

MEMORANDUM OF AGREEMENT

This MEMORANDUM OF AGREEMENT is required in order to comply with certain Insurance Department regulations relating to licensed insurance advisers, as well as to outline the services to be performed on the behalf of:

Belmont High School Building Committee
Town of Belmont. (also referred to as Client)
455 Concord Ave.
Belmont, MA 02478

By Kevin F. Donoghue Insurance Adviser, Inc. (DBA KFDA and also referred to as Adviser), a licensed insurance adviser as defined by the General Laws of the Commonwealth of Massachusetts.

The Client is seeking the independent advice of the Adviser. As such, the Client understands and agrees that this contract is not for the placement of insurance coverage and the Adviser is not responsible for the ultimate placement of such coverage or for the financial condition of any insurer or other entity providing insurance or service to Client.



Risk Advisors

326 West 2nd Street
Boston MA 02127
617. 482. 7015
KFDA.com

1. Services to be provided

The Adviser will provide on-going support of the Client's risk management and property and liability insurance programs as requested by Client, which may include, but not be limited to:

- i) Review contracts as requested and make suggested risk transfer language and insurance requirement changes for legal review
- ii) Assist in the development of specific insurance requirements and negotiation support
- iii) Support Client in identification of insurance cost "buckets" and negotiations as requested
- iv) Assist with builders risk insurance program requirement development placement and review
- v) Verification of policy terms, conditions, rates and premiums, as requested
- vi) Process and claim advice, as requested

2. Responsibilities

To avoid duplication of work more properly carried on by agents, brokers, and insurance companies, and in order to reduce the amount charged for the services, it is understood and agreed that the Adviser will not undertake, nor be responsible for Client's insurance bookkeeping, the payment of premiums, giving notice of loss, or filing proofs of loss, or, without specific written authorization, the securing or renewals of expired policies, or the replacement or reinstatement of canceled policies.

In order for the Adviser to perform its services, it will require the cooperation of the Client in providing access to necessary information. Accordingly, the Client agrees to provide the Adviser with (1) all of the Client's existing policies of insurance in the area(s), which Client has asked Adviser to review; (2) all business or financial information necessary to evaluate insurance coverages; and (3) all such other information as shall be reasonably requested by the Adviser. Adviser shall be entitled to rely upon, without further verification, the information provided by Client in providing advice and counseling to Client. Adviser shall bear no responsibility for the adequacy of, or failure to provide, advice to Client should Client fail to provide complete and accurate information to Adviser.



3. Limitation of liability

Client understands that the Adviser is serving neither as a risk manager nor insurance broker for the Client, and does not assume the liabilities associated with such positions. Accordingly, to the fullest extent permitted by law, Client agrees that the total liability of Adviser, including its owners, officers, directors, employees, and agents, in the aggregate, for any and all claims the Client may have against the Adviser of any type, whether in law, equity, or subrogation, arising out of or relating to any alleged act, error or omission, breach of contract, breach of duties owed Client, breach of any representation or covenant, or violation of law by Adviser, or any of its owners, officers, directors, employees or agents shall not exceed the total compensation received by the Adviser under this Agreement. The provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.

For an additional fee of \$1,500.00, which reflects that there is value to the Adviser's acceptance of increased risk, Adviser will agree to increase its limit of liability for the foregoing to the greater of \$1,000,000 or the total insurance coverage available and collectable under the Adviser's professional liability insurance at the time of any claim made by the Client. Client has:

_____ elected / not elected **(circle one)** _____ [Client initials]

to opt and pay for this increased limit of Adviser's liability.

4. Term

The estimated term of this contract is from execution date until cancelled. This contract may be canceled for any reason upon written notice by Client to Adviser or by written notice from Adviser to Client. Client agrees to promptly pay all client service fees up to the time of receipt of written notice of cancellation by Adviser if client cancels, or up to the time of date such notice was sent by Adviser if Adviser cancels.

5. Alternative Dispute Resolution

Prior to the initiation of any legal proceedings, the parties agree to submit all claims, disputes, or controversies arising out of or relating to any services provided under this Agreement to mediation, within Suffolk County of the Commonwealth of Massachusetts. Mediation shall be conducted under the auspices of the American Arbitration Association in accordance with its existing terms and procedures. The cost of mediation shall be borne equally by the parties. The party seeking to initiate mediation shall do so by submitting a formal written request to the other party to this Agreement and the American Arbitration Association. This provision shall survive completion or termination of this Agreement, but under no circumstances shall either party call for mediation of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceedings to litigate such a claim or dispute under the laws of the Commonwealth of Massachusetts.

6. Governing Law and Enforceability

This Agreement shall be governed under the law of the Commonwealth of Massachusetts. If any provision herein shall be held to be invalid, illegal or unenforceable, it shall be construed so as to be enforceable to the maximum extent permitted by applicable law, and the validity, legality or enforceability of the remaining provisions shall be in no way impaired.



7. Confidentiality

Adviser agrees that it shall take reasonable measures to protect the confidentiality of and avoid disclosure and unauthorized use of the Confidential Information. Without limiting the foregoing, Adviser shall take at least those measures that Adviser takes to protect its own confidential information of a similar nature. Adviser shall immediately notify Client in the event Adviser has knowledge of any unauthorized use or disclosure of the Confidential Information.

For the purposes of this section, "Confidential Information" means any information disclosed to Adviser by Client, either directly or indirectly in writing, orally or by inspection of tangible objects, including without limitation documents, prototypes, samples. Confidential Information may also include information disclosed to Client by third parties. Confidential Information shall not, however, include any information which Adviser can establish (i) was publicly known or made generally available in the public domain prior to the time of disclosure to Adviser by Client; (ii) becomes publicly known or made generally available after disclosure to Adviser by Client through no action or inaction of Adviser; (iii) is in the possession of Adviser, without confidentiality restrictions, at the time of disclosure by Client as shown by Adviser's files and records immediately prior to the time of disclosure; (iv) is developed independent of the Confidential Information, as shown by written records prepared contemporaneously with such independent development; or (v) is disclosed pursuant to the requirement of a United States government agency or judicial body, provided that, the Adviser shall provide reasonable advanced notice thereof to enable Client to seek a protective order or otherwise prevent such disclosure.

8. Compensation

Client agrees to pay Adviser compensation monthly, on a net-21 basis, an amount calculated as the product of an hourly fee basis multiplied by the time expended. The following is a schedule of current municipal-discount hourly rates.

| | |
|----------------------|----------------|
| Principal Consultant | \$280 per hour |
| Consultant | \$235 per hour |

Adviser will follow direction of the Client to allocate time and resources to keep fees for services 1.i to 1.iv within a \$10,000 fee limit. Should the Client request additional services in writing, it is agreed Client will pay additional compensation calculated by the hourly rates, below, multiplied by time expended.

Both parties accept this MEMORANDUM OF AGREEMENT as constituting the entire agreement between them with respect to all services to be rendered to the Client. A copy of the Agreement is to be retained by each party hereto.

ACCEPTED:

ACCEPTED:

By: _____
Michael Norek
President

By: _____
Duly authorized

Printed name and title

This Agreement is executed in duplicate this

Day of 2018.



New School Building Projects

Construction Advice Regarding Insurance, Pricing and Negotiation Services

Insurance and bonding costs are significant portions of any construction project budget and an important part of your construction contract and price negotiations. Claims not covered by insurance or finger-pointing after a loss can cause delay and/or cost overruns from the minor to catastrophic. Small differences in insurance policy language or insurance contract language can mean the difference between project success and the alternatives.

Business Value

KFDA identifies the insurance approach that minimizes the TCOR (total cost of risk) for your particular project, whether by using a construction manager's CCIP, an OCIP or traditional insurance. KFDA will analyze your performance, identify project and contractual risk, and analyze risk management options. KFDA then will provide a roadmap, and then support or lead the process of minimizing the project costs and exposures to risk.

KFDA's Construction Support Team

KFDA's effectiveness is based on our staff credentials and experience, and the business value we provide our clients between project feasibility and final closeout. We believe it is important to provide a project team that understands your operations, the construction industry, and construction related insurance.

Project Insurance Management

In addition to the basics of workers compensation, builders risk and general liability-type risks, project sponsors must consider other risks including financing guarantees, pollution, weather risk, architects' and engineers' professional liability.

KFDA offers a full range of project risk management services, including:

- Insurance and bond requirement advice
- Contract language review
- Negotiation support
- Independent advice on costs and contract credits
- Process and procedures development
- Safety oversight
- Administration oversight
- Claims oversight and follow-up
- Change-order reviews

Project examples:

- \$600 million stadium construction
- \$360 million medical school research facility
- \$176 million hospital building
- \$172 million biomedical research facility
- \$47 million museum
- \$100 million stadium renovation
- \$17 million parking garage
- \$100 million shopping complex
- \$466 million dam and earthworks
- \$171 million student residences
- \$121 million utility relocation
- \$67 million housing rehabilitation

KFDA is a risk management and insurance consultancy based in Boston, Massachusetts. With close to fifty years of providing organizations with unbiased advice, while reducing both costs and risk, KFDA has earned a reputation for transforming information about an organization into the knowledge that protects that organization from crippling financial loss.

It all starts with a conversation.

Call us. | 617. 482. 7015 | www.kfda.com