Bouscaren has been appointed.

### Commissioners Comments

Mr. Gasbarro commented that the illegal parking along Old South Road needs to be enforced.

### Public Comment

None

Having no further business, Mr. Gasbarro made a **Motion** to enter into Executive Session, not to return to Open Session, for the purpose of reviewing Executive Session minutes as listed on the Agenda as well as to conduct strategy session for collective bargaining, where if held in Open Session, may have a detrimental effect on the bargaining position of the Commission. **Second** by Ms. Topham and **Passed** by the following roll- call vote:

Mr. Drake – Aye  
Mr. Gasbarro - Aye  
Mr. Bouscaren – Aye  
Ms. Planzer - Aye  
Ms. Topham – Aye

Meeting adjourned at 6:35 p.m.

Respectfully submitted,

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Janine M. Torres, Recorder

#### Master List of Documents Used

9/9/14 Agenda including Exhibit 1  
Jacobs Status Report dated 9/2/14  
Jacobs Master Plan Power Point Presentation dated 9/9/14 (Handout)  
Jacobs Priority Master Plan Projects Menu (Discussed)  
7/15/14 Draft Minutes  
8/12/14 Draft Minutes (Handout)  
8/20/14 Warrant Approval Sheet  
9/3/14 Warrant Approval Sheet

9/10/14 Warrant Approval Sheet  
Tradewind Aviation LLC Lease  
US Airway's Inc Lease  
Kobo Utility Construction Corp Contract  
MassDOT Grant/Grant Assurances Security Upgrade  
MassDOT Grant/Grant Assurances ARFF Vehicle  
FY16 TON Capital Requests  
Draft DBE Plan dated 8/1/14  
July Statistics  
Sub-Committee Assignment

# Warrant 09/24/2014

Please Sign and Date

Daniel Drake

*Arthur Gasbarro* 9/16/14

Arthur Gasbarro

*Andrea Planzer* 9/17/14

Andrea Planzer

*Jeanette D. Topham* 9/17/14

Jeanette Topham

*Anthony G. Bouscaren*


Anthony G. Bouscaren

Batch# <u>2058</u>	Total <u>21,868.<sup>11</sup></u>	Batch Date <u>9/12/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>2359</u>	Total <u>317,445.<sup>67</sup></u>	Batch Date <u>9/12/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>2360</u>	Total <u>263,051.<sup>19</sup></u>	Batch Date <u>9/12/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>2361</u>	Total <u>33,093.<sup>89</sup></u>	Batch Date <u>9/12/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>2363</u>	Total <u>26,708.<sup>46</sup></u>	Batch Date <u>9/12/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>2364</u>	Total <u>7100.<sup>49</sup></u>	Batch Date <u>9/15/14</u>	Initial <u>CM AG JDT AP</u>
Batch# <u>      </u>	Total <u>      </u>	Batch Date <u>      </u>	Initial <u>      </u>
Batch# <u>      </u>	Total <u>      </u>	Batch Date <u>      </u>	Initial <u>      </u>
Batch# <u>      </u>	Total <u>      </u>	Batch Date <u>      </u>	Initial <u>      </u>


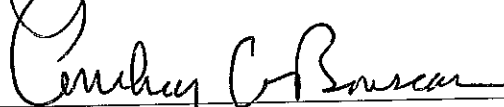
# Warrant 10/08/2014

Please Sign and Date

Daniel Drake

 9/29/14  
Arthur Gasbarro

Andrea Planzer

 10/1/14  
Jeanette Topham  
  
Anthony G. Bouscaren

Batch# <u>2423</u>	Total <u>\$136,571.43</u>	Batch Date <u>9/24/14</u>	Initial <u>AG JDT</u>
Batch# <u>2429</u>	Total <u>\$343,543.14</u>	Batch Date <u>9/24/14</u>	Initial <u>AG JDT</u>
Batch# <u>2430</u>	Total <u>\$13,807.69</u>	Batch Date <u>9/24/14</u>	Initial <u>AG JDT</u>
Batch# <u>2431</u>	Total <u>\$3333.50</u>	Batch Date <u>9/24/14</u>	Initial <u>AG JDT</u>
Batch# <u>2435</u>	Total <u>\$6,347.27</u>	Batch Date <u>9/25/14</u>	Initial <u>AG JDT</u>
Batch# <u>2442</u>	Total <u>198.82</u>	Batch Date <u>9/29/14</u>	Initial <u>AG JDT</u>
Batch# _____	Total _____	Batch Date _____	Initial _____
Batch# _____	Total _____	Batch Date _____	Initial _____
Batch# _____	Total _____	Batch Date _____	Initial _____

EXHIBIT 1  
PENDING LEASES/CONTRACTS/AGREEMENTS  
October 14, 2014

Type of Agreement/Description	With	Amount	Other Information	Source of Funding
Lease Agreement	Wiggins Airways	(\$1,500)	Operating Agreement	Business Fee Income
			Plus Landing Fees	
Lease Agreement	Delta Air Lines	(\$11,000)	Seasonal Airline Agreement	Rental Income
			Plus \$1,500 Annual Business Fee	
			Plus Landing Fees	
Contract	Jacobs Engineering	\$5,232	Professional Services to prepare scope and bid documents for new ARFF Vehicle Accessories	Capital Budget
Contract	Vegetation Control Service, Inc.	\$22,860	Brush Cutting Services	Operating Budget
			in lieu of Control Burn	
			Expires 3/31/2015	

Pending as of Meeting Posting Date



NANTUCKET MEMORIAL AIRPORT COMMISSION

LEASE AGREEMENT

**LESSEE NAME: WIGGINS AIRWAYS**

**ADDRESS: Attn: Christine Hoffman  
1 Garside Way  
Manchester NH 03103**

**PHONE: 603-629-9191 ext. 236**

**LOCATION: North Ramp**

**INTENDED USE: Air Freight Service**

**ANNUAL FEES: \$1,500.00 annual business fee**

**RENT (PAYABLE ANNUALLY) N/A**

**PLUS MONTHLY: Landing fees  
Inbound freight fees**

**AMOUNT IN LIEU OF TAXES N/A**

**SECURITY DEPOSIT N/A**

**STARTING DATE: June 1, 2014**

**ENDING DATE: June 30, 2014**

This Lease Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Town of Nantucket acting by and through the Nantucket Memorial Airport Commission, a commission established, pursuant to the powers contained in G.L. c.90, Section 51E, having an address of Nantucket Memorial Airport, 14 Airport Road, Nantucket, MA 02554 hereinafter called "LESSOR" and Wiggins Airways "LESSEE", named above hereinafter called "LESSEE".

In consideration of the mutual covenants and agreements hereinafter set forth, LESSOR and LESSEE agree as follows:

1. **PREMISES:** LESSOR agrees to lease to LESSEE the above space (the "space" or "Premises") at LESSOR's facility known as Nantucket Memorial Airport (the "Airport"), all on the terms and subject to the conditions of this Agreement. Notwithsatnding anything to the contrary in this Lease, the Premises are hereby leased in an "as is" condition without any representations or warranties whatsoever, express or implied.
2. **TERM:** The initial term of this Agreement shall be for a period of up to one (1) month, commencing on the starting date above, automatically renewable without notice, up to a total of 12 months, provided LESSEE is not in default. Either party shall give thirty (30) days written notice of its or their intent not to renew the monthly term. If after the termination of this Lease, LESSEE shall be deemed to be a tenant from day to day at a daily fee for use and occupancy as may be established by LESSOR, subject to the terms of this Lease.

3. RENT: LESSEE shall pay LESSOR its rent annually, or monthly, the sum of \$1,500.00 in advance of the first day of the term. Payment shall be made at LESSOR's office located at the Airport. LESSEE shall also be responsible for Airport fees determined annually by LESSOR. The amount of rent may be changed by the LESSOR upon thirty (30) days written notice to the LESSEE prior to the commencement of the term or any renewal term.

4. PERMITTED USE OF PREMISES: The Premises shall be used and occupied by LESSEE solely for its intended use or uses as stated above, and may not be used for any other purpose. No commercial activity of any kind whatsoever shall be conducted by LESSEE in, from, or around the Premises without the prior written consent of the LESSOR. In utilizing the Premises, LESSEE agrees to and shall comply with all applicable ordinances, resolutions, rules and regulations established by Federal, State, Local Government Agency, or by the LESSOR. For additional terms of lease, see "Addendum" (if any) attached hereto and made a part hereof.

5. MAINTENANCE AND USE OF PREMISES: The Lessee shall at its own cost and expense agree:

- (a) To furnish, install and maintain in the Premises equipment and fixtures necessary for carrying on the purpose as hereinabove described, together with electrical rearrangements, decorating and other work, all at LESSEE's sole cost and expense, and all subject to the prior approval of the Board of Commissioners of the Nantucket Memorial Airport or such Commissioners acting through the Airport Manager of the Nantucket Memorial Airport (the "Airport Commissioners") who may require that said fixtures and equipment be of the same design and appearance as other lessees.
- (b) Not to exhibit any sign or advertisements in or about the Premises without the prior approval of the Airport Commissioners.
- (c) To keep its furniture, equipment and fixtures and the areas immediately adjoining the Premises in a clean, safe, and sanitary condition, providing proper waste receptacles, and any other service which is necessary to keep the Premises and the improvements free of any condition that may pose a threat or risk of damage or injury to person or property. LESSOR shall have the right, without any obligation to do so, to enter upon the Premises and put them in a clean and sanitary condition in the event that LESSEE fails to do so within twenty-four (24) hours after notice of such condition. In the event the LESSEE fails to comply with any such notice and LESSOR acts to clean the Premises, LESSEE shall reimburse the LESSOR for all cost and expense incurred by the LESSOR to clean the Premises.
- (d) To remedy promptly any condition or discontinue any practice to which the Airport Commissioners may reasonably object.

6. ALTERATIONS; ADDITIONS: The LESSEE shall not make structural alterations or additions to the Premises or non-structural alterations without the LESSOR's consent thereto in writing. All such allowed alterations shall be at LESSEE's sole cost and expense and shall be completed in a good and workmanlike quality and in a condition at least equal to the present construction. All local state and federal permits for renovations are to be provided to the LESSOR for the files. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises for labor and material furnished to LESSEE or claimed to have been furnished to LESSEE in connection with work of any



character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. At the termination of occupancy, as provided herein, any alterations or improvements made by the LESSEE shall become the property of the LESSOR, at the discretion of the LESSOR.

7. UTILITIES: LESSEE shall have all telephone and other services used by it, in its own name, where practicable and shall pay the bills therefor. LESSEE is also required to be connected into the Airport paging system through the Airport's contractor. The LESSOR agrees to provide all other utility service and to furnish heat, air condition, if applicable to the space, all subject to interruption due to any accident, to the making of repairs, alterations, or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service, or supplies from the sources from which they are usually obtained for said building, or to any cause beyond the LESSOR's control. LESSOR shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Premises as of the commencement date of this lease. In the event LESSEE requires additional utilities or equipment, the installation and maintenance thereof shall be the LESSOR's sole obligation, provided that such installation shall be at the LESSEE's expense and, shall be subject to the written consent of the LESSOR.

8. LESSOR RIGHTS RESERVED: LESSOR reserves for itself the following rights, which LESSEE agrees to observe, and LESSEE agrees that the same may be exercised by LESSOR and that any such exercise of said rights shall not be deemed to effect an eviction or to render LESSOR liable for damages by abatement of rent or otherwise to relieve LESSEE from any of its obligations.

(a) To adopt from time to time rules and regulations not inconsistent with terms of this Lease for the use, protection and welfare of Nantucket Memorial Airport and its occupants, with whom LESSEE agrees to comply; and

(b) To enter upon Premises and facilities of the LESSEE any reasonable time for that purpose of inspection or for any purpose incident to the performance of its obligations hereunder, in the exercise of any of its governmental functions or by others with the permission from the LESSOR. LESSOR in such case is to use its best efforts to avoid disruption of LESSEE's operation.

No compensation or claim will be allowed or paid by the LESSOR, by reason of inconvenience, annoyance or injury to business, arising from the necessity of repairing, altering, or developing any portion of the Airport.

9. COMPLIANCE WITH AIRPORT AND REGULATORY RULES: LESSEE shall observe and obey all laws and rules and regulations of Airport, any Airport standards of operation and procedures, if any, as adopted by the LESSOR, including but not limited to applicable rules or regulations of the Federal Aviation Authority (FAA) or any other state or federal regulatory agency having jurisdiction. The Airport Commissioners of Nantucket Memorial Airport shall furnish LESSEE with a copy of the Airport rules and/or standards, and it shall be the responsibility of the LESSEE to be familiar with those and any other applicable rules and regulations. LESSEE, its members or visitors, shall comply with all provisions of said procedures.

In amplification of Article Nine, above, Compliance with Airport and Regulatory Rules, LESSEE acknowledges the existence of a body of procedures for the abatement of noise caused by aircraft which have been adopted by the Airport and community as of December 1, 1987, as part of a study performed under Part 150 of the Federal Air Regulations. It is further understood that all lessees conducting commercial airlines operations, or general aviation operations, at the Nantucket Memorial Airport are required to comply with those flight procedures as a condition of their tenancy. Each lessee must satisfy the Nantucket Memorial Airport of their continuing compliance no more seldom than once each year prior to lease renewal and at any time that the Airport Commission has reason to believe that non-compliance has occurred. A finding after hearing that the LESSEE has failed to comply with such flight procedures shall be deemed to be sufficient cause for non-renewal or cancellation of LESSEE's lease.

LESSEE will recognize the importance of federal funding to the Airport under the Airport Improvement Program (or other future program) and will submit to the DOT (whether required by the DOT or not) Form Number 1800-31 on a timely basis with a copy to the Airport Manager's office. This report is for reporting enplanements, from which our Airport receives its federal funding for capital improvement projects. Also, monthly enplanement numbers shall be supplied to the Airport Manager's office within 15 days after the month being reported.

10. HAZARDOUS MATERIALS. Except for common office or household cleaning products used in accordance with manufacturer's instructions and all applicable governmental laws, regulations and requirements, LESSEE shall not use, handle, store or dispose of any Hazardous Waste, Hazardous Material, Oil or radiomactive material, as such terms are used or defined in Section 2 of Chapter 21C, Section 2 of Chapter 21D, and Section 2 of Chapter 21E of the General Laws of Massachusetts, and the regulations promulgated thereunder, as such laws and regulations may be amended from time to time (collectively "Hazardous Materials") in, under, on or about the Premises except for such storage and use consented to by LESSOR in advance in writing, which consent may be withheld in LESSOR'S sole and absolute discretion. Any Hazarouds Materials on the Premises, and all containers therefore, shall be used, kept, stored and disposed of in conformity with all applicable laws, ordinances, codes, rules, regulations and orders of governmental authorities. Any violation of said laws, rules or regulations shall be deemed a material breach of this Lease for which LESSOR may terminate this Lease without penalty. LESSEE shall (i) notify LESSOR immediately of any release or threrat of release of any Hazardous Material on or from the Premises and any loss or damage or claim of loss or damage resulting therefrom, (ii) be solely responsible for remediating all contamination in compliance with all applicable statutes, regulations and standards, at LESSEE'S sole cost and expense, and in addition to any other rights and remedies availalble to LESSOR, (iii) indemnify, defend and hold LESSOR harmless from and against all liability, loss, damage, costs and expenses (including without limitation, reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of any nature in any way suffered, incurred or paid as a result of the presence or release or threatened release of Hazardous Materials on or from the Premises which is caused or exacerbated by LESSEE, its agents, employees, contractors, reperesentatives, licensees, or invitees. LESSEE hereby acknowledges and agrees that LESSOR shall have no responsibility to LESSEE, its agents, employees, representatives, permittee and invitees, for the presence of such Hazardous Materials on the Premises or be required to abate or remediate the same. This provision shall survive the expiration or termination of this Lease.

**11. INSURANCE AND INDEMNIFICATION: THE LESSEE SHALL DEPOSIT WITH THE LESSOR CERTIFICATES FOR ALL INSURANCE REQUIREMENTS LISTED BELOW PRIOR TO THE COMMENCEMENT OF THEIR TERM, AND THEREAFTER WITHIN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF ANY SUCH POLICIES. ALL SUCH INSURANCE CERTIFICATES SHALL PROVIDE THAT SUCH POLICIES SHALL NOT BE MATERIALLY CHANGED, ALTERED OR CANCELED WITHOUT AT LEAST TEN (10) DAYS PRIOR WRITTEN NOTICE TO EACH ASSURED NAMED THEREIN.**

**ADDITIONAL INSURED:**

All certificates will indicate the "**Town of Nantucket/Nantucket Memorial Airport (LESSOR)**" as **an additional insured**, under liability coverages, but only as respects operations of the Named Insured as their interests may appear.

**INDEMNIFICATION:** LESSEE shall defend, indemnify and hold harmless, the LESSOR, its Commissioners, officers, agents and employees, from and against any and all claims, expenses or liabilities of whatever nature from any suits, claims and demands (including without limitation reasonable attorney's fees and experts' fees), (a) arising directly or indirectly from the failure of the LESSEE or LESSEE'S contractors, agents, employees or invitees to comply with the terms of this Lease or with any applicable laws, codes, bylaws, rules, orders, regulations or lawful direction now or hereafter in force of any public authority, and (b) arising directly or indirectly from any accident, injury or damage, however, caused to any person or property, on or about the Premises where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission or negligence on the part of the LESSEE or LESSEE's contractors, license, agents, employees or customers, or anyone claiming by or through the LESSEE.

**LIABILITY INSURANCE:** The LESSEE shall maintain, in full force from the date of commencement of the Lease throughout the Term and thereafter so long as LESSEE is in occupancy of the Premises with respect to the Premises and the property of which the Premises are a part, comprehensive public liability insurance, in the amount of \$1,000,000, for each occurrence with property damage insurance in limits of \$500,000, for each occurrence. The policy shall be written with responsible companies qualified to do business in Massachusetts, and in good standing therein, insuring the LESSOR as well as LESSEE against injury to persons or damage to property as provided (unless different amounts specified on front page of contract).

**FIRE INSURANCE:** The LESSEE shall procure and keep in force, fire and extended coverage insurance upon its leasehold improvements, furniture, furnishings, fixtures and equipment to the full insurable value thereof and any applicable equipment vendors or lenders give the Airport satisfactory releases from fire and extended coverage liability.

**WORKER'S COMPENSATION INSURANCE:** The LESSEE and any of its contractors shall maintain and keep in force Workers' Compensation Insurance, which is recognized by the Commonwealth of Massachusetts, and shall deliver to the LESSOR copies of certificate of insurance naming the LESSOR as an additional insured. Without limiting LESSOR's other rights under any

other provisions of this Lease, if LESSEE shall fail to keep the Premises insured as provided herein, and if such failure shall continue for a period of ten (10) days following written notice by LESSOR to LESSEE thereof, then LESSOR, without further notice to LESSEE, may take out and pay for such insurance, and the amount of such payment shall become due and payable as Additional Rent on demand.

12. DEFAULT AND BANKRUPTCY: If at any time subsequent to the date of this Lease any of the following events shall occur, LESSEE shall be in default under the terms and provision of this Lease:

- (a) The failure of LESSEE to make payment of any installment of rent or other sum therein specified and such default shall continue for ten (10) days after written notice thereof; or
- (b) The failure of the LESSEE to observe or perform any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or if such failure is of such a nature that LESSEE cannot reasonably remedy the same within such thirty (30) day period, LESSEE shall fail to commence promptly (and in any event within such thirty (30) day period) to remedy the same and to prosecute such remedy to completion with diligence and continuity, or
- (c) The filing by LESSEE of a voluntary petition or the filing against LESSEE of an involuntary petition in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of LESSEE, or the filing by LESSEE of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future applicable federal, or state law, or the assignment by LESSEE for the benefit of creditors, or appointment of a Trustee, receiver, or liquidation of all or any part of the assets of LESSEE, and within sixty (60) days after the commencement of any such proceeding against LESSEE, such proceeding shall not have been dismissed, or if within ninety (90) days after the appointment of any such trustee, receiver or liquidator of LESSEE or of all or any part of LESSEE's property, without the acquiescence of LESSEE, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against LESSEE or any of LESSEE's property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied. Then in any such case, LESSOR may terminate this Lease by written notice to LESSEE specifying a date not less than five (5) days after the giving of such notice on which this Lease shall terminate, and LESSEE shall then quit and surrender the Premises to LESSOR, but LESSEE shall remain liable as hereinafter provided.

If LESSEE defaults under the terms of this Lease as defined above, then the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises, to declare the term of this Lease ended, and remove the LESSEES's effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. The LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the residue of the term. If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE's part to be observed or performed under or by virtue of any of the provisions in any article of this Lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any expenditures or incurs any obligations for the payment of money in connection therewith,

including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of ten percent (10%) per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.

13. SURRENDER: The LESSEE shall at the expiration or other termination of this Lease peaceably and quietly leave, surrender and yield to the Premises and all other improvements thereon in good order, repair and condition ordinary wear and tear excepted and remove all LESSEE's goods and effects from the Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the Premises). LESSEE shall deliver to the LESSOR the Premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the Premises, in good condition, damage by fire or other casualty only excepted. In the event of the LESSEE's failure to remove any of LESSEE's property from the Premises, LESSOR is hereby authorized, without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE, to remove and store any of the property at LESSEE's expense, or to retain same.

14. TITLE SIX ASSURANCES – NONDISCRIMINATION:

(a) The LESSEE for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

That in the event of a breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate this Lease and to re-enter and repossess the Premises, and hold the same as if said Lease had never been made or issued.

(b) The LESSEE for itself, its personal representatives, successors in interest, and assigns, as apart of the consideration hereof, does hereby covenant and agree as a covenant running with the land that

(1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination,

(3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of

Transportation – Effectuation of Title of the Civil Rights Act of 1964 and as said Regulations may be amended.

That in the event of a breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate the Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

15. GENERAL PROVISIONS:

- (a) Subordination of Lease. This Lease shall be subordinated to the provisions of:
- (1) any existing or future agreement between LESSOR and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or improvement of the Airport; and
  - (2) any pledge, transfer, hypothecation or assignment made at any time by the LESSOR to secure bonds or other financing.
- (b) Compliance by Other Lessees. LESSOR shall, whenever possible, make reasonable efforts to obtain, uniform compliance with its rules and regulations; however, LESSOR shall not be liable to LESSEE for any violation or non-observance of such rules and regulations by any tenant, concessionaire or LESSEE at the Airport.
- (c) Independent Contractor. It is agreed that LESSEE is an independent contractor hereunder and not an agent or employee of LESSOR with respect to its acts or omissions.
- (d) Sublease; Successors and Assigns. LESSEE shall have no right to sublease the Premises or assign this Agreement without the prior written approval of LESSOR. All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.
- (e) Notices. All notices required to be given to LESSOR or LESSEE shall be in writing and shall be given personally or sent by certified mail, return receipt requested, addressed to such party at its latest address of record. Notices to LESSOR shall be addressed to Airport Commissioners, Nantucket Memorial Airport, 14 Airport Road, Nantucket, MA 02554 and notices to LESSEE addressed to its address on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.
- (f) Governing Law. This Lease is read and construed in accordance with the laws of the Commonwealth of Massachusetts except where State law shall be preempted by any rules, laws or regulations of the government of the United States of America. The parties hereto agree that any court of proper jurisdiction sitting in Nantucket County, Massachusetts, shall be the proper forum for any actions brought hereunder.

(g) Entire Agreement; Amendment Interpretation. This Agreement with attachments mentioned constitutes the entire agreement between the parties superseding all prior or contemporaneous understandings. No amendment, modification, or alteration of the terms of the Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions herein to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party. If one or more clauses, sections, or provisions of this lease shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the lease shall not be affected thereby. The paragraph headings contained herein are for the convenience in reference and are not intended to define or limit the scope of any provisions of this Lease.

**Signature Page to Follow**



**NOTICE TO LESSEE:**


**DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ THE AGREEMENT SET FORTH ABOVE. YOU ARE ENTITLED TO A COPY OF THIS AGREEMENT AND SHOULD KEEP A COPY OF THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS.**

LESSEE, BY SIGNATURE HEREON, ACKNOWLEDGES THIS AGREEMENT.

Lessee: Wiggins Airways

Lessor: Nantucket Memorial Airport Commission

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

  
President & CEO  
Title

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

Chairman

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

Aug 18, 2014

496956v.3/19715/0001

NANTUCKET MEMORIAL AIRPORT COMMISSION

**LEASE AGREEMENT**

**LESSEE NAME: Delta Air Lines, Inc.**

**d/b/a Delta Connection, Inc.**

**ADDRESS: Attn: Amira Trebincevic  
Corporate Real Estate  
Delta Air Lines, Dept. 877  
PO Box 20706  
Atlanta, GA 30320-6001**

**PHONE: 404-715-2114**

**SPACE: (counter, office, etc.)**

**INTENDED USE: Seasonal Airline**

**LOCATION: Terminal**

**SIZE: Counter/Office 174 (SQ.FT.)**

**ANNUAL FEES: Business Fee \$1,500  
Intercom \$480**

**RENT (PAYABLE UP FRONT) \$17,960  
(Seasonal Fee \$2,750 p/m 4 Month Minimum)  
(Space \$6,960)**

**PLUS MONTHLY: Landing Fees**

**AMOUNT IN LIEU OF TAXES: None**

**SECURITY DEPOSIT: \$10,000 (Pd)**

**STARTING DATE: 6/1/2014**

**ENDING DATE: 9/30/14**

This Lease Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Town of Nantucket acting by and through the Nantucket Memorial Airport Commission, a commission established, pursuant to the powers contained in G.L. c.90, Section 51E, having an address of Nantucket Memorial Airport, 14 Airport Road, Nantucket, MA 02554 hereinafter called "LESSOR" and Delta Air Lines, Inc., d/b/a Delta Connection, Inc.\*, "LESSEE", named above hereinafter called "LESSEE".

\*Delta service into Nantucket will be operated by Delta Connection Inc...using an Affiliate carrier. "Affiliate" shall mean any Air Transportation Company that is either a Subsidiary Airline or operates under contract using essentially the same trade name as Airline at the Airport and uses essentially the same livery as Airline. Airline and any Affiliate shall be counted as one entity for the purposes of computing any Joint Use Area Formula, MII formulas and Minimum Use Requirement

In consideration of the mutual covenants and agreements hereinafter set forth, LESSOR and LESSEE agree as follows:

1. PREMISES: LESSOR agrees to lease to LESSEE the above space (the "space" or "Premises") at LESSOR's facility known as Nantucket Memorial Airport (the "Airport"), all on the terms and subject

to the conditions of this Agreement. Notwithsatnding anything to the contrary in this Lease, the Premises are hereby leased in an "as is" condition without any representations or warranties whatsoever, express or implied.

2. TERM: The initial term of this Agreement shall be for a period of up to four (4) months, commencing on the starting date above, automatically renewable without notice, up to a total of 12 months, provided LESSEE is not in default. Either party shall give thirty (30) days written notice of its or their intent not to renew the monthly term. If after the termination of this Lease, LESSEE shall be deemed to be a tenant from day to day at a daily fee for use and occupancy as may be established by LESSOR, subject to the terms of this Lease.

3. RENT: LESSEE shall pay LESSOR its rent annually, or monthly, the sum of \$17,960.00 in advance of the first day of the term. Payment shall be made at LESSOR's office located at the Airport. LESSEE shall also be responsible for Airport fees determined annually by LESSOR. The amount of rent may be changed by the LESSOR upon thirty (30) days written notice to the LESSEE prior to the commencement of the term or any renewal term. In addition to the rent, the LESSEE shall also pay a monthly fee and an amount in lieu of taxes apportioned on a monthly basis, as set forth above.

4. PERMITTED USE OF PREMISES: The Premises shall be used and occupied by LESSEE solely for its intended use or uses as stated above, and may not be used for any other purpose. No commercial activity of any kind whatsoever shall be conducted by LESSEE in, from, or around the Premises without the prior written consent of the LESSOR. In utilizing the Premises, LESSEE agrees to and shall comply with all applicable ordinances, resolutions, rules and regulations established by Federal, State, Local Government Agency, or by the LESSOR. For additional terms of lease, see "Addendum" (if any) attached hereto and made a part hereof.

5. MAINTENANCE AND USE OF PREMISES: The Lessee shall at its own cost and expense agree:

(a) To furnish, install and maintain in the Premises equipment and fixtures necessary for carrying on the purpose as hereinabove described, together with electrical rearrangements, decorating and other work, all at LESSEE's sole cost and expense, and all subject to the prior approval of the Board of Commissioners of the Nantucket Memorial Airport or such Commissioners acting through the Airport Manager of the Nantucket Memorial Airport (the "Airport Commissioners") who may require that said fixtures and equipment be of the same design and appearance as other lessees.

(b) Not to exhibit any sign or advertisements in or about the Premises without the prior approval of the Airport Commissioners.

(c) To keep its furniture, equipment and fixtures and the areas immediately adjoining the Premises in a clean, safe, and sanitary condition, providing proper waste receptacles, and any other service which is necessary to keep the Premises and the improvements free of any condition that may pose a threat or risk of damage or injury to person or property. LESSOR shall have the right, without any obligation to do so, to enter upon the Premises and put them in a clean and sanitary condition in the event that LESSEE fails to do so within twenty-four (24) hours after notice of such condition. In the event the LESSEE fails to comply with any such notice and LESSOR acts to clean the Premises, LESSEE shall reimburse the LESSOR for all cost and expense incurred by the LESSOR to clean the Premises.

(d) To remedy promptly any condition or discontinue any practice to which the Airport Commissioners may reasonably object.

6. ALTERATIONS; ADDITIONS: The LESSEE shall not make structural alterations or additions to the Premises or non-structural alterations without the LESSOR's consent thereto in writing. All such allowed alterations shall be at LESSEE's sole cost and expense and shall be completed in a good and workmanlike quality and in a condition at least equal to the present construction. All local state and federal permits for renovations are to be provided to the LESSOR for the files. LESSEE shall not permit any mechanics' liens, or similar liens, to remain upon the leased premises for labor and material furnished to LESSEE or claimed to have been furnished to LESSEE in connection with work of any character performed or claimed to have been performed at the direction of LESSEE and shall cause any such lien to be released of record forthwith without cost to LESSOR. At the termination of occupancy, as provided herein, any alterations or improvements made by the LESSEE shall become the property of the LESSOR, at the discretion of the LESSOR.

7. UTILITIES: LESSEE shall have all telephone and other services used by it, in its own name, where practicable and shall pay the bills therefor. LESSEE is also required to be connected into the Airport paging system through the Airport's contractor. The LESSOR agrees to provide all other utility service and to furnish heat, air condition, if applicable to the space, all subject to interruption due to any accident, to the making of repairs, alterations, or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service, or supplies from the sources from which they are usually obtained for said building, or to any cause beyond the LESSOR's control. LESSOR shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Premises as of the commencement date of this lease. In the event LESSEE requires additional utilities or equipment, the installation and maintenance thereof shall be the LESSOR's sole obligation, provided that such installation shall be at the LESSEE's expense and, shall be subject to the written consent of the LESSOR.

8. LESSOR RIGHTS RESERVED: LESSOR reserves for itself the following rights, which LESSEE agrees to observe, and LESSEE agrees that the same may be exercised by LESSOR and that any such exercise of said rights shall not be deemed to effect an eviction or to render LESSOR liable for damages by abatement of rent or otherwise to relieve LESSEE from any of its obligations.

(a) To adopt from time to time rules and regulations not inconsistent with terms of this Lease for the use, protection and welfare of Nantucket Memorial Airport and its occupants, with whom LESSEE agrees to comply; and

(b) To enter upon Premises and facilities of the LESSEE any reasonable time for that purpose of inspection or for any purpose incident to the performance of its obligations hereunder, in the exercise of any of its governmental functions or by others with the permission from the LESSOR. LESSOR in such case is to use its best efforts to avoid disruption of LESSEE's operation.

No compensation or claim will be allowed or paid by the LESSOR, by reason of inconvenience, annoyance or injury to business, arising from the necessity of repairing, altering, or developing any portion of the Airport.

9. COMPLIANCE WITH AIRPORT AND REGULATORY RULES: LESSEE shall observe and obey all laws and rules and regulations of Airport, any Airport standards of operation and procedures, if any, as adopted by the LESSOR, including but not limited to applicable rules or regulations of the Federal Aviation Authority (FAA) or any other state or federal regulatory agency having jurisdiction. The Airport Commissioners of Nantucket Memorial Airport shall furnish LESSEE with a copy of the Airport rules and/or standards, and it shall be the responsibility of the LESSEE to be familiar with those and any other applicable rules and regulations. LESSEE, its members or visitors, shall comply with all provisions of said procedures.

In amplification of Article Nine, above, Compliance with Airport and Regulatory Rules, LESSEE acknowledges the existence of a body of procedures for the abatement of noise caused by aircraft which have been adopted by the Airport and community as of December 1, 1987, as part of a study performed under Part 150 of the Federal Air Regulations. It is further understood that all lessees conducting commercial airlines operations, or general aviation operations, at the Nantucket Memorial Airport are required to comply with those flight procedures, as amended from time to time, as a condition of their tenancy. Each lessee must satisfy the Nantucket Memorial Airport of their continuing compliance no more seldom than once each year prior to lease renewal and at any time that the Airport Commission has reason to believe that non-compliance has occurred. A finding after hearing that the LESSEE has failed to comply with such flight procedures shall be deemed to be sufficient cause for non-renewal or cancellation of LESSEE's lease.

LESSEE will recognize the importance of federal funding to the Airport under the Airport Improvement Program (or other future program) and will submit to the DOT (whether required by the DOT or not) Form Number 1800-31 on a timely basis with a copy to the Airport Manager's office. This report is for reporting enplanements, from which our Airport receives its federal funding for capital improvement projects. Also, monthly enplanement numbers shall be supplied to the Airport Manager's office within 15 days after the month being reported.

10. HAZARDOUS MATERIALS. Except for common office or household cleaning products used in accordance with manufacturer's instructions and all applicable governmental laws, regulations and requirements, LESSEE shall not use, handle, store or dispose of any Hazardous Waste, Hazardous Material, Oil or radioactive material, as such terms are used or defined in Section 2 of Chapter 21C, Section 2 of Chapter 21D, and Section 2 of Chapter 21E of the General Laws of Massachusetts, and the regulations promulgated thereunder, as such laws and regulations may be amended from time to time (collectively "Hazardous Materials") in, under, on or about the Premises except for such storage and use consented to by LESSOR in advance in writing, will not be unreasonably withheld, conditioned or delayed. Any Hazardous Materials on the Premises, and all containers therefore, shall be used, kept, stored and disposed of in conformity with all applicable laws, ordinances, codes, rules, regulations and orders of governmental authorities. Any violation of said laws, rules or regulations may be deemed a material breach of this Lease for which LESSOR may terminate this Lease without penalty. LESSEE shall (i) notify LESSOR immediately of a release or threat of release of a of Hazardous Material in a quantity deemed reportable by the Commonwealth of Massachusetts, Department of Environmental Protection ("DEP") on or from the Premises and any loss or damage or claim of loss or damage resulting therefrom, (ii) be solely responsible for remediating all Hazardous Material contamination on or from the Premises caused by LESSEE in compliance with all applicable statutes, regulations and standards, at LESSEE'S sole cost and expense, and in addition to any other

rights and remedies available to LESSOR, (iii) indemnify, defend and hold LESSOR harmless from and against all liability, loss, damage, costs and expenses (including without limitation, reasonable attorney's fees and expenses), causes of action, suits, claims, demands, or judgments of any nature in any way suffered, incurred or paid as a result of the presence or release or threatened release of Hazardous Materials on or from the Premises during the term which is caused by LESSEE, its agents, employees, contractors, representatives, licensees, or invitees. LESSEE hereby acknowledges and agrees that LESSOR shall have no responsibility to LESSEE, its agents, employees, representatives, permittees and invitees, for the presence of such Hazardous Materials on the Premises or be required to abate or remediate the same, except to the extent the presence of Hazardous Materials on the Premises is caused by LESSOR, its agents, employees, representatives, permittees and invitees. This provision shall survive the expiration or termination of this Lease.

**11. INSURANCE AND INDEMNIFICATION: THE LESSEE SHALL DEPOSIT WITH THE LESSOR CERTIFICATES FOR ALL INSURANCE REQUIREMENTS LISTED BELOW PRIOR TO THE COMMENCEMENT OF THEIR TERM, AND THEREAFTER WITHIN THIRTY (30) DAYS PRIOR TO THE EXPIRATION OF ANY SUCH POLICIES. ALL SUCH INSURANCE CERTIFICATES SHALL PROVIDE THAT SUCH POLICIES SHALL NOT BE MATERIALLY CHANGED, ALTERED OR CANCELED WITHOUT AT LEAST TEN (10) DAYS PRIOR WRITTEN NOTICE TO EACH ASSURED NAMED THEREIN.**

**ADDITIONAL INSURED:**

All certificates will indicate the "**Town of Nantucket/Nantucket Memorial Airport (LESSOR)**" as **an additional insured**, under liability coverages, but only as respects operations of the Named Insured as their interests may appear.

**INDEMNIFICATION:** LESSEE shall defend, indemnify and hold harmless, the LESSOR, its Commissioners, officers, agents and employees, from and against any and all claims, expenses or liabilities of whatever nature from any suits, claims and demands (including without limitation reasonable attorney's fees and experts' fees), (a) arising directly or indirectly from the failure of the LESSEE or LESSEE'S contractors, agents, employees or invitees to comply with the terms of this Lease or with any applicable laws, codes, bylaws, rules, orders, regulations or lawful direction now or hereafter in force of any public authority, and (b) arising directly or indirectly from any accident, injury or damage, however, caused to any person or property, on or about the Premises where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission or negligence on the part of the LESSEE or LESSEE's contractors, license, agents, employees or customers, or anyone claiming by or through the LESSEE.

**LIABILITY INSURANCE:** The LESSEE shall maintain, in full force from the date of commencement of the Lease throughout the Term and thereafter so long as LESSEE is in occupancy of the Premises with respect to the Premises and the property of which the Premises are a part, comprehensive public liability insurance, in the amount of \$3,000,000, for each occurrence with property damage insurance in limits of \$1,000,000, for each occurrence. The policy shall be written with responsible companies qualified to do business in Massachusetts, and in good standing therein, insuring the LESSOR as well as LESSEE against injury to persons or damage to property as provided (unless different amounts specified on front page of contract).

FIRE INSURANCE: The LESSEE shall procure and keep in force, fire and extended coverage insurance upon its leasehold improvements, furniture, furnishings, fixtures and equipment to the full insurable value thereof and any applicable equipment vendors or lenders give the Airport satisfactory releases from fire and extended coverage liability.

WORKER'S COMPENSATION INSURANCE: The LESSEE and any of its contractors shall maintain and keep in force Workers' Compensation Insurance, which is recognized by the Commonwealth of Massachusetts, and shall deliver to the LESSOR copies of certificate of insurance naming the LESSOR as an additional insured. Without limiting LESSOR's other rights under any other provisions of this Lease, if LESSEE shall fail to keep the Premises insured as provided herein, and if such failure shall continue for a period of ten (10) days following written notice by LESSOR to LESSEE thereof, then LESSOR, without further notice to LESSEE, may take out and pay for such insurance, and the amount of such payment shall become due and payable as Additional Rent on demand.

12. DEFAULT AND BANKRUPTCY: If at any time subsequent to the date of this Lease any of the following events shall occur, LESSEE shall be in default under the terms and provision of this Lease:

- (a) The failure of LESSEE to make payment of any installment of rent or other sum therein specified and such default shall continue for ten (10) days after written notice thereof; or
- (b) The failure of the LESSEE to observe or perform any other of the LESSEE's covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or if such failure is of such a nature that LESSEE cannot reasonably remedy the same within such thirty (30) day period, LESSEE shall fail to commence promptly (and in any event within such thirty (30) day period) to remedy the same and to prosecute such remedy to completion with diligence and continuity, or
- (c) The filing by LESSEE of a voluntary petition or the filing against LESSEE of an involuntary petition in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of LESSEE, or the filing by LESSEE of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or future applicable federal, or state law, or the assignment by LESSEE for the benefit of creditors, or appointment of a Trustee, receiver, or liquidation of all or any part of the assets of LESSEE, and within sixty (60) days after the commencement of any such proceeding against LESSEE, such proceeding shall not have been dismissed, or if within ninety (90) days after the appointment of any such trustee, receiver or liquidator of LESSEE or of all or any part of LESSEE's property, without the acquiescence of LESSEE, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against LESSEE or any of LESSEE's property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied. Then in any such case, LESSOR may terminate this Lease by written notice to LESSEE specifying a date not less than five (5) days after the giving of such notice on which this Lease shall terminate, and LESSEE shall then quit and surrender the Premises to LESSOR, but LESSEE shall remain liable as hereinafter provided.

If LESSEE defaults under the terms of this Lease as defined above, then the LESSOR shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Premises, to declare the term of this Lease ended, and remove the LESSEES's effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. The



LESSEE shall indemnify the LESSOR against all loss of rent and other payments which the LESSOR may incur by reason of such termination during the residue of the term. If the LESSEE shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on LESSEE's part to be observed or performed under or by virtue of any of the provisions in any article of this Lease, the LESSOR, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the LESSEE. If the LESSOR makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of ten percent (10%) per annum and costs, shall be paid to the LESSOR by the LESSEE as additional rent.

13. SURRENDER: The LESSEE shall at the expiration or other termination of this Lease peaceably and quietly leave, surrender and yield to the Premises and all other improvements thereon in good order, repair and condition ordinary wear and tear excepted and remove all LESSEE's goods and effects from the Premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the LESSEE, either inside or outside the Premises). LESSEE shall deliver to the LESSOR the Premises and all keys, locks thereto, and other fixtures connected therewith and all alterations and additions made to or upon the Premises, in good condition, damage by fire or other casualty only excepted. In the event of the LESSEE's failure to remove any of LESSEE's property from the Premises, LESSOR is hereby authorized, without liability to LESSEE for loss or damage thereto, and at the sole risk of LESSEE, to remove and store any of the property at LESSEE's expense, or to retain same.

14. TITLE SIX ASSURANCES – NONDISCRIMINATION:

(a) The LESSEE for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 and as said Regulations may be amended.

That in the event of a breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate this Lease and to re-enter and repossess the Premises, and hold the same as if said Lease had never been made or issued.

(b) The LESSEE for itself, its personal representatives, successors in interest, and assigns, as apart of the consideration hereof, does hereby covenant and agree as a covenant running with the land that

(1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination,
- (3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation – Effectuation of Title of the Civil Rights Act of 1964 and as said Regulations may be amended.

That in the event of a breach of any of the above nondiscrimination covenants, the LESSOR shall have the right to terminate the Lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said Lease had never been made or issued.

15. GENERAL PROVISIONS:

- (a) Subordination of Lease. This Lease shall be subordinated to the provisions of:
- (1) any existing or future agreement between LESSOR and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or improvement of the Airport; and
- (2) any pledge, transfer, hypothecation or assignment made at any time by the LESSOR to secure bonds or other financing.
- (b) Compliance by Other Lessees. LESSOR shall, whenever possible, make reasonable efforts to obtain, uniform compliance with its rules and regulations; however, LESSOR shall not be liable to LESSEE for any violation or non-observance of such rules and regulations by any tenant, concessionaire or LESSEE at the Airport.
- (c) Independent Contractor. It is agreed that LESSEE is an independent contractor hereunder and not an agent or employee of LESSOR with respect to its acts or omissions.
- (d) Sublease; Successors and Assigns. LESSEE shall have no right to sublease the Premises or assign this Agreement without the prior written approval of LESSOR. All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.
- (e) Notices. All notices required to be given to LESSOR or LESSEE shall be in writing and shall be given personally or sent by certified mail, return receipt requested, addressed to such party at its latest address of record. Notices to LESSOR shall be addressed to Airport Commissioners, Nantucket Memorial Airport, 14 Airport Road, Nantucket, MA 02554 and notices to LESSEE addressed to its address on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.

(f) Governing Law. This Lease is read and construed in accordance with the laws of the Commonwealth of Massachusetts except where State law shall be preempted by any rules, laws or regulations of the government of the United States of America. The parties hereto agree that any court of proper jurisdiction sitting in Nantucket County, Massachusetts, shall be the proper forum for any actions brought hereunder.

(g) Entire Agreement; Amendment Interpretation. This Agreement with attachments mentioned constitutes the entire agreement between the parties superseding all prior or contemporaneous understandings. No amendment, modification, or alteration of the terms of the Agreement shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions herein to be performed, kept, and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained, to be performed, kept, and observed by the other party. If one or more clauses, sections, or provisions of this lease shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the lease shall not be affected thereby. The paragraph headings contained herein are for the convenience in reference and are not intended to define or limit the scope of any provisions of this Lease.

**Signature Page to Follow**

**NOTICE TO LESSEE:**

**DO NOT SIGN THIS AGREEMENT BEFORE YOU HAVE READ THE AGREEMENT SET FORTH ABOVE. YOU ARE ENTITLED TO A COPY OF THIS AGREEMENT AND SHOULD KEEP A COPY OF THIS AGREEMENT TO PROTECT YOUR LEGAL RIGHTS.**

LESSEE, BY SIGNATURE HEREON, ACKNOWLEDGES THIS AGREEMENT.

Lessee: Delta Air Lines

Lessor: Nantucket Memorial Airport Commission

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

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

Chairman

Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

496956v.3/19715/0001

**AGREEMENT FOR PROFESSIONAL  
ENGINEERING SERVICES  
BETWEEN  
THE TOWN OF NANTUCKET, MASSACHUSETTS  
AND  
JACOBS ENGINEERING GROUP INC.  
FOR  
PURCHASE AIRCRAFT RESCUE FIRE FIGHTING (ARFF) VEHICLE TOOLS AND  
EQUIPMENT**

This AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2014 between Jacobs Engineering Group Inc., a Massachusetts corporation with a usual place of business at 343 Congress Street, Boston, MA 02210, hereinafter called the "ENGINEER" or "CONTRACTOR", and the TOWN of Nantucket acting by and through its Airport Commission, with a usual place of business at Nantucket Municipal Airport, 14 Airport Road, Nantucket, MA 02554, hereinafter called the TOWN.

The ENGINEER and the TOWN, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The ENGINEER shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as the Purchase Aircraft Rescue Fire Fighting (ARFF) Vehicle Tools and Equipment, in accordance with the Scope of Services set forth in Exhibit A ("The Work" or "work").

2. Contract Price

The TOWN shall pay the ENGINEER for the performance of this Agreement, subject to any additions and deductions provided for herein, in current funds, the sum of **\$5,232.00**. The contract is funded as follows: 90% (\$4,708.80) by the Federal Aviation Administration ("FAA"); 5% (\$261.60) by the Massachusetts Department of Transportation Aeronautics Division (MassDOT) under the Federal AIP; and 5% (\$261.60) by the TOWN of Nantucket. The breakdown of fees is shown in more detail in the attached articles A, B, C, and D.

3. Commencement and Completion of Work

- A. The ENGINEER shall commence and prosecute the work under this Agreement upon execution hereof and shall begin performance of the work on or before September 22, 2014.
- B. Progress and Completion: ENGINEER shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure completion within the stipulated number of calendar days.

4. Performance of the Work

A. Standard of Care: The ENGINEER warrants that it shall perform the Work in a manner that at a minimum is equivalent to the level of skill and attention rendered by the engineering/design profession for projects similar to the Project in scope, difficulty and location. The ENGINEER shall be solely responsible for coordinating all portions of the Work under the Agreement.

B. Responsibility for the Work:

- (1) The ENGINEER shall be responsible to the TOWN for the acts and omissions of its employees, subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the ENGINEER. Consistent with the standard of care referenced in paragraph A. above, the ENGINEER shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work or services furnished by him or its consultants and subcontractors. The ENGINEER shall perform its work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary.
- (2) The ENGINEER shall not employ additional consultants not named in its proposal to the TOWN, nor sublet, assign or transfer any part of its services or obligations under this Agreement without the prior approval and written consent of the TOWN. Such written consent shall not in any way relieve the ENGINEER from its responsibility for the professional and technical accuracy and coordination of all data, designs, drawings, specifications, estimates and other work or services furnished under this Agreement.
- (3) All consultants must be registered and licensed in their respective disciplines if registration and licensure are required under the applicable provisions of Massachusetts law.
- (4) The ENGINEER and all consultants and subcontractors shall conform their work and services to any guidelines, standards and regulations of any governmental authority applicable to the type of work or services covered by this Agreement, including those of the Massachusetts Highway Department and the Department of Environmental Protection.
- (5) The ENGINEER shall not be relieved from its obligations to perform the Work in accordance with the requirements of this Agreement either by the activities or duties of the TOWN in its administration of

the Agreement, or by inspections, tests or approvals required or performed by persons other than the ENGINEER.

- (6) Neither the TOWN's review, approval or acceptance of, nor payment for any of the work or services performed shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.

C. Deliverables, Ownership of Documents: One (1) reproducible copy of all drawings, plans, specifications and other documents prepared by the ENGINEER shall become the property of the TOWN upon payment in full therefor to the ENGINEER. Ownership of stamped drawings and specifications shall not include the ENGINEER's certification or stamp. Any re-use of such documents without the ENGINEER's written verification of suitability for the specific purpose intended shall be without liability or legal exposure to the ENGINEER or to the ENGINEER's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as an act in derogation of the ENGINEER's rights under this Agreement.

D. Notices, Compliance With Laws:

- (1) The ENGINEER shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority relating to the performance of the Work. The ENGINEER shall provide the TOWN with reproductions of all permits, licenses and receipts for any fees paid.
- (2) If the ENGINEER observes that any of the TOWN's design schemes, outlines or goals are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the TOWN in writing, and any necessary changes shall be accomplished by appropriate modification.
- (3) In the performance of the Work, the ENGINEER shall comply with all applicable federal, state and local laws and regulations, including those relating to workplace and employee safety.

5. ARTICLE NOT USED

6. Payments to the Contractor

- A. The TOWN shall make payment to the ENGINEER, monthly, upon approval of the ENGINEER's requisitions therefor. All requisitions shall be in the same

proportionate amount of the Contract Price as the proportion of the work completed to the total scope of work.

- B. If there is a material change in the scope of work, the TOWN and the ENGINEER shall mutually agree to an adjustment in the Contract Price and/or schedule, as the case may be, before ENGINEER will be required to perform any such additional services. Delay of one year or more by the TOWN plus a significant change in the estimated construction cost will be considered a change in the scope of work.
- C. If the TOWN authorizes the ENGINEER to perform additional services, the ENGINEER shall be compensated in an amount mutually agreed upon, in advance, in writing. Except in the case of an emergency, the ENGINEER shall not perform any additional services until such compensation has been so established. In the case of an emergency, if the ENGINEER is requested to perform additional work without a fully executed change order, the ENGINEER shall be entitled to an equitable adjustment in the contract price and extension of time. The ENGINEER shall bear responsibility for any costs or charges related to changes or services in connection with change orders and change directives which are necessitated by a lack of reasonable clarity, deficiencies or conflicts in the construction documents or other errors or omissions of the ENGINEER, or which result from existing conditions encountered which should have been anticipated by the ENGINEER based on reasonable investigation of the Project site.

7. Reimbursement

Except as otherwise included in the Contract Price or otherwise provided for under this Agreement, the ENGINEER shall be reimbursed by the TOWN: (a) at 1.1 times the actual cost to the ENGINEER of consultants retained to obtain information pursuant to Article 5 hereof or otherwise. No such reimbursement shall be made unless the rates of compensation have been approved, in advance, by the TOWN; (b) at 1.0 times the actual cost of additional or specially authorized expense items, as approved by the TOWN.

8. Final Payment, Effect

The acceptance of final payment by the ENGINEER shall constitute a waiver of all claims by the ENGINEER arising under the Agreement.

9. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

10. Indemnification



- A. General Liability: The ENGINEER shall defend, indemnify and hold harmless the TOWN from and against any and all claims, damages, losses, and expenses, including attorney's fees, to the extent arising out of the performance of this Agreement and to the extent the same relate to matters of general commercial liability, such claims, damages, losses, and expenses are caused by the negligent or wrongful acts or omissions of the ENGINEER or its employees, agents, subcontractors or representatives.
- B. Professional Liability: The ENGINEER shall defend, indemnify and hold harmless the TOWN from and against any and all claims, damages, losses, and expenses, including attorneys' fees, arising out of the performance of this Agreement and to the extent the same relate to the professional competence of the ENGINEER's services, when such claims, damages, losses, and expenses are caused by the negligent or wrongful acts, errors or omissions of the ENGINEER or its employees, agents, subcontractors or representatives.
- C. The ENGINEER's obligation to defend, indemnify or hold harmless the TOWN under this Paragraph shall not extend to any portion of a claim, damage, loss or expense that is caused by the negligent or wrongful acts or omissions of the TOWN.

## 11. Insurance

- A. The ENGINEER shall at its own expense obtain and maintain insurance of the following types:

### General Liability

Bodily Injury Liability:	\$1,000,000 per occurrence
Property Damage Liability	\$ 500,000 per occurrence
(or combined single limit)	\$1,000,000 per occurrence

### Automobile Liability

Bodily Injury Liability:	\$1,000,000 per occurrence
Property Damage Liability	\$ 500,000 per occurrence
(or combined single limit)	\$1,000,000 per occurrence

### Workers' Compensation Insurance

Coverage for all employees in accordance with Massachusetts General Laws

### Professional Liability Insurance

Minimum Coverage	\$1,000,000 per occurrence
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Since its insurance is normally written on a year-to-year basis, the ENGINEER shall notify the TOWN should coverage become unavailable.

- B. The coverage shall be in force from the time of the agreement to the date when all construction work for the Project is completed and accepted by the TOWN. If, however, the policy is a claims made policy, it shall remain in force for a period of six (6) years after completion.
- C. The ENGINEER shall also carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this Agreement in the event of loss or destruction until the final fee payment is made or all data are turned over to the TOWN.
- D. Prior to commencement of any work under this Agreement, the ENGINEER shall provide the TOWN with Certificates of Insurance or other evidence of insurance coverage which include the TOWN as an additional named insured on the ENGINEER's Comprehensive General Liability and Automobile Liability policies and which include a thirty day notice of cancellation to the TOWN. Any cancellation of insurance, whether by the insurers or by the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the TOWN at least fifteen days prior to the intended effective date thereof, which date shall be expressed in said notice.
- E. Upon request of the ENGINEER, the TOWN reserves the right to modify any conditions of its Article.

12. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

13. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven (7) days' notice to the party in default and the failure within that time of said party to cure its default, or if the cure cannot be completed within seven (7) days, the failure to commence and diligently pursue the work to complete the cure, provided however, that the cure period shall not exceed 120 calendar days unless agreed to in writing by the Parties.
- B. The TOWN shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the ENGINEER. Upon receipt of a notice of termination, the ENGINEER shall cease to incur additional expenses in connection with the Agreement. The ENGINEER shall be entitled to compensation for all satisfactory work completed prior to the termination date

as determined by the TOWN. Such payment shall not exceed the fair value of the services provided hereunder.

14. Miscellaneous

- A. Royalties and Patents: The ENGINEER shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the TOWN harmless from loss on account thereof, except that the shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified by the TOWN; but if the ENGINEER believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the TOWN, and thereafter the TOWN insists on the use of the design, process or product specified.
- B. Assignment: The ENGINEER shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the TOWN.
- C. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.
- D. Independent Contractor: The parties acknowledge that the ENGINEER is acting as an independent contractor for all work and services rendered pursuant to this Agreement and that it shall not be considered an employee or agent of the TOWN for any purpose.
- E. Complete Agreement: This Agreement contains a complete statement of the undertakings between the parties with respect to the matter set forth herein. This Agreement cannot be changed or terminated, and this Agreement supersedes all prior agreements and undertakings, both oral and written, between the parties. There are no representations not set forth in this Agreement which have been relied upon by either party.
- F. Severability: If any portion of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provision shall nevertheless remain in full force and effect. This Agreement has been negotiated by the parties and their respective counsel and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against any party.
- G. No Waiver: No waiver of any breach of any provision of this Agreement by either party hereto shall constitute a waiver of the Agreement. The failure of a party to enforce, at any time or from time to time, any provision of this Agreement shall not be construed as a waiver thereof.

15. ENGINEER'S Assurances: ENGINEER hereby represents and warrants:

- A. Compliance with Regulations. The ENGINEER shall comply with the Regulations relative to non-discrimination in Federally assisted programs of the Department of Transportation "DOT" Title 49 Code of Federal Regulations, Part 21, as they may be amended from time to time hereinafter referred to as the Regulations, which are herein incorporated by reference and made a part of this Agreement.
- B. Nondiscrimination. The ENGINEER, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The ENGINEER shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
- C. Solicitations for Subcontracts. In all solicitations by competitive bidding or negotiation made by the ENGINEER for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the ENGINEER of the ENGINEER's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports. The ENGINEER shall provide all information and reports required by the Regulations, directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the TOWN, the FAA, or the Massachusetts Department of Transportation Aeronautics Division to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, the ENGINEER shall so certify to the TOWN, the FAA, or the Massachusetts Department of Transportation Aeronautics Division as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the ENGINEER's noncompliance with the nondiscrimination provisions of this Agreement, the TOWN shall impose such contract sanction as are appropriate, including but not limited to:
  - (1) withholding of payments to the ENGINEER under the contract until the contractor complies, and/or
  - (2) cancellation, termination, or suspension of the contract, in whole or in part.
- F. Incorporation of Provisions. The contractor shall include the provisions of paragraphs "a" through "e" in every subcontract, including procurement of

materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The ENGINEER shall take such action with respect to any subcontract or procurement as the TOWN, the FAA, or the Massachusetts Department of Transportation Aeronautics Division may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event an ENGINEER becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the ENGINEER may request the TOWN to enter into such litigation to protect the interests of the TOWN and/or the interests of the United States and the Commonwealth of Massachusetts.

- G. 49 CFR Part 26. The contractor, sub-recipient or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- H. DBE Obligation. The ENGINEER agrees to ensure that minority and women business enterprises, as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

### **CERTIFICATION OF ENGINEER – FAA**

I hereby certify that I am an Operations Manager and duly authorized representative of Jacobs Engineering Group Inc., whose address is 343 Congress Street, Boston, Massachusetts 02210, and that neither I nor the above firm I here represent has:

- a. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- b. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- c. paid, or agreed to pay, to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this contract involving participation of Airport Improvement Program (AIP) funds, and is subject to applicable State and Federal laws, both criminal and civil.



Michael R. Desrochers  
Operations Manager

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the TOWN by its authorized representatives who, however, incur no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

JACOBS ENGINEERING GROUP INC.

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

Name: Michael R. Desrochers

Title: Operations Manager

TOWN OF NANTUCKET  
AIRPORT COMMISSION

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TOWN OF NANTUCKET  
TOWN FINANCE DIRECTOR

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**MASSACHUSETTS DEPARTMENT OF TRANSPORTATION  
AERONAUTICS DIVISION  
CONTRACT APPROVAL**

The Massachusetts Department of Transportation Aeronautics Division, this \_\_\_\_\_ day of \_\_\_\_\_, 2014, hereby approves this Contract between the Town of Nantucket acting by and through its Nantucket Airport Commission and Jacobs Engineering Group, Inc., in the amount of \$5,232.00 for consultant services in connection with:

“Purchase Aircraft Rescue Fire Fighting (ARFF) Vehicle Tools and Equipment”

This approval is granted in accordance with Section 51K, Chapter 90 of the General Laws of Massachusetts, as amended, and in no way makes the Massachusetts Department of Transportation Aeronautics Division a party to the Contract or in any way interferes with the right of either principal here above, and is not to be considered as a commitment of funding unless so voted by the Massachusetts Department of Transportation Aeronautics Division.

\_\_\_\_\_  
Christopher J. Willenborg  
Aeronautics Division Administrator  
Massachusetts Department of Transportation Aeronautics Division



**August 27, 2014**  
**Exhibit A – Scope of Work**  
**Nantucket Memorial Airport**  
**AIP No. 3-25-0033-XX-2015**  
**“Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment”**

**I. EXHIBIT A - SCOPE**

**A. Article A – Data Collection**

1. Review the current applicable FAA Advisory Circulars associated with the procurement of ARFF tools and equipment.
2. Prepare one (1) State pre-application.
3. Conduct Quality Assurance/Quality Control (QA/QC) checks.

**B. Article B - Preliminary/Final Specifications and Documents**

1. The Engineer will prepare preliminary and final contract documents and combine with airport supplied technical specifications for Federal Aviation Administration, Massachusetts Department of Transportation Aeronautics Division, and Nantucket Memorial Airport review.
2. The technical specifications will be written for the acquisition of one Aircraft Rescue Fire-Fighting (ARFF) 1,500 Gallon Class 4 vehicle. Bid documents will be prepared.
3. Conduct Quality Assurance/Quality Control (QA/QC) checks on bid documents.

**C. Article C – Bidding & Contract Arrangements**

1. The Engineer will prepare contract documents to be executed between the equipment suppliers and the Airport.
2. Prepare an “Invitation to Bid”, including all forms for advertisement, bid proposals, contract bonds, labor and DBE requirements and other contract documents needed to solicit public bids for the procurement of equipment. The Owner shall be responsible for the cost of all public advertisements required including all newspapers in which the advertisement is placed. The Invitation to Bidders will be advertised in the Goods and Services Bulletin, and the local newspaper of record. Advertising will be coordinated with the Airport Administration, as applicable.
3. Call in for the bid opening; review bids received, and prepare and submit recommendation letters.
4. Manage and maintain lists of plan holders for each separate contract.
5. Conduct Quality Assurance/Quality Control (QA/QC) checks.

D. Article D – General Administration

1. The Engineer will prepare one FAA and State grant application.
2. The Engineer will prepare the FAA and State pay requests. Two (2) are assumed.
3. Prepare the required FAA/State project closeout reports. This includes summary of the work performed and associated costs.
4. Retain project-related records.
5. Attend 3<sup>rd</sup> party performance specification site visit for acceptance.
6. Conduct Quality Assurance/Quality Control (QA/QC) checks.

Jacobs Engineering Group Inc.

**JOB HOUR AND FEE ESTIMATE**

**Nantucket Memorial Airport**

**PROJECT: Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment**

**EXHIBIT B - FEE SUMMARY**

Jacobs

	<u>Hours</u>	<u>Fee</u>
<b>Lump Sum</b>		
Article A - Data Collection	4	\$ 426
Article B - Bid Documents	8	\$ 1,330
Article C - Bidding & Contract Arrangements	9	\$ 899
Article D - General Administration	20	\$ 2,578
<b>Total Lump Sum Fee</b>	<b>41</b>	<b>\$ 5,232</b>

### JOB HOUR AND FEE ESTIMATE

**PROJECT: Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment**

[illegible]

**Expenses:**

Misc. (Postage, mileage, printing)	\$ -
Total Expenses:	\$ -

## Nantucket Memorial Airport

PROJECT: Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment

TASK: Article B - Bid Documents

	WORK ITEM	PRINC. IN CHARGE	PROJ. MGR	SR ENGR	ENGR	CADD	Word Proc.	TOTAL
1	Prepare Preliminary and Final Bid Documents				4		2	6
2	QA/QC	1	1					2
	<b>TOTAL HOURS</b>	1	1	0	4	0	2	8
	<b>RATE</b>	\$93.00	\$60.00	\$45.00	\$40.00	\$30.00	\$20.00	-----
	<b>PAYROLL ESTIMATE</b>	\$ 93	\$ 60	\$ -	\$ 160	\$ -	\$ 40	\$ 353

**TOTAL PAYROLL \$ 353**Overhead (115.01%) \$406Expenses:

Duplicate 20 Sets of Bid

Documents \$ 400

Postage/Shipping = \$ 95

Misc = \$ -

Total Expenses: \$ 495

Subtotal \$ 759

Profit (10%) \$ 76

Payroll Fee \$ 835

Expenses \$ 495Lump Sum Total \$ 1,330

## Nantucket Memorial Airport

## PROJECT: Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment

## TASK: Article C - Bidding &amp; Contract Arrangements

	WORK ITEM	PRINC. IN CHARGE	PROJ. MGR	SR ENGR	ENGR	CADD	Word Proc.	TOTAL
1	Prepare Contracts between ACK and Vendor				2			2
2	Prepare Advertisement for Bids				2			2
3	Call in for Bid Opening, Review Bids and Letter of Recommendation				2			2
4	Manage and Maintain Planholders List				2			2
5	QA/QC		1					1
	TOTAL HOURS	0	1	0	8	0	0	9
	RATE	\$93.00	\$60.00	\$45.00	\$40.00	\$30.00	\$20.00	-----
	PAYROLL ESTIMATE	\$ -	\$ 60	\$ -	\$ 320	\$ -	\$ -	\$ 380

TOTAL PAYROLL	\$ 380
Overhead (115.01%)	\$437
Subtotal	\$ 817
Profit (10%)	\$ 82
Payroll Fee	\$ 899
Expenses	\$ -
Lump Sum Total	\$ 899

**Expenses:**

Airfare/Mileage =	\$ -
Misc. =	\$ -
Total Expenses:	\$ -

JACOBS Engineering Group Inc.

JOB HOUR AND FEE ESTIMATE

## Nantucket Memorial Airport

PROJECT: Purchase Aircraft Rescue Fire Fighting (ARFF) Truck Tools and Equipment

TASK: Article D - General Administration

	WORK ITEM	PRINC. IN CHARGE	PROJ. MGR	SR ENGR	ENGR	CADD	Word Proc.	TOTAL
1	Prepare FAA & State Grant Applications				4			4
2	Prepare FAA and State Pay Requests/Reimbursement Forms				4			4
3	Prepare Closeout Reports				2			2
4	Retain Project Related Records				1			1
5	Attend 3rd party performance specification site visit for acceptance		8					8
6	QA/QC		1					1
	TOTAL HOURS	0	9	0	11	0	0	20
	RATE	\$93.00	\$60.00	\$45.00	\$40.00	\$30.00	\$20.00	-----
	PAYROLL ESTIMATE	\$ -	\$ 540	\$ -	\$ 440	\$ -	\$ -	\$ 980

TOTAL PAYROLL \$ 980

Overhead (115.01%) \$1,127

Subtotal \$ 2,107

Profit (10%) \$ 211

Payroll Fee \$ 2,318

Subconsultants \$ -

Expenses \$ 260

Lump Sum Total \$ 2,578

**Expenses:**

Airfare/Mileage \$ 260

Misc. \$ -

Total Expenses: \$ 260



**AGREEMENT BETWEEN  
THE TOWN OF NANTUCKET, MASSACHUSETTS  
AND  
INDEPENDENT CONTRACTOR**



THIS AGREEMENT made effective \_\_\_\_\_, 2014, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Nantucket Airport Commission, with offices at 14 Airport Road, Nantucket, Massachusetts 02554 (hereinafter called the ("AIRPORT")), and Vegetation Control Service, Inc. whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "CONTRACTOR").

**RECITALS:**

WHEREAS, the AIRPORT desires to retain the CONTRACTOR to provide certain services for the AIRPORT as described, below, and the CONTRACTOR is willing to accept such engagement, all on the terms hereinafter set forth,

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

**ARTICLE 1 - ENGAGEMENT OF THE CONTRACTOR**

- 1.1 The AIRPORT hereby engages the CONTRACTOR, and the CONTRACTOR hereby accepts the engagement, to perform certain services for the AIRPORT, as described in Article 2.
- 1.2 In the performance of any service under this Agreement, the CONTRACTOR acts at all times as an independent contractor. There is no relationship of employment or agency between the AIRPORT, on the one hand, and the CONTRACTOR on the other, and the AIRPORT shall not have or exercise any control or direction over the method by which the CONTRACTOR performs its work or functions aside from such control or directions which are consistent with the independent contractor relationship contemplated in the Agreement.

**ARTICLE 2 - SERVICES OF THE CONTRACTOR**

- 2.1 The CONTRACTOR will perform the services described in the Scope of Services set forth on Exhibit A (the "Work").
- 2.2 The CONTRACTOR shall report, and be responsible, to the AIRPORT and its designee (if any) as set forth on Exhibit A.
- 2.3 There shall be no amendment to the Scope of Services or Work provided for in this Agreement without the written approval of the AIRPORT. The AIRPORT shall be under no obligation to pay for any services performed by the CONTRACTOR which are not explicitly agreed to by the AIRPORT in writing.



- 2.4 The CONTRACTOR represents and warrants to the AIRPORT that the CONTRACTOR (including all of its personnel, whether employees, agents or independent contractors) will be qualified and duly licensed (if necessary) to perform the services required by this Agreement and further agrees to perform services in a professional manner adhering to a reasonable standard of care and in accordance with all applicable local, state or federal ordinances, laws, rules and regulations. The CONTRACTOR will obtain any and all permits, bonds and other items required for the proper and legal performance of the work.
- 2.5 The CONTRACTOR represents and warrants to the AIRPORT that it is not a party to any agreement, contract or understanding which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this Agreement.
- 2.6 All written materials and any other documents (whether in the form of "hard" copies, graphics, magnetic media or otherwise) which are produced by the CONTRACTOR pursuant to this Agreement shall be deemed to be "work for hire" and shall be and become the property of the AIRPORT under applicable law or, to the extent that the "work for hire" doctrine does not apply, CONTRACTOR hereby grants to the AIRPORT a perpetual, royalty-free exclusive license in such items. The AIRPORT acknowledges that such materials are being prepared with respect to the specific project contemplated hereby and that any reuse of such materials by the AIRPORT in connection with any other project shall be at the AIRPORT's sole risk unless otherwise agreed to by the CONTRACTOR in writing.

### **ARTICLE 3 - PERIOD OF SERVICES**

- 3.1 Unless otherwise provided on Exhibit A, the term of this Agreement shall commence on the date hereof and continue until the Work is completed to the AIRPORT's reasonable satisfaction.
- 3.2 The CONTRACTOR shall proceed with the Work promptly after receiving authorization to proceed and will diligently and faithfully prosecute the Work to completion in accordance with the provisions hereof. In any event, the Work shall be completed not later than the date set forth on Exhibit A. The CONTRACTOR acknowledges that time is of the essence of this Agreement.
- 3.3 If the CONTRACTOR is delayed in the performance of any of its obligations under this Agreement by the occurrence of an event which may not reasonably be anticipated or avoided or is otherwise beyond its control such as fire or other casualty, abnormal adverse weather conditions, acts of God (collectively, "Unavoidable Events") which materially and adversely affect its ability to perform the Work, then the time for the CONTRACTOR to perform the Work shall be extended for such time as the AIRPORT shall reasonably determine is necessary to permit the CONTRACTOR to perform in light of the effects of the Unavoidable Event.

If an Unavoidable Event occurs which makes the performance of the Agreement impossible without the expenditure of additional AIRPORT funds, the AIRPORT may, at its option, elect to terminate this Agreement upon thirty (30) days written notice.

#### **ARTICLE 4 - PAYMENTS TO THE CONTRACTOR**

- 4.1 The compensation to due to the CONTRACTOR shall be paid in the amounts, and in the manner, set forth on Exhibit B, attached hereto.
- 4.2 The CONTRACTOR will bill the AIRPORT at the completion of the work unless otherwise provided on Exhibit B, with one or more invoices broken down to show the quantity of work performed and the percentage of the entire project completed, categories and amount of reimbursable expenses (if any), and provide such supporting data as may be required by the AIRPORT.
- 4.3 The AIRPORT will pay the CONTRACTOR upon review and approval of such invoices by the AIRPORT or its designee.
- 4.4 This project may be subject to budgetary restrictions which may limit the total amount of funds available for the work. Accordingly, unless otherwise stated on Exhibit B, the AIRPORT will not be obligated to pay any amount in excess of the maximum project amount without the express written approval of the AIRPORT.
- 4.5 The CONTRACTOR and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the designer in the preparation of the documents, as reasonably determined by the AIRPORT.

#### **ARTICLE 5 - TERMINATION**

- 5.1 This Agreement may be terminated, with cause, by either the AIRPORT or CONTRACTOR, upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and proper manner.
- 5.2 The AIRPORT shall have the right to terminate this Agreement for its convenience upon ten (10) days written notice.
- 5.3 Following termination of this Agreement, the parties shall be relieved of all further obligations hereunder except:
  - (a) the AIRPORT shall remain liable for payments for the services and/or expenses of CONTRACTOR accrued prior to the effective date of the notice of termination in compliance with this Agreement (less all costs reasonably incurred by the AIRPORT as a result of the CONTRACTOR's default, if any), as determined by the AIRPORT but for no other amounts including, without limitation, claims for lost profits on work not performed; and
  - (b) the CONTRACTOR shall remain liable for any damages, expenses or liabilities arising under this Agreement (including its indemnity obligations) with respect to work performed pursuant to the Agreement.

## ARTICLE 6 - INSURANCE AND INDEMNIFICATION

- 6.1 The CONTRACTOR agrees to indemnify and save the Town of Nantucket/Nantucket Memorial Airport harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by CONTRACTOR (including all its employees, agents and independent contractors) in performing the Work, or any breach of the terms of this Agreement by such CONTRACTOR and shall reimburse the Town of Nantucket for any and all costs, damages and expenses, including reasonable attorney's fees, which the Town of Nantucket pays or becomes obligated to pay, by reason of such activities, or breach. The provisions of this Section 6.1 shall be in addition to, and shall not be construed as a limitation on, any other legal rights of the Town of Nantucket with respect to the CONTRACTOR, in connection with this Agreement.
- 6.2 Before commencing work, the CONTRACTOR shall obtain and maintain, at its expense and from insurance companies of a Best Rating of A or better which are licensed to do business in the Commonwealth of Massachusetts, insurance as set forth below. If the CONTRACTOR is permitted to sub-contract a material portion of the Work, or is otherwise identifying a third party to perform services for the Town of Nantucket, the CONTRACTOR shall assure that such sub-contractor or other third party also has such insurance.
- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
  - (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$1 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
  - (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.
  - (d) Such additional insurance as may be required to be carried by the CONTRACTOR by law.
  - (e) Such additional insurance as the AIRPORT may reasonably require as set forth on Exhibit A.

CONTRACTOR shall maintain such insurance during the term of Agreement and give the Town of Nantucket twenty (20) days written notice of any change or cancellation of coverage. Each insurer providing policies hereunder shall waive its rights to subrogate claims against the Town of Nantucket. The Town of Nantucket/Nantucket Memorial Airport will be added as an additional named insured with respect to each such policy and such endorsement shall be reflected on a Certificate of Insurance to be delivered to the AIRPORT upon the execution of this Agreement and at such times thereafter as the AIRPORT may reasonably request.

## ARTICLE 7 - GENERAL PROVISIONS

- 7.1 Upon the expiration or the termination of this Agreement for any reason, all data, drawings, specifications, reports, estimates, summaries and other work product which have been accumulated, developed or prepared by the CONTRACTOR (whether completed or in process) shall become the property of the AIRPORT and the CONTRACTOR shall immediately deliver or otherwise make available all such material to the AIRPORT.
- 7.2 Neither party may assign, transfer or otherwise dispose of this Agreement or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 7.3 Except as otherwise expressly provided in this Agreement, any decision or action made by the AIRPORT relating to this Agreement, its operation, amendment or termination, shall be made by the Board, Committee or Authority of the AIRPORT specified in the initial paragraph of this Agreement, unless specifically authorized or delegated by a lawful vote of such body.
- 7.4 This Agreement, together with Exhibit A (Contractor, Scope of Work, Term), Exhibit B (Payments) and Exhibit C (Tax Compliance Certificate) and any additional exhibits referred to therein, constitute the entire agreement of AIRPORT and CONTRACTOR with respect to the matters set forth therein and may not be changed, amended, modified or terms waived except by a writing signed by AIRPORT and CONTRACTOR. If there is any conflict between a term set forth in the body of this Agreement and a term set forth on Exhibit A or Exhibit B hereto, the term set forth in the Exhibit shall govern; however, if any term or provision of any document attached hereto or incorporated by reference conflicts with a term of this Agreement (including the Exhibits listed above), the term of the Agreement shall govern. Any notices required or allowed shall be to the person's address above by certified mail, return receipt requested.
- 7.5 This Agreement is governed by the law of The Commonwealth of Massachusetts and shall be construed in accordance therewith. The parties agree that exclusive jurisdiction for any action arising out of or relating to this Agreement shall lie with the state and federal courts having jurisdiction over the county and state in which the AIRPORT is located and the parties hereby irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any proceeding brought in such location and further irrevocably waive any claims that any such proceeding has been brought in an inconvenient forum.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

NANTUCKET MEMORIAL AIRPORT COMMISSION:

\_\_\_\_\_  
Daniel W. Drake, Chairman  
  
\_\_\_\_\_  
  
\_\_\_\_\_

CONTRACTOR: VEGETATION CONTROL SERVICE, INC.

\_\_\_\_\_  
Wendy L. Priestley  
Print Name: \_\_\_\_\_

Title: Co-Ceo  
\_\_\_\_\_

FEIN: 04-2385863\_\_\_\_\_

TON Finance Department:  
Approved as to Funds Available  
  
\_\_\_\_\_

## CONTRACT EXHIBIT A

### CONTRACTOR, SCOPE OF WORK, TERM

1. **Name of Contractor:** Vegetation Control Service, Inc.
2. **State of Incorporation:** MA
3. **Principal Office Address:** 2342 Main Street, Athol, MA 01331
4. **Description of Services:** Provide brush mowing services for 36 acres of mixed scrub oak, field, and firebreaks. Area 1 consists of 30 acres of low to high scrub oak with several firebreaks. Area 2 consists of 3 acres of mixed small pitch pine and low scrub oak. Area 3 consists of 3 acres of low scrub oak and field. Maps of the areas are attached as Exhibit D.

These areas are being managed under guidance from both the Massachusetts Endangered Species Act and the Federal Aviation Administration. As such, the permitted work must:

- Begin on or after October 15<sup>th</sup>, 2014,
- Conclude before or by March 31<sup>st</sup>, 2015,
- Reduce vegetation height to less than 6-8"
- Remove, chip, grind or otherwise destroy wooded debris to a size that when left on site, does not create habitat or shelter for wildlife.

The goal of the mowing is to facilitate rare species habitat, prepare the site for prescribed burns, and reduce the potential for harboring hazardous wildlife species.

Contractor must coordinate with the Airport prior to beginning any work.

5. **Person, Department, or Committee, if any, to whom CONTRACTOR reports (§ 2.2):**  
Noah Karberg, 508-325-7531, nkarberg@nantucketairport.com
6. **Term of Agreement (§3.1):** 4.5 months
7. **Completion Date (§3.2):** March 31, 2015
8. **Additional Insurance Coverage (§6.2(e)):** N/A

## CONTRACT EXHIBIT B

### PAYMENTS

1. Lump Sum Method

- a. **Maximum Project Amount:** \$22,860.00
- b. **Payment Increments:** Upon completion of each mow cycle and submission and approval of invoice
- c. **Reimbursable Expenses (if any):** None

# TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

042385863  
Federal Employer ID Number

Vegetation Control Service Inc.  
Name of Corporation

Laurey Kenerson 9/16/14  
President's Signature Date

Laurey Kenerson  
Please Print Name



Exhibit D  
(Page 1 of 3)

Area 1

Google Maps Area Calculator Tool - Mozilla Firefox


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**Input**  
Add a location manually (also accepts [latitude,longitude])

**Options**  
      
[Map Height : Small - Medium - Large - Full Screen]

**Output : Current Area**  
120739.64 m<sup>2</sup>  
0.12 km<sup>2</sup>  
29.84 acres  
12.07 hectares  
1293519.96 feet<sup>2</sup>

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Exhibit D  
(Page 2 of 3)


Area 2

Google Maps Area Calculator Tool - Mozilla Firefox

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www.daftlogic.com/projects-google-maps-area-calculator-tool.html calculate area in google maps



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\$0.79 / sq ft \$1.69 / sq ft BuildDirect up to 80% OFF top quality laminate flooring \$1.59 / sq ft \$1.89 / sq ft click for more of our best sellers

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Add a location manually (also accepts [latitude,longitude])  Add Point

Options

Delete Last Point Clear All Points Generate KML Create New Area Zoom To Fit

[Map Height: Small - Medium - Large - Full Screen]

Output : Current Area

10834.42 m<sup>2</sup>  
0.01 km<sup>2</sup>  
2.68 acres  
1.08 hectares  
116620.70 feet<sup>2</sup>  
0.00 square nautical miles  
Current Perimeter

651.063m OR 2136.053feet

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Exhibit D  
(Page 3 of 3)

Area 3

Google Maps Area Calculator Tool - Mozilla Firefox

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**Input**  
Add a location manually (also accepts [latitude,longitude])  **Add Point**

**Options**  
**Delete Last Point** **Clear All Points** **Generate KML** **Create New Area** **Zoom To Fit**  
[Map Height : Small - Medium - Large - Full Screen]

**Output : Current Area**  
12092.21 m<sup>2</sup>  
0.01 km<sup>2</sup>  
2.99 acres  
1.21 hectares  
130159.50 feet<sup>2</sup>

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**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
NANTUCKET BOARD OF SELECTMEN, THE TOWN MANAGER AND  
NANTUCKET AIRPORT COMMISSION**

This Memorandum of Understanding is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, between the Nantucket Board of Selectmen ("Board"), the Nantucket Airport Commission ("Commission"), and the Town Manager, and hereby replaces the Memorandum of Understanding dated September 21, 2011.

WHEREAS, the Commission is responsible for the operation and maintenance of the Nantucket Memorial Airport ("Airport") and is authorized under M.G.L. c.90, §51I to expend funds available to the airport and to "make contracts for the maintenance, operation, construction, enlargement and improvement to the Airport and for the purchase of materials, supplies and equipment pursuant to the laws of the Commonwealth governing the making of like contracts; and

WHEREAS, in the past, Compliance issues regarding the procurement of goods and services were identified in various reports including a Forensic Audit and investigation by the Massachusetts Attorney General; and

WHEREAS, the Airport Commission has taken various actions to address these issues, including training of airport staff in the requirements of Massachusetts M.G.L. c.30B Procurement Procedures; and

WHEREAS, the Town of Nantucket employs a Chief Procurement Officer ("CPO") under M.G.L. c.30B, who is certified as a Massachusetts Public Purchasing Official; and

WHEREAS, the Board and the Commission have jointly determined that placing all procurement functions under a centralized procurement system under the supervision and direction of the CPO is necessary and appropriate to assure compliance with Massachusetts procurement laws; and,

WHEREAS, although the Nantucket Town Charter provides that the Airport is not part of the Town Administration function, the Town provides services for a fee including Airport-related procurements.

WHEREAS, the Commission and the Board agree that, when formulating the Airport's annual operating budget, the Airport Enterprise Fund, established under M.G.L. c.44, §43F 12, will be charged the indirect costs including procurement services provided to the Airport. The amount of the indirect cost charge shall be reasonably determined by the Town Administration in conformance with all requirements of the Federal Aviation Administration and Massachusetts Department of Revenue relating to indirect cost allocation for Airports and Enterprise Funds.

NOW, THEREFORE, the Board, the Commission, and the Town Manager agree as follows:

1. The Commission and the Board agree that the CPO shall have full Oversight of the established procurement practices and procedures to be followed by all Town Departments, including the Airport.
2. The Commission agrees to ensure that the Airport complies with the Procurement Policies adopted by the Board on July 23, 2014 and the Procurement Policies by Department dated August 1, 2014 (Attached as Exhibits A and B respectively).
3. Additionally, the Commission agrees that a minimum of three Commissioners' signatures will be required on any procurement contract.

Signed this \_\_\_\_ Day of \_\_\_\_\_, 2014

Board of Selectman

Airport Commission

Town Manager

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## PROCUREMENT POLICIES



### TOWN OF NANTUCKET MASSACHUSETTS

#### Procurement Office:

Town of Nantucket  
16 Broad Street, 2<sup>nd</sup> floor  
Phone: 508-228-7000, ext. 7309  
Fax: 508-228-7272

Procurement Officer, Heidi Bauer  
Email: [hbauer@nantucket-ma.gov](mailto:hbauer@nantucket-ma.gov)

Adopted by Board of Selectmen August 7, 2013  
Changes adopted by Board of Selectmen January 8, 2014  
Changes adopted by Board of Selectmen July 23, 2014

**PROCUREMENT POLICIES**  
Town of Nantucket, Massachusetts

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- 2.0 PROCUREMENT PROCEDURE**
- 3.0 OVERVIEW OF PROCUREMENT LAWS**
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  - 3.2 Public Works Construction: M.G.L. c. 30, 39M
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## PROCUREMENT POLICIES

### TOWN OF NANTUCKET, MASSACHUSETTS

#### GENERAL OVERVIEW

##### **1.0 OBJECTIVE**

The Town has established a Procurement Office within the Town Administration organization. The Procurement Office is managed by the Town's Chief Procurement Officer, who is appointed by the Town Manager pursuant to G.L. c. 30B, sec. 1 and is responsible for the procurement of supplies and services on behalf of the Town. It is the responsibility of the Chief Procurement Officer to secure quality goods and services while promoting fair competition and competitive pricing.

##### **2.0 PROCUREMENT PROCEDURE**

All Town departments including the School Department and departments that operate through an enterprise fund, are subject to state procurement laws, inclusive but not limited to MGL30B, 7C, 30 and 149, and are responsible for meeting all requirements. Departments under the jurisdiction of the Town Administration must follow all procurement policies and procedures as established by the Town Manager and the Chief Procurement Officer. A Request for Proposals issued by any Town department must receive the prior approval of the Chief Procurement Officer pursuant to G.L. c. 30B, sec. 6. The Chief Procurement Officer provides internal support to monitor purchases and ensure procurement practices are in compliance with applicable law(s). The Chief Procurement Officer is available to provide guidance and procurement assistance to all Town departments, in the development and solicitation of public bids and proposals through quotes, the Invitation for Bid (IFB) and Request for Proposal (RFP) process for the procurement of goods and services, contract administration and monitoring of invoices which follow the contract award.

##### **3.0 OVERVIEW OF PROCUREMENT LAWS.**

The supply or service, and its application within the Town shall determine what legal requirements must be met in order for the procurement to be compliant with applicable purchasing laws. Departments must evaluate the procurement need and then follow the procedures that apply.

#### **A majority of purchases will fall into one of the following three categories:**

##### **3.1 Procurement of Supplies and Services: M.G.L. c. 30B**

- Unless expressly exempt from public bidding under G.L. c. 30B, sec. 1, the purchase of any supplies or services by the Town meeting certain monetary thresholds require compliance with the procurement procedures contained in G.L. c. 30B.

##### **3.2 Public Works Construction: M.G.L. c. 30, 39M**

- Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a public work requires public bidding. A public works construction project is generally considered any horizontal construction activity that involves any land disturbance, but excluding the construction of a building.

##### **3.3 Public Building Construction: MGL c.149, §44A to 44M.**

- Procurement of a contractor for the construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the Filed Sub-Bid Law, MGL c. 149, § 44A to 44M.

### **3.4 Procurement of Design Services: MGL c. 7C, § 44-57.**

- Procurement of design services (Architect/Engineer, etc) in connection with a public building project are subject to the Designer Selection Law, Design services in connection with a public works construction project are exempt from all bidding requirements as long as the Town hires a designer that fits the definition contained in MGL c. 30B, sec. 2.<sup>1</sup>

## **BIDDING PROCEDURES APPLICABLE TO EACH TYPE OF PROCUREMENT**

### **4.0 PROCUREMENT OF GOODS AND SERVICES**

Departments shall comply with state procurement laws and Town policies, and are responsible for meeting all requirements. Although there are several types of procurements that are exempt from public bidding under MGL c. 30B, sec. 1, the Chief Procurement Office must approve in advance the procurement of any exempt supply or service with public bidding.<sup>2</sup> Once the need for the procurement has been identified and the nature of the goods or services determined, the applicable procurement procedures must be followed:

#### **4.1 Bidding Thresholds**

##### **4.1.1 Procurements for Goods & Services estimated to costs less than \$10,000**

Procurement of supplies and services estimated to cost less than \$10,000 must be conducted using "sound business practice". M.G.L. c. 30B sec. 2 defines "sound business practice" to mean periodically checking price lists or seeking price quotes to ensure that you are receiving a competitive price for the supply or service. Sound reasoning could also consist of consideration of quality, experience or qualifications of vendor providing a service, availability, proximity of service, etc. Therefore, for procurements of goods and services costing less than \$10,000, departments must periodically check price lists from competing vendors and purchase goods and services at the lowest available price. The solicitation of quotes when possible is encouraged even for procurements estimated to cost less than \$10,000.

##### **4.1.2 Procurements estimated to cost between \$10,000-\$34,999.99**

The procurement of supplies and services costing between \$10,000 and 34,999.99 will require the solicitation of at least three written quotations from potential vendors. Documentation of quotes solicited shall be documented on a standard quote sheet available from the Chief Procurement Officer. The contract must be awarded to the vendor offering the lowest quote who meets all of the specifications.

##### **4.13 Procurements estimated to cost between \$35,000-\$99,999.99**

<sup>1</sup> The Massachusetts Attorney General's Office of Fair Labor Standards and the Massachusetts Inspector General have published a chart that sets forth the application of each of the bidding statutes set forth above, and provides helpful information on such topics as threshold dollar amounts, publication requirements, and other requirements. Go to: <http://www.mass.gov/ig/publications/guides-advisories-other-publications/charts-proc.pdf>. Portions of the chart are reprinted in this manual in the appropriate sections, and a complete copy of the chart is included in the Appendix.

<sup>2</sup> A complete list of procurements exempt from c. 30B is set forth in Section 13.2 of this manual.



An "Invitation for Bid" (IFB) or a "Request for Proposal" (RFP) is required to promote competition and public invitation for all non exempt procurements estimated to cost more than \$35,000. An IFB should be used for all procurements of goods and services in circumstances where award to the bidder offering the lowest price is preferred. If the department has determined that consideration of factors other than price is important, an RFP should be used because the RFP process is the only procurement method that allows the Town to award a proposal based on what is determined to be on the best interests of the Town taking into consideration both price and the evaluation criteria set forth in the RFP. No department may utilize the RFP process, however, unless the Chief Procurement Officer has determined in writing that factors other than price are important considerations. It is therefore imperative that departments consult with the Chief Procurement Officer before issuing an RFP.

The Procurement Officer collaborates with the department to prepare an IFB/RFP and issues the bid. The Procurement Officer reviews the bids or proposals received for responsiveness ensuring they are complete and documentation of the requirements is provided. It is the responsibility of the department to perform reference checks on conforming bids or proposals to ensure that vendors or contractors are responsible and responsive. Any bids or proposals received from vendors that are deemed to be not responsible or responsive must be rejected. Bids are awarded and contracts are generally awarded, with some exceptions, to the responsible vendor that offers the lowest price or highest price if it is a sale of property or supply. Proposals are awarded to a responsible vendor that offers the most advantageous proposal taking into account price and the evaluation criteria contained in the RFP.

#### **4.1.4 Procurements estimated to cost between \$100,000 or more**

The procurement of supplies and services over \$100,000 will require an advertised legal notice posted in the *Goods & Services Bulletin* one time at least 2 weeks before the bid or proposal deadline.<sup>3</sup>

#### **4.1.5 Legal Notices.**

Legal notices are developed and distributed for advertising and public notice by the Procurement Officer. There are strict legal requirements for publication of procurements and they can differ considerably depending on the nature of the procurement. Legal notices for the procurement of goods and services, for example, must be published once in a local newspaper (The Inquirer & Mirror) at least 2 weeks before the public bid or proposal deadline. Legal notices are also placed in the *Goods & Services Bulletin* or the *Central Register* at least 2 weeks before the bid or proposal deadline, 30 days for Real Estate. A legal notice should be posted on the public bulletin board at Town Hall and/or on the Town of Nantucket's website. A complete listing of the publication requirements for each type of procurement is listed in the Inspector General's chart referenced in Footnote 1.

---

<sup>3</sup> The Inspector General's Office is responsible for enforcement of MGL Chapter 30B, the procurement law that governs most purchases not related to public works and building construction. The following Procurement Manuals are available on line at the Inspector General's website at the following links: <http://www.mass.gov/ig/publications/manuals/30bman1.pdf> (c. 30B Manual); <http://www.mass.gov/ig/publications/manuals/dcmanual.pdf> (public construction).

#### **4.1.6 Contracts Must be in Writing.**

A written contract is required by MGL c. 30B, sec. 17 for any procurement costing more than \$ 10,000. Anytime a department or Town entity expects to spend more than \$ \$10,000 in one fiscal year, the Town of Nantucket requires a written contract. It is the responsibility of the department to provide the Procurement Office with proper specifications for bids or a detailed scope of services setting forth a clear description of the goods or services to be procured. The scope of services must be provided before issuing the appropriate procurement document and must be incorporated into the written contract. **The procurement of any supply or services costing more than \$ 10,000 requires a written contract regardless of whether the particular supply or service is exempt from c. 30B.**

For procurements by the School, the contract must be approved by the School Committee in accordance with written procedures to be adopted by the School Committee and approved by the Chief Procurement Officer. In the case of the Nantucket Airport Commission, the Land Bank and the Nantucket Water Company, all contracts must be approved by their respective Commissions and are subject to review and approval by the Chief Procurement Officer. For all other departments of the Town of Nantucket written contracts must be approved by the Board of Selectmen and the Chief Procurement Officer. Original copies of fully executed contracts must be filed with the Finance Department and the Chief Procurement Officer.

#### **4.1.7 Encumbering Funds.**

When a contract price total is available upon the award of an IFB or RFP contract, Finance will generate a purchase order requisition to be approved by the Department Head to encumber all funds upfront. Upon approval by the Chief Procurement Officer, the purchase order number should be provided to the vendor and written on page 1 of the contract to be referenced on invoices they submit to the Town for payment. Contracts must be done in triplicate as one fully executed original goes to the vendor, one to the CPO and one to the Finance department. The department should also retain a copy of the contract, preferably in electronic form.

#### 4.1.8 30B Reference Chart

### M.G.L. c. 30B PROCUREMENT OF SUPPLIES AND SERVICES

Estimated Contract Amount	Under \$10,000	\$10,000 to \$34,999	\$35,000 and over
Procurement Procedure	Sound business practices. <sup>1</sup>	Solicit three written or oral quotes.	Sealed bids or proposals. (M.G.L. c. 30B, §§ 5 or 6).
Advertising Required	No.	No.	Advertise once in a newspaper of general circulation at least two weeks before bids or proposals are due, and post a notice on your jurisdiction's bulletin board or website for two weeks before bids or proposals are due. If \$100,000 or more, advertise once in the <i>Goods and Services Bulletin</i> at least two weeks before bids or proposals are due.
Award contract to:	Person offering the best price.	Responsible <sup>2</sup> and responsive <sup>3</sup> person offering the best price.	Under § 5, the responsible and responsive bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.
Written Contract Required <sup>4</sup>	No.	Yes.	Yes.
Maximum Contract Term <sup>5</sup>	Three years, unless majority vote authorizes longer.		

#### 4.2 Procuring Public Works (DPW) Construction Projects: M.G.L. c. 30, 39M (NON-Building Construction)

- Procurement of supplies and services that involve the construction, reconstruction, installation, demolition, maintenance or repair of a public work by a contractor.
- See definition of public works construction in Section 3.0 Overview.
- IFB (Invitation for Bid) procedures are required for services or services with supplies over \$10,000.
- Public works construction work estimated to cost between \$10,000- \$25,000 may follow M.G.L. 30B procedures (No bid deposit or Central Register listing is required).
- Contracts for public works services require the contractor to pay prevailing wage to their employees. The Town must provide the prevailing wage rates with the bid solicitation. Contact the Procurement officer for prevailing wage rates.

#### **4.2.1 DPW Construction Projects between \$.01-\$9,999**

For public works projects below \$10,000, no procurement is required. However, a written contract on the Town's standard contract form is required for public works projects over \$ 10,000. Contact the Procurement officer to issue a contract. The contract should be before any work is authorized, with the exception being an approved emergency,<sup>4</sup> which would immediately follow with a contract at the earliest convenience.

Public works construction and supplies can be procured independently off of a State contract in any amount for all State Contracts with the exception of the Tradesperson State Contract: FAC70. Procurement of a tradesperson service with supply can only be procured from a State Contract vendor in an amount not to exceed \$10,000. The State Contract procurement of a tradesperson service & supplies in excess of \$10,000 will require the standard Invitation for Bid (IFB) process and requirements of public works procurement as defined by MGL 30, 39M.

#### **4.2.2 DPW Construction Projects \$10,000 or More**

The procurement of Public Works supplies and services costing \$10,000 or more will require the formal Invitation for Bid (IFB) process. The Procurement officer should be contacted to initiate an 'Invitation for Bid' (IFB) or a 'Request for Proposal' (RFP) to promote public invitation from vendors or contractors. It is the responsibility of each department to supply the Procurement Officer with complete specifications for the supply or service they are requesting.

Legal notices should be published once in a newspaper at least 2 weeks before the public bid or proposal deadline. A legal notice must be posted on the bulletin board at Town Hall and on the Town's website.

The Procurement Officer reviews the bids or proposals received for responsiveness ensuring they are complete and documentation of the requirements is provided. It is the responsibility of the department to confirm the content of bids and proposals to ensure that vendors are responsible. Bids are awarded to a responsible vendor that offers the lowest price. Proposals are awarded, to the responsible vendor that offers the most advantageous proposal as determined by a Town evaluation committee. The Department Head presents the award recommendation to the Procurement Officer, who in turn prepares the contract. Following the Awarding Authority approval a contract is awarded.

When a contract price total is available upon the award of an IFB or RFP contract, a purchase order requisition will be entered by the Department to encumber all funds upfront. Upon approval by the Chief Procurement Officer, the purchase order number should be provided to the vendor to be referenced on invoices they submit to the Town for payment. For contract awards when only unit pricing is available with a quantity yet to be determined, the purchase order requisition will be entered at the department level as supplies and services are procured.

#### **Bid requirements for Public Works (M.G.L. c.30, 39M) construction over \$10,000:**

1. Sealed Bid procedures (IFB)
2. Legal Notices at least 2 weeks before the bid deadline including: Newspaper listing, a posting on a municipal bulletin board and/or Town's website.
3. The employees of the contractor are required to have completed the State mandatory OSHA training. OSHA certificates should be provided with the bid documents.
4. A bid deposit in the amount of 5% must be provided with a bid

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<sup>4</sup> See Section 10.0 for a complete discussion of emergency procurements.

5. A 50% payment bond if the contract is over \$25,000 must be provided with the contract and before the service is rendered.
6. The Town must include in the bid specs the prevailing wage rates as provided by the Massachusetts Department of Labor.
7. A Certificate of Insurance naming the Town as insured shall be provided to the Town with coverage in the amounts as specified in the Town of Nantucket contract.
8. A Town of Nantucket Contract shall be completed prior to supplies and services being rendered, exception being an approved emergency which would follow with a contract at the earliest convenience.
9. Public Works Construction costing \$100,000 or more mandates a contract award to be a DCAM certified contractor.
10. Massachusetts Highway reimbursed contracts (Chapter 90) costing \$50,000 or more mandates a contract award to be a DCAM certified contractor.

#### **4.2.3 Procuring Public Works under 30B §5 (\$10,000-\$24,999)**

Public Works supplies and services costing between \$10,000 and \$25,000 can also be procured under 30B; the benefits include a waiver of the following requirements: No bid deposit is required. Reference the 30B chart found in 4.1.5

#### **4.2.4 DCAM Procedure and Requirements**

Public Works Construction costing \$100,000 or more mandates the implementation of DCAM procedures and award to a DCAM certified contractor. For Massachusetts Highway reimbursed contracts (Chapter 90) costing \$50,000 or more mandates a contract award to be a DCAM certified contractor.

## 4.2.5 Public Works Reference Chart

### M.G.L. c. 30, § 39M or M.G.L. c. 30B, § 5 CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT LABOR)

Estimated Contract Amount		\$10,000 and under	Over \$10,000
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 <sup>1</sup> Option
Procurement Procedure	No.	Sealed bids.	Sealed bids.
Advertising Required	No.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.	No.	No.
OSHA Training	No.	No.	No.
City/Town Prequalification	No.	No.	No.
Filed Sub-bids	No.	No.	No.
Bid Deposit	No.	5% of the value of the total bid.	No.
Payment Bond	No.	No.	No.
Performance Bond	No.	No.	No.
Prevailing Wage	No.	No.	No.
Award contract to:	No.	Lowest responsible and eligible bidder.	Lowest responsive and responsible bidder.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d).

<sup>2</sup> M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

August 2014 revision



**M.G.L. c. 30, § 39M -- PUBLIC WORKS (NON-BUILDING)  
CONSTRUCTION CONTRACTS (WITH LABOR)**

Estimated Contract Amount		\$10,000 and under	Over \$10,000 to \$25,000		Over \$25,000
			M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option <sup>1</sup>	M.G.L. c. 30, § 39M
Procurement Procedure	No.		Sealed bids.	Sealed bids.	Sealed bids.
Advertising Required	No.		Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.		No.	No.	No.
OSHA Training	No.		Yes.	Yes.	Yes.
City/Town Prequalification	No.		No. <sup>3</sup>	No.	No.
Filed Sub-bids	No.		No.	No.	No.
Bid Deposit	No.		5% of the value of the total bid.	No.	5% of the value of the total bid.
Payment Bond	No.		No.	No.	50% payment bond.
Performance Bond	No.		No.	No.	No.
Prevailing Wage	Yes.		Yes.	Yes.	Yes.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d). Even though the M.G.L. c. 30B, § 5, threshold increased from \$25,000 to \$35,000 on July 1, 2014, M.G.L. c. 30, § 39M(d), applies to "any contract of not more than \$25,000." Therefore, you may only use M.G.L. c. 30B, § 5, for projects that cost \$10,000 but not more than \$25,000.

<sup>2</sup> M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

<sup>3</sup> Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more where the awarding authority receives State Aid funds under M.G.L. c. 90, § 34, or the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.

#### **4.3 Procuring Building Construction Services: M.G.L. c. 149**

- Procurement of supplies and services that involve the construction, reconstruction, installation, demolition, maintenance or repair of a building by a contractor.
- IFB (Invitation for Bid) procedures are required for services and supplies over \$10,000.
- Contracts for construction services require the contractor to pay of prevailing wage to their employees. The Town must provide the prevailing wage rates with the bid solicitation.

##### **4.3.1 Procuring Building Construction Services between \$.01-\$9,999**

Procurement of building construction services estimated to cost between \$.01 and \$9,999.99 shall use "sound business practice".

The Town shall provide the prevailing wage rates to all contractors providing this work for the Town as required by the Massachusetts Department of Labor and Workforce Development.

Supplies and services can be procured independently off of a State contract in any amount for all State Contracts with the exception of the Tradesperson State Contract: FAC70. Procurement of a tradesperson service with supply can only be procured from a State Contract vendor in an amount not to exceed \$10,000. The State Contract procurement of a tradesperson service & supplies in excess of \$10,000 will require the standard Invitation for Bid (IFB) process and requirements of construction procurement as defined by MGL 149.

##### **4.3.2 Procuring Building Construction Services between \$10,000-\$24,999**

Procurement of building construction services estimated to cost between \$10,000 and \$24,999 will require at a minimum the solicitation of three (3) written quotes. The contract file must have documentation of all of the written quotes solicited. Legal notices must be published once in a local newspaper at least 2 weeks before the public bid deadline. A legal notice must be posted on a Town bulletin board at Town Hall and on the municipality website.

The Town shall include in the solicitation for quotes the prevailing wage rates.

##### **Bid requirements for building construction (M.G.L. c.149) between \$10,000 to \$24,999:**

- Solicit written responses
- Legal Notices in the Central Register at least 2 weeks before the bid deadline including: a posting on the bulletin board at Town Hall and on the Town website. (No newspaper ad is required)
- The employees of the contractor are required to have completed the State mandatory OSHA training. OSHA certificates should be provided upon request.
- The Town shall include in the bid specs the prevailing wage rates as provided by the Massachusetts Department of Labor.
- A Certificate of Insurance naming the Town as insured shall be provided to the Town with coverage in the amounts as specified in the Town of Nantucket contract.
- A Town of Nantucket Contract shall be completed prior to supplies and services being rendered, exception being an approved emergency which would follow with a contract at the earliest convenience.

**4.3.3 Procuring Building Construction Services between \$25,000-\$99,999**  
**Requirements for construction services (M.G.L. c. 149) between \$25,000 to \$99,999:**

The procedures for public works construction projects apply. See Section 4.2.

**4.3.4 Procuring Building Construction Services \$100,000 or More**  
**Requirements for Construction Procurement (M.G.L. c. 149) over \$100,000:**

- All requirements as specified between \$25,000 to \$99,999.
- Construction costing \$100,000 or more mandates a contract award to be a DCAM certified contractor.
- Filed Sub-bids are required for certain trades if over \$20,000 per trade.
- The payment bond requirement increases to 100% for construction contracts over \$100,000.
- A performance bond in the amount of 100% is required.
- DCAM will require the Town to evaluate contractor performance.

**4.3.5 DCAM Procedures and Requirements**

Construction/Facility improvements with a cost of \$100,000 or more will mandate the implementation of DCAM procedures and award of a contract to a DCAM certified contractor.

**4.3.6 Use of State Contracts for Tradesperson- Repair and Maintenance ONLY**

Rules and Terms as stated verbatim on [www.CommBuys.com](http://www.CommBuys.com), **FAC70**, forms and terms, OSD:

**How to use the contract:**

This contract is a pre-qualified list of contractors. The contract is awarded statewide and regionally, using the five Mass Highway districts (a District list is posted on CommBuys under the Forms & Terms tab). To determine what services and districts each contractor covers, contract users should utilize the spreadsheet which is posted on CommBuys under the Forms & Terms tab of this contract. Contract users may sort the spreadsheet location or service for easier use. It is also broken down by major trades. When using the Excel Spreadsheet, contract users should scroll to the far right to view all services. Contractors are not required to work outside their normal geographic areas or perform services that are not in their normal scope of work.

**This contract is for repair and maintenance services ONLY and DOES NOT COVER THE INSTALLATION OF NEW SYSTEMS (such as alarm systems, etc.).**

**This contract may not be used for any job with a value of \$10,000 or higher.**

Currently the law is: **SECTION 11.** Section 44A of [Chapter 149](#) of the General Laws, (2)(A) *Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost less than \$10,000 shall be awarded to the responsible person offering to perform the contract at the lowest price quotation; provided, however, that the public agency shall seek written price quotations from no fewer than 3 persons customarily providing the work for which the contract is being made available. When seeking written quotations the public agency shall make and keep a record of the names and addresses of all persons from whom price quotations were sought, the names of the persons submitting price quotations and the date and amount of each price quotation.*

Contractors will supply all labor, equipment, parts and supplies necessary to perform the needed services. Contractors are responsible for securing any and all necessary permits for the work to be performed.

Contractors must respond to contract users by phone within 24 hours of receipt of a call. Contractors are expected to schedule a site visit within 48 hours of the phone call. Quotes must be provided at no cost. Quotes must contain a good-faith estimate of any applicable travel charges. Charges that do not appear on the quote will not be allowed.

**Contractors must adhere to all applicable Prevailing Wage laws and are required to submit Weekly Payroll Reports to the contract user.** Prevailing Wage Rates for this contract are posted on CommBuys under the Forms and Terms tab of this contract. These rates will remain in effect for the life of the contract, including any renewals. Contractors must pay these rates to their workers.

### 4.3.7 Construction/Building Improvement Reference Chart

#### M.G.L. c. 149 -- BUILDING CONSTRUCTION CONTRACTS

Estimated Contract Amount	Under \$10,000 <sup>1</sup>	\$10,000 to \$25,000	Over \$25,000 to \$100,000	Over \$100,000	Over \$100,000,000
<b>Procurement Procedure</b>	Sound business practices	Solicit written responses.	Sealed bids (using M.G.L. c. 30, § 39M procedure).	Sealed bids.	Solicit statements of qualifications prior to soliciting sealed bids.
<b>Advertising Requirements</b>	No.	Advertise in the <i>Central Register</i> and COMMBUYS and post a notice on your jurisdiction's website and in the office at least two weeks before responses are due. <sup>2</sup>	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. <sup>3</sup> Posting on COMMBUYS or your website is optional.	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. <sup>3</sup> Posting on COMMBUYS or your website is optional.	Advertise the request for qualifications in the <i>Central Register</i> , a newspaper, and COMMBUYS at least two weeks before responses are due. <sup>4</sup>
<b>DCAMM Certification</b>	No.	No.	No.	Required for general bidders and filed sub-bidders.	Required for general bidders and filed sub-bidders.
<b>OSHA Training</b>	No.	Yes.	Yes.	Yes.	Yes.
<b>City/Town Prequalification</b>	No.	No.	No.	Optional. <sup>5</sup>	Yes.
<b>Filed Sub-bids</b>	No.	No.	No.	Yes (\$20,000 and over).	Yes (\$20,000 and over).
<b>Bid Deposit</b>	No.	No.	5% of the value of the total bid.	5% of the value of the total bid, or sub-bid.	5% of the value of the total bid, or sub-bid.
<b>Payment Bond</b>	No.	No.	50% payment bond.	100% payment bond.	100% payment bond.
<b>Performance Bond</b>	No.	No.	No.	100% performance bond.	100% performance bond.
<b>Prevailing Wage</b>	Yes.	Yes.	Yes.	Yes.	Yes.
<b>Contractor Evaluation</b>	No.	No.	No.	Yes.	Yes.

<sup>1</sup> M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 188 of the Acts of 2010.

<sup>2</sup> M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

<sup>3</sup> M.G.L. c. 149, § 44J.

<sup>4</sup> The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification evaluation process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general and subcontractors who have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$100,000 apply.

<sup>5</sup> If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the "Over \$100,000,000" column.

August 2014 revision

## **GENERAL CONTRACTING PROCEDURES**

### **5.0 INVITATION FOR BID (IFB) & REQUEST FOR PROPOSAL (RFP)**

The Chief Procurement Officer develops the IFB or RFP and collaborates with Town department and schools in the development of specifications, minimum criteria, and evaluation criteria. The Chief Procurement Officer facilitates the development and receipt of bid or proposal packets and solicits interest in the procurement. Legal Notices are placed by the procurement officer who also serves as the vendor contact for any bid or proposal questions or issues.

The Procurement officer evaluates proposals and bids for responsiveness and ensures they meet the predetermined minimum criteria and provides documentation as requested. Bids and proposals that are deemed to be responsive are then provided to the appropriate Town department or school representative. Managers and department heads are expected to conduct reference checks and take notes on these checks as part of the selection process to assess performance, quality and timeliness of contractor's past work. Managers and Department Heads suggest the award of an Invitation for Bid to the lowest bidder that is deemed to be responsible following the department reference check.

The procedure for Request for Proposal (RFP) will also follow with managers or department heads completing reference checks to determine if vendor is responsible. Proposals that meet minimum criteria will then be ranked based on evaluation of the Technical Proposal and reference checks and ranked according to established evaluation criteria set forth in the proposal by a subcommittee. The subcommittee evaluating the RFP will suggest the award to the responsive bidder that is responsible and offers the most advantageous proposal taking into account qualifications and price. The subcommittee will make an award recommendation to the Chief Procurement Officer. Once an award is approved, the Chief Procurement officer will prepare a contract to be completed by all parties. Contract monitoring of invoices will follow the contract award.

### **6.0 FINALIZING THE CONTRACT**

Once a contract award has been recommended and documented, the Procurement officer will prepare a contract and the contract will reference supporting contract specifications including the IFB or RFP packet, the successful bid or proposal documents, Price information, etc. Following the Department or School appropriation of funds, the contract is sent to the vendor to obtain the following: signatures, Social Security/Federal Tax ID, any required bonds, any required insurance, applicable certifications, etc. The contract is then forwarded to the Board of Selectmen and Finance Department or school for authorization.

Once the contract is complete the original is filed in the office of the Procurement officer, one copy to Finance and one copy is issued to the Department for them to copy and forward to the vendor.

Any vendor agreement or vendor contract presented by a vendor will require content review for compliance with Nantucket contract specifications. Prior to signing any vendor agreement or vendor contract, the content of the document will need approval from the Town of Nantucket's Legal Counsel.

#### **6.1 Contract Award**

Following the receipt of bids or proposals the Procurement officer will review them for responsiveness to ensure bids and proposals are complete and documentation is provided as requested. The Departments



will evaluate bids and proposals and perform reference checks to ensure an award to a vendor likely to be responsible.

### **6.2 Appropriation of Funds**

The department head or School will provide the Procurement officer with a Munis Organization/Object number that will be utilized for the appropriation of funds for the products and/or services. The Town Accountant then confirms the availability of funds for the contract. No contract in excess of appropriated funds will be allowed.

### **6.3 Use of State Contracts**

A list of Massachusetts State approved contracts can be obtained from the [www.commbuys.com](http://www.commbuys.com) website. Supplies and services can be procured independently off of a State contract in any amount for all State Contracts, except for the Tradesperson contract where the limit is \$10,000.

### **6.4 Nantucket Contract Forms**

The type of goods and services procured and the applicable law will determine which of the following contracts should be used. Contact the Procurement officer to initiate a contract.

#### **Procurements not requiring a written contract:**

The following procurements do not require a contract:

- Purchases obtained off of the Massachusetts State Contract vendor list found on the web site: [www.commbuys.com](http://www.commbuys.com) are State pre-approved vendors with State contracts, so a Nantucket contract is not mandatory but is preferred

In the place of a contract, the requisition will require the documentation of the state contract that applies. Documentation should be made in the 'Notes' section in the requisition entry section of MUNIS when entering a requisition.

### **6.5 Multi Year Contracts**

As authorized by Massachusetts General Laws, Chapter 30B, Section 12(b) contracts are not to exceed three (3) years unless a longer term is authorized under the Town Charter or bylaws, or town meeting has voted to authorize a longer term

## **7.0 MUNIS PURCHASING PROCEDURE**

An online Munis requisition should be entered by Town department representatives for all purchases.

### **7.1 Munis Documentation of Quotes:**

The department head or designated support staff will complete a requisition in Munis, the accounting software. The requisition should have documentation of Sound Business Practice, or the details of the solicitation of quotes, bids or proposals as specified depending on the various types of procurement (See section: 4.1.1 - 4.3.2).

### **7.2 Munis Appropriation of Funds for the Procurement:**

The department head is accountable for the complete appropriation of funds at the time of requisition entry and the availability of funds accordingly. No payment or contract will be awarded in excess of any

appropriation without a written addendum from a manager/department head where additional funds will be appropriated.

Electronic requisitions when released by the officer or department head follow through a series of on-line approval levels for review including the department head, the Procurement officer, the Business Manager for school procurement, and from the Finance Department.

### **7.3 Munis Procedure for IFB/RFP Contracts**

The award of an IFB or RFP contract when a contract price total is available will be entered by the Procurement officer to encumber all funds upfront. The purchase order should be provided to the vendor to be referenced on invoices they submit to the Town for payment. For contract awards when only unit pricing is available with quantity to be determined will be entered with an estimated total on a blanket PO.

### **8.0 ANNUAL / REVOLVING CONTRACTS**

A list of capital projects and annual/revolving contracts where the procurement specifications or value mandates an IFB or RFP process is available upon request to the Finance Department.

### **9.0 SOLE-SOURCE PROCUREMENT**

A "sole-source" procurement is a purchase of supplies or services without advertising or competition. Chapter 30B places strict limitations on sole-source procurements.<sup>5</sup>

Only the Procurement Officer can determine in writing if you are eligible for sole-source procurement. Keep records of every sole source procurement, specify the contractor's name, amount and type of contract award, a listing of the supplies or services procured, and the basis for the determination that there was only one practical source for the purchase. Document the reasoning for sole-source procurement. A contract must still be in place if the purchase is over \$ 10,000.

#### **9.1 Sole-Source Contracts under \$35,000**

Sole source procurements under \$35,000 may be made when a reasonable investigation shows that there is only one practical source for the required supply or service. The determination that only one practical source exists must be documented and approved in writing by the Chief Procurement Officer.

#### **9.2 Sole-Source Contracts \$35,000 or More**

A sole source procurement of \$35,000 or more may not be made. The only exception is the procurement of software maintenance, library books, educational materials and regulated utilities).

### **10.0 EMERGENCY PROCUREMENT**

If the health or safety of people or property is endangered due to an unforeseen emergency, the procurement process may be expedited but only to the extent necessary caused by the emergency. Records must be maintained documenting the basis for determination that an emergency exists, the name of the vendor, the amount and type of contract and a list of the supplies or services purchased under each contract. An emergency that occurs as a result of a known circumstance involving delayed corrective planning or proactive action cannot be justified and qualify as an Emergency Procurement.

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<sup>5</sup> Receiving one response when soliciting quotes or issuing an RFO or an RFP is not the same as making sole-source procurement.



Emergency procurement for Chapter 30B (supplies & services): The procurement must comply to the fullest extent possible with MGL 30B procedures. The public notification requirement may be shortened. At a minimum three quotes should be obtained whenever possible. A written description of the nature of the emergency and the procurement procedures followed must be included in the procurement file. A copy of the emergency declaration must be submitted to the Secretary of State for publication in the Goods and Services Bulletin as soon as practicable.

Emergency procurement for construction, MGL c.149: In qualifying emergency situations certain public construction procurement laws may be waived under MGL c. 149, Section 44(A)(4) or the advertising requirement may be waived under MGL c. 149, Section 44(J)(6). In order to implement these waivers written authorization must be obtained from the Division of Capital Asset Management (DCAM), and the Town is required to follow the procedures outlined by DCAM. Even though an emergency waiver may be granted, the Town is still responsible for enforcing the requirements of prevailing wage, bonding and DCAM contractor certification is required for emergencies estimated to cost \$100,000 or more. .

Emergency procurement for public works, MGL 30,39M: A written waiver of the public notice requirements from DCAM must be requested and obtained [MGL c. 149, Section 44J (6)]. Quotes must be solicited.

#### **11.0 DISPOSITION OF SURPLUS PROPERTY**

In accordance with the Nantucket Bylaw: 38-2 Disposition, prior authorization is required for the disposition of excess or surplus property. The policy for the disposition of personal property is provided:

##### **Nantucket By-Law, 38-2: Obsolete Town Equipment**

The Selectmen are authorized to dispose of obsolete or surplus Town equipment worth more than \$5000 by putting it up for bid without the necessity of a Town Meeting vote. Obsolete or surplus equipment with a value of less than \$500 shall be disposed of by advertisement and sale on a "first come" basis, yard sale or delivery to the Town sanitary solid waste facility, as the Town Manager deems appropriate. Surplus equipment worth more than \$25,000 shall require a Town Meeting vote for disposal. There are additional procedures applicable to the disposition of tangible supplies set forth in G.L. c. 30B, Sec. 15.

#### **12.0 PREVAILING WAGE**

The Town is required to comply with the Massachusetts Prevailing Wage Law for all public works and public building projects regardless of the cost of the contract. For example, the repair of a sewer pipe estimated to cost \$3,000 requires the payment of prevailing wages. Any request for quotes must include the prevailing wage sheets issued by the Massachusetts Department of Labor. In addition, whenever the Town hires a vehicle in the performance of a public work, the contractor must pay prevailing wages. See G.L. c. 149, Sec. 27.

##### **12.1 Blanket Wage Rates for Smaller Projects (under \$10,000)**

A blanket period wage sheet is available for work not associated with larger planned projects. For example, a municipality should be able to quickly provide prevailing wage rates to have a broken window repaired without having a delay. For this reason the following period wage sheet is issued for small and/or emergency repairs. For larger projects and planned capital improvements, customized prevailing wage sheets should be obtained.

The current prevailing wage sheet can be obtained by contacting the Procurement Officer.

## **12.2 How to Order Prevailing Wage Rates**

Provide the following information to the Procurement officer and the wage rates will be ordered: project name, description of project, project location, estimated cost and estimated completion date.

If a project is estimated to take more than one year, the Town is legally required to request updated prevailing wage rates.

## **12.3 When Required for Building & Public Works Projects**

Prevailing Wages must be paid to all persons employed on the public works project, regardless of whether they are employed by the successful bidder or a subcontractor. The wage rates issued for each project shall be paid for the entire project.

Payroll records must be kept by the successful bidder for all persons employed on the project. A separate Statement of Compliance must be submitted to the Division of Occupational Safety by every employer, including all prime contractors and subcontractors, when its portion of the work is completed. The form entitled "Weekly Payroll Records Report and Statement of Compliance" clearly details these requirements. When in doubt check with the Division of Occupational Safety for their opinion.

## **12.4 When Required for the Hiring of a Vehicle in the Performance of a Public Work**

Prevailing wages must be paid by any Contractor utilizing a vehicle in the performance of a public work on behalf of the Town. Examples include a solid waste collection contract, the hiring of a backhoe or other piece of equipment for normal storm drain maintenance, or the operation of equipment vehicles by the water and sewer department or the landfill.

## **13.0 CONTRACT EXCEPTIONS AND EXEMPTIONS**

### **13.1 Contract Exceptions**

A Nantucket contract is not required for procurement with the use of an approved Massachusetts State contract vendor since a contract is already in place with the State of Massachusetts. However, consideration should be taken into account for the complexity of the procurement and a contract should be administered accordingly.

### **13.2 Real Estate Transaction**

The acquisition or disposal of an interest in real property when the value of the interest exceeds \$35,000 is subject to a competitive procurement process under MGL 30B, sec. 16. There are many important considerations and procedures involved with real estate transactions, and no department may proceed with a real estate transaction without first seeking the guidance of the Chief Procurement Officer.

### **13.3 Contract Exemptions**

The Town is not legally required to follow the bidding procedures for certain contracts that are expressly exempt from bidding under MGL 30B, sec. 1. A written contract is still required for any procurement costing more than \$ 10,000, and departments are encouraged to seek competitive bids or proposals for exempt supplies and services if doing so is likely to be in the best interests of the Town. No department may proceed with the procurement of an exempt supply or service without the prior written approval of the Chief Procurement Officer.

## **14.0 CHARTS & FORMS**



THE 188<sup>TH</sup> GENERAL COURT OF  
THE COMMONWEALTH OF MASSACHUSETTS

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## Massachusetts Laws

## General Laws

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<b>TITLE III</b>	<b>LAWS RELATING TO STATE OFFICERS</b>	<a href="#">PREV</a> <a href="#">NEXT</a>
<b>CHAPTER 30B</b>	<b>UNIFORM PROCUREMENT ACT</b>	<a href="#">PREV</a>
<b>Section 1</b>	<b>Application of chapter</b>	<a href="#">NEXT</a>

Section 1. (a) This chapter shall apply to every contract for the procurement of supplies, services or real property and for disposing of supplies or real property by a governmental body as defined herein.

(b) This chapter shall not apply to:

- (1) a contract subject to the provisions of section thirty-nine M of chapter thirty, section 11C or section 11I of chapter 25A or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine;
- (2) a contract subject to the provisions of sections thirty-eight A1/2 to thirty-eight O, inclusive, of chapter seven;
- (3) an intergovernmental agreement subject to the provisions of section four A of chapter forty;
- (4) a transaction with the commonwealth, except as pertains to subsection (I) of section 16;
- (5) a contract for the purchase of materials, under specifications of the state department of highways, and at prices established by the department, pursuant to advertising and bidding for such purpose, in connection with work to be performed under the provisions of chapter eighty-one or chapter ninety;
- (6) a contract for the advertising of required notices;
- (7) an agreement between agencies, boards, commissions, authorities, departments or public instrumentalities of one city or town;
- (8) an agreement for the provision of special education pursuant to chapter seventy-one B and regulations promulgated pursuant thereto;

(9) a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth or any of its political subdivisions or any other state or political subdivision thereof;

(10) the issuance of bonds, notes or securities in accordance with procedures established by law;

(11) contracts and investments made in accordance with sections fifty-seven or fifty-seven A of chapter thirty-five or sections sixty-seven or sixty-seven A of chapter forty-four;

(12) a contract for the procurement of insurance or surety bonds, including an agreement subject to the provisions of sections one to sixteen, inclusive, of chapter forty M or the provisions of sections twenty-five E to twenty-five U, inclusive, of chapter one hundred and fifty-two;

(13) contracts for the services of expert witnesses for use in an adjudicatory proceeding or litigation or in anticipation thereof;

(14) any contracts or agreements entered into by a municipal gas or electric department governed by a municipal light board, as defined by section fifty-five of chapter one hundred and sixty-four or by a municipal light commission, as defined by section fifty-six A of said chapter one hundred and sixty-four; provided, however, that any such board or commission may accept the provisions of this chapter by a majority vote of its members;

(15) contracts with labor relations representatives, lawyers, or certified public accountants;

(16) contracts with physicians, dentists, and other health care individuals or persons including nurses, nurses' assistants, medical and laboratory technicians, health care providers including diagnosticians, social workers, psychiatric workers, and veterinarians;

(17) a contract for snow plowing by a governmental body;

(18) a contract or lease by a governmental body of its boat slips, berths, or moorings;

(19) a contract for retirement board services; provided, however, that the procurements shall take place under section 23B of chapter 32;

(20) a contract which is funded by proceeds derived from a gift to a governmental body or a trust established for the benefit of a governmental body;

(21) a contract for the towing and storage for motor vehicles;

(22) a contract to provide job-related training, educational or career development services to the employees of a governmental body;

(23) a contract pursuant to which a governmental body obtains services from a bank, as defined in section one of chapter one hundred and sixty-seven, subject to the maintenance of a compensating balance;

(24) a contract for ambulance service by a governmental body;

(25) a contract to sell lease or acquire residential, institutional, industrial or commercial real property by a public or quasi-public economic development agency or urban renewal agency

engaged in the development and disposition of said real property in accordance with a plan approved by the appropriate authorizing authority;

(26) a contract for the collection of delinquent taxes or for the services of a deputy tax collector;

(27) contracts or agreements entered into by a municipal hospital or a municipal department of health;

(28) contracts entered into by a governmental body on behalf of a hospital owned by such governmental body where such contract is funded by expenditures from an operations account, so-called, or a special account, established pursuant to a special act that is maintained for the benefit of and designated with the name of such hospital;

(29) any contracts, agreements or leases entered into by a municipal airport commission established under the provisions of section fifty-one E of chapter ninety; provided, however, that such contracts, agreements or leases apply to aviation uses or the sale of aviation fuel;

(30) a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or compostable materials;

(31) an agreement for the purchase of photography services entered into by a public school;

(32) energy aggregation contracts entered into by a political subdivision of the commonwealth for energy or energy related services arranged or negotiated by such subdivision on behalf of its residents;

(32A) contracts with architects, engineers and related professionals;.

(33) energy contracts entered into by a city or town or group of cities or towns or political subdivisions of the commonwealth, for energy or energy related services; provided, however, that within 15 days of the signing of a contract for energy or energy related services by a city, town, political subdivision, or group of cities, towns or political subdivisions said city, town, political subdivision, or group of cities, towns or political subdivisions shall submit to the department of public utilities, the department of energy resources, and the office of the inspector general a copy of the contract and a report of the process used to execute the contract; provided, further, that for any such contract determined to contain confidential information under subclause (r) of section 7 of chapter 4, the governmental body shall instead maintain a record of the procurement processes and awards for 6 years after the date of the final payment. The governmental body shall make such records available to the inspector general upon request; provided, however, that the inspector general shall not disclose said information; or

(34) a contract made in accordance with section 5 of chapter 111C.

(c) This chapter shall be deemed to have been complied with on all purchases made under the provisions of sections twenty-two A and twenty-two B of chapter seven when one political subdivision, as defined in said section twenty-two A, acting on behalf of other political subdivisions, complies with the provisions of this chapter, or when purchases are made from a vendor pursuant to a contract with the commonwealth for the item or items being purchased.

(d) Where a procurement involves the expenditure of federal assistance or contract funds, the provisions of this chapter shall not apply to the extent that such provisions prevent compliance with mandatory provisions of federal law and regulations.

(e) Notwithstanding the provisions of any general or special law to the contrary, a governmental body may enter into a contract, in conformance with this chapter, for the construction and for services at a facility owned by a private party or parties, whether such facility will be located on public or private land for the disposal, recycling, composting or treatment of solid waste, sewage, septage or sludge without said contract being subject to the competitive bid process as set forth in sections thirty-eight A1/2 to thirty-eight O, inclusive, of chapter seven, section thirty-nine M of chapter thirty, or sections forty-four A to forty-four J, inclusive, of chapter one hundred and forty-nine; provided, however, that this subsection shall not apply to a procurement of proprietary environmental technology in accordance with subsection (5) of section forty-four A of chapter one hundred and forty-nine.

(f) This chapter shall be deemed to have been complied with on all purchases made from a vendor pursuant to a General Services Administration federal supply schedule that is available for use by governmental bodies.

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**Request for Quotes  
For Goods or Services  
More Than \$10,000 but Less Than \$35,000**

**Step 1:** Specifically describe the goods or service you want to purchase. Include as part of your description a date by which the product must be delivered or service must be performed.

**Step 2:** Solicit a minimum of three (3) oral or written quotes (by phone, fax, letter or email). Record the names and addresses of all persons/companies that you contact. Record the amount of each quote that you receive. Be sure that the vendor giving you the quote can provide the product or service by your stated delivery date.

**Step 3:** Award the quote to the responsible and responsive vendor offering the lowest price.

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

Department: \_\_\_\_\_

Item or Service Description: (be specific, include delivery date)

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Quote Amount	
Company: _____ Address: _____ Contact Name: _____ Telephone: _____      Comments: _____ Fax: _____	
Company: _____ Address: _____ Contact Name: _____ Telephone: _____      Comments: _____ Fax: _____	
Company: _____ Address: _____ Contact Name: _____ Telephone: _____      Comments: _____ Fax: _____	

*Submit this form and any pertinent attachments to the Finance Department  
when you are processing your invoice.*

**CONTRACT CHECK LIST**

Was the proper Procurement done in accordance with the attached matrix?

Yes    No

According to the attached matrix, what law is this being contracted under? \_\_\_\_\_

Did you include the Prevailing Wage rates into the contract?

Yes    No    Not applicable

Have you obtained the OSHA training cards for all employees who will be working on the project?

Yes    No    Not applicable

Have you obtained the proper insurances from the vendor/contractor in accordance with the contract language?

Yes    No

Have you obtained the signed Bond's from the contractor in accordance with the bid laws?

Yes    No    Not applicable

Has the contract been signed the vendor/contractor?

Yes    No    Not applicable

Is the contract within the three year maximum contract term?

Yes    No

Is the contract funding been identified and is it available?

Yes    No

\_\_\_\_\_  
Department Manager

\_\_\_\_\_  
Chief Procurement Officer





GLENN A. CUNHA  
INSPECTOR GENERAL

## The Commonwealth of Massachusetts

### Office of the Inspector General

John W. McCormack  
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One Ashburton Place  
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August 2014

Dear Local Official:

The following charts were created by the Office of the Inspector General for local officials to use as a quick reference guide on public procurement procedures that must be followed pursuant to the Massachusetts General Laws. Your local rules may establish stricter or additional requirements that you must follow. Contact your chief procurement officer (CPO) or legal counsel for advice on your local rules and procurement procedures.

The charts highlight particular compliance requirements depending on the cost or the nature of your procurement. For example, the charts highlight, where applicable, the requirement for a ten-hour course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA). Pursuant to M.G.L. c. 30, § 39S, any person submitting a bid for, or signing a contract to work on, a public building or public works project estimated to cost more than \$10,000, must certify under the pains and penalties of perjury that he or she is able to furnish labor in harmony with all other elements of labor employed in the work and that all employees employed on the worksite, or in work subject to the bid, have successfully completed at least ten hours of OSHA approved training. The charts are meant to provide a general overview of the principal public procurement statutes, and are not a substitute for consultation of the statute or the advice of legal counsel.

The charts include:

- M.G.L. c. 149 -- BUILDING CONSTRUCTION CONTRACTS [CORRECTED Aug. 8, 2014]<sup>1</sup>
- M.G.L. c. 30, § 39M -- PUBLIC WORKS (NON-BUILDING) CONSTRUCTION CONTRACTS (WITH LABOR)
- M.G.L. c. 30, § 39M or M.G.L. c. 30B -- CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT LABOR)
- M.G.L. c. 7C, §§ 44-57 (formerly M.G.L. c. 7, §§ 38A½-O) -- PUBLIC BUILDING PROJECTS DESIGN SERVICES -- Cities, Towns, Regional School Districts, and Horace Mann Charter Schools
- M.G.L. c. 30B PROCUREMENT OF SUPPLIES AND SERVICES [UPDATED July 15, 2014]<sup>2</sup>

Any suggestions for the charts or questions concerning M.G.L. c. 30B may be directed to this Office by calling 617.722.8838. Questions concerning M.G.L. c. 149, M.G.L. c. 30, § 39M, and M.G.L. c. 7C may be directed to the Office of the Attorney General by calling 617.727.2200 or your legal counsel.

<sup>1</sup> The chart has been corrected relative to the advertising requirements for building construction contracts estimated to cost \$10,000 to \$25,000. The corrections are in accordance with M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

<sup>2</sup> With the passage of the FY 2015 Budget, new Chapter 30B thresholds are in effect as of July 1, 2014. Chapter 30B sections 4, 5, 6, 6A, 7 and 16 were amended. The amendments replaced the \$25,000 thresholds with \$35,000 thresholds in these sections only. No other changes were made.

Procurement Charts  
Cover Letter  
August 2014  
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Prevailing wage rate sheets may be requested online at <http://www.mass.gov/lwd/labor-standards/prevailing-wage-program/> or by calling the Department of Labor Standards at 617.626.6975.

*Central Register* advertisements may be submitted online at <http://www.sec.state.ma.us/spr/sprcentral/infosubmit.htm> to the Secretary of the Commonwealth. The submission deadline is 4:00 pm on Tuesday.

*Goods and Services Bulletin* advertisements may be submitted online at <http://www.sec.state.ma.us/sprpublicforms/GSSubmissionform.aspx> to the Secretary of the Commonwealth. The submission deadline is 4:00 pm on Wednesday.

Sincerely,

A handwritten signature in blue ink, appearing to read "Glenn A. Cunha".

Glenn A. Cunha  
Inspector General



## M.G.L. c. 149 -- BUILDING CONSTRUCTION CONTRACTS

Estimated Contract Amount	Under \$10,000 <sup>1</sup>	\$10,000 to \$25,000	Over \$25,000 to \$100,000	Over \$100,000	Over \$10,000,000
<b>Procurement Procedure</b>	Sound business practices	Solicit written responses.	Sealed bids (using M.G.L. c. 30, § 39M procedure).	Sealed bids.	Solicit statements of qualifications prior to soliciting sealed bids.
<b>Advertising Requirements</b>	No.	Advertise in the <i>Central Register</i> and COMMBUYS and post a notice on your jurisdiction's website and in the office at least two weeks before responses are due. <sup>2</sup>	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. <sup>3</sup> Posting on COMMBUYS or your website is optional.	Advertise in the <i>Central Register</i> and a newspaper at least two weeks before bids are due, and post a notice in your jurisdiction's office for at least one week before bids are due. <sup>3</sup> Posting on COMMBUYS or your website is optional.	Advertise the request for qualifications in the <i>Central Register</i> , a newspaper, and COMMBUYS at least two weeks before responses are due. <sup>4</sup>
<b>DCAMM Certification</b>	No.	No.	No.	Required for general bidders and filed sub-bidders.	Required for general bidders and filed sub-bidders.
<b>OSHA Training</b>	No.	Yes.	Yes.	Yes.	Yes.
<b>City/Town Prequalification</b>	No.	No.	No.	Optional. <sup>5</sup>	Yes.
<b>Filed Sub-bids</b>	No.	No.	No.	Yes (\$20,000 and over).	Yes (\$20,000 and over).
<b>Bid Deposit</b>	No.	No.	5% of the value of the total bid.	5% of the value of the total bid, or sub-bid.	5% of the value of the total bid, or sub-bid.
<b>Payment Bond</b>	No.	No.	50% payment bond.	100% payment bond.	100% payment bond.
<b>Performance Bond</b>	No.	No.	No.	100% performance bond.	100% performance bond.
<b>Prevailing Wage</b>	Yes.	Yes.	Yes.	Yes.	Yes.
<b>Contractor Evaluation</b>	No.	No.	No.	Yes.	Yes.

<sup>1</sup> M.G.L. c. 149, § 44A(2)(A), as amended by Chapter 188 of the Acts of 2010.

<sup>2</sup> M.G.L. c. 149, § 44A(2)(B), as amended by Chapter 188 of the Acts of 2010 and Section 16 of Chapter 409 of the Acts of 2010.

<sup>3</sup> M.G.L. c. 149, § 44J.

<sup>4</sup> The advertising procedures listed pertain only to the request for qualifications. Within 14 days of the completion of the prequalification evaluation process, you are required to post a notice in your jurisdiction and on COMMBUYS listing those general and subcontractors who have been prequalified. A copy of the notice must be sent via first class mail, postage pre-paid to all prequalified general and subcontractors along with an invitation to bid. The invitation to bid must have a deadline of at least two weeks. Although you may only consider bids from those general and subcontractors who have been prequalified, the advertising requirements for building construction contracts over \$100,000 apply.

<sup>5</sup> If you decide to use the optional prequalification process for projects over \$100,000, follow the procedures listed in the "Over \$10,000,000" column.

**M.G.L. c. 30, § 39M --- PUBLIC WORKS (NON-BUILDING)  
CONSTRUCTION CONTRACTS (WITH LABOR)**

Estimated Contract Amount	\$10,000 and under	Over \$10,000 to \$25,000		Over \$25,000
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 Option <sup>1</sup>	M.G.L. c. 30, § 39M
Procurement Procedure	No.	Sealed bids.	Sealed bids.	Sealed bids.
Advertising Required	No.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>3</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.	No.	No.	No.
OSHA Training	No.	Yes.	Yes.	Yes.
City/Town Prequalification	No.	No. <sup>3</sup>	No.	No.
Filed Sub-bids	No.	No.	No.	No.
Bid Deposit	No.	5% of the value of the total bid.	No.	5% of the value of the total bid.
Payment Bond	No.	No.	No.	50% payment bond.
Performance Bond	No.	No.	No.	No.
Prevailing Wage	Yes.	Yes.	Yes.	Yes.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d). Even though the M.G.L. c. 30B, § 5, threshold increased from \$25,000 to \$35,000 on July 1, 2014, M.G.L. c. 30, § 39M(d), applies to "any contract of not more than \$25,000." Therefore, you may only use M.G.L. c. 30B, § 5, for projects that cost \$10,000 but not more than \$25,000.

<sup>2</sup> M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

<sup>3</sup> Although M.G.L. c. 30, § 39M, does not mandate a contractor prequalification process, prequalification of bidders by the Massachusetts Department of Transportation is required for contracts of \$50,000 or more where the awarding authority receives State Aid funds under M.G.L. c. 90, § 34, or the work is on a state road, regardless of whether the awarding authority receives State Aid funds under M.G.L. c. 90, § 34.



**M.G.L. c. 30, § 39M or M.G.L. c. 30B, § 5**  
**CONSTRUCTION MATERIALS PROCUREMENTS (WITHOUT**  
**LABOR)**

Estimated Contract Amount		Over \$10,000	
		M.G.L. c. 30, § 39M	M.G.L. c. 30B, § 5 <sup>1</sup> Option
Procurement Procedure	No.	Sealed bids.	Sealed bids.
Advertising Required	No.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.	Advertise once in the <i>Central Register</i> <sup>2</sup> and your local newspaper at least two weeks before bids are due, and post a notice on your jurisdiction's bulletin board for one week before bids are due.
DCAMM Certification	No.	No.	No.
OSHA Training	No.	No.	No.
City/Town Prequalification	No.	No.	No.
Filed Sub-bids	No.	No.	No.
Bid Deposit	No.	5% of the value of the total bid.	No.
Payment Bond	No.	No.	No.
Performance Bond	No.	No.	No.
Prevailing Wage	No.	No.	No.
Award contract to:	No.	Lowest responsible and eligible bidder.	Lowest responsive and responsible bidder.

<sup>1</sup> Authorized by M.G.L. c. 30, § 39M(d).

<sup>2</sup> M.G.L. c. 149, § 44J(a), M.G.L. c. 9, § 20A, and accompanying regulations require all contracts for construction services and all contracts for construction materials costing \$10,000 or more to be advertised in the *Central Register*.

**M.G.L. c. 7C, §§ 44-57, PUBLIC BUILDING PROJECTS DESIGN SERVICES -- Cities, Towns, Regional School Districts, and Horace Mann Charter Schools<sup>1</sup>**

Estimated Construction Cost (ECC)/Estimated Design Fee (EDF)	ECC \$100,000 or less or EDF less than \$10,000	ECC more than \$100,000 and EDF \$10,000 or more (both ECC and EDF thresholds must be met before the designer selection procedure is required.) <sup>2</sup>
Procurement Procedure	No. Recommend soliciting qualifications and prices from at least three designers.	Qualifications-based selection process. Jurisdiction must either set the design fee or set a not-to-exceed fee limit and negotiate the fee with the top-ranked designer within the fee limit.
Advertising Required	No.	Advertise once in the <i>Central Register</i> and your local newspaper at least two weeks before the deadline for filing applications.
Designer Selection Board <sup>1</sup>	No.	No – adopt selection procedure in writing. <sup>2,3</sup> Use “DSB Application for Municipalities.”
Designer Evaluation (Submit to DCAMM and Designer Selection Board)	No.	Yes.
Registration	Yes.	Yes.
Insurance	No.	10% of the total cost of the project or \$1 million, whichever is less.
Prevailing Wage	No.	No.

<sup>\*</sup>As of December 2008, the Designer Selection Board revised its “Guidelines for City and Town Building Projects” to clarify that both thresholds must be met.

<sup>1</sup> Executive Departments of the Commonwealth and Commonwealth Charter Schools are subject to the jurisdiction of the Designer Selection Board when the design fee is \$10,000 or more and the construction project is estimated to cost \$100,000 or more.

<sup>2</sup> Cities, Towns, School Districts, and Horace Mann Charter Schools are required to adopt their own procedures for selecting designers for building projects. These procedures must conform to the purposes and intent of the designer selection process as outlined in M.G.L. c. 7C, §§ 44-57 and noted herein. See the *Model Designer Selection Procedures for Municipalities and Other Local Public Agencies* developed by this office at <http://www.mass.gov/ig/publications/guides-advisories-other-publications/model-designer-selection-procedures-municipalities-and-other-local-public-agencies-nov-2009.html>.

<sup>3</sup> Housing Authorities must follow the procedures established by the Department of Housing and Community Development for design of state-funded housing. Projects requesting funding from the Massachusetts School Building Authority (MSBA) are subject to MSBA rules.



## M.G.L. c. 30B PROCUREMENT OF SUPPLIES AND SERVICES

Estimated Contract Amount	Under \$10,000	\$10,000 to \$34,999	\$35,000 and over
<b>Procurement Procedure</b>	Sound business practices. <sup>1</sup>	Solicit three written or oral quotes.	Sealed bids or proposals. (M.G.L. c. 30B, §§ 5 or 6).
<b>Advertising Required</b>	No.	No.	Advertise once in a newspaper of general circulation at least two weeks before bids or proposals are due, and post a notice on your jurisdiction's bulletin board or website for two weeks before bids or proposals are due. If \$100,000 or more, advertise once in the <i>Goods and Services Bulletin</i> at least two weeks before bids or proposals are due.
<b>Award contract to:</b>	Person offering the best price.	Responsible <sup>2</sup> and responsive <sup>3</sup> person offering the best price.	Under § 5, the responsible and responsive bidder offering the best price. Under § 6, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and non-price proposals.
<b>Written Contract Required<sup>4</sup></b>	No.	Yes.	Yes.
<b>Maximum Contract Term<sup>5</sup></b>	Three years, unless majority vote authorizes longer.		

<sup>1</sup> M.G.L. c. 30B, § 2, defines sound business practices as "ensuring the receipt of favorable prices by periodically soliciting price lists or quotes."

<sup>2</sup> M.G.L. c. 30B, § 2, defines a responsible bidder or offeror as "a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance."

<sup>3</sup> M.G.L. c. 30B, § 2, defines a responsive bidder or offeror as "a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or request for proposals."

<sup>4</sup> M.G.L. c. 30B, § 17(a), states "All contracts in the amount of \$10,000 or more shall be in writing, and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract."

<sup>5</sup> M.G.L. c. 30B, § 12(b), states "Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option."

## WEEKLY PAYROLL RECORDS REPORT & STATEMENT OF COMPLIANCE

In accordance with Massachusetts General Law c. 149, §27B, a true and accurate record must be kept of all persons employed on the public works project for which the enclosed rates have been provided. A Payroll Form has been printed on the reverse of this page and includes all the information required to be kept by law. Every contractor or subcontractor is required to keep these records and preserve them for a period of three years from the date of completion of the contract.

In addition, every contractor and subcontractor is required to submit a copy of their weekly payroll records to the awarding authority. For every week in which an apprentice is employed, a photocopy of the apprentice's identification card must be attached to the payroll report. Once collected, the awarding authority is also required to preserve those records for three years.

In addition, each such contractor, subcontractor, or public body shall furnish to the awarding authority directly, within fifteen days after completion of its portion of the work a statement, executed by the contractor, subcontractor or public body who supervises the payment of wages, in the following form:

<b>STATEMENT OF COMPLIANCE</b>	
_____, 20____	
I, _____ (Name of signatory party)	_____ (Title)
do hereby state:	
That I pay or supervise the payment of the persons employed by	
_____ on the _____ (Contractor, subcontractor or public body)	_____ (Building or project)
and that all mechanics and apprentices, teamsters, chauffeurs and laborers employed on said project have been paid in accordance with wages determined under the provisions of sections twenty-six and twenty-seven of chapter one hundred and forty nine of the General Laws.	
Signature _____	
Title _____	



**MASSACHUSETTS WEEKLY CERTIFIED PAYROLL REPORT FORM**



Company's Name:			Address:			Phone No.:			Payroll No.:									
Employee's Signature:			Title:			Contract No.:			Tax Payer ID No.:									
Awarding Authority's Name:			Public Works Project Name:			Public Works Project Location:			Min. Wage Rate Sheet No.:									
General / Prime Contractor's Name:			Subcontractor's Name:			Employer's Hourly Fringe Benefit Contributions												
Employee Name & Complete Address	Employee's DDIA ID Certified (Y)	Wage Classification	Hour Rate (N)	Hours Worked							Project Hours (N)	Hourly Base Wage (N)	Health & Welfare Insurance (N)	ERISA Pension Plan (N)	Supp. Unemp. (N)	Total Hourly Prev. Wage (N)	Total Gross Wage (N)	Check No. (N)
				Su	Mo	Tu	We	Th	Fr	Sa								
	<input type="checkbox"/>																	
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**NOTE:** Pursuant to MGL Ch. 149 s. 27B, every contractor and subcontractor is required to submit a "true and accurate" copy of their weekly payroll records directly to the awarding authority. Failure to comply may result in the commencement of a criminal action or the issuance of a civil citation.

Page \_\_\_\_\_ of \_\_\_\_\_

Date received by awarding authority / /
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## PROCUREMENT POLICIES BY DEPARTMENT



### TOWN OF NANTUCKET MASSACHUSETTS

**Procurement Office:**  
Town of Nantucket  
16 Broad Street, 2<sup>nd</sup> floor  
Phone: 508-228-7200, X7309  
Fax: 508-228-7272

Effective August 1, 2014

**PROCUREMENT POLICIES BY DEPARTMENT**  
Town of Nantucket, Massachusetts

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**PROCUREMENT POLICIES**  
**TOWN OF NANTUCKET, MASSACHUSETTS**

**GENERAL OVERVIEW**

**1.0 OBJECTIVE**

The Town has established a Procurement Office within the Town Administration organization. The Town has approved Procurement Policies which were most recently updated and in effect as of July 23, 2014. Those policies delineate the various statutes and requirements for bidding procedures under each type of procurement. This document does not replace that document. This document is intended to establish written procedures for departments for the preparation of contracts, authorization of purchases and signatures required before submitting contracts for Town approval.

**2.0 AUTHORIZATION OF PURCHASES**

**2.1 Purchase Orders**

The designated department employee should create a Purchase Order for purchase if no contract is necessary and should attach a copy of the approved Purchase Order or the invoice into MUNIS. There will no longer be a requisition process.

The department head or the designee will approve in writing the purchase and will verify the funding source which will be specified in the Purchase Order entry.

**2.2 Approvals**

All Purchase Orders over \$1000 go through MUNIS to the Chief Procurement Officer for approval. These invoices are entered as a Purchase Order, approved by the department head or designee and then approved by the Chief Procurement Officer. There should be a written approval on each Purchase Order and each department is responsible for writing a Purchase Order number on each invoice.

The department is responsible for entering a specific description of the purchase in the comments section on MUNIS including a state contract number if one is being used. All entries will require an approved and posted Purchase Order.

**2.0 FUNDING SOURCES FOR PROCUREMENT CONTRACTS**

**3.1 Approvals of Contracts**

When a purchase is made requiring a contract, the department head or designee must approve in writing the purchase and specify the funding source. This should be documented on the Contract Summary Sheet and on the outside of the Contract File.

### **3.2 Contract Preparation**

The department employee then prepares a Contract Summary Sheet for that purchase or service as well as the Scope of Services attachments (Exhibit A and B) to the standard short or long form Town Contract.

If the department has an in-house procurement employee, that employee is responsible for preparing the contract, attaching the Contract Summary Sheet with the funding source information and signatures and sends the completed package to the Procurement Office for final review. Departments that do not have an in-house procurement employee should send the information to the Procurement Office for final contract preparation. Contracts will not be accepted and placed on a Selectmen's Meeting agenda without written department approval. Once approved by the Procurement Office, all contracts will be sent to the Finance Department to approve the stated funding source and entry of the Org/Object codes onto the contract BEFORE the contract is placed on a Board of Selectmen's Agenda.

### **3.3 Signatures Required**

Before placing any contract on the Board Agenda, the Contract Summary Sheet will have the signatures of the department head or designee, the in-house procurement employee (if applicable), the Chief Procurement Officer and the Finance Department. Additionally, the outside of the Contract File will have annotations reflecting department approval and Finance approval. Occasional circumstances notwithstanding, no contract will be placed on an Agenda without a vendor signature as well.

After approval of the contract by Town Administration, the contract will be sent to Finance by the Procurement Office for a final entry of the Purchase Order number(s) to be used. The Purchase Order will be created by Finance and the number will be written on all copies of the contract before being sent back to the Procurement Office for distribution. A total of four copies will be distributed – to the vendor, Finance, the department and the Procurement Office. The Finance Department will then attach a copy of the contract in MUNIS. The Procurement Office will maintain a central procurement file for each contract.

## **4.0 CONTRACTS THAT INVOLVE MULTIPLE DEPARTMENTS**

### **4.1 Set up of Purchase Order**

The Finance Department will set up the Purchase Order depending on the amount of funding sources and departments for the contract. If there are multiple departments funding the contract from individual departmental budgets and the Chief Procurement Officer and the Finance Department determine that it is best to use multiple Purchase Orders for one contract, the Finance Department will set those up and advise all responsible departments. If it is determined that it would be more efficient to fund the contract from one source, the Finance Department will make the necessary adjustments and assign one Purchase Order to the contract. As individual departments can only access the Org/Object they are responsible for, this will keep permissions simple.

#### **4.2 Payment of Invoices**

The employee entering the Purchase Order/invoice MUST make certain that the correct Purchase Order number for the contract is being used. For large contracts requiring multiple payments over the life of the contract, a determination should be made at the beginning of the contract if the department will be responsible for paying invoices or if they will be sent to the Procurement Office to authorize payment and maintain a record of payments. Department employees will not be able to create new Purchase Orders for vendors which will lessen the ability to have multiple incorrect Purchase Orders for one contract for one vendor.

#### **4.3 Permissions**

The Finance Department is the only party allowed to create a Purchase Order for purchases over \$10,000 that require contracts.

#### **4.4 Vendor Purchases over \$10,000**

All vendor purchases made by the same PUBLIC PURCHASING ENTITY that go over \$10,000 MUST have a signed contract prior to the purchase. Pursuant to MGL Ch.30B, Sec. 17(a), all contracts in the amount of \$10,000 or more shall be in writing and the governmental body shall make no payment for a supply or service rendered prior to the execution of such contract. The \$10,000 limit applies to all Town departments as one entity, the School as one entity, the Airport as one entity and Wannacomet Water Company as one entity. Each entity may elect to issue their own contract or consolidate a contract with a particular vendor.

### **5.0 STATE CONTRACTS**

#### **5.1 Documentation**

Everything purchased under a state contract should have the state contract number on the Purchase Order and identified in MUNIS.

#### **5.2 CommBuys**

Purchases made under the new state contract system of CommBuys will be able to be made directly on the website and will be set up with the permissions and approvals as contained in the Policy document.

### **6.0 END OF YEAR PROCEDURES**

#### **6.1 Blanket Purchase Orders**

These types of Purchase Orders should be used and run down to a zero balance.

#### **6.2 Encumbrances**

Encumbrances must be used in the Fiscal Year in which they were created unless arrangements are made with the Finance Department in advance.

#### **6.3 Cancellation of Purchase Orders**

The Finance Department will cancel Purchase Orders at the end of the year after the "clean up warrant" on July 31 unless prior arrangements have been made.

## **7.0 EMERGENCY PROCEDURES**

In the event a Purchase Order must be issued immediately, the department head or designee will contact the Chief Procurement Officer for approval and the necessary documents will be issued by the Finance Department. If the Chief Procurement Officer is unavailable, the Finance Department should be contacted directly.

## **8.0 FORMS TO BE USED**

See attached Contract Summary Sheet with required signature spaces as well as the Contract File sheet that will be attached to the outside of all Contract Files. Also see Bid Request Form to be used whenever requesting an IFB/RFP/RFO be issued.

4

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
NANTUCKET BOARD OF SELECTMEN, THE TOWN MANAGER AND  
NANTUCKET AIRPORT COMMISSION**

This Memorandum of Understanding is entered into this 21 day of Sept, 2011, between the Nantucket Board of Selectmen ("Board"), the Nantucket Airport Commission ("Commission"), and the Town Manager.

WHEREAS, the Commission is responsible for the operation and maintenance of the Nantucket Memorial Airport ("Airport") and is authorized under G.L. c.90, §51I to expend funds available to the Airport and to "make contracts for the maintenance operation, construction, enlargement and improvement to the Airport and for the purchase of materials, supplies and equipment pursuant to the laws of the Commonwealth governing the making of like contracts;" and

WHEREAS, the Town Administration has identified certain procurement practices by the Airport that do not conform to the requirements of law, and which have resulted in some instances in the disapproval by the Town Accountant pursuant to G.L. c.41, §56, of warrants for payment to vendors and contractors doing business with the Airport; and

WHEREAS, the Massachusetts Attorney General has commenced an investigation into procurement practices at the Airport and it is expected that the Attorney General will issue findings that the Airport, through its Airport Manager, has engaged in procurements and contracting practices in violation of the laws of the Commonwealth relating to procurement and bidding of public contracts; and

WHEREAS, the Board has initiated the process of retaining a consultant to conduct a forensic audit, fiscal and operational review of the Airport relating to procurement and other matters; and

WHEREAS, the Commission, independent of the Attorney General's investigation, has determined that the Airport Manager and staff working under the direction and supervision of the Airport Manager, has not taken adequate steps to ensure that all procurements by the Airport are in compliance with Massachusetts law; and

WHEREAS, the Town of Nantucket employs a Chief Procurement Officer ("CPO") under G.L. c.30B, who is certified as a Massachusetts Public Purchasing Official; and

WHEREAS, the Board and the Commission have jointly determined that placing the Airport procurement function under a centralized procurement system under the supervision and direction of the CPO is necessary and appropriate in order to assure future compliance of Airport-related procurements with Massachusetts law; and,



WHEREAS, although the Nantucket Town Charter provides that the Airport is not part of the Town Administration function, the Commission has requested the assistance of the Town Administration in conducting Airport-related procurements.

NOW, THEREFORE, the Board, the Commission, and the Town Manager agree as follows:

1. The Commission and the Board agree that the CPO shall have full authority to supervise and direct all Airport-related procurements, and shall have full authority to establish procurement practices and procedures to be followed by Airport staff. Such practices and procedures may include, but not necessarily be limited to:

- (a) formal training of Airport staff performing procurement functions under the supervision and direction of the CPO;
- (b) establishing written contracts using the Town's standard form contract for all procurements in excess of \$5,000, and for such other contracts as the CPO determines to be advisable;
- (c) ensuring that prevailing wage rates are included in all procurement documents where applicable and that the Prevailing Wage Law is enforced on all applicable Airport contracts;
- (d) ensuring that all contracts are awarded on the basis of fair and open competition;
- (e) avoiding bid splitting and unwarranted increases in the scope of services through the change order process;
- (f) maintaining adequate documentation in a separate procurement file for every procurement exceeding \$5,000;
- (g) interpretation of the so-called "aviation use" exemption under G.L. c.30B, §1(29) to specific Airport procurements; and
- (h) any other practices and procedures that are deemed necessary by the CPO to insure compliance by the Airport with the laws of the Commonwealth, any findings and orders of the Attorney General, the conclusions and recommendations of the forensic audit, fiscal and operational review report, and good and accepted procurement practices.

2. The Commission will instruct Airport staff to cooperate fully with the Town Administration in establishing a program whereby all Airport-related procurements will be conducted under the supervision and direction of the CPO.

3. The Commission agrees to establish procedures applicable to all Airport staff to maintain a procurement file for all procurements in excess of \$5,000, which file shall include all documents and backup information as the CPO determines is necessary in order to ensure that adequate information is readily available to demonstrate compliance with public bidding laws.

4. The Town Administration shall continue to instruct its financial staff not to approve any warrants for the payment of bills by vendors, contractors, and consultants, pursuant to G.L. c.41, §56, unless there is adequate documentation from Airport staff and the CPO that procurement laws have been complied with.

5. The Commission agrees that it will establish employment policies applicable to staff employed by the Commission which provides for disciplinary measures against any staff member that does not cooperate fully with the CPO in implementing the policies and procedures established in this Memorandum of Understanding.

6. The Commission agrees to establish a written policy that the execution of all Airport contracts in excess of \$25,000 be approved and executed by the Airport Commission.

7. The Commission, the Board, and the Town Administration shall cooperate fully with the Office of the Attorney General in the current investigation, and shall instruct its staff to do the same. The Parties to this Memorandum of Agreement agree to cooperate to implement any and all orders issued by the Attorney General as is reasonably possible. The Commission also agrees to cooperate with the Board and the Town Administration in implementing the recommendations as a result of the forensic audit, fiscal and operational review as approved by the Board.

8. In light of the significant increase in the responsibilities of the Town Administration and the CPO to implement this Memorandum of Understanding, the Commission and the Board agree that, when formulating the Airport's annual operating budget, the Airport Enterprise Fund, established under G.L. c.44, §43F ½, will be charged the indirect costs associated with the implementation of this Memorandum of Understanding, including the hiring of additional staff by the Town Administration, if determined to be necessary. The amount of the indirect cost charge shall be reasonably determined by the Town Administration in conformance with all requirements of the Massachusetts Department of Revenue relating to indirect cost allocation for Enterprise Funds.

SIGNED THIS 21 DAY OF Sept., 2011:

Board of Selectmen

Rich O'Brien

Airport Commission

Arthur J. Harano

Town Manager

C. Eljith

[Signature]

Arthur J. Harano

[Signature]

Shirley A. Brien Egan

W.R. Williams

[Signature]

Pat Rogers

\_\_\_\_\_

433570/mantair/0006

Town of Nantucket  
**NANTUCKET MEMORIAL AIRPORT**  
14 Airport Road  
Nantucket Island, Massachusetts 02554

Thomas M. Rafter, Airport Manager  
Phone: (508) 325-5300  
Fax: (508) 325-5306



*Commissioners*  
Daniel W. Drake, Chairman  
Arthur D. Gasbarro, Vice Chair  
Anthony G. Bouscaren  
Andrea N. Planzer  
Jeanette D. Topham

**DRAFT**

NANTUCKET MEMORIAL AIRPORT COMMISSION

**Policy for Signing Contracts, Leases and Other Agreements  
(Excluding FAA-related Grant Documents)**

Effective October 9, 2014

All Contracts, Leases and other Agreements, approved by Vote of the Airport Commission (other than FAA-related Grant Documents, which are covered by a separate policy) require a minimum of three (3) Commissioner's signatures, one of which must be either the Chairman or Vice-Chairman unless neither was present at the meeting at which the vote was taken.

This Policy supersedes the 2/14/12 Commission Vote regarding the same subject.

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Daniel W. Drake, Chairman

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Arthur D. Gasbarro

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Anthony G. Bouscaren

---

Andrea N. Planzer

---

Jeanette D. Topham

for rent. Before this can move forward it needs to be declared surplus property and then an RFP will be advertised. There has been an appraisal performed on the property.

Bill McGrath stated UPS would like this lot to be slotted as aviation use. UPS flies packages in and out and mostly uses it for aviation use.

After brief discussion the Commission tabled this subject matter in order to get additional information.

#### **Consider Crosswinds Restaurant request for temporary closing**

Christopher Skehel stated the restaurant has to replace the kitchen floor as mandated by the Board of Health. The scheduled closing will be March 5, 2012 through March 12, 2012.

The Commission Unanimously **M/S/P** approval for the temporary closing of Crosswinds Restaurant.

#### **Consider and amend Commission contract signing policy**

Vice Chair Gasbarro stated back in October there was discussion about keeping the signing authority to all five Commissioners, however; do to timing issues with certain contracts this can be difficult logistically.

Chairman Drake stated there could be a majority of 3 Commissioners to sign the contracts or they could be signed at Commission Meetings.

Chairman Drake is concerned if a Commissioner signs a contract and is not present at the meeting it might be in violation of the Open Meeting Law.

Vice Chair Gasbarro made a motion as of March 1, 2012 all contracts must be signed by the Chair or Vice Chair and one other Commissioner subject to prior approval by the Commission.

The Commission Unanimously **M/S/P** approval of Vice Chair Gasbarro's motion as of March 1, 2012 all contracts must be signed by the Chair or Vice Chair and one other Commissioner subject to prior approval of the contract by the Commission.

#### **Contracts for Discussion/Review/Approval:**

##### **Jacobs Professional Services Agreement Update: (GA/Admin Building Telecom Systems Design) \$72,506.00**

Chairman Drake stated there is a procurement issue in which counsel advised due to this not be procured properly this can not be paid. Counsel suggested the architect with an amendment to that contract to allow such payment pay Jacobs and then in return get reimbursed by the Town and they are still thinking about whether they would like to do that.

##### **Skanska USA Contract Update: (Construction Manager-Terminal Bldg), Final Change Order (\$497,073.00)**

Chairman Drake stated this is the last change order in which he signed due to the fact it involved a credit of \$497,073.00. This project was under budget that is the reason for the credit.

The Commission Unanimously **M/S/P** approval of the Skanska USA Contract Final Change Order \$497,073.00 in the order of a credit.

##### **H.T. Berry Co, Inc. (Janitorial Supplies), NTE \$40,000, Exp 1/31/14**

The Commission Unanimously **M/S/P** approval of the H.T. Berry Co, Inc contract NTE \$40,000.

##### **All American Poly (Janitorial Supplies), NTE \$14,000, Exp 1/31/14**

The Commission Unanimously **M/S/P** approval of the All American Poly contract NTE \$14,000.

##### **Central Poly Corp (Janitorial Supplies), NTE \$6,000, Exp 1/31/14**

The Commission Unanimously **M/S/P** approval of the Central Poly Corp contract NTE \$6,000.



# FY2015 Airport Enterprise Update

101414-2

Operating Revenue and Expenditures As of September 30, 2014

REVENUE	FY2015		FY2015		FY2014		STATISTICS			
	Budget w/Carryforward		Actual (As of 09/30/14)		LY Actual (As of 09/30/13)		\$ Variance to budget	\$ Variance to LY	% to Budget	% to LY
Fixed Base Operations (FBO)	\$ 1,977,275	\$	1,445,484	\$	1,376,055	\$	(531,791)	\$ 69,429	73%	5%
Revolver: Fuel Sales	\$ 5,382,650	\$	4,968,708	\$	4,976,431	\$	(413,942)	\$ (7,724)	92%	0%
Jet Fuel Sales in Excess of Revolving Fund	\$ 1,807,490	\$	-	\$	-	\$	(1,807,490)	\$ -	0%	100%
Fuel Sales Gas and Diesel	\$ -	\$	342	\$	-	\$	342	\$ 342	100%	100%
Passenger Facility Charge	\$ -	\$	78,769	\$	-	\$	78,769	\$ 78,769	100%	100%
Rental Income	\$ 1,227,576	\$	456,941	\$	320,665	\$	(770,635)	\$ 136,276	37%	42%
Fee Income	\$ 1,106,465	\$	590,987	\$	569,625	\$	(515,478)	\$ 21,361	53%	4%
Vehicle Income	\$ 321,280	\$	104,955	\$	106,765	\$	(216,325)	\$ (1,810)	33%	-2%
Interest on Investments	\$ 24,275	\$	-	\$	6,382	\$	(24,275)	\$ (6,382)	0%	-100%
Other Income	\$ 188,570	\$	260,557	\$	17,601	\$	71,987	\$ 242,956	138%	1380%
Total Revenue*	\$ 12,035,581	\$	7,906,743	\$	7,373,524	\$	(4,128,838)	\$ 533,219	66%	7%

OPERATING EXPENDITURES WITHOUT DEBT	FY2015		FY2015		FY2014		STATISTICS			
	Budget w/Carryforward		Actual (As of 09/30/14)		LY Actual (As of 09/30/13)		\$ Variance to Budget	\$ Variance to LY	% to Budget	% to LY
Payroll - Salary	\$ 2,973,974	\$	646,928	\$	617,130	\$	(2,327,046)	\$ 29,797	22%	5%
Medicare P/R Tax Expense	\$ 43,100	\$	9,380	\$	8,949	\$	(33,720)	\$ 432	22%	5%
Medical Insurance	\$ 577,900	\$	129,926	\$	118,681	\$	(447,974)	\$ 11,245	22%	9%
Barnstable County Retirement	\$ 542,700	\$	477,801	\$	456,485	\$	(64,899)	\$ 21,316	88%	5%
Fixed Based Operatoins/ Included fuel expense in 2012	\$ 639,127	\$	418,176	\$	362,471	\$	(220,950)	\$ 55,705	65%	15%
Revolver: Cost of Fuel	\$ 5,382,650	\$	2,806,297	\$	2,980,680	\$	(2,576,353)	\$ (174,383)	52%	-6%
Jet Fuel Expense in Excess of Revolving Fund	\$ -	\$	-	\$	-	\$	-	\$ -	0%	0%
Operations	\$ 67,250	\$	31,002	\$	21,338	\$	(36,248)	\$ 9,664	46%	45%
Service & Maintenance	\$ 511,303	\$	101,785	\$	73,188	\$	(409,517)	\$ 28,597	20%	39%
Administration	\$ 1,287,430	\$	218,886	\$	180,339	\$	(1,068,544)	\$ 38,546	17%	21%
General Insurance	\$ 225,900	\$	50,519	\$	49,486	\$	(175,381)	\$ 1,033	22%	2%
Indirect Costs	\$ 200,000	\$	-	\$	113,721	\$	(200,000)	\$ (113,721)	0%	-100%
Settlements	\$ -	\$	-	\$	-	\$	-	\$ -	0%	0%
Other	\$ -	\$	-	\$	-	\$	-	\$ -	0%	0%
Total Expenditures excluding debt	\$ 12,451,333	\$	4,890,701	\$	4,982,469	\$	(7,560,632)	\$ (91,768)	39%	-2%

Surplus (Deficit) of revenue over expenditures excluding debt	\$ (415,752)	\$	3,016,042	\$	2,391,056	\$	3,431,794	\$	624,986	-725%	26%
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DEBT SERVICE	FY2015		FY2015		FY2014		STATISTICS			
	Budget w/Carryforward		Actual (As of 09/30/14)		LY Actual (As of 09/30/13)		\$ Variance to Budget	\$ Variance to LY	% to Budget	% to LY
Principal	\$ 785,919	\$	20,000	\$	20,000	\$	(765,919)	\$ -	3%	0%
Interest	\$ 370,927	\$	100,972	\$	104,747	\$	(269,955)	\$ (3,775)	27%	-4%
Issuance Costs	\$ 40,000	\$	-	\$	-	\$	(40,000)	\$ -	0%	0%
BAN Costs, Principal, Interest	\$ 67,500	\$	-	\$	-	\$	(67,500)	\$ -	0%	#DIV/0!
Other	\$ -	\$	-	\$	-	\$	-	\$ -	0%	0%
Total Debt Service	\$ 1,264,346	\$	120,972	\$	124,747	\$	(1,143,374)	\$ (3,775)	10%	-3%

Total - Surplus (Deficit) of revenue over all operating expenditures*	\$ (1,680,098)	\$	2,895,070	\$	2,266,309	\$	4,575,168	\$	628,761	-172%	28%
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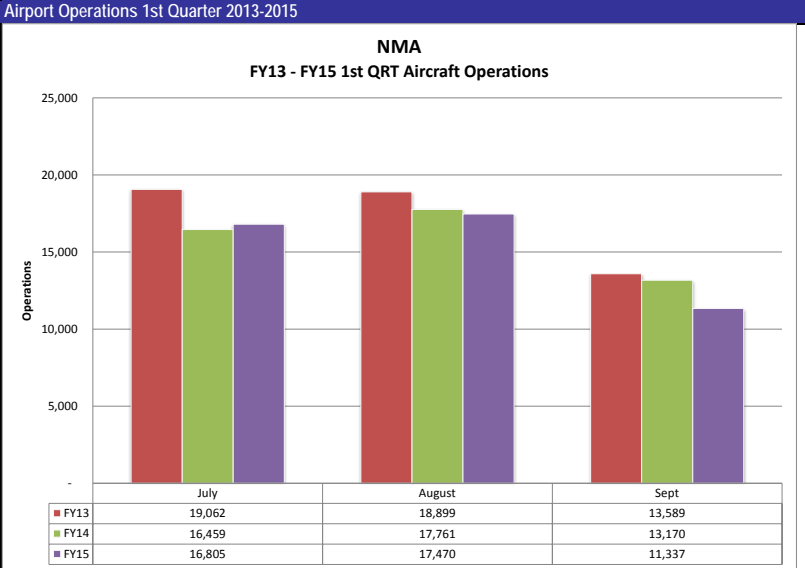
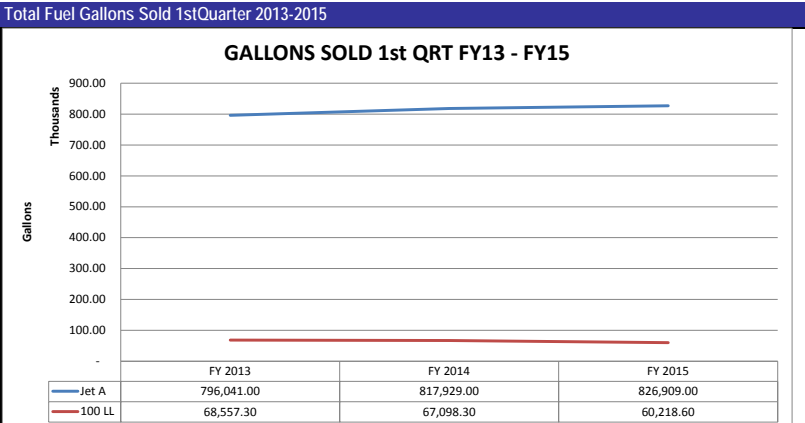
OTHER FINANCING SOURCES	FY2015		FY2015		FY2014		STATISTICS			
	Budget w/Carryforward		Actual (As of 09/30/14)		LY Actual (As of 09/30/13)		\$ Variance to Budget	\$ Variance to LY	% to Budget	% to LY
General Fund Subsidy	\$ -	\$	-	\$	76,150	\$	-	\$ (76,150)	0%	-100%
Transfer from Special Revenue Funds	\$ -	\$	-	\$	-	\$	-	\$ -	0%	0%
Transfer from Insurance Proceeds	\$ -	\$	-	\$	39,632	\$	-	\$ (39,632)	100%	-100%
2014 Encumbrance Carryforward	\$ 90,478	\$	-	\$	-	\$	90,478	\$ -	0%	100%
Fuel Revolver Fund Balance Unavailable for Retained Earnings Calculation	\$ 219,017	\$	(2,162,411)	\$	(1,995,751)	\$	2,381,428	\$ (166,660)	-100%	8%
Voted Use of Certified Retained Earnings	\$ 1,370,603	\$	-	\$	-	\$	1,370,603	\$ -	0%	0%

Total Other Financing Source	\$ 1,680,098	\$	(2,162,411)	\$	(1,879,970)	\$	3,842,509	\$	(282,441)	-129%	15%
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Surplus (Deficit) of revenue plus other financing sources over expenditures*	\$ -	\$	732,659	\$	386,339	\$	8,417,677	\$	346,320	100%	90%
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## BENCHMARKS

% of Debt to Operating Expense Policy	12%	12%	12%
% of Actual Debt to Operating Expense	11%	2%	2%
Certified Retained Earnings	\$ 1,464,189	\$ -	\$ -
% of Certified Retained Earnings Used for Operations	94%	-	-
% of Certified Retained Earnings Used for One Time or Capital Expenditures	-	-	-



## Financial Highlights As of September 30, 2014

Aviation Fuel Revolving Fund 2014-2015 Comparison			
FYTD 09/30/2014		FYTD 09/30/2013	
Fuel Sales	\$ 4,968,708	\$	4,976,431
Fuel Purchases	\$ 2,806,297	\$	2,980,680
Gross Profit YTD	\$ 2,162,411	\$	1,995,751
Purchase Cap	\$ 5,195,336	\$	5,572,974
Less: Purchases	\$ 2,806,297	\$	2,980,680
Unallocable Portion of Gross Profit	\$ 2,389,039	\$	2,592,294
Gross Profit YTD allocable to operating budget	\$ (226,628)	\$	(596,543)

\*Note: Governments operate on a budgetary basis; therefore revenue earned in excess of the certified budget is not available to offset expenditures in the current fiscal year. Excess revenue and expenditure turnbacks must go through the State of Massachusetts retained earnings certification process before they can be appropriated at a subsequent annual and/or special town meeting. Once certified, retained earnings can only be appropriated at an annual and/or special town meeting.



FY 2016 Budget Timeline  
As of 07/29/2014  
Endorsed by Board of Selectmen: 08/06/14

101414-3

Date	Time	Activity
Aug - Sept		FY 16 capital project requests reviewed by Town Admin
Wed, Sept 10	6pm	FY 16 General Fund Preliminary Forecast to BOS
Thurs, Sept. 18	10am	Ad Hoc Budget Workgroup mtg to review FY16 assumptions
Tues, Sept 23		FY 16 budget instructions issued to departments by Town Mgr
Wed, Sept 24	6pm	Town Admin reviews FY 16 capital project recs with BOS; BOS endorses, modifies
1st Week of Oct		FY 16 capital project request recs forwarded to Cap Prog Comm
Wed, Oct 8	8am	Capital Program Committee begins reviews of FY 16 capital project requests
Oct - Dec		Capital Program Committee review of FY 16 capital project requests
Thurs, Oct 16		FY 16 budget submittals due back to Town Admin from GF departments
by end of Oct		Development and Refinement of FY 16 Enterprise Fund Forecast
by end of Oct		Receipt of FY 16 health insurance projections from Cook & Co
Oct - Nov		Town Admin compilation of FY 16 budget submittals; further refinement of projections
Tue, Nov 18	9am	Ad Hoc Budget Workgroup mtg to review status of FY 16 projections
Wed, Nov 19	6pm	Town Admin reviews status of FY 16 budget projections with BOS (School Comm, FinCom invited); also review of FY 16 health insurance projections
by end of Nov		Refinement of salaries, expense projections
Mon, Nov 24		FY 16 Enterprise Fund budget submittals due (Airport, Water, OIH, SWEF & SEF)
Nov - Dec TBD		Review status of FY 16 budget with Cabinet
Wed, Dec 3	6pm	Town Admin presents FY 16 GF budget recs to BOS
Tues, Dec 9	6pm	Town Admin review of FY 16 GF budget recs with School Comm
Dec - TBD		Cap Prog Comm adopts its recommendations; forwards to FinCom
Wed, Dec 10	6pm	BOS reviews FY 16 GF budget
Wed, Dec 17	6pm	BOS reviews FY 16 GF budget
by end of Dec		Receipt of BCRS assessment for Town & County for FY 16
by end of Dec		Refinement of state aid numbers
end of Dec - early Jan		Compilation of FY 16 budget packets for FinCom (electronic)
Wed Jan 7	6pm	BOS holds public hearing on FY 16 budget
Wed, Jan 7	6pm	BOS adopts FY 16 GF budget recommendations
Thurs, Jan 8	9am	Ad Hoc Budget Workgroup review of FY 16 budget status
Mon, Jan 12	4pm	Town Admin presents FY 16 GF budget recs to FinCom
Wed, Jan 21	6pm	BOS reviews FY 16 EF budgets: OIH, SEF, SWEF, AP
Wed, Jan 28	4pm	County Commissioners review and adopt FY 16 County budget
Jan - March	4pm	FinCom reviews warrant articles, budgets (specific schedule to follow -- 2-3 mtgs/wk)
February		Refinement of GF debt service projections for FY 16 (following Feb borrowing)
Thurs, Jan 29	4pm	FinCom (County Review Committee) reviews & adopts FY 16 County budget
Wed, Mar 4	6pm	Town Admin reviews FY 16 GF budget status with BOS
Tues, Mar 10	4pm	FinCom adopts final motions to ATM warrant articles (including budget)
Sat, Apr 4	9am	2015 ATM starts

Nantucket Airport  
**Airport Master Plan and Sustainability Program**  
AIP No. 3-25-0033-57-2013

022613-2

**STATUS REPORT**  
**Week of October 6-10, 2014**

**Public Outreach Program**

- All Public Outreach tasks on hold, pending Commission workshop on Chapter 7- Alternatives, to be scheduled.

**Master Plan Tasks**

- Chapters 1 – 6: Public Outreach; Airfield Inventory and Operations Inventory; Environmental Inventory; Air Service Trends; Forecasts of Aviation Demand; Facility Requirements
  - Awaiting comments from Airport Commission on Chapters 1-6 for final text revisions.
- Chapter 7- **Alternative Improvement Concepts**
  - Conference Call set for Wednesday Oct. 8<sup>th</sup> to discuss comments on Master Plan DRAFT Chapter 7 text.
- Chapter 8- **Facilities Implementation Plan/5-Year CIP**
  - (Future task to follow Commission and Management comments on Chapter 7 draft text)
- Chapter 9- **Financial Feasibility Plan**
  - Benchmarking Study submitted for review. Awaiting approvals for posting on website.
  - (Financial Feasibility Plan will run concurrent with Chapter 8 CIP development )
- Chapter 10- **Airport Layout Plan (ALP)**
  - Discuss revisions to Exhibit A/Airport Boundary and Property Line plan, per meeting with Andrew Vorce
  - Follow-up with Andrew Vorce, NPEDC, on revisions to Town GIS labeling of Airport Parcels, as well as NPEDC next steps on parcel rezoning and surplus parcels.

**Environmental Sustainability Tasks**

- Coordinate MESA Permit needs for Solar array sites.
- (MEPA ENF to be prepared upon completion of 5 Year CIP in Chapter 8.)

**Extra Tasks** - Awaiting final approval on Emergency Plan Grid Map.





Nantucket Memorial Airport

# Monthly Statistical Report

(August 2014)



# Nantucket Memorial Airport

## Operations FY2014 vs. FY2015

			CY 2014						CY 2015						
			JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	TOTAL
FY2015	ITINERANT	Air Carrier	215	222											
		Air Taxi	11,049	11,470											
		General Aviation	5,480	5,715											
		Military	57	39											
		TOTAL	Intinerant	16,801	17,446										
	LOCAL		Civil	4	24										
			Military	0	0										
		TOTAL	Local	5	24										
		TOTAL	Operations	16,805	17,470										
			% Change	2.10%	-1.64%										

August 2013 vs. August 2014 down 1.64%  
YTD – 0%

YTD	JUL	AUG	Total	% Change
Operations FY2012	17,069	16,571	33,640	
Operations FY2013	19,062	18,899	37,961	13%
Operations FY2014	16,459	17,761	34,220	-10%
Operations FY2015	16,805	17,470	34,275	0%



Year	Germany (thousands)	France (thousands)	UK (thousands)
2008	19,000	17,000	16,500
2009	19,000	16,500	17,500
2010	13,500	11,500	13,000
2011	9,500	9,500	9,000
2012	8,500	7,500	7,500
2013	8,000	8,000	7,000
2014	7,000	7,000	5,500
2015	5,500	6,000	4,800
2016	7,000	6,000	6,000
2017	8,000	8,000	7,500
2018	10,000	7,500	10,500
2019	11,500	14,500	12,500

[illegible]



# Nantucket Memorial Airport

## Passenger Enplanements FY2014 vs. FY2015

FY2015	AIRLINE	CY 2014						CY 2015						TOTAL
		JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	
	Cape Air (KAP)	7,305	7,557											14,862
	Piedmont/United	2,511	2,980		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed		5,491
	Continental Connection (Comut air)	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	0
	Delta Express (Freedom Air)	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed	0
	Delta Airlines	3,564	4,453		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed		8,017
	Island Air (ISA)	5,573	5,507											11,080
	JetBlue Airways	7,736	9,036			Closed	Closed	Closed	Closed	Closed	Closed			16,772
	Nantucket Air (ACK)	2,715	2,667											5,382
	Tradewind Aviation	1,030	1,078											2,108
	USAirways (Air Wisconsin - AWI)	1,851	2,225		Closed	Closed	Closed	Closed	Closed	Closed	Closed	Closed		4,076
	Monthly Total	32,285	35,503											67,788
	% Change Prior Year	0.86%	-0.71%											

August 2013 vs. August 2014 down -0.71%  
YTD – 0%

	JUL	AUG	TOTAL	% Chng
Enplanements FY 2012	31,199	31,788	62,987	
Enplanements FY 2013	31,484	32,852	64,336	2%
Enplanements FY 2014	32,009	35,758	67,767	5%
Enplanements FY 2015	32,285	35,503	67,788	0%





# Nantucket Memorial Airport

## Jet A Gallons Sold FY2011 vs. FY2015

	<u>July</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>June</u>
<u>FY11</u>	296,316.00	318,813.00	117,739.00	55,443.00	35,941.00	30,868.00	14,673.00	12,538.00	9,810.00	25,579.00	70,286.00	139,264.00
<u>FY12</u>	308,872.00	356,397.00	148,885.00	57,094.00	39,664.00	16,689.00	9,244.00	8,680.00	11,534.00	28,968.00	64,348.00	167,260.00
<u>FY13</u>	313,706.00	349,254.00	133,081.00	48,812.00	26,391.00	20,748.00	6,688.00	11,008.00	9,704.00	18,140.00	49,217.00	178,209.00
<u>FY14</u>	347,797.00	336,909.00	133,223.00	46,090.00	30,953.00	31,661.00	5,518.00	6,260.00	8,994.00	16,948.00	67,246.00	163,379.00
<u>FY15</u>	345,249.00	355,563.00										

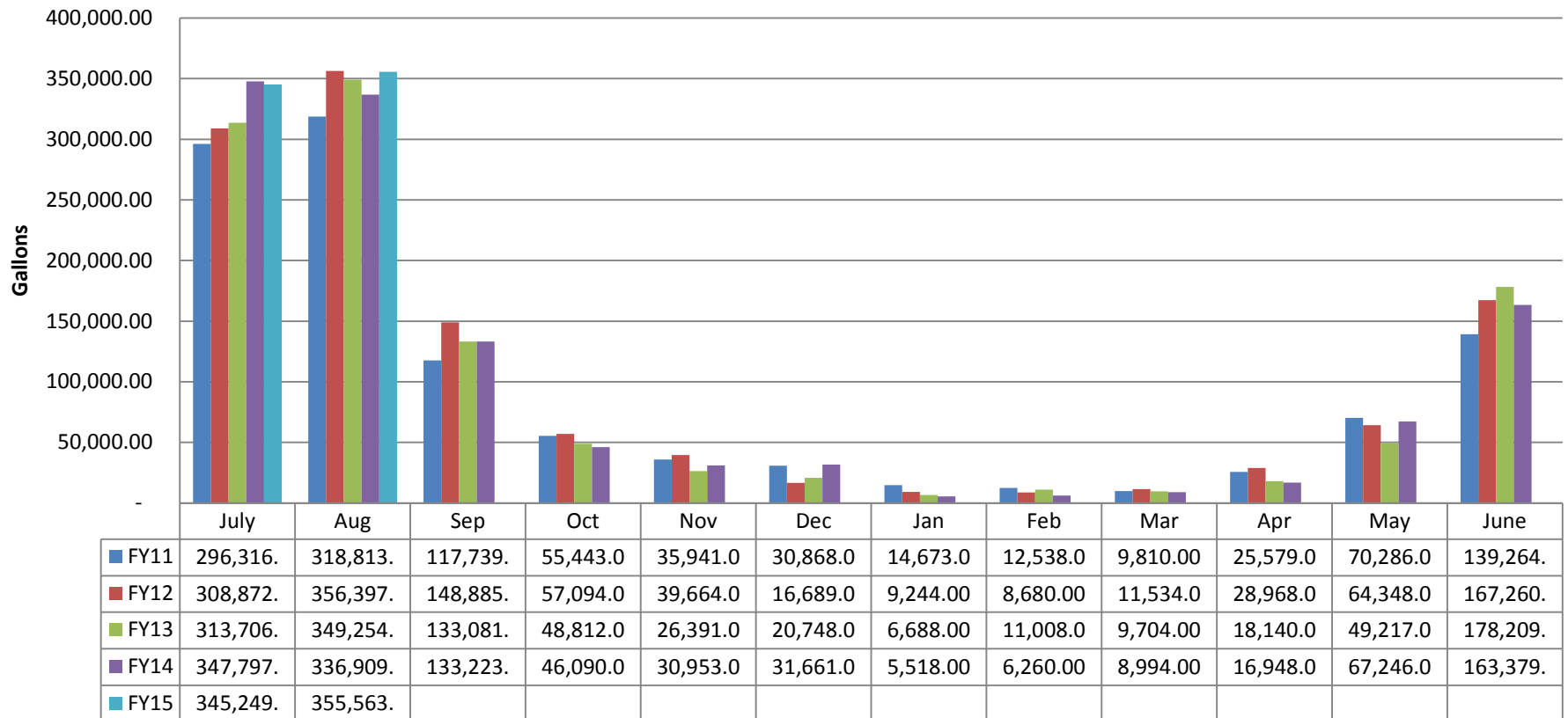
**August 2013 vs. August 2014 Up 6%**  
**YTD – Up 2.35%**

	<u>July</u>	<u>Aug</u>	<u>Total</u>	<u>% Change</u>
<b><u>FY 2011 Jet A</u></b>	296,316.00	318,813.00	615,129.00	
<b><u>FY 2012 Jet A</u></b>	308,872.00	356,397.00	665,269.00	8.15%
<b><u>FY 2013 Jet A</u></b>	313,706.00	349,254.00	662,960.00	-0.35%
<b><u>FY 2014 Jet A</u></b>	347,797.00	336,909.00	684,706.00	3.28%
<b><u>FY 2015 Jet A</u></b>	345,249.00	355,563.00	700,812.00	2.35%



## Monthly Jet A Gallons Sold

*Per Fiscal Year*





# Nantucket Memorial Airport

## AvGas Gallons Sold FY2011 vs. FY2015

	<u>July</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>June</u>
<u>FY11</u>	25,308.30	23,727.70	15,022.70	6,695.60	3,300.00	4,161.50	2,306.00	1,976.00	2,339.20	11,885.80	12,514.70	13,811.10
<u>FY12</u>	26,769.50	25,777.50	15,956.90	9,067.30	3,897.00	4,094.00	2,054.20	2,917.30	3,527.60	9,389.20	13,661.80	20,124.10
<u>FY13</u>	29,107.10	25,742.30	13,727.90	6,840.90	5,152.10	3,295.70	2,477.90	2,176.10	2,927.00	4,245.30	8,719.60	11,595.20
<u>FY14</u>	23,475.10	29,626.50	13,996.70	6,999.00	3,869.60	4,579.80	1,974.10	1,346.30	1,836.00	3,617.00	8,465.30	15,239.30
<u>FY15</u>	23,806.00	24,958.50										

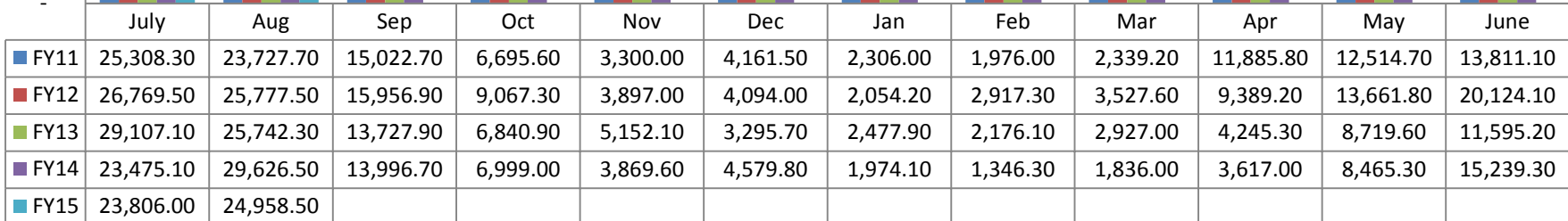
**August 2013 vs. August 2014  
down -16%**

	<u>July</u>	<u>Aug</u>	Total	% Chng
<b><u>2011 AvGas</u></b>	25,308.30	23,727.70	49,036.00	
<b><u>2012 AvGas</u></b>	26,769.50	25,777.50	52,547.00	7.16%
<b><u>2013 AvGas</u></b>	29,107.10	25,742.30	54,849.40	4.38%
<b><u>2014 AvGas</u></b>	23,475.10	29,626.50	53,101.60	-3.19%
<b><u>2015 AvGas</u></b>	23,806.00	24,958.50	48,764.50	-8.17%





*Per Fiscal Year*





# Nantucket Memorial Airport

- 2014 monthly freight -

AIRLINE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
Cape Air (KAP)	53,937	47,438	51,553	59,485	49,769	59,146	68,291	64,026					
Island Air (ISA)	35,955	31,391	36,157	51,088	65,734	99,902	135,809	124,019					
Wiggins-FedEx	23,882	20,748	29,223	47,281	68,789	90,080	123,441	97,231					
Wiggins-UPS	1,972	1,078	2,505	5,811	8,006	10,221	13,269	11,475					
Monthly Total	115,746	100,655	119,438	163,665	192,298	259,349	340,810	296,751					
% Change Prior Year	(17.33)	(16.87)	(15.76)	(3.52)	(15.13)	(8.85)	10.78	(4.60)					



# Nantucket Memorial Airport

## Noise Complaints

	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total
<b>FY 2011 Calls</b>	21	25	6	9	3	4	1	1	1	0	3	8	82
<b>FY 2012 Calls</b>	23	28	13	1	2	4	6	4	1	3	16	22	123
<b>FY 2013 Calls</b>	96	7	6	5	4	2	2	4	2	11	25	25	189
<b>FY 2014 Calls</b>	28	12	8	2	4	0	1	0	1	0	33	44	133
<b>FY 2015 Calls</b>	47	61											

	July	Aug	Total	% Change
<b>FY 2011 Calls</b>	21	25	46	
<b>FY 2012 Calls</b>	23	28	51	11%
<b>FY 2013 Calls</b>	96	7	103	102%
<b>FY 2014 Calls</b>	28	12	40	-61%
<b>FY 2015 Calls</b>	47	61	108	170%

## **August Noise Complaint Summary:**

### **August 2014 – 61 Noise Complaints**

19 complaints were received from 13 different residents regarding aircraft operating outside of designated noise abatement corridors.

- 10 complaints, upon investigation, were VFR aircraft operating on ATC instruction\*
- 6 complaints, upon investigation, were VFR aircraft operating at pilot's discretion
- 3 complaints could not be resolved due to a LiveATC outage.

11 complaints were received from 5 different residents concerning flights within noise abatement corridors or runway 33 departures.

10 complaints were received from one resident regarding Island Air Cessna 208 operations, specifically Island crossings between the Miacomet area and the Cliff Rd. water tower.

7 complaints from one resident were abusive, and not investigated further.

3 complaints were received from one resident that, upon investigation, were determined to involve MedFlights, and were not investigated any further.

3 complaints were received from 2 different residents, regarding private helicopter operations operating under ATC instruction.

2 complaints were received from 2 different residents regarding IFR flights

2 complaints were not resolved due to a lack of sufficient detail.

2 complaints were received from 2 residents: upon investigation these were determined to involve Air National Guard or USCG auxiliary flights, and were not investigated further.

1 complaint was received regarding gunfire at the training range located on Airport property.

1 complaint was received from a resident regarding ramp noise.

\*This includes an out of corridor flight resulting from a pilot giving way under CTAF operations.

Excepting the 7 abusive calls, verbal or written follow up was accomplished in 52 out of the remaining 54 complaints (96%).