TOWN OF MEDFIELD, MASSACHUSETTS

AGREEMENT

THIS AGREEMENT made this **29th** day of **March** in the year **2025** between **JAM Corporation** with a usual place of business at **60 Canterbury Street, Worcester, MA 01610** hereinafter called the **CONTRACTOR,** and the **Town of Medfield**, with a usual place of business at **459 Main Street, Medfield, MA, 02052**, hereinafter called the **OWNER.**

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Contract Documents

   The Contract Documents consist of this Agreement together with the Contractor's completed Bid Form (Attachment A). The Contract Documents constitute the entire Agreement between the parties concerning the services and all are as fully a part of this Agreement as if attached hereto. In the event of conflicting provisions, the language of this Agreement shall govern provided that if the conflict relates to quantity or quality of goods or services, the greater quantity or higher quality specified shall be required.

2. Scope of Work

   The scope of work includes all labor, materials, and equipment necessary to fully-reconstruct four (4) tennis courts at Metacomet Park in accordance with the Town's Invitation for Bids (IFB) document dated 3/3/2025 inclusive of Addendums #1 and #2. The Town is accepting Alternates #3 and #4.

3. Contract Price

   The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, **the sum of $259,523.00**

4. Commencement and Completion of Work

   It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon approval at Annual Town Meeting (held on May 5th, 2025) and shall complete the work **before September 26, 2025.**

A. Definition of Term: The Term "Substantial completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.

B. Time as Essential Condition: It is understood and agreed that the commencement of and substantial completion of the work are essential conditions of this Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

C. Progress and Completion: Contractor shall commence work promptly upon approval of this project at Town Meeting (held on May 5th, 2025) and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will ensure Substantial Completion within the stipulated number of calendar days.

5. Performance of the Work

A. Direction of the Work: The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.

B. Responsibility for the Work:

(1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.

C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the

Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project. In the event a permit fee is required, Owner shall reimburse Contractor for the cost of the permit.

D. Notices, Compliance With Laws:

(1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement. The CONTRACTOR shall report and be responsible to the OWNER or its designee.

(2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.

(3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

(4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work that violate said laws and regulations.

E. Project Superintendent: The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

F. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.

G. Quality of the Work: The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship. The Contractor shall ensure that all workers shall meet the qualifications as required by the License Agreement. All equipment installed shall be installed in compliance with the manufacturer's instructions. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for the same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.

6. Warranties: The Contractor guarantees that the goods sold are merchantable; that they are fit for the purpose for which they are being purchased; that they are of uniform quality and consistency and absent from any latent defects and that they are in conformity with any sample, which may have been presented to the Town. The Contractor warrants that all work will be performed in a good and workmanlike manner and in strict conformity with the Contract Documents. The Contractor shall replace, repair, or make good, without cost to the Town, any defects or faults arising within one (1) year after date of Town's acceptance of articles furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Contractor.

7. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.

8. Payment for Work

The Town shall pay the Contractor in the amount of **$259,523.00** in accordance with the terms and conditions in the contract. If applicable by law, invoices accompanied by copies of the weekly-certified payroll records shall be submitted for payment by the Contractor to Town on a monthly basis. The Town shall make payments on the basis of the work completed. The Town shall make payments within thirty (30) days after its receipt.

9. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

10. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

11. Indemnification

The Contractor shall defend, indemnify and hold harmless the Owner to the maximum extent permitted by law from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or his employees, agents, subcontractors or representatives.

12. Insurance

The Contractor shall provide the following insurance policies. The Town will require a Certificate of Insurance, indicating evidence of General Liability, Automobile Liability with minimum limits of $2,000,000.00 and Worker's Compensation (per Statute). The Town will require the Certificate of Insurance to include naming the Town of Medfield as an additional insured.

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

1. claims under workers' compensation, disability benefit and other applicable employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

4. claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;

5. claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

7. claims involving contractual liability applicable to the Contractor's obligations under Article 13

Except for Workers' Compensation, all liability coverage shall name the Town of Medfield as an additional insured and shall provide for 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

13. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

14. Termination

A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.

B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to the Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

15. Claims and Disputes and Resolution Procedure

Claims, disputes, or other matters in question in Town and contractor or any other party claiming rights under this agreement relating to or arising from the Project, the Work, or interpretation of any terms of the Contract or Contract Documents shall be resolved only

by a civil action commenced in the Superior Court Department, Norfolk County, or District Court Department, Dedham Division of the Massachusetts Trial Court; in the alternative, private arbitration or mediation may be employed if the parties mutually agree in writing to do so.

16. Prohibition of Contractor's Withholding Performance

Contractor shall not delay, suspend, or curtail performance as a result of any dispute regarding changes in and/or interpretations of the terms or scope of the contract and/or denials of a failure to act upon claims for payment for extra work or materials but shall proceed with the work as it would were there no dispute.

17. Miscellaneous

A. Royalties and Patents: The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.

B. Assignment: The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.

C. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.

D. This contract and the Parties' respective obligations hereunder, including but not limited to Town's obligation to purchase services associated with the tennis courts reconstruction, are subject to Town' s legislative body voting to appropriate or otherwise fund the purchase price at Town's Annual Town Meeting to be held on Monday, May 5, 2025.

E. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the Owner by its authorized representatives who, however, incur no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

CONTRACTOR:

By: _____

Name: NICHOLAS DiCIDDO

Title: PRESIDENT

JAM Corporation CORPORATE SEAL 2014 MASSACHUSETTS

Approved as to Form: _____

Mark G. Cerel, Town Attorney

OWNER: Town of Medfield

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Town of Medfield, MA

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Kristine Trierweiler, Town Administrator