

REVISED MEMORANDUM OF UNDERSTANDING
FOR
MARBLE WORKS RIVERFRONT IMPROVEMENT PROJECT

The **Town of Middlebury** (the “Town”) and **Marble Works Partnership** (“MWP”) entered into a Memorandum of Understanding dated December 28, 2010 (the “Original MOU”) regarding a riverfront improvement project (the “Project”). The Original MOU was subsequently amended by an Addendum dated May 21, 2013. Finally, the parties entered into a Grant of Public Access Easement and Development Rights dated May 21, 2013, and recorded in Book 266 at Page 690 of the Middlebury Land Records (the “Grant”).

The parties now wish to enter into this revised Memorandum of Understanding (the “Revised MOU”) to reflect their agreement regarding changes to their respective responsibilities for maintenance of the Project Area. In consideration of the mutual agreements herein and other good and valuable consideration, the Town and MWP hereby agree as follows:

1. By mutual agreement, the parties have reestablished their respective responsibilities for maintenance of the Easement Area as described in the Grant and as described in a document titled “Marble Works Riverfront Park – Maintenance & Scope of Work”, attached as Exhibit A hereto.
2. In accordance with Exhibit A, all maintenance of the Easement Area shall become the responsibility of MWP, for the performance of which MWP shall have the right to invoice the Town in accordance with the following terms. MWP will invoice the Town in an amount not to exceed \$4,000 for the initial 12 month period beginning January 1, 2019 and ending December 31, 2019. Invoices for maintenance shall be submitted to the Town in 7 equal installments each year between the months of April and October. If additional plantings by MWP materially increase the cost of maintenance, MWP shall be responsible for said increase and shall not include such costs in future invoices for maintenance sent to the Town. Any increases in the cost of annual maintenance beyond the initial 12 month period shall be notified to the Town at least sixty (60) days prior to the beginning of the next 12 month period and shall not exceed the CPI Index for the preceding 12 month period.
3. While this Revised MOU is in effect, MWP will maintain liability insurance in the amounts listed below with the Town named as an additional named insured and with at least thirty days prior notice of cancellation:

a. <u>General Liability</u>	
Bodily Injury, per occurrence	\$1,000,000
Bodily Injury, annual aggregate	\$2,000,000
Property Damage	\$1,000,000
b. <u>Automobile Liability</u>	
Bodily Injury, per occurrence	\$1,000,000
Bodily Injury, annual aggregate	\$2,000,000

Property Damage	\$1,000,000
c. <u>Worker's Compensation & Employer's Liability</u>	
Statutory Coverage	\$1,000,000

4. In addition to any insurance coverage provided by MWP, MWP agrees to indemnify and hold the Town harmless for and against any and all claims, demands, actions, losses, liabilities or expenses, including costs of defense, whether in contract, tort, strict liability or other theory of law or equity, in connection with maintenance of the Easement Area, unless caused by the negligence or intentional misconduct of the Town, its agents or employees.

5. Either party may terminate this Revised MOU by notice to the other party given no later than September 1 of any calendar year. In the event of termination, the parties' agreement as set forth in this Revised MOU shall terminate effective December 31 of the date notice was given. The Grant shall remain in full force and effect, notwithstanding any termination of this Revised MOU.

6. The Grant and this Revised MOU represent the entire understanding of the parties and replace and supersede the Original MOU and the Addendum. The parties will continue to work together to carry out any future projects and partnerships which they may deem to be mutually beneficial.

Dated at Middlebury, Vermont, this _____ day of September, 2018

TOWN OF MIDDLEBURY
by Kathleen Ramsay, Town Manager

MARBLE WORKS PARTNERSHIP
by _____ (print name)
Duly Authorized Agent