

Leyden Select Board Meeting Minutes
Leyden Town Office Building
Regular Session
Monday, December 9, 2024
9:00 am

Select Board Members Present: Katherine DiMatteo, Jeffrey Baker

Others Present: Michele Giarusso, Janell Howard, Madison Schofield, Jack Golden, John Wallace
Remote Access: Liz Kidder

Katherine called the meeting to order at 9:03 am.

Sign Warrants and Approve Minutes of 11/25/24 and 12/2/24

Motion: Jeff moved, and Katherine seconded to approve the 11/25/24 minutes, unanimously approved.

Motion: Jeff moved, and Katherine seconded to approve the 12/2/24 minutes, unanimously approved.

Select Board reviewed and signed the 12-12-2024 warrants.

Town Coordinator and Admin Assistant Reports

- Tony Streeter called about the road not being plowed in front of his property. Tony said he has a letter stating that the town would plow the road down to his driveway. (add letter to the minutes). Discussion on the Hunt Hill Road and where the plowing stops. There's not a turn around for the plows to be able to plow the road in front of Tony's house. Tony and Bill are meeting to talk about the road/plowing.
- Michele sent an email to the Select Board with her report.
- Michele is working on two different grants for the bog right now.
- Discussion on what will be built over the bog. Total design will be approximately \$1,000,000 for construction. Possible funding could be the MVP or TIP through the FRCOG or some other road or bridge project grant. The number one priority is to find how to fund the bog project.
- The Town Buildings all have repairs and improvements that need to be made. Maybe FRCOG can help give us a plan for the town buildings to be most serviceable and helpful for the residents of the town.
- Discussion on some questions from Michele's report.
- Janell followed up with Gary Ponce with Colrain Ambulance service and is waiting for his reply, to set up a time for a quarterly check in and prepayment option.
- The Select Board signed the Garmin InReach credit application for the town to be able to purchase the InReach devices with the EMPG Grant when the grant contract has been signed.

ACTION: Katherine will contact Tony Streeter to discuss the Hunt Hill Road plow issue.

ACTION: Katherine will write a letter to the School Superintendent about the conditions of the road and the recommendations of the Highway Department.

ACTION: Michele will talk to the Franklin County Technical school to see their procedure when some towns have school cancellations due to weather and some don't.

Katherine called the MLP Meeting to order at 9:31 am:

- MLP formed an advisory board and Erica is on it.

- Discussion on the status of MLP, things are going great, John is part of the team now and has been working with the accountant and treasurer to keep track of the finances.

Retained Earnings and Paying Down Debt

- Discussion on the accounts and retained earnings.
- The worth of the hut and equipment is about \$500,000 so if there was a fire it would be a big expense to replace. It is insured.
- MLP is working well and the committee is able to monitor things with minimal effort.
- Over time different equipment will be traded out as newer technology is available.
- ONT is owned by the town and is outside residents' homes; those could be the next equipment that might need to be upgraded.
- If someone says their internet speed is slowing, have them call Whip City Tech support and report it as an issue. Then Whip City can monitor the router which is most likely the problem. If Whip City finds it is the router they will replace it with a new one that will be better.
- Principal \$662,177.10
Interest is \$31,134
The debt is \$693,500
- John and Jack will discuss and decide how much of the retained earnings will be used to pay down the loan and how much will be saved for emergency expenses.
- Discussion on whether some of the money in the accounts could be put in CD's. The treasurer is a great resource.
- Discussion on bills that come in monthly and direct bills. Discussion on repair responsibility between the customer, Whip City and the town.
- The town is registered for the Digital Equity Drive and there is money available that would qualify for the Digital Equity Drive for different programs. This can be in coordination with GCC's program to help seniors with technology.
- Jack is going to work on outreach to the community to bring the technology information to residents.
- Jeff will start going to the MLP advisory board meetings.
- Discussion on paving the road to the internet hut.

Motion: Jeff moved, and Katherine seconded to adjourn the meeting at 10:20 am.

Town Clerk

Schedule the second interview with Trouble for next Monday evening.

Based on references that were received the Select Board is eliminating one of the town clerk candidates.

ACTION: Michele will contact Trouble to set up time for a second interview for the next Select Board meeting.

Agenda for 12/16/24 Select Board meeting

- Follow up on Hunt Hill communications.
- Follow up on the communications about school closures due to weather.

Motion: Jeff moved, and Katherine seconded to adjourn the meeting at 11:10am, unanimously approved.

Respectfully submitted,

Janell Howard

TOWN OF LEYDEN
CONSULTANT AGREEMENT
FOR MANAGEMENT OF THE TOWN'S MUNICIPAL AGGREGATION PROGRAM AND
ENERGY-RELATED SERVICES

This Consultant Agreement is made and entered into this 2nd ^{Ad} day of Jer, 2024, by and between the Town of Leyden ("Town"), a municipal corporation having its principal place of business at 7 Brattleboro Road, Leyden, MA 01301, through its Select Board, and Colonial Power Group, Inc., having its principal place of business at 5 Mount Royal Avenue, Marlborough, MA 01752 ("Consultant"). It is agreed between the parties hereto as follows:

SCOPE OF SERVICES, DELIVERABLES: The scope of Services to be performed by the

Consultant shall be all of the services contained in and reasonably inferable from the Request for Proposals (RFP), named Electricity Supply Aggregation Consultant Services, issued by the Franklin Regional Council of Governments in or about March 2018, for a Regional Aggregation Program as supplemented and amended by any written addenda issued, and any proposal submitted by Consultant in response thereto ("Proposal"), all of which are incorporated herein by reference and which, together with this signed Agreement, are collectively referred to as the "Contract" or "Agreement" provided that in the event of any conflict or inconsistency in and between the terms of the RFP and the Proposal, the terms resulting in the better quality and greater quantity of services reasonably determined by the Town, shall control. In addition to, and not in limitation of, any standards set forth in the RFP or Proposal, Consultant shall perform its services using best efforts, and with reasonable diligence and reasonable care.

The Consultant shall fully cooperate with and assist the Town and its agents in connection with the preparation of an aggregation plan and, if applicable, energy plan under M.G.L. c. 164, §134, including without limitation meeting with representatives of the Town at such times and with such frequency as reasonably necessary; preparing such plans in consultation with the Town and Massachusetts Department of Energy Resources (DOER); soliciting approval of such plans from the Massachusetts Department of Public Utilities (DPU) and the Town's consumers; and preparation of a public-education program regarding such plans. The Consultant represents and warrants that it is an electricity broker licensed by the DPU; that it is thoroughly familiar with all laws and regulations of the Commonwealth of Massachusetts addressing electricity aggregation, as well as the "Guide to Municipal Aggregation in Massachusetts" published by DOER; and that it shall perform all services under this Agreement in accordance with such laws and regulations, as well as all other applicable laws and regulations.

CONTRACTUAL RELATIONSHIP: The Consultant shall provide services described in this

Agreement. While so performing the services under this Agreement, the Consultant and the Town agree, understand and recognize that pursuant to and for the purposes of M.G.L. c. 149, §148B, the Consultant is an independent contractor, and, therefore: (1) Consultant is free from the Town's control and direction in connection with the performance of the service, both under this Agreement and in fact; and (2) the service is performed outside the usual course of the business of the Town; and, (3) the Consultant is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the execution of the services to be performed by Consultant hereunder.

APPLICABLE LAW: This Agreement shall be subject to and construed in accordance with all applicable laws and regulations, which are incorporated herein by reference and shall control in the event of a direct, irreconcilable conflict between the provisions of such laws and regulations and the provisions of this Agreement.

PAYMENT TERMS AND SCHEDULE: The Consultant shall, during the term of this Agreement, receive a price of \$0.001 per kilowatt hour (kWh) for each kWh purchased by a participating consumer under the Town's aggregation plan. Said price per kWh shall be the complete price for all services furnished and all expenses incurred by the Consultant, and shall be paid directly to the Consultant by the Competitive Supplier. The Town shall not have any liability with respect to such payment, including without limitation in the event of any failure of the Competitive Supplier to make such payments. Notwithstanding the foregoing, the Town may, before the execution of any contract with any Competitive Supplier, and in its sole discretion, elect to discontinue, at any time and for any reason, its plan of aggregation, and in such event, terminate this Agreement without any liability. In the event the Town enters into a contract with a Competitive Supplier, nothing in this Agreement shall prevent the Town from terminating such contract with the Competitive Supplier and, thereafter, this Agreement without any liability.

TAX COMPLIANCE: The Consultant, by signing this Agreement, hereby certifies under penalties of perjury, in accordance with M.G.L. c. 62C, 49A, that it has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and ~~withhold~~and remitting of child support.

UNEMPLOYMENT CONTRIBUTION: The Consultant complies with all laws of the Commonwealth of Massachusetts relating to unemployment contribution or payments in lieu of contributions in accordance with M.G.L. c. 15 IA, 19A.

DEBARMENT; NON-COLLUSION: The Consultant certifies under penalty of perjury that the said undersigned is not presently debarred from entering into a public contract in the Commonwealth of Massachusetts under the provisions of M.G.L. c. 29, 29F, or any other applicable debarment provisions of any other chapter of the Massachusetts General Laws or any rule or regulation promulgated thereunder; and that its bid or proposal, if any, submitted in response to the any solicitation culminating in this Agreement was made and submitted in good faith and without collusion or fraud with any other person (as used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals).

INDEMNIFICATION: In addition to all other rights and remedies available to the Town, Consultant agrees as follows: The Consultant, at its expense, shall to the maximum extent permitted by law,

indemnify and save harmless the Town, its officers, agents and employees from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs, and expenses (including reasonable attorney's fees) for any personal injury or property damage or other damages that the Town may sustain which arise out of or in connection with the performance of this Agreement by the Consultant, its employees, agents or other persons acting on Consultant's behalf or for whom Consultant is responsible, including but not limited to negligence and/or reckless or intentional conduct of the Consultant, its agents, officers, employees, sub-consultants, or subcontractors. The existence of insurance shall in no way limit the scope of this indemnification obligation. The Consultant further agrees to reimburse the Town for damage to the Town's real or personal property caused by the Consultant, its employees or agents, unless damage is caused by the Town's gross negligence or willful misconduct. After prompt notification of a claim by the Town, the Consultant shall have a reasonable opportunity to participate in the defense of such claim and any negotiated settlement agreement or judgment. The Town shall not be liable for any costs incurred by the Consultant arising under this paragraph.

INSURANCE: The Consultant shall maintain, during the full term of this Agreement, the insurance set forth below. Such insurance shall be written on an occurrence basis, be primary and non-contributory, and shall provide by endorsement that the Town is added as an additional insured to the General Liability policy, that Consultant waives rights of subrogation, and that the Town shall receive advance written notice of any cancellation of any such insurance policy.

General Liability \$ per
occurrence
\$2,000,000 aggregate

Automobile Liability
\$ 1 hired/non-owned autos

Workers' Compensation Insurance
\$ 1,000,000 employer's liability limit

Professional Liability Insurance
Minimum Coverage \$1 per occurrence

Umbrella Liability Insurance

Minimum Coverage \$3,000,000 per occurrence

Prior to commencement of any work under this Agreement, the Consultant shall provide the Town with Certificates of Insurance which include the Town as an additional named insured and which include a thirty day notice of cancellation to the Town.

ASSIGNMENT PROHIBITED: The Consultant agrees that it will not be permitted to assign, subcontract or underlet the Agreement, nor assign either legally or equitably, any monies hereunder, or its claim thereto, without the previous written consent of the Select Board.

AMENDMENTS OR CHANGES: Any amendments or changes to this Agreement must be in writing and signed by officials with authority to bind the Consultant and the Town.

ABANDONMENT OF WORK OR OTHER DEFAULT: The Consultant agrees that any failure of Consultant to perform, timely and properly, all services required by this Agreement, such as, without limitation, Consultant's abandonment or delay of services, or Consultant's failure to supply required reports after the date of execution of this Agreement, shall be a breach of this Agreement for which the Town may terminate the Agreement under the provision for termination below. The Town may, in the event of such termination, or in lieu of termination but without waiver of its right to terminate the Agreement, and by whatever legal remedies are available to it, complete or cause to be completed, the work or services not performed (or not properly or timely performed) by Consultant, and the Consultant shall be responsible for the entire cost of the Town's completion of such work or services. Consultant shall forthwith pay such costs to the Town, as well as any and all losses, damages, costs and expenses, including attorney's fees, sustained or incurred by the Town by reason of completing such work or services. In such event, except as may be required by law, the Town shall have no obligation to have such work and services performed at the lowest price.

PROCUREMENT ERRORS: If errors in the procurement or bidding laws or regulations of the Commonwealth, whether said errors were made by the Consultant or the Town, are found to exist by any agency of the Commonwealth or by any court of competent jurisdiction, this Agreement may be voided by the Town without liability. The Town makes no representations concerning the applicability or inapplicability of any procurement or bidding laws to this Agreement.

TERMINATION: This Agreement shall expire on the date specified in this Agreement, below, unless the Agreement is terminated earlier. The Town may terminate this Agreement without liability upon seven (7) days' advance written notice to Consultant for any of the following reasons:

1. Breach of the Agreement by the Consultant.
2. For the Town's convenience, including if the Town decides, in its sole discretion, to cancel the aggregation program.
3. If the Town terminates any electricity supply contract entered into by the Town for the aggregation.
4. For any other reason permitted by law.

SEVERABILITY: The provisions of this Agreement are severable. If any provision of this Agreement is held invalid or if any court of competent jurisdiction holds any provision unlawful or not legal, the remaining provisions shall remain in effect, unless such invalidity materially and adversely affects an essential purpose of this Agreement, in which event the entire Agreement shall be deemed invalid.

ENTIRE AGREEMENT CLAUSE: The Town and the Consultant that this Agreement and its attachments constitute the entire Agreement between the Town and the Consultant, and no other binding agreement exist other than those incorporated herein.

DURATION OF AGREEMENT: It is the duration of this Agreement shall be 5 years with options to renew/extend up to an additional 5 years. These options are exercisable solely at the Town's discretion. It

is understood and agreed that there is no financial contractual obligation of the Town in this Agreement or in any years subsequent to the fiscal year in which this Agreement is executed.

INTERPRETATION/ENFORCEMENT: This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to laws or principles concerning conflicts-of-laws, and any litigation arising hereunder shall be brought solely in the state courts of the Commonwealth, to whose jurisdiction the parties assent, waiving any objection to forum or venue.

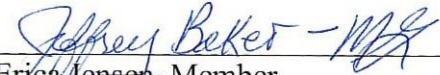
IN WITNESS WHEREOF, the said Consultant, and the said Town hereto set our hands and

seals.

~~Glenn Caffery, Chair~~



~~Katherine DiMatteo, Member~~ Chair



~~Erica Jensen, Member~~

~~Jeffrey Baker~~

Date: 12/2/24

FOR THE CONSULTANT
BY:
Mark Cappadona, President

_____ Date:

FOR THE TOWN OF LEYDEN
BY ITS SELECT BOARD: