



TOWN COUNCIL MEETING

Monday, February 28, 2022 at 6:00 PM

Town Hall - 41 South Main Street Randolph, MA 02368

AGENDA

In accordance with Governor Baker's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 COVID 19 emergency, the Town Council shall meet remotely to avoid group congregation.

The public is invited to attend this meeting remotely, only via phone or computer. In order to maintain safe social distancing guidelines, no physical presence will be allowed at this time. The Town Website will be updated on the day of the meeting with the phone and computer access instructions.

A. Call to Order - Roll Call - Pledge of Allegiance

B. Moment of Silent Prayer

C. Approval of Minutes

D. Announcements from the President

E. Presentations

1. Presentation by Senator Walter Timilty Regarding Cyber Security Workshop

F. Appointments

G. Public Hearings

1. Council Order- 2022-10 Authorizing Additional Borrowing for Water Treatment Plant Project

H. Public Comments/Discussions

I. Proclamations

J. Motions, Orders, and Resolutions

1. Resolution Calling on the Biden Administration to Cease Deportation of Haitian Migrants Under Title 42

K. Town Manager's Report

L. Old/Unfinished Business

M. New Business

- [1.](#) 2022-11 Council Order Authorizing the Town to Enter Into a Governance Agreement - Intermunicipal Agreement for Emergency Communications and Dispatch Services Between Randolph and Braintree

N. Correspondence

O. Committee Reports

P. Open Council Comments

Q. Executive Session

The Town Council may vote to go into executive session pursuant to M.G.L. ch. 30A, section 21(a)(3) relative to litigation strategy concerning the Town's claims in its opioid litigation. M.G.L. ch. 30A, section 21(a)(3) permits a public body to go into executive session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.

R. Adjournment

March 14 & 28

April 11 & 25

May 9 & 23

June 13 & 27

July 11 & 25

August 8 & 22

September 12

October 3 & 17

November 7 & 21

December 5 & 19

Council Order: 2022-10**Introduced By: Town Manager Brian Howard****Date: February 14, 2022****Appropriation and Approval of Borrowing for Tri Town Water Treatment Plant**

To see if the Randolph Town Council will vote to appropriate \$3,855,532 to pay the Town of Randolph's share of the additional costs of designing, constructing, equipping, and furnishing of the Tri-Town Regional Water Treatment Plant including without limitation all costs incidental or related thereto: which amount shall be expended in addition to all other amounts previously appropriated by the town for this project. To meet this appropriation, the Treasurer with the approval of the Town Manager is authorized to borrow \$3,855,532 and issue bonds or notes therefore under M.G.L. c.44 section 7 (1), section 8 (4), 44 of the General Laws and/or Chapter 29C of the General Laws, or pursuant to any other enabling authority, that the Treasurer with the approval of the Town Manager is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C; and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Town Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project.

February 8, 2022
REVISED

Brian Howard Town
Manager Town Hall
41 South Main St.
Randolph, MA 02368

**RE: Tri-Town Regional Water Treatment Plant
Application for Financial Assistance
Drinking Water State Revolving Fund – Construction Stage
DWSRF #7260**

Dear Mr. Howard:

The Tri-Town Water District on behalf of the communities of Randolph, Holbrook and Braintree recently applied for financial assistance through the Drinking Water State Revolving Fund (DWSRF) Program for the Tri-Town Regional Water Treatment Plant project (DWSRF-7260)

The 90% design was submitted to MassDEP on October 15, 2021 by AECOM the design Engineer. Environmental Partners, the Owners Project Manager has completed the peer review of the 90% and AECOM is currently working on the 100% design, to be completed by January 2022. Local permit approvals are underway.

To receive the Drinking Water Trust and MassDEP Project Approval Certificate (PAC) and Permission to Advertise in February 2022 certification of the appropriation for the entire project from design through startup is required. The Town of Randolph appropriated a total of **\$24,344,950 (ENR 2018)** for the project based on Conceptual Opinion of Probable Construction Cost (OPCC) **2018 of \$67,136,000** for the Tri-Town Regional Water Treatment Plant design, construction, and construction phase engineering services and **\$2,864,000** for the subaqueous transmission mains construction for a total November 2018 OPCC of \$70,000,000.

As part of the 90% submission an OPCC was prepared by an independent construction cost estimator utilizing the now detailed design. The 90% OPCC, prepared in November 2021, is **\$78,761,618** for the Tri-Town Regional Water Treatment Plant design, construction, and construction phase engineering services and **\$2,843,064** for the subaqueous transmission mains construction for a total OPCC of \$81,604,682. The increase in overall project costs is outlines below:

1. **Escalation.** There is a great deal of uncertainty as inflation continues to ramp up. Specifically, supply chain disruption due to the long-term effects of COVID 19 have resulted in an increase of escalation to mid-point of construction rate increased from **3.5% to 5.0% for an increase of \$0.5M.**

2. **Water & Wastewater Equipment Costs.** Supply chain uncertainty and lead time issues are affecting cost and openness of suppliers to hold pricing firm. Some suppliers will now only quote firm prices at order time. Estimated increase in equipment costs for this project.
 - a. Increase of **\$1.4M** total from all divisions.
3. Dissolved Air Floatation unit pricing increased by **\$0.2M** in May 2021 following our submission of the 60% estimate.
4. Average **labor cost** increased from \$94.50/hr to \$101.64/hr.
 - a. The \$7.14/hr increase x 236,500 person-hours results in an increase of **\$1.7M**.
5. **Concrete material cost** increased by **\$1.6M**.
 - a. Wall concrete unit cost increased from \$190/CY to \$495/CY.
 - b. Elevated framed slabs cost increased from \$180/CY to \$505/CY.
6. **Electrical material cost** increased by **\$1.6M**, impacted by the following increases in average cost:
 - a. Fitting prices increased by 1.5x.
 - b. Copper price/LB increased by 2x.
 - c. Conduit price/LF increased by 3x.
7. General Contractor **Overhead & Profit** multiplier on costs outlined above increased **\$1.1M**.
 - a. Assuming 20% overall OH&P (have been seeing 17% OH&P for WTP Subtotals and 25% OH&P for Filed Sub-bids.
8. Costs due to advancement of design and reduced by contingency: **\$1.4M**
 - a. Advancement of design, specifically for civil/site, electrical and I&C disciplines increased **\$3.6M**.
 - b. Contingency decreased to 10% to reduce the cost by **(\$2.2M)**.
9. Owner's project manager and design engineering services for construction phase services and resident project representatives increased by **\$2M**.

We respectfully request that you present the need for additional funding of **\$3,855,532** to the Town Council at their next meeting for reading and Public Hearing. It should be noted the design and construction costs associated with the lagoons (if required as a result of the MWRA permitting) would require an additional appropriation of \$850,000 which is 34% of \$2,500,000.

Please find attached a summary of project costs and a draft Town Council for additional funding based on the requirements of the DWSRF program.

Please feel free to contact me at (781) 856-2611 or htg@envpartners.com with any questions you may have or if you need any additional information.

Sincerely,



Environmental Partners Group, LLC
Helen Gordon, P.E., MCPPO, BCEE
Senior Program Manager | Associate

cc: Board of Selectmen
Janine Smith, Treasurer
Christopher Pellitteri, DPW Superintendent
Stephen DeFrancesco, P.E., AECOM
Sarah Price P.E., EP

| 1. Funding Sources | Randolph Funding FY19 | | | | |
|---|-----------------------|------------------------|---------------------------------|----------------------------|------------------------------|
| Council Order: 2018-030 | \$ 16,000,000 | | | | |
| Council Order: 2019-039 | \$ 8,344,950 | | | | |
| 2. Design Phase Work | | Total Costs 2021 | Randolph (34%) Total Costs 2021 | Randolph SRF Eligible Cost | Randolph SRF Ineligible Cost |
| Preliminary Pilot Plant, Schematic Design | | \$ 514,863 | \$ 175,053 | | \$ 175,053 |
| EP OPM & Designer Services During Design and Construction Procurement Phase | | \$ 5,198,830 | \$ 1,767,602 | \$ - | \$ 1,767,602 |
| | Subtotal | \$ 5,713,693.00 | \$ 1,942,655 | \$ - | \$ 1,942,655 |
| 3. Expected Construction Costs | | | | | |
| TTRWTP Construction Estimate (90% OPCC) Construction Contingency and midpoint construction | | \$ 67,905,025 | \$ 23,087,708 | \$ 23,087,708 | |
| Subaqueous Transmission Mains Construction Estimate (90% OPCC) Construction Contingency and Midpoint Construction | | \$ 2,843,064 | \$ 1,421,532 ¹ | \$ 1,421,532 ¹ | |
| OPM Construction Admin, Resident Project Representative (EP) & Design Engineer (AECOM) | | \$ 5,042,900 | \$ 1,714,586 | \$ 1,714,586 | |
| Other Legal | | \$ 100,000 | \$ 34,000 | \$ 34,000 | |
| | Subtotal | \$ 75,890,989 | \$ 26,257,826 | \$ 26,257,826 | |
| 4. Project Totals | \$ 24,344,950 | \$ 81,604,682 | \$ 28,200,482 | \$ 26,257,826 | \$ 1,942,655 |
| Randolph SRF Funding Gap | | | \$ (3,855,532) | | |

Notes:

- 1) The communities shall split the costs of the Tri-Town Regional Water Treatment Plant as follows: the Town of Braintree - 50%; the Town of Randolph - 34%; and, the Town of Holbrook - 16%. The Towns of Randolph and Holbrook shall split the costs of the Subaqueous Transmission Mains 50/50.

Randolph Town Council
In Town Council, December XX, 2021
Council Order: O-FY22-XX

Introduced By: Town Manager

Date Introduced: -

Reading/Public Hearing: -

Date Adopted:

Date Effective:

Order O-FY

LOAN ORDER - FOR TRI-TOWN REGIONAL WATER TREATMENT PLANT

ORDERED, that, the Town of Randolph appropriates **\$3,855,532** to pay the Town of Randolph's share of the additional costs of designing, constructing, equipping, and furnishing of the Tri-Town Regional Water Treatment Plant including without limitation all costs incidental or related thereto; which amount shall be expended in addition to all other amounts previously appropriated by the town for this project. To meet this appropriation the Treasurer with the approval of the Town Manager is authorized to borrow **\$3,855,532** and issue bonds or notes therefore under M.G.L. c. 44, §7 (1), §8 (4), 44 of the General Laws and/or Chapter 29C of the General Laws; or pursuant to any other enabling authority, that the Treasurer with the approval of the Town Manger is authorized to borrow all or a portion of such amount from the Massachusetts Drinking Water Trust established pursuant to Chapter 29C; and in connection therewith to enter into a financing agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Town Manager is authorized to enter into a project regulatory agreement with the department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with M.G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Explanation:

1. **Escalation.** There is a great deal of uncertainty as inflation continues to ramp up. Specifically, supply chain disruption due to the long-term effects of COVID 19 have resulted in an increase of escalation to mid-point of construction rate increased from **3.5% to 5.0% for an increase of \$0.5M.**
2. **Water & Wastewater Equipment Costs.** Supply chain uncertainty and lead time issues are affecting cost and openness of suppliers to hold pricing firm. Some suppliers will now only quote firm prices at order time. Estimated increase in equipment costs for this project.
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| | |
|--------------------------|---|
| Account Number: | 663354 |
| Customer Name: | Randolph Planning Director |
| Customer Address: | Randolph Planning Director 41 South Main St Randolph MA 02368 |
| Contact Name: | Randolph Planning Director |
| Contact Phone: | 7819610936 |
| Contact Email: | |
| PO Number: | |

| | |
|---------------------------|------------|
| Date: | 02/16/2022 |
| Order Number: | 6935973 |
| Prepayment Amount: | \$ 0.00 |

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|--------------------------|--------|
| Column Count: | 1.0000 |
| Line Count: | 1.0000 |
| Height in Inches: | 0.0000 |

Print

| Product | #Insertions | Start - End | Category |
|----------------------------|-------------|-------------------------|----------------|
| NEO wickedlocal.com | 1 | 02/18/2022 - 02/18/2022 | Public Notices |
| NEO QUI The Patriot Ledger | 1 | 02/18/2022 - 02/18/2022 | Public Notices |

| | |
|---------------------------------|----------------|
| Total Order Confirmation | \$58.14 |
|---------------------------------|----------------|

**HEARING 02/28/22
LEGAL NOTICE**

The Randolph Town Council will conduct a public hearing on Monday, February 28, 2022 at 6:15pm via ZOOM to request an appropriation of \$3,855,532 to pay the Town of Randolph's share of the additional costs of designing, constructing, equipping, and furnishing of the TriTown Regional Water Treatment Plant through borrowing and the issue of bonds or notes under M.G.L. c.44 section 7 (1), section 8 (4), 44 and/or Chapter 29C or pursuant to any other enabling authority, and to enter into a financing and/or security agreement with the Massachusetts Clean Water Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing.

The link to the meeting may be found on the Town of Randolph website calendar.

AD#6935973
PL 02/18/2022

Resolution: 2022-01

**Introduced By: Councilor Natacha Clerger
February 28, 2022**

**RESOLUTION CALLING ON THE BIDEN ADMINISTRATION TO CEASE
DEPORTATIONS OF HAITIAN MIGRANTS UNDER TITLE 42**

WHEREAS, Greater Boston is home to the third largest Haitian diaspora in the United States, a diaspora that has been making this area its home since the 1960s and that contributes to the workforce, economy, and cultural vibrancy of the region; and

WHEREAS, the Town of Randolph is proud to be home to a significant proportion of those Haitian or Haitian-American residents; and

WHEREAS, on March 25, 2020 the Trump Administration initiated a deportation policy under a public health law that restricts immigration at the United States-Mexican border based on an unlawful invocation of the Public Health Act under Title 42 of the U.S Code (“Title 42”) in violation of U.S. constitutional law and international law; and

WHEREAS, the Biden Administration has continued the immigration policies of the Trump Administration, further ramping up deportations, leading to mass expulsions of Haitians under Title 42; and

WHEREAS, Haitian migrants are unable to make claims for asylum as required under U.S. law and international law. Consequently, the actions of the Biden administration violate U.S. and international laws against returning migrants to persecution and torture; and

WHEREAS, in early September 2021, images revealed the inhumane treatment of Haitian migrants at the hands of U.S. Customs and Border Protection agents who, mounted on horseback, used the hides of their whips to violently chase Haitian migrants, a cruel reminder of slavery and the anti-Blackness embedded in this country’s immigration policy; and

WHEREAS, the deportations under the guise of Title 42 have only escalated, with the U.S. government deporting nearly 14,000 Haitian migrants since September 2021, totaling more than 17,000 Haitian migrants deported to Haiti since the beginning of the Biden Administration; and

WHEREAS, on Thursday, February 3, 2022, during Black History Month, the Biden Administration chose to extend its practices of deportation under Title 42, despite widespread opposition from human rights groups, public health officials, elected officials, and asylum advocates; and

WHEREAS, migrants are forced to return to a Haiti rife with political, social, and economic instability and are often at a greater risk of kidnappings, abuse, and violence. The United States government recognizes the risk in Haiti as the State Department’s travel advisory to U.S. citizens regarding travel currently states “Do not travel to Haiti due to kidnapping, crime, civil unrest, and COVID-19;” and

WHEREAS, this country has a legal and moral obligation under its own laws, and international laws and treaties, to receive migrants in distress in search of relief and refuge, thus measures restricting access to asylum must not be allowed under the guise of public health; and

WHEREAS, President Biden has expressed his commitment to reverse Trump-era immigration policies and build a humane immigration system; and

WHEREAS, we have an obligation as the Randolph Town Council to ensure that we have a government committed to justice, prosperity and dignity for all people, including Haitian migrants seeking refuge;

NOW THEREFORE BE IT RESOLVED, that the Randolph Town Council calls on the Biden Administration to cease use of Title 42 and immediately halt the deportation of Haitian immigrants and all migrants, thereby allowing them to seek due process through our legal system to make claims for legal status.

Council Order 2022-11

**Introduced By: Town Manager Brian Howard
February 28, 2022**

**Council Order Authorizing the Town of Randolph to
Enter Into a Governance Agreement - Intermunicipal Agreement for Emergency
Communications and Dispatch Services Between Randolph and Braintree**

The Randolph Town Council hereby authorizes the Town Manager to execute a Governance Agreement - Intermunicipal Agreement for Emergency Communications and Dispatch Services Between Randolph and Braintree (the “Braintree-Randolph Emergency Communications Center Agreement” or the “BRECC Agreement”) in substantially the form attached hereto, as well as any other related agreements or documents as necessary to effectuate the staffing, equipping and operation of the Braintree-Randolph Emergency Communications Center (“BRECC”) as described in the BRECC Agreement and to take any other actions necessary to carry out the terms of the BRECC Agreement, to amend the terms of the BRECC Agreement, or to terminate the BRECC Agreement, in the best interests of the Town of Randolph.

Attachment A – Governance Agreement

**INTERMUNICIPAL AGREEMENT FOR
EMERGENCY COMMUNICATIONS AND DISPATCH SERVICES
BETWEEN RANDOLPH AND BRAINTREE**

THIS AGREEMENT is entered this ____ day of _____, 2022 (the “Commencement Date”) by and among the **TOWN OF BRAINTREE**, a Massachusetts municipality acting by and through its duly authorized Mayor, with a mailing address of 1 JFK Memorial Drive, Braintree, Massachusetts 02184 (“Braintree”), and the **TOWN OF RANDOLPH**, a Massachusetts municipality acting by and through its duly authorized Town Manager, with a mailing address of Town Hall, 41 S. Main Street, Randolph, Massachusetts 02368 (“Randolph”). Braintree and Randolph shall sometimes be referred to herein as a “Town” or the “Towns” or as a “Party” or the “Parties.”

WITNESSETH:

WHEREAS the Towns are each empowered by law to staff, maintain and operate a public safety communications/dispatch center, which is a proper governmental function and service; and

WHEREAS, Braintree has offered to establish and maintain an emergency communications center located at 2 JFK Memorial Drive, Braintree (the “Braintree-Randolph Emergency Communications Center”), (“BRECC”), which is capable, within reasonable limitations, of providing emergency communications and dispatch services for the Towns of Braintree and Randolph; and

WHEREAS Braintree and Randolph desire to have the Braintree-Randolph Emergency Communications Center to serve as a regional emergency communications center providing emergency communications and dispatch services for both Towns; and

WHEREAS the Towns may, pursuant to Section 4A of Chapter 40 of the Massachusetts General Laws, enter into an inter-municipal agreement to perform jointly activities or undertakings which either of the Towns is authorized by law to perform; and

WHEREAS Section 18C of Chapter 6A of the General Laws authorized municipalities to enter into written agreements to provide for regional emergency dispatch services; and

WHEREAS the Towns intend that this Agreement shall set forth the terms and conditions of performing jointly the provision of emergency communications and dispatch services for both Towns, including the maximum financial liability of the Towns, in accordance with Section 4A of Chapter 40 of the Massachusetts General Laws;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Towns agree as follows:

1. Approval by State Agencies:

Pursuant to Sections 18B and 18D of Chapter 6A of the Massachusetts General Laws, this Agreement is

subject to review and approval by the State 911 Department, within the Massachusetts Executive Office of Public Safety. After executing this Agreement, the Towns shall forthwith apply for a regional Public Safety Answering Point, as that term is defined by Section 18A of Chapter 6A of the Massachusetts General Laws (“PSAP”). As part of the Towns’ application, Randolph shall provide a letter indicating that Randolph has designated Braintree as Randolph’s PSAP because of this Agreement (contingent upon approval). If the required approvals, described in this Section 1, are not obtained on or before April 1, 2024, this Agreement shall terminate, and all obligations of the Towns under this Agreement shall cease unless the parties mutually agree to an extension of this date.

2. Service:

Braintree shall use the BRECC to furnish emergency police, fire and emergency medical communication and dispatch services to Randolph, and said services shall be substantially the same as those rendered to Braintree. Those services shall include:

- (a) Receiving emergency and routine calls for police, fire, and emergency medical services, in addition to emergency calls for other municipal matters, including public works, municipal light, and animal control services;
- (b) Directing a response to said calls by either dispatching the appropriate police, fire or medical unit or forwarding of the call to the appropriate department or agency for response;
- (c) Providing on-going communication support to emergency personnel in the field;
- (d) Maintaining dispatch logs and 911 recordings as required by law;
- (e) Providing data and records from/to the Criminal Justice Information Services (CJIS), the Criminal History Systems Board (CHSB) and the National Crime Information Center (NCIC);
- (f) Updating, maintaining, and managing the radio communications systems, computer systems, support files, equipment and resource materials necessary to accomplish the above; and
- (g) Any other service or duty required by law of a PSAP.

The BRECC shall be treated as a municipal facility of the Town of Braintree, subject to the terms of this Agreement and any applicable requirements of law, and all employees and officials providing services relating to the BRECC shall be employees and officials of the Town of Braintree, unless specifically otherwise stated herein. Any Town officers responsible for this Agreement shall give appropriate performance bonds, to the extent required by law.

Pursuant to this Agreement, each Town intends to provide its police department emergency communications and dispatch services through the BRECC. However, each Town shall retain the ability to determine whether the emergency communications and dispatch service for its fire and emergency medical services will be done through the BRECC under this Agreement, or will be handled separately by that Town, which shall be determined by each Town in its sole discretion, and which determination may be adjusted in each Town’s discretion during the term of this Agreement.

3. Discretion Regarding Manner of Providing Service:

- (a) There shall be a Director of Emergency Communications who shall oversee the operations of the BRECC, subject to the requirements contained in this Agreement. The Director of Emergency Communications shall have final decision-making authority regarding all matters involving the day-to-day operation of the BRECC. The Director of Emergency Communications shall provide reports on a regular basis to the BRECC Operations Committee concerning the BRECC operations, including the facility, staffing and budget for the BRECC. The Director of Emergency Communications shall be an employee of the Town of Braintree and shall be appointed by the Town of Braintree, upon receipt of a recommendation from the BRECC Operations Committee. At least one Committee member from each municipality shall participate in the hiring process for the Director of Emergency Communications, along with the Braintree Human Resources Director, including reviewing of applications and participation in interviews. The BRECC Operations Committee and Braintree Human Resources Director shall each then make a recommendation to the Mayor of Braintree for hiring. In the event that the Mayor seeks to appoint an appointee who is not the person recommended by the BRECC Operations Committee, no such appointment shall take place without prior consultation between the Chief Executives of Randolph and Braintree.
- (b) The Director of Emergency Communications shall be supervised by the Town of Braintree, subject to the requirements for that position contained in this Agreement.
- (c) After April 1, 2024, the position of Director of Emergency Communications shall be filled and shall not become vacant for a period of more than 90 days in any one calendar year. No acting or interim Director of Emergency Communications shall be appointed for a period of longer than 90 days in any one calendar year.
- (d) The BRECC Director of Emergency Communications, in collaboration with the police and fire chiefs of Braintree and Randolph, or their designees, shall develop consolidated written procedures for the operation of the BRECC governing the deployment of emergency services in Braintree and Randolph (the "Dispatch Protocols"). The Dispatch Protocols shall take effect, and may be amended, upon approval by the BRECC Operations Committee.
- (e) Notwithstanding the foregoing, the Towns agree that any incident involving a life-threatening situation shall receive the highest priority of communications and dispatch.
- (f) In the event of a failure of the BRECC communications network or the PSAP, the BRECC Director of Emergency Communications shall have the authority to implement emergency procedures to manage the event. The Towns shall agree upon emergency procedures as part of the materials submitted to the State 911 Department, with the approval of the BRECC Operations Committee. The emergency procedures may be reviewed and updated by the Towns on an annual basis, with the approval of the BRECC Operations Committee.
- (g) To the extent that the BRECC creates, receives or maintains records or information that is confidential or otherwise protected from public disclosure, each Town shall be permitted to access any record or information that relates to emergency and other services rendered within that Town and each Town shall be permitted to access the records and information that are necessary for each Town to conduct its business, in compliance with all requirements of law.

4. BRECC Operations Committee:

- a) There is hereby established a BRECC Operations Committee to provide general oversight of the performance and operations of the BRECC, including operational protocols and procedures. The BRECC Operations Committee shall be a four-member committee, with two members designated from each Town. At times when the Police and Fire dispatch and communications services for both Towns are performed by the BRECC under this Agreement, the Police Chief and Fire Chief for Randolph, and the Police Chief and Fire Chief for Braintree, shall serve as their community's respective designated representatives on the BRECC Operations Committee. At all other times, the representatives from each Town shall be the Chief of the participating public safety department that is participating in the BRECC dispatch and communications services and an employee of that public safety department, who shall be appointed by the respective Town's Chief Executive Officer. The BRECC Operations Committee shall meet at least semi-annually, or more frequently as necessary, to advise the Towns regarding the budget and operations of the BRECC and to perform the other functions described in this Agreement. The BRECC Operations Committee may elect a chair and vice chair on an annual basis and shall make decisions by majority vote, except as otherwise required by law. The BRECC Operations Committee may vote to adopt a procedures manual to govern its own operations, which may be amended from time to time. Its procedures may be otherwise governed by the most recent edition of Robert's Rules of Order.
- b) In the event that a member of the BRECC Operations Committee will be temporarily absent from a meeting or meetings, the Town Manager of Randolph (if the member is a Randolph representative) or the Mayor of Braintree (if the member is a Braintree representative) may appoint an alternate representative to serve in that representative's place on a temporary basis, as long as the alternate is an employee of the same public safety department as the member that he or she is temporarily replacing. An alternative representative shall have the authority to make decisions in the name and stead of the person whom he or she has temporarily replaced. An alternative representative's authority shall cease upon written notice from the absent committee member, or upon the appointment of a new representative to that committee member's seat by the Chief Executive Officer of the respective Town. A BRECC Operations Committee representative shall cease to be a Committee representative if his/her Town ceases to be a party to this Agreement.
- c) The BRECC Operations Committee shall have the authority to:
 - Approve the annual operating, facility and staffing plans of the BRECC and changes thereto, in conformance with applicable standards.
 - Approve operating policies and procedures that govern the BRECC in conformance with applicable standards.
 - Recommend the appointment of all employees: i) whose work will be located, in whole or in part, at the BRECC; or ii) whose work will be funded as part of the BRECC Annual Operating Costs. At least one BRECC Operations Committee member from each municipality shall participate in the hiring process for any such employees, along with the Braintree Human Resources Director and the Director of Emergency Communications, including reviewing of applications and participation in interviews. The BRECC Operations Committee, the Director of Emergency Communications and Braintree Human Resources Director shall each

then make a recommendation to the Mayor of Braintree for hiring. In the event that the Mayor seeks to appoint an appointee who is not the person recommended by the BRECC Operations Committee, no such appointment shall take place without prior consultation between the two municipal Chief Executives of Randolph and Braintree.

- Promote diversity, equity and inclusion for BRECC hiring and BRECC operations.
- Review and approve the BRECC Annual Operating Costs, as further described below.

5. Radio Systems:

- (a) Randolph and Braintree shall obtain and keep current all licenses relating to their respective frequencies granted by the Federal Communications Commission (FCC) under Part 90 of the FCC rules and regulations. Each Town shall notify the other Town at least 90 days prior to filing any application with the FCC to modify any component of the Town's FCC license to operate the radio systems. The Towns shall operate the radio system in accordance with Part 90 of the FCC rules and regulations.
- (b) The costs associated with any decision by Randolph to change Randolph's radio system that does not involve the BRECC, including the addition of base stations, receiver sites, or new telecommunications infrastructure, but excluding a plan for interoperability between the Towns' respective radio systems, shall be paid for solely by Randolph (through any funding source available to it, including grants or borrowing) or through an approved Development Grant by the State 911 Department at no cost to Braintree.
- (c) The costs associated with any decision by Braintree to change Braintree's radio system that does not involve the BRECC, including the addition of base stations, receiver sites, or new telecommunications infrastructure, but excluding a plan for interoperability between the Towns' respective radio systems, shall be paid for solely by Braintree (through any funding source available to it, including grants or borrowing) or through an approved Development Grant by the State 911 Department at no cost to Randolph.
- (d) Except as otherwise provided in this Agreement, equipment purchased by Braintree with funds from the State 911 Department or another grant source that resides within the Town of Randolph shall be owned and maintained by Randolph. Except as otherwise provided in this Agreement, Equipment purchased by Randolph with funds from the State 911 Department or another grant source that resides within the Town of Braintree shall be owned and maintained by Braintree.
- (e) Except as otherwise provided in this Agreement, Randolph will be responsible for maintenance and for future upgrades and improvements to Randolph's radio systems. Except as otherwise provided in this Agreement, Braintree will be responsible for maintenance and for future upgrades and improvements to Braintree's radio systems.

6. Media Inquiries:

Media Inquiries regarding the operations of the BRECC shall be referred to the BRECC Director of Emergency Communications. Media inquiries concerning specific incidents under the jurisdiction of one

of the Towns' respective departments, including police, fire, or emergency medical services (EMS) providers, shall be directed to the appropriate department.

7. Reporting:

Within five (5) business days of Braintree's receipt of the quarterly report issued to PSAPs by the Statewide Emergency Telecommunications Board, a copy of said report shall be provided to Randolph. Any other financial or service-related reports regarding the BRECC that are received by either Town (including reports commissioned by the Towns themselves), which constitute public records under the Massachusetts Public Records Law, shall be provided to the BRECC Operations Committee within 30 days of receipt by either Town.

8. Emergency Communications/Dispatch Fee:

- (a) Except as otherwise provided herein, during the term of this Agreement, Randolph shall pay an annual Emergency Communications/Dispatch Fee (the "BRECC Fee") to Braintree for the services provided under this Agreement. One such payment shall be made for each fiscal year of the Agreement. Fiscal years shall run from July 1-June 30 of each year. The BRECC Fee shall be prorated during any partial fiscal year of this Agreement.
- (b) If the BRECC is operational as of July 1, 2024 (meaning that the BRECC is providing the services described under this Agreement for both Towns as of that date), then the first BRECC Fee due under this Agreement shall be due for the fiscal year that runs from July 1, 2024 – June 30, 2025. If the BRECC is not operational as of July 1, 2024, then the first BRECC Fee due under this Agreement shall be due for the first fiscal year during which the BRECC becomes operational. The BRECC fee shall be prorated for any portion of any fiscal year during which the BRECC is not operational (meaning that the BRECC did not substantially comply with its obligations to provide the services described under this Agreement for both Towns), including for the first year the BRECC is operational. No BRECC Fee shall be due for any fiscal year prior to the July, 2024- June, 2025 fiscal year, unless the BRECC becomes operational before July 1, 2024.
- (c) The annual BRECC Fee shall be equal to fifty percent (50%) of the total annual cost for operating the BRECC during the applicable fiscal year (the "BRECC Annual Operating Costs"). For the purposes of calculating the BRECC Fee, the BRECC Annual Operating Costs shall not include: i) any costs that were funded by grant funds (regardless of the source or recipient of the grant funds); ii) any costs that were reimbursed by the state or any other entity; or iii) any costs that were expended to operate the BRECC without the approval of the BRECC Operations Committee. In the event that either Town makes a direct payment for something that is covered in the BRECC Annual Operating Costs during the course of the applicable fiscal year, said amount shall be accounted for in the BRECC Fee assessed.
- (d) BRECC Operations Committee Review and Approval of the BRECC Annual Operating Costs. By February 1 of the year prior to the first fiscal year during which a BRECC Fee will be due, the BRECC Director of Emergency Communications shall present the proposed BRECC Annual Operating Costs for the upcoming fiscal year to the BRECC Operations Committee for review, and a copy shall be provided to the Randolph Town Manager and the Mayor of Braintree. The BRECC Operations Committee shall work with the Director of Emergency

Communications in good faith to review the proposal and to create a BRECC Annual Operating Costs amount that is a fair and accurate estimate of the costs to operate the BRECC for the ensuing fiscal year, considering the services that the BRECC will provide pursuant to this Agreement. In order to be approved, the BRECC Annual Operating Costs for the first year during which a BRECC Fee will be due must receive a vote of approval by a simple majority of the full membership of the BRECC Operations Committee and must also separately receive the approval of both the Mayor of Braintree and the Town Manager of Randolph. In the event that the BRECC Operations Committee and Town Chief Executives cannot reach an agreement as to the BRECC Annual Operating Costs for the first year during which a BRECC Fee would be due under this Agreement, the Dispute Resolution Procedures set forth herein shall apply. Subject to the provisions of section 8(e), below, for any subsequent fiscal year of this Agreement, the process for approving the BRECC Fee shall be the same as described in this paragraph, except that separate prior approval by the Town Manager of Randolph and the Mayor of Braintree shall not be required.

- (e) Once the first BRECC Annual Operating Costs amount is approved by the BRECC Operations Committee and the two Town Chief Executives, that amount may automatically increase by up to two and one-half percent (2.5%) during each subsequent fiscal year of this Agreement without the need for an additional vote of approval from the BRECC Operations Committee or Town Chief Executives. An increase in the BRECC Annual Operating Costs of more than 2.5% in any fiscal year will require a vote of approval by the BRECC Operations Committee, as described in paragraph 8(d), above. Nothing in this paragraph shall relieve the BRECC Operations Committee of its rights and obligations regarding ongoing review and oversight of the finances and operations of the BRECC.
- (f) The BRECC Annual Operating Costs shall not include any costs for the lease or purchase of land or buildings for the operation of the BRECC, nor shall it include any type of PILOT or local tax payments.
- (g) No later than March 1 of each year after the initial service year of this Agreement, the variables of Population will be updated according to the most recent records of the Town Clerks of each town, and the variable of '911 Call Volume' will be updated using the most recent statistics from the Computer Aided Dispatch System at the BRECC.
- (h) The BRECC Fee will be applied to the Annual Budget for the BRECC that is developed by Braintree. This Budget will represent the calculations of the total operating costs for the BRECC and will display the amount of reimbursement that the State 911 Department may provide.
- (i) By no later than February 1st of each fiscal year after the initial fiscal year of this Agreement during which a BRECC Fee is due, Braintree shall provide Randolph with notice of the BRECC Fee to be charged for the next fiscal year. If the increase in the BRECC Fee is more than 2.5% in any fiscal year, a vote of approval of the BRECC Operations Committee shall be required, as described in paragraphs 8(d) and 8(e), above.
- (j) Payment of the BRECC Fee will be initiated after Randolph becomes operational in the BRECC.

- (k) This Agreement is entered into by both parties based on the understanding and expectation that a substantial portion of the operating expenses of the BRECC will be funded by grants or reimbursements from the Commonwealth of Massachusetts, on an ongoing annual basis. As a result, the Towns agree to make reasonable efforts to seek out any and all available funding, through grants and other resources, in order to continue supporting the operation of the BRECC for the term of this Agreement. Notwithstanding the other terms of this Agreement, any and all payments that the Towns are required to make pursuant to this Agreement shall be subject to appropriation or other availability of funds.
- (l) The Parties are in the process of applying for grant funding for the initial construction and equipping of the BRECC. If the Towns do not receive awards for grants or reimbursement monies sufficient to cover a substantial amount of costs during the first one-year term of this Agreement, this Agreement shall terminate immediately, notwithstanding any of its other terms.

9. Payments:

The annual BRECC Fee shall be paid by Randolph to Braintree in quarterly payments, payable on the same day that quarterly tax payments are due in Braintree. Quarterly invoices shall be mailed to Randolph by Braintree not later than thirty (30) days before the due date. If payment is not received by the due date, Braintree may seek any available legal remedy to obtain payment on amounts due. The BRECC Fee is not a tax payment and no penalties, interest or other fees shall accrue on the BRECC Fee. The Town of Randolph may pay the BRECC Fee early without penalty.

10. Assignment:

No assignment or other transfer of any right or obligation under this Agreement shall be made by either of the Towns, and any attempt to so assign or transfer such right or obligation shall be a breach of this Agreement and the assignment shall be of no effect. No Town other than Randolph and Braintree shall be permitted to participate in this Agreement or to regularly use the services or facilities of the BRECC, without the prior written consent of authorized representatives of both Randolph and Braintree.

11. Dispute Resolution:

- (a) In the event any dispute of any kind should arise between the Towns concerning this Agreement or a purported breach thereof, such dispute may be submitted first to a committee consisting of the Mayor of Braintree and the Town Manager of Randolph. If either Town requests review of a dispute by this committee in writing, the Mayor and Town Manager shall meet within ten (10) business days of receipt of the written request to discuss a resolution of the dispute. If, after twenty (20) business days from the date of the committee meeting, the parties have been unable to resolve the dispute to the mutual satisfaction of the Towns, then the Towns may, by mutual agreement, submit the dispute to a mutually acceptable arbitrator through the American Arbitration Association. The proceedings before said arbitrator shall be governed by the rules and regulations of said Association. Any costs associated with arbitration shall be split evenly between the Towns.
- (b) The Towns may also mutually agree to use other forms of alternative dispute resolution, including mediation, to address disputes arising under this Agreement.

- (c) Notwithstanding any other provision herein, the Towns reserve the right, either in law or equity, by suit, and complaint in specific performance, or other proceeding, to enforce or compel performance of any or all provisions of this Agreement or to pursue any other remedy at law that is available to them. Any dispute arising under or relating to this Agreement that is not resolved pursuant to paragraphs 11(a) or 11(b) shall be adjudicated by a Court sitting within the Commonwealth of Massachusetts and pursuant to Massachusetts laws, notwithstanding the principles of conflicts of laws. In the event that any provision contained in this Agreement is deemed illegal or invalid, the remaining provisions shall remain in full force and effect.

12. Liability:

Pursuant to Section 4A of Chapter 40 of the Massachusetts General Laws, each of the Towns shall be liable for the acts and omissions of its own employees and not for the employees of any other agency in the performance of this Agreement, but only to the extent provided by Chapter 258 of the Massachusetts General Laws (the Massachusetts Tort Claims Act) or to the extent provided by any other applicable law. By entering into this Agreement, neither of the Towns has waived any governmental immunity or limitation of damages which may be extended to them by operation of law. Notwithstanding the forgoing, neither Town shall be liable under this Agreement for damages caused by any failure to provide services arising out of an Act of God, loss of power, force majeure, or any other cause beyond its reasonable control.

13. Amendments:

This Agreement shall only be amended by a written document duly executed by authorized representatives of both Towns.

14. Termination:

Either of the Towns may terminate this Agreement by giving written notice five (5) years prior to the date of such termination. Upon such written notice, Randolph shall immediately undertake efforts and exercise due diligence to secure a suitable primary PSAP and dispatch location, which shall begin operation as of the termination of this Agreement, and Braintree shall undertake the actions necessary to move from operating a joint PSAP to operating its own independent PSAP, which shall begin operation as of the termination of this Agreement. The Parties shall reasonably cooperate with each other during this process.

In the event of a breach of this Agreement by either Party, the Parties may pursue the remedies described Section 11 of this Agreement, but shall not have any other recourse. Neither Party may unilaterally terminate this Agreement with less than 5 years written notice unless such termination is ordered or permitted by a Court with jurisdiction over the matter.

15. Term of Agreement:

This Agreement is intended as a long-term obligation of each of the Parties consistent with the time limitation set forth in Section 4A of Chapter 40 of the Massachusetts General Laws. The term of this Agreement shall commence on the Commencement Date. After an approximately two-year long developmental period during which the connectivity for the communication and information systems will

be established between Braintree and Randolph, the BRECC is expected to become operational. The initial term of this Agreement shall be for five (5) years from the Commencement Date, unless terminated earlier pursuant to its terms. Unless earlier terminated as set forth herein, thereafter this Agreement shall automatically renew every five (5) years on the anniversary of the Commencement Date for additional terms of five (5) years each and shall expire twenty-five (25) years from the Commencement Date, for a total term of 25 years. If either party does not wish to have this Agreement automatically renew at any point during the term of this Agreement, that party must provide 5 years advance written notice of the non-renewal to the other party in order for the non-renewal to be effective.

16. Maximum Financial Liability:

The maximum extent of each Town’s financial liability in connection with all contracts, grants, agreements, and/or services, as entered into by the Towns pursuant to this Agreement, shall not exceed the amount validly appropriated by, or available to, each Town for said purpose.

17. Financial Safeguards:

The BRECC Director of Emergency Communications shall, on an annual basis, provide to Randolph: i) a report containing accurate and comprehensive records of the services performed under this Agreement, including the call volumes as well as the costs incurred, and any grants, reimbursements and contributions received for such services, and (ii) yearend financial statements for the operation of the BRECC.

18. Notices:

All notices required or permitted by this Agreement shall be in writing and shall be sent by certified mail, postage prepaid, as follows:

If intended for Braintree:

Director of Emergency Communications
2 JFK Memorial Drive
Braintree, MA 02184

with a copy to:

Braintree Mayor
1 JFK Memorial Drive
Braintree, MA 02184

Braintree Police Chief
282 Union Street
Braintree, MA 02184

Braintree Fire Chief
1 Union Place
Braintree, MA 02184

If intended for Randolph:

Randolph Chief of Police
Town Hall
41 South Main Street
Randolph, MA 02368

with a copy to:

Randolph Town Manager
Town Hall
41 South Main Street
Randolph, MA 02368

Randolph Fire Chief
Town Hall
41 South Main Street
Randolph, MA 02368

19. Authorized Signatures:

The parties to this Agreement hereby represent that they have obtained all votes and other authorizations necessary for the lawful execution of this Agreement by their respective authorized representatives, below.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Towns intending to be legally bound have caused their duly authorized representatives to set their hands and seals to this Agreement on the dates set forth below.

TOWN OF BRAINTREE

TOWN OF RANDOLPH

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____