

Memorandum of Agreement
Between

Friends of Herring River
P.O. Box 565
South Wellfleet, MA 02663

and

Town of Wellfleet
300 Main Street
Wellfleet, MA 02667

This Memorandum of Agreement (Agreement) is entered into this 21st day of March 2022 by and between Friends of Herring River (hereafter referred to as "FHR") and the Town of Wellfleet, acting by and through its Selectboard (hereafter referred to as the "Town.")

WHEREAS, the Town has requested technical assistance related to the Herring River Restoration Project Phase 1 Final Construction Plans and Bid Specifications, and has received funding from the Massachusetts Executive Office of Energy and Environmental Affairs (Municipal Vulnerability Preparedness Program) to complete the project, and

WHEREAS, FHR partnered with the Town on the grant application and will engage consultants on behalf of the Town to complete the final construction plans and bid specifications for the Herring River Restoration Project. These consultants include design engineers for the Chequessett Neck Road bridge, Fuss and O'Neill, and the consultants for the low roads and low properties, WSP Group. FHR will provide the staff capacity to assist the Town, together with other Project Partners, to secure deliverables identified in the MVP scope of work. All prepared plans will identify the Town of Wellfleet as the owner of the plans.

NOW THEREFORE, the Town enters into this Memorandum of Agreement with FHR.

1. RESPONSIBILITIES OF THE TOWN

- A) The Town agrees to work with FHR per the attached Scope of Work and Timeline as may be amended from time-to-time (Attachment A).
- B) The Town will submit monthly progress reports to MVP.
- C) The Town will submit invoices for contracted services to MVP

2. RESPONSIBILITIES OF FHR

- A) FHR agrees to provide the Town with the staff coordination capacity and technical assistance to help ensure that the third-party consultants hired to complete the final construction plans and bid specifications, as outlined in the attached Scope of Work/Budget as may be amended from time-to-time (Attachment A), perform the services rendered in accordance with the contract documents and industry standards so as to achieve project objectives.

- B) FHR will oversee the work, in coordination with the Town and the Herring River Technical Team (HRTT) of the consultants on the project acting as project and contract manager. All deliverables received for this work will be reviewed and approved by the Town and HRTT members.
- C) FHR will prepare monthly progress reports for the Town, who will in turn, submit the reports to the MVP program.
- D) FHR will prepare invoices for contracted services incurred by the consultants to the Town, which will in turn, submit the invoices to the MVP
- E) FHR will not act as a guarantor of the work performed by the third-party consultants hired to complete the final construction plans and bid specifications.

3. DURATION

- A) This Memorandum of Agreement shall be effective until September 30, 2022 unless an extension in time is agreed to in writing by both parties.
- B) Either the Town or FHR may terminate this Agreement by written notice to the other party, if the other party substantially fails to fulfill its obligations hereunder through no fault of the terminating party, or if the other party violates or breaches any of the provisions of this Agreement. Such notice shall be delivered by certified mail at least thirty (30) days before such effective date. In the event of such termination or suspension of this Agreement, FHR shall turn over to the Town all work performed by the consultants up to the effective date of termination.
- C) Liability / Indemnification. To the extent permitted by law, the Town agrees to indemnify, defend, and hold harmless FHR and its directors, officers, employees, and agents from and against any and all liabilities, demands, damages, claims, losses, costs, or expenses, including reasonable attorneys' fees and costs (collectively, "Claims"), to the extent that they arise out of or result, directly or indirectly, from the negligence, misconduct, breach of warranty, representation, or covenant, or any act or omission by the Town or any of its employees in performing the Services. The Town further agrees that all contracts for services with third parties will include a provision requiring the contractor (including permitted subcontractors) to indemnify, defend and hold harmless both FHR and the Town.

4. AMENDMENT

This Agreement may be amended as mutually agreed by both parties in writing.

5. SIGNATORY AUTHORIZATION

The respective signatories hereto represent and warrant that they are duly authorized to execute this Agreement on behalf of the public entity on whose behalf they have signed this Agreement, and that all substantive and procedural preconditions to their effective execution of this Agreement on behalf of said public entities have been satisfied.

6. INTEGRATED INSTRUMENT

This Agreement shall take effect as an integrated instrument.

IN WITNESS WHEREOF, the TOWN and FHR execute this Agreement this 21st day of March, in the year two thousand and twenty-two.

FOR FRIENDS OF HERRING RIVER:


Martha Craig, Executive Director

3/21/22
Date

FOR TOWN OF WELLFLEET:


Rebecca Roughley, ATA

3/21/2022
Date

Attachment A

MVP Grant Scope of Work

Permit-level design plans have been prepared for seven (7) Project infrastructure construction and impact mitigation elements:

1. Herring River Restoration Project | Chequessett Neck Road, Wellfleet Massachusetts | **Chequessett Neck Road Bridge and Water Access Facility Construction** | Permitting Drawing Set | January 2021 | Not for Construction (53 sheets); Fuss and O'Neill
2. Herring River Restoration Project, Wellfleet and Truro, Massachusetts | **High Toss Road** Permit-Level Design Plans | March 12, 2021 | For Permitting Purposes Only (13 sheets); WSP Group
3. Herring River Restoration Project | **Engineering Design to Elevate Low-Lying Roadways and Replace Associated Culverts**, Truro and Wellfleet, Massachusetts | Permit Plans-Not for Construction | March 2021 (91 sheets); WSP Group
4. Herring River Restoration Project **Permit Level Design for Low Lying Property Impact Prevention** | **Way #672**, Hirsch-Meek Property (25 Way #672), & Ellis Property (27 Way #672), Wellfleet, MA | Permit Plans-Not for Construction | March 2021 | "**Way 672**" (11 sheets). Construction-level plans and bid specifications will also be developed for a utility relocation proposed as further mitigation for these two low-lying properties.
5. Herring River Restoration Project **Permit Level Design for Low Lying Property Impact Prevention** | **Miller-Frederiksen Property (695 Bound Brook Island Road)**, Wellfleet, MA | Permit Plans-Not for Construction | March 12, 2021 (9 sheets); WSP Group
6. **Chequessett Yacht and Country Club Reconfiguration** Permit Plans | Herring River Restoration Project Wellfleet and Truro, Massachusetts | **680 Chequessett Neck Rd**, Wellfleet, MA 02667, AP 19 Lots 81, 81-2, 173, 11-1, and 12-1 | March 24, 2021 (37 sheets)

Currently, engineering plans for all six Project elements are at permit-level design phase and these plans will be reviewed by up to a dozen local, state and federal regulatory agencies. It is anticipated that requests for modifications and refinements will be issued by regulatory reviewers, and some of these ultimately will be codified in permit conditions that will need to be reflected in construction phase plans. The scope of work for the Herring River Restoration Project Phase 1 Final Design and Bid Packages project is to advance to final design, develop construction-ready plans that fully reflect regulatory requirements and prepare construction bid specification packages. The Town has been working with three (3) engineering design firms on the development of design plans and propose to continue working with these firms to develop construction plans and technical bid specifications.

The scope of work to develop 100% construction plans and prepare technical bid specifications as described below is similar for all six Project elements and is described once below for brevity. However, the level of effort to accomplish all tasks for each of the six Project construction elements is reflected in the Project budget. Consultant Scopes of Work will contain the following tasks:

1. REVIEW PERMIT LEVEL DESIGN DOCUMENTS AND UPDATE AS NEEDED

Prior to starting the final design work, the consultants will meet with the Town and other Herring River project team members to discuss the status of design plans, specific modifications needed, any further analysis needed to finalize modifications, the review and approval process for final plans, and the schedule for this work. The consultants will review the status of Permit-Level Design documents and prepare updates, as applicable based on new information and permitting requirements.

In some instances, it may be necessary for the consultants to contract a licensed Massachusetts surveyor to collect additional survey information of the Project sites. This work will only be conducted as needed and will require Town approval prior to sub-contract award. The consultants will meet with the Project Team to discuss the need for additional or updated surveys.

2. DEVELOP TRAFFIC MANAGEMENT PLANS

The magnitude of construction work proposed to occur contemporaneously in a rural town setting emphasizes the significance of traffic management planning. Consultants will work with the Project technical team, emergency services personnel, town DPW, local residents and businesses and other stakeholders to ensure that Traffic Management Plans are developed that meet all requirements and minimize disruption for local residents and businesses.

Where necessary, the consultants will use the existing design plans to prepare a Traffic Management Plan for the construction work, as applicable for each Project component. The

plan be prepared in accordance with AASHTO guidelines and MassDOT regulations as well incorporating local requirements for traffic management.

3. PREPARE FINAL DESIGN PLANS, DRAFT FOR REVIEW

Based on the reviewed and updated permit-level design plans, the consultants will prepare draft and final design plan documents, including Project plans, specifications, and bid documents.

The plans shall include the following components:

- Title Sheet
- General Notes and Legend
- Summary of Quantities
- Existing Conditions Plan
- Excavation and Grading Plan
- Soil Erosion and Sediment Control Plan
- Proposed Conditions Plan
- Typical Details, Site Profile and Cross-Sections
- Structural Design Plans for Project Components
- Planting and Seeding Plans and Details
- Water Control, Temporary Diversion, and Dewatering Details

The plans will clearly depict the location of areas of proposed excavation, fill placement, water control and soil handling methods, culverts, existing and relocated utilities, and potential construction staging areas.

Construction notes, soil and erosion control measures and planting and seeding measures will need to be standardized across all six infrastructure elements as necessary.

The consultants will provide the Project Team with draft Final Design plans and specifications for review. They will revise the plans, based on one collective set of Project partner comments compiled and forwarded by the Town.

4. UPDATE AND FINALIZE DESIGN PLANS, DETAILS, SPECIFICATIONS, BID DOCUMENTS AND COST ESTIMATE

The consultants will finalize design plans for the Herring River restoration components that will be sufficient for bid and construction of this restoration project. The plans shall reflect any necessary modifications and/or updates to the previously completed design with input from and/or requirements by the regulatory agencies and the Project Team.

The final design plan set will include the following:

- Summary of Quantities
- General Notes and Legend
- Plan Views and Typical Sections
- Excavation and Grading Plans
- Structural Design
- Soil Erosion and Sediment Control Plan and Details
- Planting Plans
- Construction Details
- Construction Specifications and Sequence of Construction

The consultants will update and finalize the final design Project construction specifications as part of the bid document package. The final technical specifications shall provide the construction details for the Project, include details on the scope of work, identification of materials and equipment, structure details, construction phasing, measurement and payment and any other technical specifications. The consultants will provide the Project Team with digital draft final Project construction specifications, an itemized bid sheet, and the engineer's estimate of probable costs. Following review and comment on these documents by the Project Team, the consultants will finalize the bid contract set and provide five (5) hard copies signed and stamped by the PE and one CD-ROM copy of the final design plans in PDF and CADD format.

5. MEETINGS AND PROJECT COMMUNICATIONS

These tasks will cover meetings and Project communications that are necessary throughout the final design process. As much as possible, the consultants will communicate with the Project Team via conference call meetings. The design meetings will likely include meeting with Town officials, as well as Project partners, and impacted adjacent property owners. The consultants will prepare materials for the meetings in the form of agendas, presentations, reports and meeting minutes. They will also participate in phone check-ins with the Project Team to provide updates on Project progress and any issues that may have arisen.

6. REPORTING

Monthly progress reports summarizing project progress during Year 2 of the project and a final case study report including a PowerPoint presentation, lessons learned, and project photographs.

Timeline: Monthly through June 2022