



ERNEST A. ALMONTE, CPA, CFE
AUDITOR GENERAL
ernest.almonte@oag.ri.gov

STATE of RHODE ISLAND and PROVIDENCE PLANTATIONS
GENERAL ASSEMBLY
OFFICE of the AUDITOR GENERAL

- ◆ INTEGRITY
- ◆ RELIABILITY
- ◆ INDEPENDENCE
- ◆ ACCOUNTABILITY

March 6, 2007

Honorable Katharine H. Waterman, Town Council President
Town of Charlestown
4540 South County Trail
Charlestown, RI 02813

Dear President Waterman:

We have completed a review of the Town of Charlestown's police station construction project as requested by the Charlestown Town Council in a letter dated August 17, 2006. Our report is enclosed.

We would like to thank the Council and Town employees for the assistance provided to us during the course of our review.

Sincerely,

Ernest A. Almonte, CPA, CFE
Auditor General

c: Honorable Members of the Charlestown Town Council
Joint Committee on Legislative Services

Report on Construction of the Charlestown Police Station

INTRODUCTION

The Auditor General was asked to review the costs involved in the construction of the new Charlestown Police Station, a project which spanned more than three years and was recently completed for occupancy in August 2006. Although the original project costs approved by the voters at a financial referendum in June 2003 were \$3,300,000, total project costs to date are \$3,906,898. As a result, the Council asked this office to:

- ❑ review the total costs of the project and the primary reasons for costs in excess of voter authorization;
- ❑ list the sources of funds used to pay for these additional costs; and
- ❑ determine whether the Town violated state and local law when it did not obtain voter approval for the additional cost incurred beyond those approved in June 2003.

We did not perform an audit of the Town of Charlestown or the police station construction project. Our review was limited to (1) review of available documentation related to the police station construction project (the project) including the voter referendum which authorized the project and Charlestown Town Council meeting minutes, and (2) inquiries of current town officials and employees.

BACKGROUND

The finances of the Town of Charlestown are governed by Article XXVI of the Town Charter (hereafter the “Charter”) which sets forth a specific protocol for the adoption of a budget and the expenditure of public funds. The budget and any special capital projects are approved by the voters at a Public Hearing/Referendum held in June. The budget presented to the voters is the result of a comprehensive process whereby the Town Budget Commission and the Town Council develop a budget with input from various members of Town government and the public.

On June 9, 2003, the voters approved a separate ballot question which authorized the issuance of \$3,000,000 of bonds, notes or other evidence of indebtedness and the appropriation of \$300,000 from the General Fund to finance the construction, furnishing and equipping of a new police station in the Town. In a prior year, the voters had rejected a proposal to construct the police station for \$4,000,000.

The police station project was also planned and presented on the basis that it would be constructed on a five-acre parcel of land that was being donated to the Town. However, at a Town Council meeting on November 10, 2003 the Council was advised that in order to move forward with the construction, the Town must subdivide a 9.46 acre parcel of land whereby five acres would be gifted to the Town by L.L. Properties and 4.46 acres would remain with the donor. The minutes of the November 2003 Council meeting indicate that “this requirement for a

major subdivision process was not known until recently and has a significant impact on the project”. In addition, the Town had learned that the five-acre parcel donated to the Town would be insufficient for construction of a public water well that would comply with state standards. As a result, the Council authorized the purchase of the 4.46 acres adjacent to the five acres of donated land at a cost of \$300,000.

ADDITIONAL SOURCES OF FUNDING

The Town sought various ways to fund the project beyond the initial \$3.3 million approved by the voters at the financial referendum. They utilized federal grants, funds received through a lease purchase financing agreement, and additional funds from the General Fund as outlined in the table below. Project costs to date total \$3,906,898 and \$51,452 is being held for contingencies. The police station was completed in August 2006.

Sources of Funding for the Charlestown Police Station (Unaudited)	
Authorized by the voters June 9, 2003:	
US Department of Agriculture Loan	\$ 3,000,000
General Fund	<u>300,000</u>
	<u>\$ 3,300,000</u>
Additional sources of funding:	
General Fund sources:	
Lease purchase financing agreement	\$ 235,368
Other General Fund	73,414
Federal grants:	
Department of Justice Grant	230,611
Homeland Security Grant	99,178
COPS Technology Grant	<u>19,779</u>
	<u>\$ 658,350</u>
Total Project funds available	<u>\$ 3,958,350</u>
Total Project Expenditures (<i>Appendix A</i>)	\$ 3,906,898
Contingency	<u>51,452</u>
Total	<u>\$ 3,958,350</u>

General Fund Sources

The Town entered into a five-year lease purchase agreement on July 11, 2006 in the amount of \$235,368 at 5.49% interest. In substance, the funds from the lease purchase agreement are a loan secured by Town equipment. The property leased included a generator, radio tower, dispatch center and other communications equipment. After construction was completed, proceeds from this agreement were used to reimburse the General Fund for expenditures related to construction of the new police station.

Pursuant to the financing agreement, the Town will make a rental payment of \$68,000 from the General Fund for the fiscal year ending June 30, 2007 and \$48,010.79 in each of the remaining four years. Total interest payments for this financing agreement will amount to \$24,675.16. The Town Council passed a resolution authorizing this agreement on July 10, 2006. We were informed that debt service related to the financing agreement has been included in the fiscal 2007 Town budget and will be included in future budgets through fiscal 2011.

Other General Fund resources of \$73,414 were committed to the project in excess of the original \$300,000 authorized by the voters. Of this amount, \$51,452 has not been expended but is being held for project contingencies.

Federal grants

Approximately 58% (\$349,568) of the costs in excess of voter authorization were funded by federal grants. The Town Treasurer advised us that it is not a practice of the Town to include the resources from federal grants as part of the Town budget submitted for approval by the voters.

The expenditures of federal awards are included within the scope of the Town's annual Single Audit. The results of that audit are included in the Town of Charlestown's Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2006.

REASONS FOR COSTS IN EXCESS OF VOTER AUTHORIZATION

The two principal reasons for excess project costs totaling \$606,898 (not including contingency funds) more than the original voter authorization amount appear to be (1) a land purchase for \$300,000 that was not identified at the time of the financial referendum and (2) contract change orders of \$259,978. A schedule of project change orders and the reasons for the change orders (as provided by the Town) is included as *Appendix B* to this report.

LEGAL COMPLIANCE

We analyzed two issues related to legal compliance:

1. whether the expenditure of funds for the construction of a police station in the Town of Charlestown, in excess of the total amount authorized by the voters at the financial referendum on June 9, 2003 (\$3,300,000), violated the Town Charter; and
2. whether the acquisition of land in connection with the construction of the police station, without specific voter approval, violated the Town Charter.

Expenditures in Excess of Voter Authorization

- ❑ The Town clearly exceeded the total authorization of \$3,300,000 granted by the voters on June 9, 2003. Project costs to date are \$3,906,898 which is \$606,898 more than the amount authorized by the voters.
- ❑ The Town utilized federal grants totaling \$349,568 for certain project costs, primarily equipment. These grants were restricted for law enforcement purposes. Since these grant funds are not subject to the budgeting and appropriation process in Article XXVI of the Charter, the use of these funds does not violate any specific Charter provision. Certain of these federal grant funds may have been used for equipment that was not envisioned in the original project plan and may not have been available as a potential funding source at the time of the financial referendum on June 9, 2003.
- ❑ The remainder of the excess expenditures (\$257,330) was paid with general fund resources consisting primarily of the lease financing (\$235,368).
- ❑ This excess cost committed from the general fund (\$257,330) violates Article XXV, c85 of the Charter. This section of the Charter authorizes reallocation of allotments on an intra and inter departmental basis by the Administrator and the Town Council, respectively. However, this section does not authorize un-approved excess spending. Further, Article XXIV, c74 of the Charter specifically prohibits expenditures in excess of a budget appropriation by a department.

Use of Funds for Land Acquisition

At the time of the financial referendum, voters had been advised that the police station would be built on 5 acres of land to be donated to the Town. Problems arose when the donated land, which was part of a 9.46 acre parcel, needed to be subdivided with five acres being gifted to the Town and the 4.46 acres remaining with LL Properties (the owner and donor). The owner offered to sell the balance of the land to the Town for \$300,000. The Town decided to purchase the extra land to avoid the subdivision process and also to allow construction of a larger well which they learned was necessary to meet state standards. The Council decided at its November 10, 2003 meeting to purchase the land with the \$300,000 of general fund resources earmarked

for costs related to construction that were approved at the June 9, 2003 financial referendum.

We considered whether the Town should have requested the voters to approve the acquisition of land since it was not anticipated as a cost of the project at the time of the referendum. The Charter states in Article V, Section C-13B.:

“Acquisition of real estate for a purchase price in excess of fifty thousand dollars (\$50,000) shall be approved by voters at a budget public hearing /financial referendum unless purchased with funds, in part, provided by government and/or non-profit agencies, or with previously approved bond funds or if acquired by grant, gift or bequest.”

Land was acquired for \$300,000 using the general fund balance approved by the voters for costs related to construction of the police station. However, voters were not specifically advised prior to the June 9, 2003 referendum that they were voting to approve a land acquisition. At the time of the vote they were advised that the police station would be constructed on donated land.

The federal grants could not be used to acquire land. Likewise, the bond funds were not authorized for the purchase of land. As such, the purchase of the land was completed with the use of Town funds. As set forth above, any expenditures beyond the amounts authorized by the voters on June 9, 2003 were in violation of the Charter. The use of these unauthorized funds for land acquisition is a further violation of the Charter. Specifically, Article V, C-13B requires voter approval for real property acquisition with a cost in excess of \$50,000. In sum, the Town acquired this parcel without proper legal authority.

SUMMARY

The project, as approved by the voters, was limited to a cost of \$3,300,000. Although the language of the ballot question did not specifically reference a total cap on the cost, a total project cost authorization is the only reasonable reading of the ballot. This view is supported by the facts that informational material put out to voters indicated the cost at \$3,300,000, and the voters had previously rejected a \$4,000,000 cost. Further, the ballot did identify the total source of funding in the amount of \$3,300,000.

After excluding project expenditures paid with federal grants, there remained \$257,330 in excess project expenditures that were paid with Town General Fund sources. Although the recent lease financing arrangement related to the station equipment was considered by the Town to be new source of project funding, the proceeds (\$235,368) from the financing are essentially Town operating revenue (general revenue recorded within the General Fund). All amounts paid from General Fund sources that were not authorized by the original project referendum should have been authorized by the voters through the annual budget process or by additional project referendum.

Further, we believe the Town's acquisition of land to construct the police station lacked proper legal authority consistent with the requirements of the Town Charter.

Appendix A

Town of Charlestown - Police Station Project Expenditures (UNAUDITED)		
ADS Construction	General Contractor	\$ 2,869,778
Land Acquisition	Land	300,000
Communications Plus	Communications/Radio/Consoles	185,913
Azzinaro Larson Architects	Architectural work	164,174
Dane Tech	Closed Circuit TV and Access Control	65,353
Sabre Communications	Radio Tower & Foundation	62,508
Carousel Industries	Voice/Data/Wiring	59,411
Dowdell Engineering	Engineering work	24,510
J. Salles & Sons	Lockers	17,065
Data Jet	Computer Relocation	16,781
Dell Computer	Computer Workstations	15,172
Richmond Sand & Gravel	Site Work	9,875
A&W Artesian Well	Well-related	8,430
Point to Point Moving	Moving Expenses	3,504
Allstate Drilling	Site Work	3,500
Jacunski Humes Architects	Architectural work	3,200
Blue Hen	Dispatch Chairs	2,998
Crotty & Sons	Signage	1,495
Marrone Electric	Kitchen Equipment	1,332
Other - DPW Wages and Fuel		28,935
Other - Clerk of the Works fees		25,845
Other - Legal and Closing Fees		15,168
Other - Advertising and Printing		5,127
Other - Cleaning		3,568
Other - Miscellaneous Expenses		13,256
Expenditures to date		<u>\$ 3,906,898</u>
Contingency (unspent funds)		<u>51,452</u>
		<u>\$ 3,958,350</u>

Town of Charlestown - Police Station Project
ADS Construction Project Change-Orders
UNAUDITED

C/O #	Date of Change-order	Total ADS Change-order amount	Sub-vendor charges included in ADS amount	Sub-vendor	Nature of cost change	Reason Provided
#1	3/21/2006	\$ 27,055.76	\$ 17,850.00	A.B. Hoxie, Inc.	Well pump & tank	Building required a public well (not in original contract)
			5,835.00	Liberty Electric, Inc.	Water-well related	
			500.00	RI Analytical Testing	Water-well related	
	3/21/2006	136,593.27	122,100.00	MECO Environmental	Fuel storage tank	Contract made provision for conduits for future fuel station installation. Fuel storage tank added to project
Total Change-order #1		\$ 163,649.03				
#2	4/5/2006	4,431.95	3,961.70	A. Emma Plumbing & Heating	Drain work	Required by code
	4/5/2006	835.67	747.00	A. Emma Plumbing & Heating	Relocate shower	Required for ADA compliance
	4/5/2006	19,073.85	5,639.55	Liberty Electric	Stairwell light switching	Not anticipated in original plan
			2,533.41	Liberty Electric	Additional heating units	Not anticipated in original plan
			1,608.40	Liberty Electric	Fire alarm pull stations	Required per Fire Marshall
			2,596.78	Liberty Electric	Add lighting fixtures	Not anticipated in original plan
			3,931.33	Liberty Electric	Lighting - Elevator pit	Not anticipated in original plan
			468.22	Liberty Electric	Breaker changes	Not anticipated in original plan
			272.32	Liberty Electric	Emergency shut-offs	Not anticipated in original plan
	4/5/2006	3,951.36	3,245.46	Liberty Electric	Relocate electrical panels	Overhead obstructions
			286.64	Liberty Electric	Lighting in closets	Not anticipated in original plan
Total Change-order #2		\$ 28,292.83				
#3	4/25/2006	2,101.96	1,878.93	Liberty Electric	Remote annunciator for generator at dispatch	Item added for monitoring generator from dispatch room.
Total Change-order #3		\$ 2,101.96				
#4	6/1/2006	20,695.95	18,500.00	K. Wilcox Landscaping	Landscaping	Item added to the project.
Total Change-order #4		\$ 20,695.95				
#5	7/10/2006	1,174.98			Metal door - boiler room	Needed to comply with fire code
	7/10/2006	2,116.58	1,892.00	Liberty Electric	Additional outlet work	Item added to the project
	7/10/2006	5,756.83	1,250.00	Pro-Cut	Underground power - slab	Item added to the project
			2,136.00	Liberty Electric	Underground power - electrical	Item added to the project
Total Change-order #5		\$ 9,048.39				

Town of Charlestown - Police Station Project
 ADS Construction Project Change-Orders (Continued)
 UNAUDITED

C/O #	Date of C/O	Total ADS Change-order amount	Sub-vendor charges included in ADS amount	Sub-vendor	Nature of cost change	Reason Provided
#6	9/18/2006	953.69			Exhaust dampers	Item added to project
	9/18/2006	2,424.12			Door - boiler room	Item added to project
	9/18/2006	1,836.91			Install window blinds	Item added to project
	9/18/2006	928.14			Communications room work	Item added to project
	9/18/2006	853.81			Diffuser - cell areas	Item added to project
	9/18/2006	2,815.79			Dispatch room - electrical	Item added to project
	9/18/2006	1,920.42			Wiring - circulators	Item added to project
	9/18/2006	1,332.68			Relocate fixtures - jail cell	Item added to project
	9/18/2006	4,028.11			Sewage ejector wiring	Item added to project
	9/18/2006	2,463.82			Lockset replacement	Item added to project
	9/18/2006	(1,609.50)			Credit for lighting fixtures	Item added to project
Total Change-order #6		\$ 17,947.99				
#7	11/22/2006	2,574.24	2,301.10	Liberty Electric	Breaker - fuel station	Item added to project-- needed for operation of fuel station
Total Change-order #7		\$ 2,574.24				
#8	12/19/2006	15,667.75	2,945.32	Liberty Electric	Jockey pump - wiring	Special type of pump required by State Fire Marshall
			10,054.66	Delta Mechanical Contractors	Jockey pump - installation	
Total Change-order #8		\$ 15,667.75				
Total change-orders		\$ 259,978.14				