

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. 2679CV00229

MORAIS CONTRACTORS, INC.  
f/k/a MORAIS CONCRETE SERVICES, INC.

Plaintiff

v.

TOWN OF GREAT BARRINGTON,

Defendant

05/14/2026

ANSWER TO COMPLAINT

Now comes the Defendant, Town of Great Barrington (“Town” ) and makes answer to the numbered allegations in the Plaintiffs’ Complaint as follows:

1. On information and belief, admitted.
2. Admitted.
3. Admitted that the Town awarded a contract for the Project to the Plaintiff (“Morais”) on or about July 15, 2024.
4. The Town admits the allegations in the first sentence of paragraph 4. As to the second sentence, the Town states that the Contract speaks for itself.
5. The Town admits that the work of the Contract included stormwater drainage, pipe and structure work, and says that as to Contract scope the Contract speaks for itself.
6. Admitted.
7. The Town admits that the Contract price was \$1,097,075.00.

8. The Town admits only that certain persons affiliated with the Town or the Project engineer proposed that Morais perform work not specified in the Contract documents.
9. The Town admits only that the Town, the Project engineer and Morais signed various documents designated as change orders to the Contract, and says that those documents speak for themselves. The Town denies the remaining allegations of paragraph 9.
10. The Town admits that Morais submitted an Application and Certification for Payment designated number 9 in or about June of 2025 requesting payment in the amount of \$748,820.30.
11. The Town admits that Morais submitted an Application and Certification for Payment number 11 in or about August of 2025 requesting payment in the amount of \$74,091.83.
12. The Town admits that the Project engineer signed Application and Certification for Payment number 9 and Application and Certification for Payment number 11.
13. The Town admits it has not made payment on Application and Certification for Payment number 9 and Application and Certification for Payment number 11, and denies the remaining allegations in paragraph 13. Further, the Town states that the Contract and G.L. c. 30, §39G speak for themselves.
14. The Town admits that Morais substantially completed work under the Contract in 2025.
15. The Town admits that Morais completed work under the Contract, and performed other work, in 2025.
16. Denied.

17. The Town admits that Morais submitted a letter to the Town, dated March 6, 2026, asserting substantial completion, and states that the letter speaks for itself.
18. The Town says the allegations in paragraph 18 constitute a conclusion of law to which no answer is required, and further states that G.L. c. 30, §39G speaks for itself.
19. The Town admits that it did not, within 21 days after Morais's letter of March 6, 2026, present to Morais a written declaration regarding substantial completion of the work of the Contract. Further answering, the Town states within 21 days after March 6, 2026 the Town's counsel issued a letter to Morais's counsel notifying him of legal concerns regarding asserted change orders to the Contract and stating that the Town could not approve payment to Morais at that time.
20. Denied.
21. The Town admits that Morais submitted to the Town a letter dated April 6, 2026 requesting payment by the Town, and states that the letter speaks for itself.
22. The Town admits that it has not made a payment on Application and Certification for Payment number 12, and that it is holding retainage under the Contract.
23. Denied.
24. Denied.
25. The Town states that the allegation in paragraph 25 constitutes a conclusion of law to which no answer is required, and states that G.L. c. 30, §39G speaks for itself.
26. The Town states that the allegations in paragraph 26 constitute a conclusion of law to which no answer is required. To the extent an answer is required, the allegations are denied.
27. Denied.

28. The Town states that the allegations in paragraph 28 constitute a conclusion of law to which no answer is required.

29. Denied.

30. Denied.

#### COUNT I – BREACH OF CONTRACT

31. The Town repeats and restates its answers to the allegations in paragraphs 1 through 30 as if fully set forth herein.

32. Admitted.

33. Denied.

34. Denied.

#### COUNT II – BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

35. The Town repeats and restates its answers to the allegations in paragraphs 1 through 30 as if fully set forth herein

36. Admitted.

37. Admitted.

38. The Town states that the allegation in paragraph 38 constitutes a conclusion of law to which no answer is required.

39. Denied.

40. Denied.

41. Denied.

#### COUNT III – QUANTUM MERUIT

42. The Town repeats and restates its answers to the allegations in paragraphs 1 through 30 as if fully set forth herein.

43. Denied.

COUNT IV – UNJUST ENRICHMENT

44. The Town repeats and restates its answers to the allegations in paragraphs 1 through 30 as if fully set forth herein.

45. The Town admits that Morais provided certain materials and services in connection with the Contract and the Project.

46. The Town admits only that the Town accepted certain materials and services provided by Morais in connection with the Contract and the Project.

47. The Town admits it has not made payment to Morais in the full amount requested by Morais, but denies that such payment is due and owing.

48. Denied.

49. Denied.

COUNT V – VIOLATIONS OF G.L. c. 30, §39G

50. The Town repeats and restates its answers to the allegations in paragraphs 1 through 30 as if fully set forth herein.

51. The Town states that the allegations in paragraph 51 constitute a conclusion of law to which no answer is required. To the extent an answer is required, the allegations are denied.

52. Denied.

53. Denied.

54. Denied.

**FIRST DEFENSE**

Morais has failed to satisfy a condition precedent to any recovery against the Town in that it has failed to establish its compliance with all material terms and obligations of its contract with the Town.

**SECOND DEFENSE**

Morais has failed to perform all required obligations of its contract with the Town, and therefore is not entitled to any recovery against the Town.

**THIRD DEFENSE**

Morais's claim is barred by the doctrine of unclean hands.

**FOURTH DEFENSE**

Morais has failed to exhaust all available administrative remedies under its contract with the Town.

**FIFTH DEFENSE**

To the extent Morais failed to seek, submit and/or obtain necessary approvals by an authorized officer of the Town for alleged extra work under its Contract with the Town, it is not entitled to any recovery against the Town.

**SIXTH DEFENSE**

No valid contract exists or existed between Morais and the Town with respect to the Extra Work alleged in the Complaint.

**SEVENTH DEFENSE**

Morais's claim is barred by its own breach of contract or other violation of the terms of its contract with the Town.

**EIGHTH DEFENSE**

Morais is not entitled to any recovery against the Town under a theory of quantum meruit.

**NINTH DEFENSE**

Morais has waived its claim against the Town, by an accord and satisfaction and/or its conduct, or otherwise.

**TENTH DEFENSE**

Morais has failed to mitigate its damages, if any.

**ELEVENTH DEFENSE**

Morais has failed to state a claim upon which relief can be granted.

WHEREFORE, the Town demands that the Complaint be dismissed and that the Town be awarded its costs of defense, including reasonable attorneys' fees.

**JURY DEMAND**

The Town demands a trial by jury on all issues so triable.

TOWN OF GREAT BARRINGTON

By its attorneys,



---

David J. Doneski (BBO# 546991)  
Michael A. D'Ortenzio, Jr. (BBO# 710884)  
KP Law, P.C.  
Town Counsel  
101 Arch Street, 12th Floor  
Boston, MA 02110-1109  
(617) 556-0007  
ddoneski@k-plaw.com

Date: May 14, 2026


1033959/GRBA/0001

CERTIFICATE OF SERVICE

I, David J. Doneski, hereby certify that on the below date, I caused a copy of the foregoing *Answer to Complaint* to be served by electronic mail and first class mail on the following counsel of record:

Marwan S. Zubi, Esq.  
Nicolai Law Group, P.C.  
PO Box 2840  
Worcester, MA 01613

Dated: May 14, 2026

  
\_\_\_\_\_  
David J. Doneski