



GUNTLOW & ASSOCIATES, INC.

55 North Street  
Williamstown,  
Massachusetts 01267  
413-458-2198  
413-458-2712 FAX

10 March 2020

Shelburne Open Space Committee, Larry Flaccus, co-chair  
Town of Shelburne  
51 Bridge Street  
Shelburne, MA 01370

Dear Mr. Flaccus,

As requested, Guntlow & Associates, Inc. is pleased to provide this proposal for engineering services related to the design, permitting and construction administration of two sections of the proposed Mahican Mohawk Trail. The two portions of the trail are roughly 150 feet and 100 feet in length, located approximately 400 feet east of the end of Deerfield Avenue, across very steep slopes and above the 100 year flood plain associated to the Deerfield River. These slopes appear to be unstable and not good candidates for conventional trail construction. It is our understanding that some of this work will occur on private property and that the Town will be getting permission for access and testing prior to the start of our work.

The scope of our services, as we understand it, is outlined in the following sections below:

Part 1: Engineering Evaluation of Alternatives

- A. Geotechnical Review of the site / subsurface conditions within the areas of study. Evaluation within this part will be done 'by hand' at the site with samples taken for lab analyses and a preliminary report prepared for engineering evaluation.
- B. Engineering Review and Evaluation of Alternatives including conceptual cost estimate of Alternatives.

Should an alternative be chosen by the Open Space Committee that is outside of the scope of what is considered 'conventional trail construction', Part 2 would be implemented.

Part 2A: Geotechnical Borings

- A. Geotechnical Borings, if deemed necessary from Part 1 conclusions and report.

Part 2B: Design

- A. Wetland delineation in the field during the growing season
- B. Topographical survey of proposed trail work areas and related temporary construction access routes.
- C. Structural Design and Site Plans / Detail Plans of Trail Crossing.

Part 3: Wetlands Permitting

- A. Preparation of a delineation report and Massachusetts Department of Environmental Protection (MA DEP) permit application for proposed trail work that might not be otherwise exempt or a minor activity. Generally, pervious trails three feet wide and narrower are a minor activity and not requiring a permit submission provided they are only in buffer zone and do not directly impact resource areas. Elevated trail systems tend to still be pervious but generally are wider than three feet.

- B. Preparation of application and submittal package to MA Endangered Species Act (MESA) regarding proposed work within Natural Heritage Endangered and Species Program (NHESP) mapped areas.
- C. Attendance of Conservation Commission hearing and site visit if desired by the Town.
- D. This proposal is based on the assumption that the design will not impact wetlands. If the design impacts wetlands, further work may be required under the MA WPA and United States Army Corps of Engineers (USACE) General Permit (GP), which is not included in this proposal. However, such services can be provided in the event they are required.

Part 4: Bid Package Preparation and Administration

- A. Finalize permit plans for Bidding/Construction.
- B. Prepare Front End and Technical Specifications for public bid project.
- C. Issue project for public bid, field questions, issue addenda, review bids, and advise the Committee as requested.

Part 5: Limited Construction Administration

- A. It is anticipated that the Town, or other municipal staff, will be the lead project managers on behalf of the Town for construction of the trail segments pertinent to this proposal.
- B. Limited construction meetings and inspections related to progress, contractor questions, and unforeseen circumstances. For this task we have budgeted 40 hours of meetings.
- C. Limited construction administration including office review of submittals, payment applications, questions, unforeseen circumstances and project closeout. For this task we have budgeted 40 hours of time.

The estimated fees for scope of work itemized in each of the parts above are the following:

Part 1: Engineering Evaluation of Alternatives	\$7,500 - \$9,500
Part 2A: Geotechnical Borings	\$5,500 - \$6,500
Part 2B: Design	\$12,900
Part 3: Wetlands Permitting	\$3,500
Part 4: Bid Package Preparation and Administration	\$7,700
Part 5: Limited Construction Administration	\$8,800
<b>Total:</b>	<b>\$45,900-48,900</b>

The above fees are estimates and are not fixed prices. Direct expenses such as mailing, photocopies, blueprints, mileage, etc., will be billed at cost plus 10%. Services will be billed on a monthly basis and are due in full upon receipt. Additional services beyond this proposal, including additional information or revisions requested by the client and/or permitting agencies will be billed at the applicable hourly rate. Other fees **excluded** in this scope of services are legal counsel fees, permitting application fees including wetland transmittal fees, and/or any engineering studies required by permitting agencies (other than what is included in the above estimate). We have not included any boundary line survey or easement acquisition survey in this proposal.

Should the terms detailed in this letter be acceptable, please sign where indicated below and return one (1) original copy along with a retainer in the amount of \$500.00 to this office. Payment will be billed monthly or upon completion of specific tasks. Please note that this proposal expires sixty (60) days from the date above.



Please execute this Contract Agreement authorizing us to proceed with the above scope of services at the stated cost. No work will be performed under this Agreement until it is signed and returned to G&A. The attached "General Terms and Conditions" are incorporated herein by reference and shall be considered as part of this Agreement. Nothing contained herein shall obligate G&A to prepare for, or appear in, arbitration or litigation on behalf of the CLIENT or to undertake additional work on matters not included herein, except in consideration of additional compensation mutually agreed upon. This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and shall supersede all understandings and agreements between the parties prior to the date hereof.

**Guntlow & Associates, Inc.**

**By:**

A handwritten signature in blue ink, which appears to read "Charles J. LaBatt", is written over a horizontal line.

**By:**

**Name:** Charles J. LaBatt, PE

**Name:**

**Title:** Senior Engineer

**Title:**

**Date:** March 10, 2020

**Date:**



## **GENERAL TERMS AND CONDITIONS**

### **EMPLOYMENT OF THE ENGINEER**

The CLIENT agrees to engage Guntlow & Associates, Inc. (the ENGINEER) to perform the Scope of Services set forth herein as part of this Contract Agreement, and the ENGINEER agrees to perform those services as a representative of the CLIENT.

### **SCOPE OF SERVICES**

The Scope of Services to be performed under this Agreement, along with the definition of specific tasks, and limitations is listed previously and made part of this Agreement.

### **PERIODS OF SERVICE**

The ENGINEER agrees to render services outlined in the Scope of Services within the a period of 6 months from the date of execution. However, should the time of this Contract Agreement extend beyond the specified period of performance as a result of agency reviews and delays beyond the control of the ENGINEER, the ENGINEER will be entitled to additional compensation as determined in negotiations between the CLIENT and the ENGINEER.

Should additional services be added to the Scope of Work by amendment to this Agreement, the period of service shall be specified in each amendment.

The ENGINEER shall not be responsible for failure to perform or for delays in the performance of work under this Agreement, which arise out of causes beyond the control and without the fault or negligence of the ENGINEER.

### **CHANGE OF WORK**

The CLIENT may request at any time, changes to the Scope of Services. Such changes, including any increase or decrease in the compensation, which are mutually agreed upon by the CLIENT and ENGINEER, shall be incorporated as written amendments to this Agreement.

If the ENGINEER is of the opinion that any work it has been directed to perform is beyond the Scope of Services and constitutes additional services, the ENGINEER shall promptly notify the CLIENT in writing. Such changes mutually agreed upon by the CLIENT and ENGINEER shall be incorporated as written amendments to this Agreement. The ENGINEER will perform these additional services after such amendment is duly executed by both parties.

## INSURANCE

The ENGINEER maintains and shall continue to maintain during the performance of this Agreement its standard insurance coverage as follows:

Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits.

Comprehensive General Liability Insurance including Products Completed, Contractual, Property, and Personal Injury coverage with combined single limits of \$1,000,000 for each occurrence and an aggregate amount of \$2,000,000.

Automobile Liability Insurance including non-owned and hired automobiles with the following limits:

--	Bodily Injury	\$500,000 each person
--	Property Damage	\$500,000 each occurrence

For any damage on account of any error, omission, or other professional negligence, ENGINEER's liability will be limited to a sum not to exceed \$50,000 or the fee received under this Agreement less third-party costs, whichever is greater.

The CLIENT shall, at all times, indemnify and save harmless the ENGINEER and its officers, agents, and employees on account of any claims, damages, losses, litigation, expenses, counsel fees, and compensation arising out of any claims, damages, personal injuries, property losses, and/or economic damages sustained by or alleged to have been sustained by any person or entity, and caused in whole or in part by the acts, omissions, or negligence of the CLIENT, its agents, employees, or sub-contractors in connection with the project.

## TERMINATION

The CLIENT may terminate this AGREEMENT at any time by giving ENGINEER ten (10) days written notice. In such event, all finished or unfinished documents prepared by the ENGINEER shall, at the option of the CLIENT, become the CLIENT's property.

In the event of termination, the ENGINEER will be paid for all services performed up to the date of termination, including those expenditures necessary for the orderly termination of services, and all costs of settling or discharging outstanding obligations incurred by ENGINEER with respect to the terminated services and work under this Agreement.

## USE AND OWNERSHIP OF DOCUMENTS

Drawings, estimates, and reports prepared under this Agreement will become the property of the CLIENT at the completion of services and upon full payment of all services rendered.

Reproducible copies of these documents will be retained by the ENGINEER.

All documents prepared under this Agreement are confidential and the ENGINEER agrees that they shall not be made available to any individual or organization without the approval of the CLIENT.

All documents including Drawings and Specifications prepared by the ENGINEER pursuant to the Agreement are instruments of service with respect to the project. They are not intended or represented to be suitable for re-use by the CLIENT or others on extensions of the project or on any other project. Any re-use without written verification or adaptation by the ENGINEER for the specific purpose intended will be at the CLIENT's sole risk and without liability or legal exposure to the ENGINEER. The CLIENT, or whoever shall re-use said documents, shall indemnify and hold harmless the ENGINEER for all claims, damages, losses and expenses including attorney's fees arising out of or resulting therefrom. Any such



verification or adaptation will entitle the ENGINEER to additional compensation at rates to be agreed upon by the ENGINEER and the person or entity seeking to re-use said documents.

### **SUB CONSULTANTS**

Services to be performed by sub consultants under the Agreement shall not commence prior to receipt of written approval of the sub consultant by the CLIENT. Such approval shall not be unreasonably withheld and CLIENT agrees to inform ENGINEER of its decision within three (3) days of notification of the selected sub consultant(s). Schedule delays resulting from CLIENT's failure to act in a timely manner in approving recommended sub consultants will be the responsibility of the CLIENT.

### **METHOD OF PAYMENT**

The ENGINEER shall submit to the CLIENT monthly invoices for services performed. Each invoice shall be rendered in accordance with the ENGINEER's standard invoicing practice and shall contain the amount due for the current period.

Reimbursable expenses as described within the Scope of Services and including sub consultant fees will be invoiced at a multiplier of 1.1 times the actual cost of the expenses.

CLIENT agrees to make payments to the ENGINEER within thirty (30) days of the date of invoice. A financing charge of 1 percent per month, from date of invoice, will be added to all amounts more than thirty (30) days past due. In addition to the other remedies and provisions of this Agreement with respect to payment, the ENGINEER may, after giving seven (7) days written notice to the CLIENT, suspend services under this Agreement until ENGINEER has been paid in full all amounts due ENGINEER and/or any of its sub consultants for services and expenses.

Should it become necessary to use legal or other resources to collect any or all moneys rightfully due for services rendered under this Agreement, ENGINEER shall be entitled to full reimbursement of all such costs as part of this Agreement.

### **CERTIFICATION OF NON-SEGREGATED FACILITIES**

The ENGINEER certifies that he does not maintain, and will not maintain nor provide for his employees, facilities that are segregated on the basis of race, color, religion, or national origin.

### **SUCCESSORS AND ASSIGNS**

Each of the parties binds himself, his partners, successors, assigns and/or legal representatives to the other party, his partners, successors, assigns and/or legal representatives to the provisions of this Agreement.

### **MISCELLANEOUS PROVISIONS**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

The proposal language of certificates, certifications, affidavits, or assignments requested of the ENGINEER or ENGINEER's consultants shall be submitted to the ENGINEER for review and approval at least fourteen (14) days prior to execution. The CLIENT shall not request affidavits, certificates, or certifications that would require expertise, knowledge, or services beyond the scope of this Agreement and/or the qualifications or competence of ENGINEER.



Since the ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the ENGINEER's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications. They represent the ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. The ENGINEER cannot and does not guarantee that proposals, bids, or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the Bidding or Negotiating Phase, the CLIENT wishes greater assurance as Total Project Construction Costs, CLIENT shall employ an independent cost estimator.

#### **EXTENT OF AGREEMENT**

In entering into this Agreement, CLIENT has relied only upon the warranties or representations (a) set forth in this Agreement; or (b) implied in law. No verbal warranties, representations, or statements shall be considered as part of this Agreement or a basis upon which the CLIENT relied in entering into this Agreement. No statements, representations, warranties or understandings, unless contained herein, exist between the CLIENT and the ENGINEER.

This Agreement represents the entire agreement between the CLIENT and ENGINEER and supersedes all previous negotiations, proposals, and representations. This Agreement may be amended only by a written amendment signed by both the CLIENT and ENGINEER.

#### **ATTACHMENT A**

##### Hourly Billing Rates

Principal.....	\$180.00
Architect.....	\$150.00
Land Surveyor.....	\$160.00
Senior Engineer.....	\$140.00
Project Engineer.....	\$130.00
Landscape Architect.....	\$120.00
Engineer II.....	\$120.00
Engineer I.....	\$110.00
Survey Crew (2 person).....	\$185.00
Wetland Specialist.....	\$110.00
Designer/Drafter.....	\$ 90.00
Administrator.....	\$ 80.00