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May 6, 2014

VIA FEDEX

Robert W. LeLacheur, Jr., CFA
Town of Reading
16 Lowell Street
Reading, MA 01867

RE: Proposal for Town Counsel Services, Town of Reading

Dear Town Manager LeLacheur:

Pursuant to the Town of Reading's Invitation for Bids (IFB) for Town Counsel Services, we are herewith submitting our formal proposal for the position of Reading Town Counsel to provide the community with the means for positive change and successful growth.

Let me introduce myself: I am a well seasoned successful municipal lawyer, excellent at municipal law and common sense. Here is why:

- I and the firm currently serve as Town Counsel to the Towns of Cohasset (18 years), Canton (11 years), Wilmington (11 years), Mansfield (4 years), Templeton (2 years), and as special counsel and labor counsel to numerous other municipalities and local and regional school committees on specific legal issues. In addition, we served as Town Counsel for Nantucket for 24 years (1986-2010), Randolph for 20 years (1990-2010), Foxborough for 4 years (2008-2012) and Carlisle for 15 years (1998-2013) and we continue to provide legal services to those communities.

- I was named a New England Super Lawyer in Boston Magazine, November 2013 in Government/Cities/Municipalities category, among a group of *only ten lawyers in the entire six-state New England Region* so recognized. This is the ninth time I have been awarded this recognition as a Super Lawyer.

- I have been on both sides of the table, both as a selectman - because I am a six term elected selectman – and as town counsel. I have served as President of the Massachusetts Selectmen's Association where I represented all the selectmen across the state, and am currently continuing as an Executive Committee member of that Association. I am serving a sixth term as an advisor to the Governor and his administration on local affairs as a member appointed by the Governor of the state's Local Government Advisory Committee. I am now

and have been for the past six years a member of the Massachusetts Municipal Association Board of Directors.[1]

Accordingly, I and the firm can bring to the Town of Reading the highest level of expertise with all of the problems facing a municipality in the Commonwealth of Massachusetts and, equally important, a sense of hands-on practicality in solving problems.

In addition to the submission of this proposal, we request an opportunity to meet with you to discuss these issues and to show you that Deutsch Williams is the best choice to lead you into the future.

Very truly yours,

Paul R. DeRensis
and the Team here at Deutsch Williams

PRD:ham
Enclosures

[1] The Governor recently appointed me to serve as "Public Member" on the State Board that regulates the medical profession in the Commonwealth.

PROPOSAL OF DEUTSCH WILLIAMS
TOWN COUNSEL SERVICES
FOR THE TOWN OF READING

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PROPOSAL
TOWN COUNSEL SERVICES
FOR THE TOWN OF READING

Name:	Paul R. DeRensis
BBO#:	121000
Name of Firm:	Deutsch Williams Brooks DeRensis & Holland, P. C.
Street Address:	One Design Center Place, Suite 600
City, State, Zip:	Boston, MA 02210
Telephone:	(617) 951-2300
Fax Number:	(617) 951-2323
Email:	pderensis@dwboston.com
Website:	www.dwboston.com

Introduction:

THE FIRM: Deutsch Williams Brooks DeRensis & Holland, P.C. ("Deutsch Williams") has the capacity to provide a full range of municipal legal services which include land use, labor, litigation and tax title services. Here at Deutsch Williams we recognize that each community has its own set of unique issues and one general answer does not fit all communities.

We fill the gap between the large municipal law firm and the small local practitioner and we do not take the cookie-cutter approach. We vigorously represent our clients with a staff of thirty three full-time employees, including seven shareholders, eight non-equity principals, six associates and two full-time paralegals. We are unlike other large firms practicing municipal law in that we avoid legal "mass-production" and instead provide personal attention and personal commitment to the community inexpensively.

In sharp contrast to the limited resources of the individual practitioner or small firm, all of the attorneys here at Deutsch Williams have a wide variety of expertise, and each of those counsel is familiar with the full range of legal problems that a town may face. Consequently, we can handle problems running the full gamut of municipal issues from procurement, litigation, ethics, financial concerns, environmental, eminent domain, land use and real estate matters. Many municipal problems span several different areas of the law, requiring input from practitioners in those different areas who work as a team to effectively resolve issues and problems, with an eye toward conservation of your time, energy and expense.

Ours is a well respected practice with an excellent Martindale Hubbell rating and we are on the cutting edge of municipal practice for a number of practice areas, including the renewable energy (solar power, wind power, green community), Quinn bill issues, historic preservation, community preservation, sewer districting and wastewater utilities. We at Deutsch Williams

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have expertise beyond that of the usual town counsel areas of municipal practice. Unlike a typical municipal law firm, we here at Deutsch Williams are particularly sensitive to the types of legal issues not commonly found in either municipal law firms or individual practitioners—we have authored revisions to a Historic District Act and are fully familiar with the court decisions in Massachusetts and nationwide dealing with Historic Preservation. We are at the cutting edge of land preservation issues, including Land Bank issues (having written many of the provisions of one of the Commonwealth's Land Bank Acts), Community Preservation Act issues, conservation restrictions, zoning and land use issues, public charitable trusts, and other land use and preservation issues. We have unparalleled knowledge and experience in the areas of alternative energy. We also have a significant labor law practice department.

We represent many public sector clients, including school committees, towns, and cities, in labor, employment and school law matters. We negotiate collective bargaining agreements with teachers, paraprofessionals, librarians, clerical workers, school traffic supervisors, custodians, public works personnel, and public safety personnel and have used both traditional and interest-based bargaining techniques in negotiations with unions.

We have an established positive relationship with many Public Entity Insurers and we represent insurers of public entities.

We have $5,000,000 professional liability insurance provided by Westport Insurance Corporation, together with statutory workers compensation.

As our decades of experience have shown, we are committed to public service. We care about the quality and integrity of government and come to any assignment with a dedication to serve you and with a personal commitment and enthusiasm for our work.

1. **Please identify by name (and BBO#, address and phone number if different than above) the proposed Town Counsel, and, if applicable, lead counsel as well as members of a team, and each proposed back-up counsel.**

   Deutsch Williams Brooks DeRensis & Holland would supply personal attention from a senior team of experienced attorneys (all in good standing with the Federal and State Bar for the Commonwealth of Massachusetts), backed up with associates and paralegals. Please see Attachment A for our attorney resumes. Primary contact for municipal law advice would be Paul R. DeRensis, who would be designated Town Counsel. Other attorneys specializing in various aspects of law, such as litigation (supervised by Attorney Steven J. Brooks), real estate (supervised by Attorney Valerie Swett), or labor (supervised by Attorney Brian Magner) would be utilized and a brief statement of their credentials and qualifications is as follows:

   Paul R. DeRensis (BBO# 121000) is one of the founders of Deutsch Williams and a graduate of Harvard College and Harvard Law School; he has been a member of the Bar of the State of New York and of the Commonwealth of Massachusetts . Attorney DeRensis has been admitted to practice in numerous federal courts, including the Supreme Court of the United States, the United States Court of Appeals for the First Circuit, the United States Court of

Appeals for the Second Circuit, and several United States District Courts. In addition to his legal perspective, Attorney DeRensis has practical hands-on experience with the problems faced by a municipality as he has served in municipal government as an appointed official, as an elected member of a Town Planning Board and as an elected member of a Board of Selectmen for six terms. Attorney DeRensis was named a New England Super Lawyer in Boston Magazine, November 2013 in Government/Cities/Municipalities category, among a group of only ten lawyers in the entire six-state New England Region so recognized. This is the ninth time he has been so recognized. Attorney DeRensis is backed up by Rodney Hoffman, BBO# 542573 (for contracts and procurement and energy), John Richard Hucksam, Jr., BBO# 546519 (for energy, zoning and land use), John Foskett, BBO# 175540 (employment litigation), Daniel Deutsch, BBO#551744 (environmental issues), Louis Ross, BBO#641120 (land & tax title issues) and Kimberly M. Saillant BBO# 548775 (for litigation), as well as by the attorneys listed below.

Steven J. Brooks (BBO# 059140) is one of the founders of Deutsch Williams and a graduate of the State University of New York - Harper College and the Boston University School of Law and is a member of the Bar of the State of New York and of the Commonwealth of Massachusetts. He has been admitted to practice before numerous federal courts, including the United States Supreme Court, United States Tax Court, United States Courts of Appeals for the First, Second and Third Circuits, and numerous United States District Courts. Prior to joining DWBD&H, Attorney Brooks was an Assistant District Attorney for New York County and an Assistant United States Attorney for the Districts of New Jersey and Massachusetts. A more detailed copy of his resume is enclosed. Attorney Brooks is backed up by litigation attorneys Robert Hillman (BBO# 552637), John Foskett (BBO# 175540), Daniel Deutsch (BBO# 551744), Kimberly M. Saillant (BBO# 548775), Jan M. Gould (BBO# 651536) and Sandy A. Curko (BBO# 641389).

Valerie Swett (BBO# 490480) is the head of our real estate department. She has over 20 years experience and she is a member of the Bar of the State of Illinois and of the Commonwealth of Massachusetts. A more detailed copy of her resume is enclosed. Attorney Swett is backed up by Attorney Louis Ross who specializes in real estate matters.

John Foskett (BBO# 175540) is a Principal in the litigation and labor departments of Deutsch Williams. He has extensive experience in the federal and Massachusetts trial and appellate courts, the Massachusetts Commission Against Discrimination, and the Massachusetts Labor Relations Commission. Attorney Foskett's practice concentrates in all types of employment-related matters, primarily representing employers. He has handled matters involving discrimination claims (race, gender, age, handicap, religion); civil rights claims (including speech, privacy, and procedural due process, as well as the foregoing discrimination categories); ERISA discrimination claims; claims under state wage payment and overtime statutes; federal Fair Labor Standards Act claims; state unemployment compensation claims; wrongful termination claims; breach of contract claims; severance claims, breach of fiduciary duty claims; employee privacy and computer access claims; "whistle-blowing" claims; claims of unfair labor practices; non-competition/non-disclosure covenant claims; trade secrets and proprietary/confidential business information claims; and judicial review of

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arbitration awards. The employers which Attorney Foskett has represented in these matters include large and small for-profit corporations, educational institutions, municipalities, state agencies and authorities, and non-profit corporations. In addition to this practice, Attorney Foskett also specializes in handling appeals which involve all types of civil cases. He has obtained a number of significant reported decisions in the Massachusetts Supreme Judicial Court, the Massachusetts Appeals Court, and the United States Court of Appeals for the First Circuit.

Kimberly M. Saillant (BBO# 548775) is a Principal specializing in litigation for over twenty five years, successfully representing clients throughout the Commonwealth on a wide variety of matters, in both state and federal courts, with a concentration in all phases of land use issues, including governmental defense, environmental issues, eminent domain proceedings, municipal board and department defense and administrative advise, civil rights claims and real property claims. Attorney Saillant is an accomplished and well respected trial attorney with a history of decades of successful resolution of hundreds of land use disputes, with an eye to resource conservation and proven public interest results. Prior to becoming a principal, Ms. Saillant was an Associate at the firm from 1997 through 2002 and she was Assistant Corporation Counsel to the City of Boston, from 1993 through 1997, concentrating in high profile, complex multi-party civil rights and associated tort litigation from initial pleadings through trial, post trial, and appellate proceedings. From 1986 to 1993 Attorney Saillant was an Associate at the large defense firm of Morrison, Mahoney & Miller where she specialized in litigation representing governmental entities and their employees for alleged violations of state and federal constitutional rights and the Massachusetts Tort Claims Act in both federal and state courts, during which, in addition to successfully conducting several Federal and State Superior Court trials as lead counsel, she effectively researched, drafted, and argued over 60 dispositive motions and supporting memoranda on complicated state and federal constitutional issues and related tort claims as well as briefed and argued appellate court cases in the United States Court of Appeals for the First Circuit.

Rodney G Hoffman (BBO# 542573) is a Principal in the Business Law and Municipal Law Departments of the firm. Attorney Hoffman has over twenty years experience in the practice of business and corporate law and has represented municipalities and other government entities in procurement and contracting matters since joining Deutsch Williams in 1986. Attorney Hoffman represents clients in a wide variety of business matters including organizational matters, acquisitions and financing and also counsels municipal clients on various matters related to contracting and the Massachusetts public procurement statutes and renewable energy. Attorney Hoffman is a graduate of the University of Pittsburgh and Harvard Law School.

Robert D. Hillman (BBO# 552637) is a Principal of the firm, practicing primarily in the litigation department. Attorney Hillman represents clients in a broad range of matters, including commercial and contract disputes, disputes involving shareholders in closely-held enterprises, securities compliance and SEC investigations, environmental issues, Cable TV matters and the defense of tort liability claims. Mr. Hillman also represents clients in

employment matters ranging from executive compensation and noncompetition covenants to the defense of employment discrimination, whistle-blowing and wage-related claims.

John Richard Hucksam (BBO# 546519) is a Principal in the Municipal Department. He has over twenty-six years of land use, litigation and municipal law experience. Attorney Hucksam has represented and advised municipal officials including mayors, city councils, boards of selectmen, town managers, building officials, conservation commissions, planning boards and zoning boards on a wide range of municipal law issues including comprehensive permits pursuant to MGL Chapter 40B, telecommunications towers, large scale solar energy facilities and wind turbines. Attorney Hucksam has represented private and municipal clients in litigation in the Land Court and Superior Court and has argued appeals involving land use permits and other municipal law issues before the Massachusetts Appeals Court. He also has represented clients in adjudicatory hearings before the Massachusetts Department of Environmental Protection and in appeals before the Massachusetts Appellate Tax Board, where he preserved over $500,000 of property tax income for a municipality in an appeal involving land contaminated with hazardous materials. He is a is a former Chairman of the Norwood Conservation Commission.

Daniel R. Deutsch (BBO# 551744) has been a Principal at Deutsch Williams since 1996, with over twenty-three years of experience preparing and trying complex civil and white-collar criminal cases in the state and federal courts of Massachusetts and New Hampshire. He also has argued extensively before the Massachusetts Appeals Court and the First Circuit Court of Appeals in a wide variety of matters, including civil and criminal cases of first impression. Attorney Deutsch concentrates his practice in the prevention, management and litigation of commercial, insurance coverage, employment termination and discrimination, shareholder, land use, and environmental disputes (including contamination cost recovery and wetland matters). In addition, Attorney Deutsch regularly counsels individual and corporate clients on insurance coverage matters, including commercial general liability, fidelity, fiduciary, directors and officers liability, automobile, and casualty coverages. Before becoming a principal of the firm, Attorney Deutsch was associated with the firm from 1988 to 1996, clerked with the Office of the United States Attorney for the District of Massachusetts, and practiced law in southern New Hampshire. He holds a Bachelor's Degree, with distinction, from Cornell University and a J.D. from Boston University.

Brian Magner (BBO# 645320) is a Principal in the Labor and Employment Law Department who advises private and public sector clients on a variety of labor and employment issues, including collective bargaining, labor relations, discipline and discharge, layoffs and demotions, FMLA, FLSA, Title VII, ADA, ADEA, CORI, discrimination, unemployment benefits, severance and release agreements, the Education Reform Act, school committee policy, and student discipline. Attorney Magner also has experience representing clients in labor and employment matters before the Massachusetts Appeals Court, the Massachusetts Superior Court, the Massachusetts District Court, the Massachusetts Division of Labor Relations, the Civil Service Commission, the American Arbitration Association, and the Division of Unemployment Assistance. Attorney Magner regularly conducts training seminars for employers on discrimination and harassment avoidance. Attorney Magner is

admitted to practice law in Massachusetts and is a member of the Massachusetts Bar Association, and the Massachusetts Council of School Attorneys. Attorney Magner is a graduate of Boston College Law School and the College of the Holy Cross.

Louis M. Ross (BBO# 641120) is a Principal in the Municipal Department. He is a 1994 graduate of Dartmouth College and a 1998 graduate of Boston University School of Law. He has over 12 years of experience in real estate and land use law for both the public and the private sector, including representation of numerous towns and counties in eminent domain matters, road layouts, real estate tax assessment and takings, land sales and acquisitions, conservation restrictions, community preservation, and municipal harbor plans. Attorney Ross also has far-reaching experience in other land use and regulatory matters including subdivision control, zoning, permitting, wetlands and waterways matters, environmental law (such as MEPA and protection of the environment under G.L. c. 21E, the Massachusetts Contingency Plan and the Natural Heritage Endangered Species Program), smart-growth projects, utility matters, dam safety matters, the construction of municipal and regional water, wastewater and waste disposal systems and affordable housing (such as G.L. c. 40B, LIP Regulatory Agreements and affordable housing trusts). He has also represented municipalities at town meetings and local boards and private parties at public hearings and meetings and he has drafted numerous legal opinions, petitions to the General Court, municipal regulations, permitting decisions and town meeting warrants and motions. Lou has been a member of the Bar of the Commonwealth of Massachusetts since 1998.

Jan M. Gould (BBO# 651536) is a 1998 graduate of Dickinson College and a 2001 graduate of Boston University School of Law. Her practice concentrates on litigation, primarily in the context of business, municipal, and employment matters. Attorney Gould has extensive litigation experience, including depositions, hearings, arbitrations, and trials in the state District, Superior, and Federal Courts. She also has significant experience representing a variety of clients before various state agencies and governmental bodies including the Joint Labor Management Committee, the Joint Resolution Committee, the Housing Appeals Committee, the Division of Labor Relations, the Massachusetts Commissions Against Discrimination, and the State Ethics Commission. Ms. Gould has represented a broad range of clients, including individuals, municipalities, school districts, local businesses, general contractors, developers, hotels, insurance companies, and various other multi-national corporations. Attorney Gould has been admitted to the Massachusetts Bar since January 2002, and to the Federal District Court for the District of Massachusetts since 2003. She was named a Super Lawyer Rising Star in 2006, 2007, 2009, and 2010 and is a member of the Massachusetts Bar Association. In addition to handling litigation issues, Jan has counseled clients in the areas of risk management and insurance coverage.

Sandy A. Curko (BBO# 641389) is a graduate of Boston University and a graduate from Suffolk University Law School. Attorney Curko's practice specializes in civil litigation. Her practice focuses on the areas of commercial and business litigation, labor and employment, school law and municipal law. She has significant experience in breach of contract cases, as well as other matters arising out of contractual disputes and interpretation. Ms. Curko also advises clients on a broad range of labor and employment issues, ranging from discrimination

claims to policy development issues. Additionally, she advises schools on various topics, including student discipline, employment applications and handbooks, and special education issues. Over the years, Ms. Curko has successfully represented a wide variety of clients, including individuals, municipalities, school districts, retail establishments, businesses of all sizes and international corporations. She has represented her individual, municipal and corporate clients through all phases of litigation and trial.

James T. Hargrove (BBO# 550975) is a graduate of Loyola University in Chicago and a graduate from Suffolk University Law School. Attorney Hargrove's practice specializes in insurance coverage litigation, including personal and commercial property, personal and commercial liability, environmental liability, directors' and officers' liability, errors and omissions liability, fidelity and surety, and inland and ocean marine. In addition to his trial work, Jim has consulted with insurers and insureds regarding the drafting and interpretation of insurance policies and alternative methods of managing risks.

Nicholas J. Dominello (BBO #685637) is an Associate and his practice concentrates on labor and employment law since 2012. He currently performs labor and employment work for the towns of Arlington, Brookline, Canton, Cohasset and Templeton and the cities of Taunton and Fitchburg. Nick has helped represent employers at the Joint Labor Management Committee and before the American Arbitration Association.

2. **Please attach resumes or *curriculum vitae* for each attorney identified above.**

   We have done so for each of the attorneys named above, as contained within the attached Attachment A.

3. **Do each of the attorneys identified above meet the minimum bar admission requirements of the RFP? If other than "yes", please explain.**

   Yes, they do.

4. **With respect to each attorney identified, please list each and every Massachusetts municipality represented by the attorney within the past ten years, the years of such representation, and the name, address and phone number of at least one contact person in each municipality with knowledge of the attorney's representation.**

   Town of Randolph, 41 South Main Street, Randolph, MA 02368, Councilor, James Burgess, 781-885-0131, jfburgess@randolph-ma.gov (Special Counsel, 1981 to 1989; Town Counsel, 1990-2010; Outside Town Counsel, 2010 to present)

   Town of Cohasset, 41 Highland Avenue, Cohasset, MA 02025, Selectman Chairman Frederick R. Koed, 617-710-7512, fred.koed@gmail.com (Town Counsel, 1996 to present)

   Town of Canton, Memorial Hall, 801 Washington Street, Canton, MA 02021, Town Administrator William Friel, 781-821-5000, bfriel@town.canton.ma.us (Town Counsel, 2003 to present)

Town of Wilmington, 121 Glenn Road, Wilmington, MA 01887, Selectman Chairman Michael McCoy, 978-657-5495, artistDMC@aol.com (Town Counsel, 2003 to present)

Town of Halifax, 499 Plymouth Street, Halifax, MA 02338, Executive Secretary, Charles Seelig, 781-294-1316, cseelig@town.halifax.ma.us (Land Use Counsel, 1998 to present)

Town of Mansfield, 6 Park Row, Mansfield, MA 02048, Town Manager William Ross, 508-261-7370, wross@mansfieldma.com (Town Counsel, 2010 to present)

Nantucket Islands Land Bank, 22 Broad Street, Nantucket, MA 02554, Director Eric Savetsky, 508-228-7240, director@nantucketlandbank.org (General Counsel, 1986 to present)

Town of Carlisle, 66 Westford Streetm Carlisle, MA 01741, Selectman Douglas A.G. Stevenson, 978) 635-9700, dags66@comcast.net (Town Counsel, 1998 to 2013)

Town of Templeton, P.O. Box 250, Templeton, MA 01468, Selectwoman Julie Farrell, (978) 939-8801, j_farrell@hotmail.com (Town Counsel, 2012 to present)

Please see Attachment E for a full list of our municipal labor clients

5. Please describe each identified attorney's experience in municipal law.

General Municipal Law

We understand the difficulties and challenges elected public officials face as they fulfill their offices and endeavor to represent their constituencies in light of various demands for public resources in a time of fiscal constraint. We have served various town government officials for many decades and have advised many such elected officials over these changing times. The attorney whose concentration focuses on this area of the law is Paul DeRensis.

Municipal Finance

We have for decades advised our clients about the procedures applicable to municipal finance, including the application of Proposition Two and ½ so called, issues related to appropriations, transfers of funds, handling of trust funds, health insurance issues and the like. The attorney whose concentration focuses on this area of the law is Paul DeRensis.

Town bylaws and regulations

We have drafted every conceivable type of municipal by-law, regulation and legislation, including without limitation general by-laws, zoning by-laws, affordable housing by-laws, community preservation by-laws, expedited permitting by-laws, parking by-laws, site plan review by-laws, animal control by-laws, sewer district by-laws, storm water by-laws, comprehensive permit regulations, parking regulations, septic system regulations, special permit regulations, subdivision regulations, wetlands by-laws and regulations, sewer

connection by-laws and translation. The attorneys whose concentration focuses on this area of the law are Paul DeRensis and Rich Hucksam.

Open Meeting, public record, executive session, conflicts of interest law

We provide upon request training seminars on the Commonwealth's Open Meeting Law. We provide advice as to agenda preparation, executive session, and minutes and record keeping strategies. The attorneys whose concentration focuses on this area of the law are Paul DeRensis, Rich Hucksam and Lou Ross.

Zoning and land use issues

Our collective experience in the area of zoning is unsurpassed and it extends from the drafting of zoning bylaws through the litigation phases of an applicant or abutter's dispute concerning the application of same. We have drafted local zoning bylaws, amendments and town warrant articles, trained members of Boards of Appeal, rendered legal opinions, drafted decisions, and successfully defended clients throughout the litigation of these concerns from the hearing through the Land Court, the Superior Court and the Massachusetts Appeals Court. The attorneys whose concentration focuses on this area of the law are Paul DeRensis, Rich Hucksam, Kimberly Saillant, Lou Ross and Valerie Swett.

The team at Deutsch Williams has decades of collective experience in the area of land use. We have been involved in all phases of this area of land law from acquisition, disposition, purchase of town property, takings by eminent domain, procurement, permitting, licensing, tax title, contracts, drafting of bylaws concerning zoning and subdivision control, land restrictions, road layouts, deed restrictions, land bank issues, real estate tax assessments, conservation questions and enforcement, waterways, comprehensive permits pursuant to G.L. c. 40B, official maps, telecommunications towers, large scale solar energy facilities and wind turbines, community preservation, conducting and/or attendance at board, committee and commission hearings involving land use, drafting of board and commission decisions involving bylaws, interpretation , application and procedural concerns, smart-growth projects, utility matters, dam safety matters, the construction of municipal and regional water, wastewater and waste disposal systems and affordable housing such as G.L. c. 40B, LIP Regulatory Agreements and affordable housing trusts, petitions to the General Court, municipal regulations, permitting decisions and town meeting warrants and motions, and all phases of litigation involving land use issues in the Land Court, the Superior Court, the Massachusetts Appellate Tax Board, the Massachusetts Appeals Court and the Supreme Judicial Court. The attorneys whose concentration focuses on this area of the law are Paul R. DeRensis, Rich Hucksam, Kimberly Saillant, Dan Deutsch, Rod Hoffman, Valerie Swett, and Lou Ross.

Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax takings; licenses; conservation and agricultural restrictions; right-of-first refusal

Deutsch Williams has always had a component of its practice focus on public sector real estate law. Our firm has advised its municipal clients in all aspects of their acquisition,

financing, permitting, development, regulation and disposition of real property and property interests for major public projects and community objectives, including tax title takings and takings by eminent domain, leases, easements and restrictions for may purposes. Our proven team has over 140 years of combined experience in the legal disciplines governing the acquisition, disposition and use of public property and expertise and resourcefulness enable them to work efficiently and effectively with clients to recognize and respond to real estate matters. The attorneys whose concentration focuses on this area of the law are Valerie Swett, Lou Ross and Rod Hoffman.

Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting

Mr. DeRensis has attended a record 1,168 Town Meetings. He is thoroughly familiar with Town meeting procedures and particularly rules of parliamentary procedure, including but not limited to *Town Meeting Time* and *Robert's Rules of Order*.

Drafting and monitoring special legislation

We have drafted every conceivable type of municipal by-law, regulation and legislation, including without limitation general by-laws, zoning by-laws, affordable housing by-laws, community preservation by-laws, expedited permitting by-laws, parking by-laws, site plan review by-laws, sewer district by-laws, stormwater by-laws, wetlands by-laws, comprehensive permit regulations, parking regulations, septic system regulations, special permit regulations, subdivision regulations, wetlands regulations, public endangerment legislation, sewer connection legislation and wastewater district legislation. The attorneys whose concentration focuses on this area of the law are Paul DeRensis and Rich Hucksam.

Public bidding, public construction, and municipal procurement issues including lease-purchasing of equipment and contract approval

Deutsch Williams has more than 20 years experience in representing public entity clients in all aspects of construction contracting. This includes preparing and drafting bid documents and construction contracts; representation in matters regarding the FAA, FHA, MSBA and other federal and state funding sources; oversight of bidding and response to contractor issues; representation at bid protests; advice and representation regarding issues arising during construction; representation in bidding and other contract litigation including claims for breach of warranty and other contract issues. Deutsch Williams' philosophy is that careful preparation of the documents and strategy as the project is being planned is time well spent as it allows the public entity to stay ahead of the curve in protecting the its financial and other interests. The attorneys whose concentration focuses on this area of the law are Rod Hoffman, Robert Hillman and Paul DeRensis.

Affordable Housing; MGL. c. 40B; MGL c. 44, § 55C (Municipal Housing Trusts)

We have extensive experience advising municipalities on affordable housing issues, including advising towns concerning Comprehensive Permit applications, representing

Boards of Appeal during hearings on Comprehensive Permit applications, representing Boards of Appeal before the Housing Appeals Committee and advising towns concerning Inclusionary zoning bylaws and other affordable housing related bylaws and acquisition of property for development of affordable housing. The attorneys whose concentration focuses on this area of the law are Paul DeRensis, Rich Hucksam, Lou Ross and Jan Gould.

Subdivision control law

We have extensive experience advising Planning Boards concerning every aspect of the Subdivision Control Law process and representing Planning Boards in appeals of subdivision control law decisions. The attorneys whose concentration focuses on this area of the law are Paul DeRensis, Rich Hucksam and Lou Ross.

Community Preservation Act

We have advised many municipalities regarding Community Preservation Act adoption issues, how Community Preservation Act funds may be used and drafting of warrant articles concerning use of Community Preservation Act funds. The attorneys whose concentration focuses on this area of the law are Paul DeRensis, Rich Hucksam and Lou Ross.

Wetlands regulations

We have extensive experience advising Conservation Commissions concerning Massachusetts Wetland Protection Act issues as well as issues concerning local, nonzoning wetland protection bylaws. We also have represented Conservation Commissions in enforcement actions and in appeals of wetland permitting decisions before the Department of Environmental Protection and in court. The attorneys whose concentration focuses on this area of the law are Rich Hucksam and Dan Deutsch.

Environmental issues

We are also leaders in this area of the law. Our experience encompasses all such environmental issues from conservation restrictions to appellate review of Conservation Commission decisions and it includes all aspects of the Wetlands Protection Act as well as local bylaws, MEPA and protection of the environment under G.L. c. 21E, the Massachusetts Contingency Plan and the Natural Heritage Endangered Species Program. We also have notable success with solid waste facilities and we have handled site assignments and capping of landfills, as well as a myriad of legal issues associated with superfund sites. Some of our principals have also been members of their local Conservation Commission and thus bring hands-on experience to complement their legal knowledge of this area of the law. The attorneys who practice in this area of the law are Dan Deutsch, Rich Hucksam and Kimberly Saillant.

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Elections law and procedures

We have many years of experience with election law and procedures. We have prepared ballot questions, handled election recounts, signature validations, addressed storm interruption of elections, and the like. Mr. DeRensis and Mr. Hucksam would provide this area of expertise to the Town of Reading.

Licensing

We have extensive experience in alcohol licensing issues. We have answered licensing procedural questions, we have drafted license rules and regulations, including regulations of BYOB establishments. We have prosecuted establishments for violation of liquor laws, such as over serving and serving minors, at the full range establishments from large venues like Gillette Stadium to restaurants and bars, to small county owned package stores. Attorney DeRensis and Rich Hucksam would be pleased to assist Reading with this area of law.

Representation of the Town in all courts, including appellate level, and administrative agencies and other litigation

Deutsch Williams has often represented Boards of Assessors in appeals before the Appellate Tax Board, including preserving over $500,000.00 of property tax income for a municipality in an appeal involving land contaminated with hazardous materials.

Our reputation, experience, knowledge and winning litigation record is unequalled. Each of the Principals in our group whose concentration is litigation has no less than twenty five years of public sector litigation skill and experience. We have successfully represented clients throughout the Commonwealth on a wide variety of municipal matters, in both state and federal courts, with a concentration in all phases of land use issues, including governmental defense, land use, zoning, environmental issues, eminent domain proceedings, municipal board and department defense and administrative advise, torts, civil rights allegations, and real property claims. Each of our litigation counsel is an accomplished and well respected trial attorney with a history of decades of successful resolution of hundreds of land use disputes, with an eye to conservation of your time, effort and expense and proven public interest results. For a listing of some of our landmark decisions, please see Attachment G. The attorneys in our group with a concentration in litigation are Steven J. Brooks, Kimberly M. Saillant and Robert D. Hillman.

Appellate Tax Board matters

Deutsch Williams has often represented Boards of Assessors in appeals before the Appellate Tax Board, including preserving over $500,000.00 of property tax income for a municipality in an appeal involving land contaminated with hazardous materials.

Municipal Light Plants

Two of our towns operate Municipal Electric Departments. Accordingly, we are familiar with Chapter 164 and the special requirements applicable to municipal electric departments. Attorneys DeRensis, Ross and Dominello are well experienced in this area.

6. **Please describe how you propose to satisfy the Accessibility and Accountability requirements of the RFP, specifically with regard to Reading's somewhat decentralized form of government, including volunteer Boards.**

Our offices are located at One Design Center Place, Boston, MA 02210. We spend the time, and will in the future spend the time, necessary to get the job done, including visits to town offices as needed or as requested; we are available by e-mail (days, nights and weekends), telephone (days, nights or weekends) or fax, and are available for day/evening and weekend meetings as needed or requested. We respond to contacts within 24-hours, however, the length of time to respond to a specific inquiry of course depends on the complexity of the questions. Some questions we can answer on the spot, and do so. Others require research, collaboration with third parties such as developing additional information from opposing parties, or from Bond Counsel or Department of Revenue or the Inspector General, and the like, requiring more time.

Most of our towns are decentralized, including many volunteer boards, and we are quite comfortable working in that environment.

For further information on the attorneys who will provide services, see our response to section 1 above.

7. **Please describe how you propose to satisfy the back-up requirements of the RFP.**

Town counsel will assign any and all back up counsel as needed in order to render a timely response to your needs and your questions. All counsel are members in good standing and all scrupulously adhere to the standards of professional conduct and ethics and are committed to providing sound objective legal advice.

8. **If services are to be provided by a team of lawyers, describe how the team approach would work. For example, will specific attorneys be assigned to specific cases or subject matters? Will the specific attorney remain the contact throughout the case or matter?**

Mr. DeRensis is in a position to replicate the legal service model that prior town counsel has provided to the town. Mr. DeRensis would personally serve as your town counsel, providing a close working relationship between lawyer and town officials, while his firm Deutsch Williams would provide comprehensive back up. Yes, for matters requiring specialized counsel, specific attorneys experienced in that area of the law would be assigned and remain the point person throughout the case or matter.

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As you can see from the resumes of counsel attached, what makes DW unique is that you are getting top rate lawyers to assist the Town. All have a proven, successful track record. The Town of Reading is not a number to DW and each of our clients receives specialized hands-on assistance and care. With our years of experience we can navigate the Town through any problem.

9. **How would you conduct or oversee litigation, including administrative proceedings, in which the Town and its boards are involved in their official capacity, to the extent such legal services are not provided by the Town's insurance carriers or outside counsel?**

   Yes, our reputation, experience, knowledge and winning litigation record is unequalled. Each of the Principals in our group whose concentration is litigation has no less than twenty five years of public sector litigation skill and experience. We have successfully represented clients throughout the Commonwealth on a wide variety of municipal matters, in both state and federal courts, with a concentration in all phases of land use issues, including governmental defense, land use, zoning, environmental issues, eminent domain proceedings, municipal board and department defense and administrative advise, torts, civil rights allegations, and real property claims. Each of our litigation counsel is an accomplished and well respected trial attorney with a history of decades of successful resolution of hundreds of land use disputes, with an eye to conservation of your time, effort and expense and proven public interest results. For a listing of some of our landmark decisions, please see Attachment F. The attorneys in our group with a concentration in litigation are Steven J. Brooks, Kimberly M. Saillant and Robert D. Hillman.

10. **Are you available to review and approve as to form and content all contracts to which the Town is a party?**

    Yes, we would.

11. **Do you provide regular updates on regulations, legislation and court decisions affecting municipalities and, if so, would this be a separate expense?**

    We issue free of charge regular newsletters advising of new legal developments. In addition, we provide advisory opinions to our clients regarding ways to comply with the various laws of the Commonwealth to avoid incurring liability.

12. **Do you provide training in legal obligations and compliance for elected, appointed and compensated town employees on issues such as conflict of interest, ethics, open meeting law and harassment, and, if so, would this be a separate expense?**

    We will organize, as requested by the Town, training seminars on:

    Open Meeting Law
    Conflicts and Public Records
    Substantive Regulatory Jurisdiction applicable to specific boards and land use
    Sexual Harassment

Employment Claims
Selectmen Training

We are also available to conduct on-site training upon request concerning various land use and other issues affecting town boards and commissions and will supply our newsletters on new decisions and legislation that affects your community. In addition, Paul DeRensis personally meets with each new member of the board of selectmen to answer questions and to provide intensive individual training, as needed. Our firm is also proactive in assisting all Town employees and volunteers with training, upon your authorization to do so. Financial terms are discussed separately in Attachment B.

13. Please describe your suggestions for the transition from current Town Counsel.

We have handled, in the past, transitions from prior counsel, all very successfully. Some transitions we have done without any assistance from prior counsel. Here we would suggest that Mr. DeRensis work with present town counsel with some overlap as part of the transition. There would be no charge for transition.

14. Please describe any complaints with the Board of Bar Overseers or suits against each identified attorney and how the complaints or suits have been resolved.

None against Mr. DeRensis. There have been no such complaints or claims relating to the municipal law practice group in the last five years except, very recently, a former member of a planning board sued one of our municipalities and one of our lawyers, seeking reimbursement of personal legal fees pursuant to a personal defamation lawsuit claimant filed on his own personal behalf as plaintiff without consent or authorization from the municipality, for which lawsuit this firm was not his counsel, and which lawsuit the courts found in 2011 to be frivolous and assessed against this former planning board member the amount of the legal fees incurred by the parties he had sued.

15. Please identify any past or current clients that may give rise to a conflict of interest as a result of representing the Town of Reading.

We are aware of no actual or potential conflicts of interest that might arise as a result of representation of the Town. We do represent the Town of Wilmington but are not aware of any dispute or litigation between Wilmington or Reading. Should the occasion arise where another private client of Deutsch Williams appears before any Reading Town Board or Committee, the firm will forego representation of that client to avoid any such conflict.

16. For each Town you and, if applicable, members of your firm have represented, please list those cases where municipal litigation has been undertaken (do not list special ed or appellate tax board cases).

For all Towns we represent, we have handled any and all litigation that may arise which were not defended by insurance defense counsel. A list of our litigation spanning decades would

be over a thousand of lawsuits but see our list of notable litigation attached hereto as Attachment F.

By my signature, I certify that the information contained in this Response to Request for Proposals are complete and accurate, to the best of my knowledge and belief.

Signed: _____ Date: May 6, 2014

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DEUTSCH | WILLIAMS

Paul R. DeRensis
Principal—Municipal Department

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Areas of Practice
Mr. DeRensis has represented municipalities for approximately thirty years. In addition to his legal perspective, he has practical hands-on familiarity with the problems faced by a municipality in that he has served municipal government as an appointed official, as an elected member of a Town Planning Board and as an elected member of a Board of Selectmen. He serves as an advisor to the Commonwealth for local affairs; he has been appointed by the governor to serve on the Commonwealth's Local Government Advisory Committee.

Work for Clients
Mr. DeRensis has represented a number of public entities and has served as Town Counsel or Special Town Counsel, County Counsel, counsel to a Land Bank, an Airport, and a Water Company. As a consequence of these activities, Mr. DeRensis has had experience with City Councils, Town Managers, Boards of Selectmen, Planning Boards, Conservation Commissions, Town Meetings, Warrants, Boards of Appeals, Executive Secretaries or Town Administrators, Housing Partnerships, Study Committees, Historic District Commissions, Parks & Recreation Commissions, Boards of Health, Boards of Assessors, Treasurers, Town Clerks, Town Accountants, Building Inspectors, Police and Fire Departments, Schools and Continuing Education Programs, Alcohol Licenses and other licenses and permits, Boards of Sewer Commissioners, Special Permit Granting Authorities, Department of Revenue, State Ethics Commission, and the like. He also has an understanding of public procurement, land use, environmental, civil rights, contracts of all kinds, ethics issues, municipal finance/Department of Revenue issues, and the like. Mr. DeRensis also practices in the area of corporate governance and litigation, representing both non-profit and for-profit corporations.

Professional Activities
- Mr. DeRensis was named as one of 2013's New England Super Lawyers. This is the ninth time he has been so recognized. The list of 2013 Super Lawyers is assembled by Thomson Reuters in conjunction with Boston Magazine based on peer nominations by attorneys, independent research conducted by the Thomson Reuters research staff, and peer evaluations by practice area across the six New England states aimed at selecting as Super Lawyers the top 5 percent of New England attorneys in more than 60 practice areas and reflects both peer recognition and professional achievement verified through careful selection process to determine New England's best.
- Mr. DeRensis is admitted to practice in New York; U.S. District Court, Southern and Eastern Districts of New York; Massachusetts, U.S. Court of Appeals, Second Circuit and U.S. District Court, District of Massachusetts; U.S. Court of Appeals, First Circuit; and the U.S. Supreme Court.
- In June, 2013, Mr. DeRensis was appointed by Governor Deval Patrick as "Public Member" of the Board of Registration in Medicine (the Board which regulates and supervises the medical profession in Massachusetts) for the term 2013-2016.
- Mr. DeRensis was also listed in the Martindale Hubbell Bar Registry of Preeminent Lawyers, 2014 Municipal and Zoning Law (Volume 1, page 1258A and 1258B).

Personal/Community Activities
Mr. DeRensis is a member of the Boston Bar Association and the Massachusetts Bar Association. Mr. DeRensis is a six-term elected official serving as a town selectman. He was also chairman of the Board for six years, a former planning board member, and has been President and First Vice President of the Massachusetts Selectman's Association and is a member of the Executive Committee of the Massachusetts Municipal Association. Mr. DeRensis has served six terms on the Governor's Massachusetts Local Government Advisory Committee.

Education
Mr. DeRensis received his Bachelor's Degree from Harvard College and his J.D. from Harvard Law School.

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DEUTSCH | WILLIAMS

Steven J. Brooks
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Areas of Practice
Mr. Brooks is the Senior Managing Principal of the Firm. His practice focuses on white collar criminal law, international law with specialization in Peoples Republic of China, trade secrets, tax litigation, civil and criminal securities litigation, regulatory law, health care regulations, intellectual property litigation, and casinos and gambling law. Expertise includes criminal litigation.

Work for Clients
Mr. Brooks represents individual and corporate clients. He has practiced in courts throughout the United States.

Professional Activities
Mr. Brooks is a member of the Boston Bar Association, Massachusetts Bar Association, American Bar Association and Federal Bar Association. He is also admitted to the New York Bar, U.S. Court of Appeals for the 1st, 2nd and 9th Circuits, U.S. Tax Court and U.S. Supreme Court. Prior to joining Deutsch Williams, Mr. Brooks was an Assistant District Attorney in New York, an Assistant U.S. Attorney for the District of New Jersey and an Assistant U.S. Attorney for the District of Massachusetts.

Personal Activities
Mr. Brooks is an avid scuba diver, enjoys participating in various sports and likes to travel the world.

Education
Mr. Brooks holds a Bachelor of Arts Degree in political science from Harpur College and a J.D. from Boston University Law School.

Awards
Martindale-Hubbell "AV Preeminent Rating: Highest Possible Rating in Both Legal Ability & Ethical Standards"
2014 Super Lawyer
Boston Magazine's "2014 Top Attorneys in Massachusetts"

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DEUTSCH | WILLIAMS

Valerie Swett

Principal—Real Estate and Private Client Services Groups

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Areas of Practice
Ms. Swett is a Principal in charge of the real estate group. In addition, she serves as principal in the private client services group and works extensively with the municipal group. Ms. Swett works with a wide range of transactional and personal services matters, including trust administration; negotiation, drafting contracts, and closing transactions; and review and resolution of title and title related matters, such as boundary disputes. She is licensed to practice law in Illinois as well as Massachusetts.

Work for Clients
In the real estate area, Ms. Swett represents individuals, businesses, non-profit corporations and governmental units in various real estate based transactions, including purchases and sales, financing arrangements, leases, 1031 exchanges, and eminent domain takings. She also works in the development of affordable housing, and assists with creation of appropriate ownership entities. A title insurance agent, Ms. Swett is expert in title matters, with a particular emphasis on Nantucket titles.

Ms. Swett's practice with the private client group focuses on trust and probate administration. She deals with tax and accounting issues related to such administrations and consults with fiduciaries and beneficiaries regarding trust and estates issues. In consultation with other attorneys in the group, she advises clients regarding estate planning and wealth disposal issues. She serves as fiduciary for trusts and estates.

Professional Activities
Ms. Swett's professional associations include New England Women in Real Estate; the Real Property, Probate and Trust Section of the American Bar Association; the Property Law and Probate Sections of the Massachusetts Bar Association; the Real Estate and Trusts & Estates Sections of the Boston Bar Association; and Christian Legal Society.

Personal Activities
Personal pursuits include walking, gardening, and singing.

Education
Ms. Swett earned her J.D. with honors from Northwestern University. She graduated with high honors in economics from the University of Rochester.

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DEUTSCH | WILLIAMS

John Foskett

Principal—Litigation and Labor and Employment Departments

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Areas of Practice
John has been a principal in the litigation group since 1987. He is admitted to practice in Massachusetts, in the United States Supreme Court, in the United States Courts of Appeals for the First Circuit and for the Ninth Circuit, and in the United States District Court for the District of Massachusetts.

Work for Clients
John has successfully litigated lawsuits involving all types of employment-related disputes, including claims of employment discrimination, wrongful termination, violations of federal and state statutory and constitutional civil rights, violations of the Fair Labor Standards Act and Massachusetts Wage Payment Law, judicial review of administrative and arbitral labor law rulings, claims under the Massachusetts Civil Service Law and Contributory Retirement Law, breach of severance agreements, and breach of non-competition covenants, as well as business litigation claims. In addition, John specializes in appellate litigation in numerous substantive areas of the law in the Massachusetts Supreme Judicial Court, Massachusetts Appeals Court, United States Supreme Court, and United States Courts of Appeals for the First and the Ninth Circuits. These cases include several significant decisions including domestic relations, labor, employment, civil rights, municipal law and contracts.

The clients he has worked for include a wide range of governmental bodies at the state and local level, for-profit corporations, non-profit corporations, and individuals.

Professional Activities
John is a member of the Massachusetts Bar Association, Litigation Section, and has participated in professional continuing education presentations.

Personal Activities
In his spare time, John pursues his interests in rock climbing and mountaineering, mountain biking, the American Civil War, and Notre Dame sports.

Education
John received his J.D. from Boston College Law School in 1976 and his B.A. from the University of Notre Dame in 1973.

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DEUTSCH | WILLIAMS

Kimberly M. Saillant

Principal—Municipal and Litigation Departments

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Areas of Practice

Kimberly M. Saillant is a principal specializing in litigation. Ms. Saillant is a seasoned trial attorney with over twenty-five years of experience successfully representing both plaintiffs and defendants on a wide variety of matters in both state and federal courts, from pre-Complaint through litigation and conducting trial as lead counsel, including post trial proceedings. Some of the areas of specialization in which Ms. Saillant has represented clients include: governmental defense, environmental issues, negligence defense, eminent domain proceedings, municipal board and department defense and administrative advice, civil rights claims and real property disputes.

Work for Clients

Ms. Saillant is admitted in the United States Court of Appeals, First Circuit, the United States District Court, District of Massachusetts, and the Supreme Judicial Court of Massachusetts. She is a member of the American Bar Association, the Massachusetts Bar Association, the Massachusetts Defense Lawyers Association, the Defense Research Institute, City Solicitors and the Town Counsel Association as well as the Frank J. Murray Inn of Court.

Prior to becoming a principal, Ms. Saillant was an associate at the firm from 1997 through 2002. From 1993 through 1997 she was Assistant Corporation Counsel to the City of Boston concentrating in high profile, complex multi-party civil rights and associated tort litigation. From 1986 to 1993, Ms. Saillant was an associate at the large defense firm of Morrison, Mahoney & Miller in Boston where she specialized in litigation representing governmental entities and their employees for alleged violations of state and federal constitutional rights and the Massachusetts Tort Claims Act in both federal and state courts. During that time, in addition to successfully conducting several Federal and State Superior Court trials as lead counsel, she effectively researched, drafted, and argued over 60 dispositive motions and supporting memoranda on complicated state and federal issues and related tort claims as well as briefed and argued appellate court cases in the United States Court of Appeals for the First Circuit.

Publications/Presentations

"From Euclid to Lucas – A Retrospective," published in December, 1992, by Massachusetts Continuing Legal Education, Inc., "Defending the Civil Rights Case after Canton and Connor," co-authored with Richard E. Brody, in February 1990, and published by The Defense Research Institute. "Potential Municipal Liability for the Actions of Off-duty Police Officers," published in Civil Liability Alert as the lead article by the Civil Liability Institute of Massachusetts, Inc. in its Winter, 1987 edition. "Implementation Exemption Under the Massachusetts Tort Claims Act," published in The Standard in January, 1987. Ms. Saillant has also served as a faculty member for Massachusetts Continuing Legal Education, Inc. in December, 1992, October, 1999 and Autumn, 2000.

Education

Ms. Saillant holds an A.B. in Government and with a minor in Political Theory from Cornell University as well as a J.D. from Northeastern University School of Law.

DEUTSCH | WILLIAMS

Rodney G. Hoffman

Principal—Corporate, Municipal and Human Service Departments

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Areas of Practice

Mr. Hoffman is a principal of the firm and a member of the business corporate law, the municipal law and the Non-Profit law groups. His business practice focuses on general business and commercial law including secured transactions, capital formation and lending transactions and intellectual property matters. His municipal law practice focuses on contracting and construction transactions and municipal procurement matters. His Non-Profit law practice focuses on the business aspects of human services delivery including organization and structuring of legal entities, acquisitions, mergers and sales.

Work for Clients

Mr. Hoffman represents clients in a wide variety of business matters including organizational matters, acquisitions and financing, capital funding and intellectual property and licensing matters. He counsels clients on matters relating to corporate governance and strategic planning as well as employment law matters especially relating to compensation, non-compete and severance issues.

Professional Activities

Mr. Hoffman is a member of the Massachusetts Bar Association and Boston Bar Association and is a member of both the Massachusetts and Pennsylvania bars. He is president of the Massachusetts Council on Compulsive Gambling, which provides services for both professionals and clients regarding problem gambling in the Commonwealth.

Personal Activities

Mr. Hoffman enjoys cooking, history and bicycling. He is an active member of his local church.

Education

Mr. Hoffman holds a Bachelor of Arts degree from the University of Pittsburgh and a Juris Doctorate from Harvard University.

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DEUTSCH | WILLIAMS

Robert D. Hillman
Principal—Litigation Department

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Areas of Practice
Mr. Hillman is a principal of the firm, practicing primarily in the litigation department. His practice focuses on the litigation and arbitration of business and employment disputes as well as land use disputes in all courts in Massachusetts, federal courts and commercial and securities industry arbitration forums.

Work for Clients
Mr. Hillman represents clients in a broad range of matters, including commercial and contract disputes, disputes involving shareholders in closely-held enterprises, securities compliance and SEC investigations, environmental issues and the defense of tort liabilty claims. Mr. Hillman also represents clients in employment matters ranging from executive compensation and noncompetition covenants to the defense of employment discrimination, whistle-blowing and wage-related claims.

In the area of land-use litigation, Mr. Hillman has represented both private and municipal clients in connection with zoning, title and eminent domain disputes.

Professional and Civic Activities
Mr. Hillman is a member of the Massachusetts bar and is admitted to practice before the United States Court of Appeals for the First Circuit, and the United States District Court for the District of Massachusetts. He is a member of the American and Massachusetts Bar Associations. He chaired the Cohasset Cable Television Committee, and serves on the Board of Directors of the Cohasset Dramatic Club.

Publications
Mr. Hillman has authored several articles on commercial and securities laws issues, including Other Peoples' Money: Problems in Attaching Securities Under Three Versions of U.C.C. Article 8, 16 U.Pitt.J. of Law and Commerce.

Personal Activities
Mr. Hillman is Principal Trombone of the Rusty Skippers, a concert band in Cohasset.

Education
Mr. Hillman holds an A.B. from Boston College (1985) and a J.D. from Cornell Law School (1988).

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DEUTSCH | WILLIAMS

John Richard Hucksam, Jr.
Principal—Municipal Department

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Areas of Practice
Mr. Hucksam is a Principal in the Municipal Department. He has over twenty-five years of experience representing clients in land use, litigation and municipal law.

Work for Clients
Mr. Hucksam has represented and advised municipal officials including mayors, city councils, boards of selectmen, town managers, building officials, conservation commissions, planning boards and zoning boards on a wide range of municipal law issues including comprehensive permits pursuant to MGL. Chapter 40B, telecommunications towers, large scale solar energy facilities and wind turbines. Mr. Hucksam has represented private and municipal clients in litigation in the Land Court and Superior Court and has argued appeals involving land use permits and other municipal law issues before the Massachusetts Appeals Court. He also has represented clients in adjudicatory hearings before the Massachusetts Department of Environmental Protection and in appeals before the Massachusetts Appellate Tax Board, where he preserved over $500,000 of property tax income for a municipality in an appeal involving land contaminated with hazardous materials.

Professional Activities
Mr. Hucksam is a Member of the Boston Bar Association and the Massachusetts Bar Association and is a former member and chairman of the Norwood Conservation Commission.

Personal Activities
Mr. Hucksam is an avid outdoorsman and enjoys activities such as bicycling, hiking, backpacking, skiing and sea kayaking. He is the author of several articles which have been published in Appalachian Mountain Club publications, most recently "An Alaskan Adventure, Gates of the Arctic National Park".

Education
Mr. Hucksam graduated cum laude from Framingham State College in 1980 and is a 1985 graduate of Suffolk University Law School.

DEUTSCH | WILLIAMS

Daniel R. Deutsch
Principal—Litigation Department

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Areas of Practice
A principal of Deutsch Williams since 1996, Dan Deutsch concentrates his practice in the prevention, management and litigation of commercial, insurance coverage, employment, shareholder, land use, and environmental disputes (including contamination cost recovery and wetland matters).

Work for Clients
For seventeen years, Mr. Deutsch prepared and tried complex civil and white-collar criminal cases before judges and juries in the state and federal courts of Massachusetts and New Hampshire and before administrative tribunals. He also has argued extensively before the Massachusetts Appeals Court, Supreme Judicial Court and the First Circuit Court of Appeals in a wide variety of matters, including cases of first impression. As a counselor, Mr. Deutsch regularly advises individuals and businesses on insurance coverage matters, including commercial general liability, fidelity, fiduciary, directors and officers liability, automobile, and casualty coverages. With experience in the operation of a family-run manufacturing business, Mr. Deutsch is especially attuned to the concerns of small businesses, for whom he provides general counsel services.

Professional Activities
Mr. Deutsch has served the Massachusetts Bar Association as a member of its September 11 Committee and has presented to students in the public schools.

Personal Activities
Mr. Deutsch enjoys bicycling, cross-country skiing, soccer, tennis and landscape photography.

Publications/Presentations
Cases which Mr. Deutsch has litigated have resulted in decisions published by the appellate courts. Mr. Deutsch also frequently lectures and authors articles on business planning, litigation prevention and employment practices for trade groups, including several chapters of the Painting and Decorating Contractors Association, the nation's oldest trade association.

Education
Before becoming a principal, Mr. Deutsch was associated with the firm from 1988 to 1996, clerked with the Office of the United States Attorney for the District of Massachusetts, and practiced law in southern New Hampshire. He earned his Bachelor's Degree, with distinction, from Cornell University and his J.D. from Boston University.

DEUTSCH | WILLIAMS

Brian Magner

Principal—Labor and Employment Law Department

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Areas of Practice
Mr. Magner is a principal in the Labor and Employment Law Department and is admitted to practice law in the Commonwealth of Massachusetts.

Work for Clients
Mr. Magner advises private and public sector clients on a variety of labor and employment issues, including collective bargaining, labor relations, discipline and discharge, layoffs and demotions, FMLA, FLSA, Title VII, ADA, ADEA, CORI, discrimination, unemployment benefits, severance and release agreements, the Education Reform Act, school committee policy, and student discipline. Mr. Magner also has experience representing clients in labor and employment matters before the Massachusetts Appeals Court, the Massachusetts Superior Court, the Massachusetts District Court, the Massachusetts Division of Labor Relations, the Civil Service Commission, the American Arbitration Association, and the Division of Unemployment Assistance.

Professional Activities
Mr. Magner is a member of the Boston Bar Association, Massachusetts Bar Association, and the Massachusetts Council of School Attorneys.

Personal/Community Activities
Mr. Magner is a member of the Board of Directors for Matthew 25, Inc., a private non-profit corporation that provides affordable housing to low income tenants in Worcester and Boston.

Publications/Presentations
Mr. Magner regularly conducts training seminars for employers on discrimination and harassment avoidance.

Education
Mr. Magner is a graduate of the College of the Holy Cross and Boston College Law School.

DEUTSCH | WILLIAMS

Louis M. Ross

Principal—Municipal and Real Estate Departments

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Areas of Practice
Mr. Ross is a Principal of Deutsch Williams whose practices concentrates on public and private real estate and land use projects and municipal law.

His public and private real estate practice includes providing counseling on all the nuts and bolts of real estate projects large and small from concept through occupancy, and creative solutions to complex issues and transactions. Such projects include commercial and residential subdivisions, office and public buildings, hotels, shopping centers, affordable housing, community development and preservation, conservation, wetlands and environmental protection, water supply and treatment, sewer projects and wastewater treatment, waterfront development, public access projects, energy generation and distribution, eminent domain proceedings, street layouts, public bidding and construction and public financing and partnerships for private and public projects.

His municipal law practice includes providing counseling on public records law and information requests, open meeting law, state ethics laws and municipal governance issues.

Work for Clients
Mr. Ross has represented many public agencies and elected and appointed boards and officials, including mayors, councils, selectmen, town managers, clerks. Mr. Ross has also counseled private corporations, individuals, closely held businesses and numerous national and regional owners, executives, investors, lenders and developers in all aspects of commercial real estate and ongoing strategic corporate concern.

Professional Activities
Mr. Ross has been admitted to practice in the Commonwealth of Massachusetts since 1998 and is a member of the Boston Bar Association.

Personal/Community Activities
Mr. Ross enjoys running and hockey in his spare time. He has served as a volunteer for Jimmy Fund events and the North East All Retriever Rescue.

Education
Mr. Ross received an A.B. from Dartmouth College in 1994 and a J.D. from Boston University School of Law in 1998 where he was an editor for the American Journal of Law & Medicine.

DEUTSCH | WILLIAMS

Jan M. Gould
Principal—Litigation Department

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Areas of practice: Ms. Gould is a senior associate concentrating her practice on litigation, primarily in the context of business, municipal, and employment matters. Ms. Gould has extensive litigation experience, including depositions, hearings, and trials in the state District, Superior, and Federal Courts. Prior to joining Deutsch Williams, Ms. Gould practiced for five years in Boston as a defense litigator, specializing in construction and products liability issues for corporate clients.

Work for clients: Ms. Gould has represented a broad range of clients, including individuals, municipalities, local businesses, general contractors, developers, hotels, insurance companies, and various other multi-national corporations. In addition to handling litigation issues, Ms. Gould has counseled clients in the areas of risk management and insurance coverage.

Professional activities: Ms. Gould has been admitted to the Massachusetts Bar since January 2002, and to the Federal District Court for the District of Massachusetts since 2003. She was named a Super Lawyer Rising Star in 2006 & 2007, and is a member of the Massachusetts Bar Association.

Personal activities: Ms. Gould enjoys travel, gardening, and theatre in her spare time.

Education: Ms. Gould received a Bachelor of Arts degree from Dickinson College in 1998, with a dual major in Sociology and Anthropology. She received her J.D. from Boston University School of Law in 2001, where she served as research assistant to the Director of the Civil Litigation Clinical Program. While in law school, Ms. Gould represented a number of indigent clients in a variety of matters, ranging from domestic issues to summary process matters, through the B.U. Civil Clinic at Greater Boston Legal Services.

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DEUTSCH | WILLIAMS

Sandy A. Curko

Senior Associate—Litigation Department

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Areas of Practice: Sandy Curko is a senior associate specializing in civil litigation. Her practice focuses on the areas of commercial and business litigation, labor and employment, school law and municipal law. She has significant experience in breach of contract cases, as well as other matters arising out of contractual disputes and interpretation. Ms. Curko also advises clients on a broad range of labor and employment issues, ranging from discrimination claims to policy development issues. Additionally, she advises schools on various topics, including student discipline, employment applications and handbooks, and special education issues.

Work for Clients: Over the years, Ms. Curko has successfully represented a wide variety of clients, including individuals, municipalities, school districts, retail establishments, businesses of all sizes and international corporations. Prior to joining Deutsch Williams, she was a litigation associate at a defense firm in Boston, where she specialized in the areas of premises liability, products liability, insurance coverage litigation, and G.L. c. 93A/176D cases. She has represented her individual, municipal and corporate clients through all phases of litigation and trial.

Professional Activities: Ms. Curko has been admitted to practice in the Commonwealth of Massachusetts since 1998. She is also admitted to practice in the United States District Court for the District of Massachusetts. Ms. Curko is the Northeast Regional Director of the Croatian-American Bar Association.

Personal/Community Activities: Ms. Curko enjoys basketball, swimming, golf and traveling. A member of the Cambridge Masters Swim Club, she enjoys competitive swimming and is active in USMS events. In the past, she has served as a volunteer basketball coach for the West End Boys & Girls Club in Allston. She has also served as a volunteer in the Floating Hospital for Children at New England Medical Center. She is fluent in Croatian and proficient in French.

Education: Ms. Curko holds a Bachelor of Arts degree from Boston University, and received her J.D. from Suffolk University Law School.

5d2-34

DEUTSCH | WILLIAMS

James T. Hargrove
Senior Associate—Litigation Department

One Design Center Place
Suite 600
Boston, MA 02210
617.951.2300
617.951.2323 fax
jhargrove@dwboston.com

Areas of Practice
James Hargrove brings to his practice over 30 years of involvement in the insurance industry, first as a licensed agent, licensed broker, claims adjuster, claims supervisor, claims manager, public adjuster and for the past 23 years trial practice in insurance coverage litigation, including personal and commercial property, personal and commercial liability, environmental liability, directors' and officers' liability, errors and omissions liability, fidelity and surety, and inland and ocean marine. He has represented commercial insureds as well as many major domestic and foreign insurers including Underwriters at Lloyds, London. In addition to his trial work, Jim has consulted with insurers and insureds regarding the drafting and interpretation of insurance policies and alternative methods of managing risks.

Work for Clients
Over the years Jim has tried numerous cases in state and Federal Courts, ranging from arson and fraud defense to fish mortality claims in jurisdictions from Maine to California. In addition he has argued matters before the Massachusetts and Connecticut Courts of Appeal and the First and Second Federal Circuits. Prior to joining Deutsch Williams Jim was a principal at Goulston & Storrs, PC and a partner at Morrison Mahoney LLP.

Professional Activities
Mr. Hargrove is admitted to practice in Massachusetts and admitted before the Federal District Courts of Massachusetts, Maine, Connecticut, New York and Michigan. In addition he is admitted to practice before the First and Second Circuit Courts of Appeal. He has been admitted *pro hac vice* in the state courts of Maine, Connecticut, New York, Nevada and California.

Personal/Community Activities
Jim has acted as a trial advisor for the Harvard Law School Trial Advocacy Workshop, as a judge for the Suffolk University Law School Moot Court Board, and as a judge for the ATLA (now American Association for Justice) 2005 National Student Trial Advocacy Competition. He has also volunteered in Scene Design and Construction for the Manchester Essex Regional Schools.

Education
Mr. Hargrove holds a Bachelor of Arts degree from Loyola University in Chicago and received his J.D. from Suffolk University Law School.

DEUTSCH | WILLIAMS

Nicholas J. Dominello

Associate—Labor and Employment Departments

One Design Center Place
Suite 600
Boston, MA 02210
617.951.2300
617.951.2323 fax
ndominello@dwboston.com

Areas of Practice
Nicholas J. Dominello is an Associate in the Labor and Employment Law Department specializing in public and private sector management-side labor and employment law. Mr. Dominello's practice also involves issues of school law such as the Education Reform Act and school committee policy.

Work for Clients
Mr. Dominello represents and advises clients in the areas of labor relations, employment and discrimination. He represents clients in labor relations and employment litigation matters before the American Arbitration Association, the Massachusetts Division of Labor Relations, the Civil Service Commission and the Massachusetts Commission Against Discrimination.

Professional Activities
Mr. Dominello is a member of the Boston Bar Association, Massachusetts Bar Association, Massachusetts Council of School Attorneys and the American Bar Association.

Personal Activities
Mr. Dominello enjoys long distance running and playing golf. He has also served as a volunteer for the Massachusetts Special Olympics.

Education
Mr. Dominello holds a Bachelors Degree from Boston College and a J.D., cum laude, from Boston College Law School.

ATTACHMENT B

RESPONSE TO REQUEST FOR PROPOSALS FOR TOWN OF READING TOWN COUNSEL – FINANCIAL INFORMATION

Fees and Expenses Response Sheet

(To be attached to and made a part of the overall Response to Request for Proposals)

1. Please list the name and hourly rate for proposed Town Counsel and for each attorney intended or likely to serve as back-up.

Attorneys	$210.00/hr

2. If you propose to bill for services provided by paralegals, clerical staff, or other non-attorney personnel, please list by title and hourly rate each position for whom you may bill.

Paralegals/Law Clerks	$115.00/hr

3. Please provide a complete listing of all charges for expenses you intend to impose as incurred (i.e., any and all copy charges, telephone charges, fax charges, mileage charges and the like, but excluding any fees for stenographers, court fees, service fees and the like).

Black & White Copies	$0.15 per page
Color Copies	$1.00 per page
Scanning	$0.03 per page
Local Facsimile	$1.00 per page
Long Distance Facsimile	$2.00 per page
International Facsimile	$5.00 per page
Telecommunications	$0.23/minute minimum
Postage	rates calculated by USPS
Mileage	$0.565 per mile or current IRS rate per mile

4. In what hourly increments do you intend to bill?

   Our billing practices reflect the work performed in tenths of an hour.

5. Do you bill out attorney time out of the office on a portal-to-portal basis or some other basis? Please describe.

   We bill for time spent in court or meetings, or depositions, from the time of arrival to the time of departure, not for time spent "travelling".

6. Please describe any proposed alternative fee arrangement.

We are prepared to entertain a monthly flat rate retainer for all the usual Town Counsel Services not including the following areas which are to be billed at the hourly rates set forth above:

Real Estate Counsel
Labor Counsel
Litigation Counsel
Cable TV Counsel

C

5d2-40

ATTACHMENT C
MUNICIPAL LAW EXPERIENCE CHECKLIST
(To be completed for each team member)

Paul R. DeRensis, Esq. and the members of Deutsch Williams

Rate your experience in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

5	General Municipal Law
5	Municipal Finance
5	Town bylaws and regulations
5	Open Meeting, public record, executive session, and conflicts of interest law
5	Zoning G.L. c. 40A and land use issues
5	Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax taking; licenses; conservation and agricultural restrictions; right-of-first refusal
5	Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting
5	Drafting and monitoring special legislation
5	Public Bidding, Construction Law and Municipal Procurement Law
5	Chapter 40B Affordable Housing
5	Subdivision Control Law
5	Community Preservation Act G.L. c. 44B
5	Wetlands Regulation (State and Local)
5	Elections law
5	Liquor Licensing
5	Municipal Labor Law
5	Chapter 32B

MUNICIPAL LAW EXPERIENCE CHECKLIST
(To be completed for each team member)

John Richard Hucksam, Jr., Esq.

Rate your experience in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

5	General Municipal Law
3	Municipal Finance
5	Town bylaws and regulations
5	Open Meeting, public record, executive session, and conflicts of interest law
5	Zoning G.L. c. 40A and land use issues
3	Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax taking; licenses; conservation and agricultural restrictions; right-of-first refusal
4	Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting
4	Drafting and monitoring special legislation
3	Public Bidding, Construction Law and Municipal Procurement Law
4	Chapter 40B Affordable Housing
5	Subdivision Control Law
4	Community Preservation Act G.L. c. 44B
5	Wetlands Regulation (State and Local)
3	Elections law
3	Liquor Licensing
4	Municipal Labor Law
5	Chapter 32B

MUNICIPAL LAW EXPERIENCE CHECKLIST
(To be completed for each team member)

Kimberly M. Saillant, Esq.

Rate your experience in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

5	General Municipal Law
4	Municipal Finance
5	Town bylaws and regulations
5	Open Meeting, public record, executive session, and conflicts of interest law
5	Zoning G.L. c. 40A and land use issues
5	Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax taking; licenses; conservation and agricultural restrictions; right-of-first refusal
4	Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting
3	Drafting and monitoring special legislation
5	Public Bidding, Construction Law and Municipal Procurement Law
5	Chapter 40B Affordable Housing
5	Subdivision Control Law
3	Community Preservation Act G.L. c. 44B
5	Wetlands Regulation (State and Local)
4	Elections law
5	Liquor Licensing
5	Municipal Labor Law
3	Chapter 32B

MUNICIPAL LAW EXPERIENCE CHECKLIST
(To be completed for each team member)

Louis M. Ross, Esq.

Rate your experience in the following areas of municipal law using the scale below

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

4	General Municipal Law
2	Municipal Finance
4	Town bylaws and regulations
5	Open Meeting, public record, executive session, and conflicts of interest law
3	Zoning G.L. c. 40A and land use issues
5	Real estate issues: acquisitions, sales, eminent domain, easements, leases, tax taking; licenses; conservation and agricultural restrictions; right-of-first refusal
4	Town Meeting: drafting and review of warrant articles and motions, advice on issues before and at Town Meeting
3	Drafting and monitoring special legislation
3	Public Bidding, Construction Law and Municipal Procurement Law
3	Chapter 40B Affordable Housing
4	Subdivision Control Law
5	Community Preservation Act G.L. c. 44B
3	Wetlands Regulation (State and Local)
3	Elections law
2	Liquor Licensing
3	Municipal Labor Law
3	Chapter 32B

D

5d2-45

ATTACHMENT D
STATEMENT OF LITIGATION EXPERIENCE
(To be completed for each team member)

Paul R. DeRensis, Esq. and the members of Deutsch Williams

Rate your experience practicing with the following Courts, Boards and Commissions based on the scale listed below.

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

5	Trials before State Courts (District, Superior, Land Courts)
5	Trials before Federal District Courts
5	Appeals before Massachusetts Appeals Court
5	Appeals before Massachusetts Supreme Judicial Court
5	Administrative Proceedings before Massachusetts Civil Service Commission
5	Arbitration Proceedings
5	Mediation Proceedings
5	Administrative Proceedings before Massachusetts Appellate Tax Board
5	Administrative Proceedings before Massachusetts Department of Environmental Protection
5	Administrative Proceedings before Massachusetts Commission Against Discrimination
5	Administrative Proceedings before the ABCC
5	Administrative Proceedings before the Housing Appeals Committee
5	Administrative Proceedings before Division of Administrative Law Appeals

STATEMENT OF LITIGATION EXPERIENCE
(To be completed for each team member)

John Richard Hucksam, Jr., Esq.

Rate your experience practicing with the following Courts, Boards and Commissions based on the scale listed below.

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

4	Trials before State Courts (District, Superior, Land Courts)
1	Trials before Federal District Courts
3	Appeals before Massachusetts Appeals Court
1	Appeals before Massachusetts Supreme Judicial Court
1	Administrative Proceedings before Massachusetts Civil Service Commission
1	Arbitration Proceedings
2	Mediation Proceedings
5	Administrative Proceedings before Massachusetts Appellate Tax Board
4	Administrative Proceedings before Massachusetts Department of Environmental Protection
1	Administrative Proceedings before Massachusetts Commission Against Discrimination
1	Administrative Proceedings before the ABCC
1	Administrative Proceedings before the Housing Appeals Committee
2	Administrative Proceedings before Division of Administrative Law Appeals

5d2-47

STATEMENT OF LITIGATION EXPERIENCE
(To be completed for each team member)

Kimberly M. Saillant, Esq.

Rate your experience practicing with the following Courts, Boards and Commissions based on the scale listed below.

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

5	Trials before State Courts (District, Superior, Land Courts)
5	Trials before Federal District Courts
5	Appeals before Massachusetts Appeals Court
5	Appeals before Massachusetts Supreme Judicial Court
2	Administrative Proceedings before Massachusetts Civil Service Commission
4	Arbitration Proceedings
5	Mediation Proceedings
2	Administrative Proceedings before Massachusetts Appellate Tax Board
4	Administrative Proceedings before Massachusetts Department of Environmental Protection
4	Administrative Proceedings before Massachusetts Commission Against Discrimination
5	Administrative Proceedings before the ABCC
5	Administrative Proceedings before the Housing Appeals Committee
3	Administrative Proceedings before Division of Administrative Law Appeals

STATEMENT OF LITIGATION EXPERIENCE
(To be completed for each team member)

Louis M. Ross, Esq.

Rate your experience practicing with the following Courts, Boards and Commissions based on the scale listed below.

1. No experience
2. Limited experience
3. Moderate experience
4. Advanced experience
5. Extensive experience

2	Trials before State Courts (District, Superior, Land Courts)
1	Trials before Federal District Courts
1	Appeals before Massachusetts Appeals Court
1	Appeals before Massachusetts Supreme Judicial Court
1	Administrative Proceedings before Massachusetts Civil Service Commission
1	Arbitration Proceedings
1	Mediation Proceedings
2	Administrative Proceedings before Massachusetts Appellate Tax Board
2	Administrative Proceedings before Massachusetts Department of Environmental Protection
1	Administrative Proceedings before Massachusetts Commission Against Discrimination
1	Administrative Proceedings before the ABCC
1	Administrative Proceedings before the Housing Appeals Committee
1	Administrative Proceedings before Division of Administrative Law Appeals

E

5d2-50

ATTACHMENT E
MUNICIPAL LABOR CLIENTS

ANDOVER PUBLIC SCHOOLS

ANDOVER, TOWN OF

ARLINGTON PUBLIC SCHOOLS

ARLINGTON, TOWN OF

ASHLAND PUBLIC SCHOOLS

BERLIN PUBLIC SCHOOLS

BERLIN, TOWN OF

BERLIN-BOYLSTON REGIONAL SCHOOLS

BOSTON, CITY OF

BOSTON HOUSING AUTHORITY

BOSTON PUBLIC SCHOOLS

BOSTON WATER AND SEWER COMMISSION

BOYLSTON PUBLIC SCHOOLS

BRISTOL COUNTY COMMISSIONERS

BROOKLINE, TOWN OF

BROOKLINE PUBLIC SCHOOLS

CAMBRIDGE PUBLIC HEALTH COMMISSION

CAMBRIDGE PUBLIC SCHOOLS

CANTON, TOWN OF

CASE COLLABORATIVE

CHELMSFORD PUBLIC SCHOOLS

CHELSEA, CITY OF

CITY OF BOSTON CREDIT UNION

COHASSET, TOWN OF

EDIC

FAIRHAVEN PUBLIC SCHOOLS

FITCHBURG, CITY OF

FOXBOROUGH, TOWN OF

GLOUCESTER, CITY OF

HEALTH AND HOSPITALS, TRUSTEES OF

HOLLISTON, TOWN OF

HUDSON PUBLIC SCHOOLS

IPSWICH SCHOOL COMMITTEE

LONGMEADOW PUBLIC SCHOOLS

MANSFIELD, TOWN OF

MARBLEHEAD PUBLIC SCHOOLS

MARTHA'S VINEYARD AIRPORT COMMISSION

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

MASSACHUSETTS CONVENTION CENTER AUTHORITY

MASSPORT

MASSACHUSETTS HIGHWAY DEPARTMENT

MASSACHUSETTS, COMMONWEALTH OF
(Secretary of State's Office)

MASSACHUSETTS STATE LOTTERY COMMISSION

MASSACHUSETTS TURNPIKE AUTHORITY

MASSACHUSETTS WATER RESOURCES AUTHORITY

MATTAPOISETT PUBLIC SCHOOLS

MENDON, TOWN OF

MERRIMACK VALLEY TRANSPORTATION AUTHORITY

METROPOLITAN AREA PLANNING COUNSEL

MONTACHUSETT REGIONAL PLANNING COMISSION

NAHANT, TOWN OF

NANTUCKET PUBLIC SCHOOLS

NANTUCKET, TOWN OF

NATURAL RESOURCES TRUST OF EASTON

NEW BEDFORD SCHOOLS

NEWBURYPORT, TOWN OF

NORTHBRIDGE, TOWN OF

NORTHBRIDGE PUBLIC SCHOOLS

OLD ROCHESTER REGIONAL SCHOOL DISTRICT

PUBLIC HEALTH COMMISSION

RANDOLPH, TOWN OF

ROCHESTER CITY SCHOOL DISTRICT (NY)

SALEM, CITY OF

SOMERVILLE, CITY OF

SOMERVILLE HOUSING AUTHORITY

SOUTHBRIDGE, TOWN OF

SPRINGFIELD WATER AND SEWER COMMISSION

SUDBURY PUBLIC SCHOOLS

SWAMPSCOTT SCHOOL COMMITTEE

TAUNTON, CITY OF

TEMPLETON, TOWN OF

UXBRIDGE, TOWN OF

WAKEFIELD RETIREMENT BOARD

WAKEFIELD, TOWN OF

WAYLAND, TOWN OF

WESTBOROUGH PUBLIC SCHOOLS

WILLIAMSTOWN SCHOOL COMMITTEE

WILMINGTON, TOWN OF

WORCESTER, CITY OF

5d2-55

ATTACHMENT F
LANDMARK CASES

Weston & Sampson CMR, Inc. v. Town of Foxborough and Barbato Construction Co., Inc., Norfolk Superior Court C.A. # 2012-00561. Successfully defeated Weston & Sampson's Motion for a Preliminary Injunction. On March 26, 2012 a Two Count Complaint for TRO and Declaratory Judgment regarding Oak Street Water Treatment plant and associated facilities was filed. Weston and Sampson claimed that it was the lowest responsible bidder under G.L. c. 30, § 39M and should have been awarded the contract. An investigation into DCAM Update filings post- certification revealed unsatisfactory performance by Weston & Sampson in other contracts. A determination was made that Weston & Sampson was not a "responsible bidder". The Director of D.P.W. recommended to the board and the board in turn recommended to the Chief Procurement Officer to award the contract to another bidder. Weston & Sampson appealed, as its bid was numerically lower. The Complaint was dismissed with prejudice by Stipulation.

Susan Young v. Randolph, Appeals Court No. 2011-P-1572, was Norfolk Superior Court C.A. # 2009-00649. Sought and successfully received Judgment for the town on the plaintiff's claims of failure to pay compensation, pursuant to G.L. c. 149, § 150, to former employee "Pool Manager" in the amount of over $39, 606.00, which she claimed should be doubled or trebled, along with the plaintiff's request for costs and attorneys' fees, as allowed by the statute. We drafted, filed and argued a comprehensive Motion for Summary Judgment on plaintiff's failure to pay for monies she claimed were due on 'authorized' compensation time, which involved both a complicated paper trail as well as a complex employment situation that involved appointments to various employment positions and an alleged history of authorizations for such work by her supervisor who left the employ of the town under less than amicable circumstances and who supported plaintiff's claim via affidavit. After our victory at the Superior Court the plaintiff appealed filed an appeal with the Appeals Court which was later dismissed.

Town of Randolph v. Darren Woolf (Police Bypass Appeal), Civil Service Commission Case No. G1-09-36; Town of Randolph v. Civil Service Commission and Darren Woolf, Civil Action No. 10-2061. Darren Woolf was bypassed for an original appointment to the police department based on his dishonesty during interviews about the nature of a prior arrest. He filed an appeal of the bypass with the Civil Service Commission. A full hearing was held on June 24, 2009 before an Administrative Magistrate at the Division of Administrative Law Appeals. On January 4, 2010, the Administrative Magistrate issued a recommended decision that the Town was justified in bypassing Mr. Woolf for appointment. On February 2, 2010, Mr. Woolf filed objections to the recommended decision, and we filed a response to those objections on February 23, 2010. On April 22, 2010, the Commission, in a 2-1 decision, decided not to adopt the recommended decision of the Administrative Magistrate, and instead allowed Mr. Woolf's appeal ordering him to the top of the current requisition list for future appointments. The Town filed an appeal of the Commission's decision to the Superior Court and the parties filed motions for judgment on the pleadings. The parties appeared in Superior Court for oral argument on April 13, 2011 and the court rendered its decision on April 28, 2011, allowing the town's Motion for Judgment on the Pleadings, which sought to vacate the decision of the Civil Service Commission and to enter a Judgment for the town. Woolf appealed, the appeal was briefed and

argued, and on February, 2012, the Appeals Court affirmed. Woolf has now filed an application for further review with the Supreme Judicial Court, which we intend to oppose by the required date of April 20, 2012.

Foley v. Town of Randolph, et al, Civil Action No. 07-12213-PBS, United States District Court, March 11, 2009. In this case, a Fire Chief was suspended for three weeks by the Board of Selectmen after making statements about budget and staffing issues during an official press conference at the scene of a fatal fire. The Chief sued, claiming that his First Amendment speech rights had been violated. The federal judge ruled against him, agreeing with our argument that under Supreme Court precedent his statements were made as part of his job, since his duties included communications to the media about the Fire Department. We believe that this is the first reported decision in the country which addresses the speech rights of an employee whose job involves interacting with the media. The decision in favor of the town was affirmed by the U.S. Court of Appeals 2010.

McCoy v. Town of Wayland, et al., Suffolk Superior Court C.A. No. 07-1089-G, April 10, 2008. The court affirmed the Town's decision to fire a police officer who lied during the chief's investigation into whether he had falsely called in sick.

Porfido v. Boston Water and Sewer Commission, Suffolk Superior Court C.A. No. 07-3974-H, March 25, 2008. The court granted summary judgment on an employee's claim that he was wrongly terminated for violating a residency requirement.

Ameral, et al. v. City of Somerville, Suffolk Superior Court C.A. No. 06-4883-H, March 20, 2008. The court affirmed the City's decision to suspend two police officers who failed to disclose certain facts during investigation of a firearms discharge.

I. Fred DiCenso Trust v. Board of Assessors of Wilmington, Appellate Tax Board, November 27, 2007. The firm successfully defended denial of property tax abatements representing over $500,000 in tax revenue for Town in a case involving industrial properties contaminated by hazardous materials. Denial of abatements was upheld by the Massachusetts Appeals Court (2010) in spite of claim on property owner of contamination on property.

Boston Public Schools Custodians Association, BPS Labor Relations Commission, November 4, 2007. The firm obtained an order from the LRC reducing the interest calculation in an earlier case by nearly $1,750,000, by persuading it to apply a different interest statute.

Avalon Cohasset, Inc. v. The Town of Cohasset Zoning Board of Appeals, Housing Appeals Committee, September 20, 2007. Finding for the town, after extensive hearing, regarding Modification of Comprehensive Permit, *Pro Forma,* and calculation of profit in reference to G.L. c. 40B developer's claim that denial of modification made development uneconomic.

McCain v. City of Somerville, U.S. District C.A. Action No. 07-10646-RCL, April 18, 2007. The court denied a police officer's request for an injunction requiring that he be promoted off a Civil Service list where he alleged that the City failed to promote him because he had engaged in protected speech about City policies.

Boston Public Schools, et al. v. Boston Teachers Union, Suffolk Superior Court C.A. No. 07-0587-F/Appeals Court No. 2007-J-0080, February 12, 2007. The firm obtained an injunction preventing the union from holding a meeting to discuss and take a vote on a strike.

King Taylor Cohasset, LLC v. Cohasset Sewer Commission, et al, Suffolk Superior Court C.A. No. 03-05614A, December 29, 2006. Finding for the town on Dispositive Motion regarding several claims made by developer in reference with application for connection to common sewer, pursuant to G.L. c. 83, § 3, G.L. c. 40, §21(6), G.L. c. 249, §4, and G.L. c. 231A.

Richard J. and May Petano v. Kenneth W. Holdgate, Jr., Philip D. Bartlett, John J. Stackpole, Polly T. Miller, and Allen Reinhard in their capacity as members of the Nantucket Islands Land Bank Commission, Nantucket Superior Court C.A. No. 03-25, May 16, 2005. Eminent Domain Jury Trial pursuant to G.L. c. 79 with Jury Verdict of $900, despite plaintiffs' claim of over $60,000 in damages.

Taggart, et al. v. Town of Wakefield, et al., Appeals Court No. 2009-P-0007. The Appeals Court decided in December, 2010, holding that Massachusetts state law does not require that firefighters attending basic training at the Academy in Stow must be paid for their daily travel time to and from the Academy.

Santini v. Board of Selectmen, Middlesex Superior Court, C.A. No. 09-0714,. The firm defeated a motion for summary judgment and secured an order affirming the decision of the Town's liquor licensing authority that had denied transfer of an all-alcohol license to a multi-use (gas station/convenience store/Dunkin'Donuts) located at a busy intersection close to an interstate highway. The court victory followed two local board hearings, an intervening state administrative review hearing, and extensive argument by the applicant.

Donald A. Baker, et al v. The Board of Selectmen for the Town of Foxborough, Land Court Misc. Action No. 370294 affirmed Mass. Appeals Court (Aug., 2010). The firm has represented the Town of Foxborough in a case addressing the authority of a Town Manager under a strong local Town Manager form of government. The Town had been sued by homeowners abutting a "dog park" which had been constructed on conservation land owned by the Town and administered by its conservation commission. The Town settled the lawsuit by agreeing to close the dog park (leaving the Town free to locate the facility elsewhere) and dismissing all claims for damages which had been asserted against the Town and its officials. The conservation commission disagreed with the decision to settle, and wished to have the Town take the case to trial. A group of taxpayers sought to intervene in the action in the Land Court to challenge the right of the Town Manager to settle the action, taking the position that only the conservation commission could approve the terms of a settlement. The Land Court agreed holding that under the Town Manager Act for the Town, the Town Manager had the exclusive authority to manage litigation on behalf of the Town. The decision has been affirmed by Massachusetts Appeals Court in August, 2010.

JER Trust #2, Polly Dean Trustee v. Town of Cohasset, Norfolk Superior Court C.A. No. 2008-00868. We succeeded at the Superior Court on a Motion for Summary Judgment on a six count

Complaint concerning a Tax Taking of property located at 821 Jerusalem Road, valued at several hundred thousand dollars. The Complaint alleged "unjust enrichment", negligence, promissory estoppel, breach of contract, breach of implied covenant of good faith, equitable relief and for "an accounting", in connection with a tax taking foreclosure for thousands of dollars in unpaid real estate taxes. Judgment entered for the town, affirming its title to the property, and the Complaint was dismissed on May 28, 2010.

Hanover Hills v. Town of Carlisle, Appellate Tax Board Docket Nos. X301716-X301737; F308220; F310968. We succeeded at the Appellate Tax Board concerning the valuation of a 35-lot residential subdivision in the Town of Carlisle. The property owner claimed that the property should be valued as a bulk inventory of lots to be sold to a single purchaser and that the costs to construct the subdivision roadway and utilities should be deducted from the value of the property. The Town's Board of Assessors argued that the highest and best use of the subdivided property was as individual retail building lots for sale to multiple purchasers with no deduction for development costs. The Appellate Tax Board's decision in favor of the Board of Assessors preserves thousands of dollars of tax income for the Town and is an important precedent for the valuation of other residential subdivisions.

5d2-60

DW DEUTSCH | WILLIAMS

MUNICIPAL LAW NEWSLETTER

One Design Center Place
Suite 600
Boston, MA 02210

Volume 6, Issue 1

Winter 2014

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U.S. SUPREME COURT LIMITS USE OF LOCAL IMPACT FEES

The United States Supreme Court recently rendered an opinion that, in the words of one Supreme Court Justice, will "work a revolution in land-use law." The Court's decision in Koontz v. St. Johns River Water Management District, 133 S. Ct. 2586 (2013) has given developers a potent new legal tool to challenge local impact fees and mitigation charges by now requiring communities to prove the validity of such fees and charges.

The Court's 5-4 decision arose from the denial of an application of a landowner, Coy A. Koontz, for a permit to fill 3.7-acres of wetlands to build a small shopping center. The governmental body denying the application made clear that it would only grant the permit if Mr. Koontz agreed either to reduce the size of the development or to spend money on any of a variety of wetlands-restoration projects designed to offset the project's environmental effects. When Mr. Koontz rejected both these options, the governmental body denied the permit.

After the permit was denied, Mr. Koontz sued, claiming that the permit denial constituted an illegal taking based upon two prior Supreme Court decisions, Nollan v. California Coastal Commission, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994).

(*Cont'd on Page 4*)

SUPREME JUDICIAL COURT DECISION REINFORCES AFFORDABLE HOUSING LAW

What does it mean to be local? Sometimes your neighbors may determine your fate when it comes to decisions on matters of "Local Concern" on applications by developers for approval of low and moderate income housing in your town. Or maybe not; it depends on who your selected neighbors are. According to a regional standard applied by "expert affordable housing market analysts", and accepted by Massachusetts' Supreme Judicial Court in Zoning Board of Appeals of Sunderland v. Sugarbush Meadows, LLC and the Housing Appeals Committee, 464 Mass. 166 (2013), when determining whether a regional housing need outweighs matters of local concern it is appropriate to consider the housing stock of surrounding towns, as well as that of your own. The regulations however do not define the relevant region for examination.

(*Cont'd on Page 5*)

5d2-61

Clients' Appeal of Trash Facility Permit Resumes Following Major Permit Changes and Remand by Land Court

While defending against our clients' Land Court appeal of its site design permit for a new truck-to-rail solid waste transfer station, a developer changed major elements of the project on the fly. In a motion to remand the application back to the town planning board, Deutsch Williams' attorney Dan Deutsch successfully argued that those changes seriously undermined the premise for issuing the permit, because the proposed facility would remove waste by truck instead of (or in addition to) rail and would ship out loose bulk waste instead of processing it into sealed bales. The Land Court sent the application back to the planning board, which approved the reformulated project but required additional traffic studies. The appeal has resumed with new expert reports concerning the project's likely impacts on our clients and the surrounding community.

Have you considered advertising on existing structures with good visibility? Deutsch Williams represented the Foxborough Water & Sewer Commission in obtaining both state and local permits for outdoor advertising on a water storage tank. The advertising will raise revenue for the water system and for the benefit of the rate payers at relatively little cost. You too may have opportunities to generate revenues from traditional and digital outdoor advertising per the rules of the Office of Outdoor Advertising.

Municipal Exemptions from Liability Defended

Is your city or town taking advantage of all its legal protections against potential for claims? In Massachusetts, municipalities receive legal protection from certain tort claims under the Massachusetts Tort Claims Act (the "MTCA") and under the recreational use statute (G.L. c. 21, § 17C). In a recent decision, the Massachusetts Appeals Court elaborated on municipal rights under the MTCA and the recreational use statute.

The case involved a four-year old girl, injured when she was struck in the head by a baseball while she was using a public playground adjacent to a public little league baseball field. The playground and baseball field were separated by the outfield fence and protective netting, but the netting did not run for the entire distance of the outfield fence.

The Court, in rejecting the plaintiff's claims and ruling that the municipality was not liable, held that to receive the benefit of the MTCA, the municipality's obligation were only to maintain what had already been constructed, namely the playground, baseball field and the existing fencing and netting. The municipality's obligations did not include accounting for every possible way to maintain public property to prevent injury.

The Court further went on to hold that the recreational use statute provided additional, independent protection from liability because the municipality did not charge any fees for use of public property and did not recklessly fail to surround the entire playground with protective netting. This aspect of the Court's decision should cause all municipalities to reconsider their policies of charging fees for use of public property.

School Bus Transportation Company Bankruptcy Triggers Chapter 30B Emergency Exemption

Section 8 of Chapter 30B permits an "emergency procurement" of goods or services when, due to an unforeseen circumstance, full compliance with Chapter 30B would endanger the health or safety of people or their property. The statute must be complied with to the extent reasonably possible and the procurement should be only of enough goods or services to meet the emergency.

An example of an emergency procurement is the recent case of a school district represented by Deutsch Williams.

The district had a bus transportation contract with a company that filed a Chapter 11 bankruptcy. Under federal bankruptcy law, the district was not permitted to terminate the contract. The bankruptcy schedule was such that the district would not know until mid-December whether its contract would be kept or rejected by the bankrupt company. If rejected, the contract would be terminated on December 20th.

This situation was an emergency because the health and safety of students would be jeopardized if transportation was not available for the reopening of schools in January. The statutory advertising requirements would have to be waived to assure that bus transportation would be available.

(Cont'd on Page 3)

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School Bus Transportation Company Bankruptcy Triggers Chapter 30B Emergency Exemption

(*Cont'd from Page 2*)

In anticipation of the possible rejection of the contract, the district contacted the second lowest bidder for the contract, which indicated it would provide service at its bid price if the contract with the bankrupt was rejected. When the bankrupt company rejected the contract, the district waived compliance with the statutory advertising requirements and entered into a contract with the other company for the remainder of the school term.

As required by Chapter 30B, the district has posted a notice of this emergency procurement in the state Goods and Services Bulletin. It will advertise for a new transportation contract for the upcoming school year.

Significant Changes Coming to Massachusetts Contingency Plan

Massachusetts' Department of Environmental Protection (MassDEP) recently formally issued proposed changes to the Massachusetts Contingency Plan, as set forth in 310 CMR 40.0000 ("MCP"). Highlights of MassDEP's proposed changes include:

1. Permit/Tier Classification and Numerical Ranking System – Eliminating the Tier 1 permit requirement and simplifying site classification criteria to focus on risk;
2. Activity and Use Limitations – Eliminating the requirement that a Licensed Site Professional (LSP) sign an AUL Opinion with AULs;
3. Vapor Intrusion – Allow closures of sites with depressurization systems such as those used for radon mitigation (which are relatively affordable) to present vapors from contaminated soil or groundwater from migrating into buildings air;
4. Nonaqueous Phase Liquid and Source Control – Eliminating the upper concentration limit for Nonaqueous Phase Liquid ("NAPL," which is a residue of petroleum products in soil or groundwater that can be particularly challenging to remediate) to focus more on NAPL mobility and risk of exposure; and
5. Risk Assessment and MCP Standards – Revising cleanup standards and reportable concentrations to reflect latest changes in risk assessments methods and technology.

The proposed changes should significantly expedite the clean up of contaminated sites and reduce cleanup costs, essentially reducing regulatory burdens without decreasing protection for the environment. This should allow for more site closures, ease financing and encourage redevelopment, while safeguarding the public's interest in having a safe and healthy environment.

Environmental Appeal of High School Campus Construction Permit Decided in Favor of Town

The only remaining appeal of a long-standing municipal client's permit to construct a new, $80 million high school complex on the site of its existing campus recently was decided in the client's favor on an expedited basis. By successfully expediting and then winning the administrative and court appeals, Deutsch Williams attorney Dan Deutsch was able to protect project funding by the Massachusetts School Building Authority (MSBA). Now, construction of the modern school campus is well underway with the full use of that funding.

In connection with the development of a large mixed-used development, Deutsch Williams' attorneys Paul DeRensis and Lou Ross recently assisted a municipality with the negotiation of an agreement for mitigation for impacts from a project in an abutting municipality. Those negotiations resulted in mitigation for Deutsch Williams' client valued at over $2.7 million. This mitigation includes upfront payments and improvements to eight local intersections and local infrastructure and engineering and design work, including traffic monitoring for two years, traffic-signal warrants analysis and implementation of new traffic signals and other traffic-flow upgrades.

"The proposed changes should significantly expedite the clean up of contaminated sites and reduce cleanup costs, essentially reducing regulatory burdens without decreasing protection for the environment."

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"[C]ontrary to the traditional deference given to government officials...this decision will require a heightened standard for scrutiny of impact fees, shifting to government the burden of justifying its fees...."

1 + 1=? Deutsch Williams has already done the math, and won

If you take one "stored" ingredient and add another "stored" ingredient in an effort to produce a product, that's "manufacturing." It isn't "warehousing," as the Superior Court ruled in a recent trial of five consolidated matters. In those lawsuits the plaintiffs claimed that their proposed use of a parcel, located within the Ground Water Protection and the General Industrial Zoning Districts of the town of Wilmington, was "warehousing" and therefore allowed "as of right" under the town's zoning bylaws Not so, said the Court. Despite the fact that site plan approval had been sought and secured and a building permit issued, when the true nature of the activities proposed was uncovered and in accordance with the evidence at trial, including a post building permit decision rendered by the Building Inspector, the Court determined and ruled that a special permit was necessary to engage in the activities on-site even though the "product" wasn't completely manufactured until some time after it left the premises.

U.S. Supreme Court Limits Use of Local Impact Fees

(*Cont'd from Page 1*)

In reversing the Florida Supreme Court, the Supreme Court found in favor of Mr. Koontz and held that the Nollan and Dolan test applies to cases where a governmental body: (1) issues a permit subject to a condition or outright denies a permit, and (2) requires the conveyance of an interest in tangible property or a generalized requirement of an applicant to spend some money.

This holding is a significant development in land use law. First, it will very likely discourage local government officials from communicating with applicants rather than discussing permit conditions that might allow projects that benefit the community and the applicant. Second, contrary to the traditional deference given to government officials and technical experts on issues of regulatory policy, this decision will require a heightened standard for scrutiny of impact fees, shifting to the government the burden of justifying its fees in any legal challenges related to impact fees.

The practical result of the decision then will be generally to limit the use of impact fees and, if a local government does use impact fees, to greatly increase the difficulty and cost in defending legal challenges to local impact fees and regulations. Given this decision, it is now important to focus on the legality of local impact fees.

Supreme Judicial Court Clarifies Reach of Article 97

Article XCVII ("Article 97") of the Amendments to the Constitution of the Commonwealth of Massachusetts creates a public right to have clean air and water and a clean environment. Article 97 protects the public's right to the conservation of these natural resources by requiring the adoption of a state law by a two-thirds majority vote before any public land acquired by any state or municipal body for park, forest, water protection or other conservation purposes can be used for other purposes or otherwise disposed of.

Because Article 97 is broadly drafted and because Article 97 court decisions providing guidance on Article 97 are scarce, it is not unusual for there to be questions regarding the applicability of Article 97.

By its decision in Mahajan v. Dept. of Envtl. Protection, 464 Mass. 604 (2013), the Supreme Judicial Court provided us with some guidance on Article 97. At issue in Mahajan was whether the Boston Redevelopment Authority (BRA) could convert a public park on public property originally acquired for urban redevelopment purposes to a restaurant without the adoption of a state law by a two-thirds majority vote pursuant to Article 97. The Court in Mahajan held that yes, the BRA could convert that public park on public property to a restaurant without a special act by the legislature.

(*Cont'd to Page 5*)

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SUPREME JUDICIAL COURT DECISION REINFORCES AFFORDABLE HOUSING LAW

(*Cont'd from Page 1*)

The region chosen by the developer and accepted by the Court in Sugarbush Meadow consisted of the towns of Amherst, Deerfield, Hadley, Montague and Whately, which are all located within a twenty mile radius of Sunderland, the parameter chosen by the developer's expert, rather than all of the 55 municipalities within that radius, which would also have included the cities of Springfield, Northampton, Holyoke and Chicopee, as proposed by the local board. In Sugarbush Meadow, the Court ruled that the Housing Appeals Committee did not err in finding a substantial regional housing need based on the limited availability of subsidized housing within the chosen six-town region, as well as Sunderland itself, thus supporting the issuance of a comprehensive permit to the housing developer under the statute.

According to the Court state law defines low or moderate income housing as any housing subsidized by the federal or state government. The Court reasoned that the exclusion of unsubsidized, affordable market-rate housing is consistent with the purpose of the law to help provide "decent, safe, low and moderate cost housing" for low or moderate income households, independent of short-term market conditions.

So, if it isn't subsidized by the government, it is not by definition "affordable housing" and cannot be considered in weighing local concerns against the regional need for low and moderate income housing under the Massachusetts comprehensive permit act, even if it is otherwise affordable, market-rate housing. Therefore, per the Court's rationale, Sunderland only had six affordable housing apartments, less than .4 percent of the town's overall housing stock, and was required to issue a comprehensive permit for the construction of a 150-unit apartment complex exemption from the town's usual zoning bylaws and permitting requirements.

"[I]f it isn't subsidized by the government, it is not by definition "affordable housing" and cannot be considered ... against the regional need for low and moderate income housing...."

SUPREME JUDICIAL COURT CLARIFIES REACH OF ARTICLE 97

(*Cont'd from Page 4*)

In its holding, the Court clarified that the critical component to determine the applicability of Article 97 is whether or not the public property was acquired for Article 97 purposes, not whether the public property is ever used for Article 97 purposes. The Court reasoned that the BRA's acquisition was for the redevelopment of blighted property, so that even though a portion of that property was subsequently used as a park, Article 97 did not apply or require the permanent use of that portion of the property for a park.

By its holding, the Court limited prior opinions regarding the breadth of Article 97 and provided much welcomed clarification. However, the Court still left the door open for instances where acquisitions of property for purposes other than Article 97 purposes could be deemed to be converted into Article 97 land upon demonstration of a specific intent to do so. If you are the owner of public land or seek to own or use public land the lawyers at Deutsch Williams would be happy to advise you as to whether Article 97 applies, requiring you to obtain a special act before any change of use or disposition of such public property.

"[T]he critical component to determine the applicability of Article 97 is whether or not the public property was acquired for Article 97 purposes, not whether the public property is ever used for Article 97 purposes."

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Deutsch Williams Brooks DeRensis & Holland, P.C. is a Boston-based law firm providing a wide range of legal services. Our clients include cities, towns, school committees, public agencies, corporations, closely held businesses, insurance carriers, non-profit corporations and individuals.

Deutsch Williams enjoys a scale of operations large enough to serve our clients' needs fully without sacrificing responsiveness and personal attention. It is our philosophy of practice to keep sight of client goals and respond with competent advice, aggressive advocacy and timely follow through. Deutsch Williams regards a positive, responsive relationship with our clients as the key to our effectiveness as counsel.

Whatever a client's needs, a Deutsch Williams attorney is available to listen, confer and take responsibility for achieving a timely, cost-efficient resolution of the matter. We believe in bringing to each client-attorney relationship a personal component that is result-oriented.

FIRM NEWS

Deutsch Williams' Attorneys Named Super Lawyers in 2013

As in past years, several Deutsch Williams attorneys were named Massachusetts Super Lawyers in 2013. Steve Brooks, Paul DeRensis, John Foskett and Rob Hillman were named Super Lawyers and a fifth -- Jan Gould -- was named a Rising Star. Super Lawyers is an independent rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement.

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LABOR AND EMPLOYMENT LAW NEWSLETTER

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Winter 2014

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STATE ETHICS COMMISSION APPROVES EXEMPTION FOR PUBLIC EMPLOYEES' FINANCIAL INTEREST IN CONTRACTS

On January 16, 2014, the State Ethics Commission approved a major exemption to the Commonwealth's conflict of interest law. Under the new exemption, state and municipal employees—including elected officials—are permitted to have financial interests in public contracts, as long as they meet certain conditions.

A public employee may now retain a financial interest in a contract with a public agency, as long as that interest predates the employee's public service. Such employees may not, however, participate in any negotiations concerning the contract. The Ethics Commission requires the employee to submit a form identifying the contract and providing information about his or her financial interest in that contract.

The exemption also makes it possible, under some circumstances, for a current public employee to acquire a financial interest through inheritance or from a disabled relative, or to acquire an interest in a new public contract that is substantially similar to another contract predating that employee's public service.

The Ethics Commission approved the final version of the exemption on January 16, 2014 after accepting public comment on the original draft and holding multiple public hearings. A previous draft excluded publicly bid contracts, which are often very lucrative, but the final version allows them.

The attorneys of the Deutsch Williams Labor and Employment Law department are available to educate and train public employees on the important details of the Commonwealth's conflict-of-interest law.

ONGOING IMPLEMENTATION OF NEW CRIMINAL BACKGROUND CHECK LAW

The 2013-2014 school year marks the initial implementation of new background check requirements signed into law by Governor Patrick last year. The law makes national background checks mandatory for school employees, in addition to the state-level CORI checks already required every three years. CORI checks reveal criminal history only in Massachusetts, previously creating a dangerous loophole for school employees (or applicants for employment) who might have criminal records elsewhere. Prior to the law's passage, Massachusetts was the only state in the nation that did not require national fingerprint-based criminal background checks of school employees.

The new law applies to public and private K-12 schools, but not to institutions of higher education—unless they are running day care, early education, or special education programs as well. Substitute teachers are also school employees under the law, and must have background checks. Additionally, the law applies to independent contractors performing work at public or private schools.

Beginning with the current school year, all newly hired school employees (whether in licensed or unlicensed positions) must submit to a national background check. School districts have three years, however, to 'phase in' current and returning employees, which is currently happening on a rolling basis. At the annual meeting of the Massachusetts Council of School Attorneys, in December 2013, Lucy Wall (an attorney with the Department of Elementary and Secondary Education) explained that most schools are in the process of conducting checks alphabetically, as they phase in all existing employees. The Executive Office of Public Safety and Security (EOPSS) continues to add

(Cont'd on Page 3)

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ANTI-BULLYING STATUTE BROADENED TO INCLUDE SCHOOL STAFF AS POSSIBLE AGGRESSORS

An Act Relative to Bullying in Schools, enacted in 2010, offers definitions of both bullying and cyberbullying, and requires each school district (as well as approved private schools and charter schools) to develop and implement a plan for addressing this difficult problem. The Department of Elementary and Secondary Education (DESE) created a Model Bullying Prevention and Intervention Plan that year, but a September 2013 update has broadened the plan's applicability. Under Sections 72-74 of Chapter 38 of the Acts of 2013, the revised Model Plan has updated the definition of "aggressor" (perpetrator) to include the following:.

> Aggressor is a student ***or member of a school staff*** who engages in bullying, cyberbullying, or retaliation towards a student. (Emphasis added.)

School staff members include, but are not limited to, "an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional." Under the revisions, school districts are responsible for addressing bullying of students at the hands of not only fellow students but also school personnel. The definition of "target" (victim) remains unchanged, and includes students only: the Massachusetts statute does not apply to bullying or cyberbullying directed at a member of the school staff.

Bullying, as defined in the Model Plan, is "the repeated use by one or more students or a member of a school staff of a written, verbal, or electronic expression or a physical act or gesture or any combination thereof" that causes physical or emotional harm to the target, damages the target's property, places the target in reasonable fear of harm, creates a hostile environment at school, infringes on the target's rights, or materially and substantially disrupts the education process. Cyberbullying is any bullying conducted through the use of technology or electronic devices, and is likewise prohibited. The statute requires schools to train teachers, and to educate students, about responding to and preventing bullying.

The attorneys in the Deutsch Williams Labor and Employment Law department are available to assist our clients in developing and implementing an effective policy to address and prevent bullying in schools.

MASSACHUSETTS COURTS WEIGH IN ON ASSOCIATIONAL DISCRIMINATION CLAIMS

Claims of associational discrimination are a developing source of new Massachusetts case law in both state and federal court. To make such a claim, a plaintiff alleges that his or her employer subjected the employee to an adverse employment action based not on the employee's own protected status, but on the protected status of someone with whom he or she associates. In *Flagg v. AliMed, Inc.*, the plaintiff argued that his termination was due to his wife's disability (and the attendant health care costs), but a superior court judge dismissed the claim. This summer, the Supreme Judicial Court reversed that ruling and allowed the claim to proceed, approving associational discrimination as a valid claim under the Commonwealth's Fair Employment Practices Act (FEPA) and expanding employee rights under that law.

The following month, however, the Appeals Court of Massachusetts affirmed the dismissal of another associational discrimination claim, in *Lashgari v. Zoll Medical*. In that case, a terminated employee alleged that he suffered an adverse employment action from his employer after discussing his child's autism. Acknowledging the standard established in *Flagg*, the Appeals Court nevertheless held that the plaintiff in *Lashgari* failed to state a claim, as he did not allege a connection between the conversation about his son's disability, and the adverse action taken against him. This case effectively narrowed the *Flagg* standard.

Most recently, in November 2013, the United States District Court for the District of Massachusetts rejected an associational discrimination claim under FEPA. The plaintiff in *Perez v. Greater New Bedford Vocational Technical School District* was a special education coordinator who claimed that her termination was the result of her advocacy on behalf of disabled students. The federal district court, relying on the SJC's decision in *Flagg*, dismissed the claim of associational discrimination because it was not a familial association, and because the plaintiff had not alleged that she was subject to the same prejudices or stereotypes as the protected class for which she advocated. The judge found that her association was too attenuated.

All three recent decisions further refine the Massachusetts standard for these types of claims. Employers should take care to limit their exposure to associational discrimination claims, as this area of the law continues to develop.

Deutsch Williams encourages employers to work closely with our Labor and Employment Law department to develop effective policies and make informed employment decisions. Please contact one of our attorneys for assistance.

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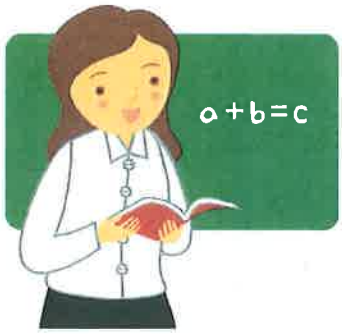
Educator Evaluation and District-Determined Measures

Under the Department of Elementary and Secondary Education's (DESE) new educator evaluation framework, educators will receive both a Summative Performance Rating and a Student Impact Rating. A particularly important factor in determining the Student Impact Rating will be District-Determined Measures (DDMs).

The new regulations define DDMs as "measures of student learning, growth, and achievement . . . that are comparable across grade or subject level district-wide." Using these DDMs, the evaluator shall determine whether an educator's impact on student learning is high, moderate, or low—based on at least two years of data, and two different measures. (Wherever possible, one measure must be a statewide growth measure, such as MCAS Student Growth Percentiles, but these are currently unavailable for most educators in the Commonwealth.)

This fall, DESE issued a revised timeline for the implementation of DDMs across the Commonwealth. Based on this revised timeline, all districts must pilot at least one DDM during the 2013-2014 school year. By June 1, 2014, each district must submit its final plans both for implementing DDMs and for collecting the first year of Student Impact Rating data during the 2014-2015 school year. A district will also be able to apply for a one-year extension for specific grades or subjects in which it has not yet identified DDMs. In the 2015-2016 school year, districts will fully implement DDMs and collect the second year of Student Impact Rating data.

Districts should work with a team of administrators and teachers to identify and select appropriate DDMs for each grade and subject, and should clearly communicate with educators about the measures' development, implementation, and use. Sample DDMs, and documents offering guidance in determining those appropriate for each district, are available on the DESE website as a helpful starting point.



For more information about developing DDMs for your school district, including potential bargaining obligations, please contact one of the attorneys in our Labor and Employment Law department.

Ongoing Implementation of New Criminal Background Check Law

(Cont'd from Page 1)

testing sites and eventually expects to have more than thirty sites available, many of them mobile. The EOPSS is currently developing an implementation guide and assessing the feasibility of the three-year implementation schedule. In the meantime, school districts should make sure they are on pace to complete background checks for at least one third of their staff during the current school year.

The national background check is only necessary once per employer. A teacher or other staff member who moves to another job within the same school district does not require a new background check. Massachusetts CORI checks remain mandatory, however, at least once every three years.

The cost of the background check (ranging from approximately $35 for nonlicensed employees to $55 for licensed employees) is the responsibility of the employee or applicant, as is the case in nearly every other state. There remains no fee for the state-level CORI checks. The law does provide for a hardship exception, if any employee is unable to pay the cost of the background check and seeks reimbursement from the school or district.

For more information regarding the new background check law, including potential bargaining obligations, please contact one of the attorneys in our Labor and Employment Law department.

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FIRM ANNOUNCEMENTS

Liz Valerio and **Jan Gould** each conducted training sessions at the recent Joint Conference of Massachusetts Association of School Committees and Massachusetts Association of School Superintendents. Jan addressed bullying prevention and related policies. Liz trained participants on collective bargaining and interest-based bargaining.

Brian Magner has just concluded his term as president of the Massachusetts Council of School Attorneys. He will continue as a member of the COSA Executive Committee for the 2014 term as the past-president. He also serves as a member of the Advisory Council to the Division of Labor Relations, a position to which he was recently appointed by Governor Deval Patrick.

Hilary Detmold has joined the firm as an associate in the Labor and Employment Law department. Hilary graduated from Suffolk University Law School, where she was editor-in-chief of the *Suffolk University Law Review*. Hilary was recently admitted to the Massachusetts bar and to the United States District Court for the District of Massachusetts.

John Foskett of the Labor and Employment Law practice group, as well as his colleagues **Steve Brooks**, **Paul DeRensis**, and **Rob Hillman**, were named 2013 Super Lawyers. We are also proud to recognize **Jan Gould**, of the Labor and Employment Law and Litigation departments, who was named a 2013 Rising Star.