

Town and County of Nantucket Select Board • County Commissioners

Dawn E. Hill Holdgate, Chair
Jason Bridges
Matt Fee
Kristie L. Ferrantella
Melissa Murphy



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE SELECT BOARD MARCH 3, 2021 - 5:00 PM REMOTE PARTICIPATION VIA ZOOM WEBINAR PURSUANT TO GOVERNOR BAKER'S MARCH 12, 2020 ORDER REGARDING OPEN MEETING LAW NANTUCKET, MASSACHUSETTS

YOU TUBE LINK:

<https://youtu.be/atsaVGBby1ug>

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

IV. COVID-19 WEEKLY UPDATE

1. Public Comment.
2. Report(s) from Public Health Director:
 - COVID-19 Case Metrics, Including Massachusetts COVID-19 Community-Level Data Map
 - COVID-19 Testing
 - Stop the Spread Testing Program
 - Vaccine Distribution Plan Update
 - COVID19 Task Force: Weekly Report
 - Economic Task Force Update
 - Board of Health Orders
 - Other
 - Select Board Comments/Questions

V. PUBLIC COMMENT* FOR ITEMS NOT RELATED TO COVID-19 OR OTHER AGENDA ITEMS

VI. NEW BUSINESS*

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of January 17, 2019 at 9:00 AM; December 18, 2019 at 6:00 PM; March 4, 2020 at 6:00 PM; June 17, 2020 at 5:00 PM; February 11, 2021 at 9:00 AM; February 16, 2021 at 9:00 AM; February 17, 2021 at 5:00 PM.
2. Approval of Payroll Warrants for February 21, 2021.
3. Approval of Treasury Warrants for February 24, 2021; March 3, 2021.
4. Approval of Pending Contracts for March 3, 2021 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. CONSENT ITEMS

1. Gift Acceptance: Fire Department; Natural Resources Department.
2. Notification as Required by Amendment to MGL Chapter 136, Section 6 for Sunday Change of Hours Applications from Noon to 10:00 AM for the Following Off-Premises Alcoholic Beverages License Holder (Package Store): Nantucket Meat & Fish Market, Located at 21 Old South Road.

IX. CITIZEN/DEPARTMENTAL REQUESTS

1. NCTV 18: Request for Approval to Expand Number of Directors from Nine to a Minimum of Nine and a Maximum of 13.
2. Request for Hardship Waiver of Sewer Connection Fee and Sewer Capacity Fee for Home Destroyed by Explosion at 39 Surfside Road.
3. Alliance to Protect Nantucket Sound: Request to Re-affirm Nantucket as a Signatory for Letter to Senator Cyr and Representative Fernandes to Support Federal Protection for Nantucket Sound.
4. Finance Department: Request for Approval of Sale of Bond Anticipation Notes in the Amount of \$10,250,000 for Affordable Housing Purposes.
5. Town Clerk: Request for Support to Discontinue Current Voting Tabulators/ Approve Use of Newly Purchased Voting Tabulators, Pursuant to MGL Chapter 54, Section 34.

X. REAL ESTATE ITEMS

1. Request for Approval and Execution of Documents with GG Development, LLC (Tabled from February 17, 2021):
 - a) Acceptance of Roadway Improvements on Mill Hill Court, Pursuant to December 17, 2014 License and Planning Board Subdivision Approval;
 - b) Acceptance of Third Amendment to Woodland Hill Subdivision Declaration of Protective Covenants Easements and Restrictions, and Non-Exclusive Pedestrian, Bike and Vehicular Easement as set forth therein;

- c) Acceptance of First Amendment to Woodland Hill Subdivision Grant of Right to Enforce Restrictions.

XI. TOWN MANAGER'S REPORT

1. Continued Review of Proposed Request for Proposals and Term Sheet for Five-year Lease Agreement (2022 - 2026) for Jetties Beach Concession, Retail Shop, Bathhouse and Beach Event Area (Continued from February 10, 2021).
2. Update Regarding Long-term Solid Waste Planning (Select Board Strategic Plan Focus Area - Environmental Leadership; Goal 1).

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports.

XIII. ADJOURNMENT

****Identified on Agenda Protocol Sheet***

SELECT BOARD AGENDA PROTOCOL:

Roberts Rules: The Select Board follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Board. The Board welcomes concise statements on matters that are within the purview of the Select Board. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action, if any. Except in emergencies, the Board will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Board to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with state and federal free speech laws:

- The agenda for regular Select Board meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Board to take up first. This time is reserved for speakers to address the Board on matters that are not related to any other Agenda item. If a speaker wishes to address the Board on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.
- All speakers are encouraged to present their remarks in a respectful manner.
- All remarks will be addressed through the Chair of the meeting.
- The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not constitutionally protected because it constitutes true threats, incitement to imminent lawless conduct, comments that were found by a court of law to be defamatory, and/or sexually explicit comments made to appeal to prurient interests. Verbal comments may also be curtailed if they exceed three (3) minutes and to the extent they exceed the scope of the Board's authority.

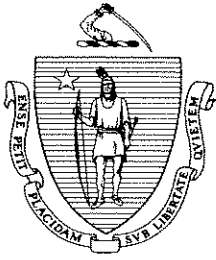
Disclaimer: Public Comment is not a time for debate or response to comments by the Board. Comments made during the Public Comment period do not reflect the views or positions of the Board. Because of constitutional free speech principles, the Board does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

New Business: For topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Board welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at his/her sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Board Members may have questions on the clarity of the information presented. The Board will hear any staff input and then deliberate on a course of action.

Select Board Report and Comment: Individual Board Members may have matters to bring to the attention of the Board during a meeting. If the matter contemplates action by the Board, Board Members will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting and/or schedule the matter for a future Board meeting. Otherwise, except in emergencies, the Board will not normally take action on Select Board Comment.

Approved on February 17, 2021



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”); and

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

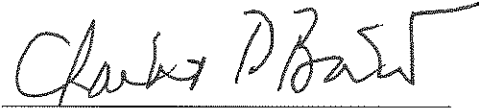
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 8:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in dark ink, appearing to read "Charles D. Baker". The signature is written in a cursive style with a large, sweeping "C" and a distinct "B".

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY SELECT BOARD
March 3, 2021

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding	Term
Grant Agreement	Town Admin	Mass Cultural Council	(\$4,800)	Annual MCC grant for local cultural council use (Nantucket Cultural Council)	State Grant	July 1, 2020 - June 30, 2021
Professional Service Agreement	Marine	William McEachern General Contractor, Inc.	\$195,508	Contract for site work including foundation and excavation for modular steel building at the Marine Dept. layup & maintenance yard	Article 10/2020 ATM	March 3, 2021 - March 2, 2024
Professional Service Agreement	Police	ProPhoenix Corporation	\$150,000	Contract for annual software licensing, support, maintenance, and on-call software services for Public Safety computer system including Police, Fire, & Central Dispatch	Police Budget	July 1, 2021 - June 30, 2024
Amendment to Professional Service Agreement	Town Admin	Thomason & Associates	Add \$2,000 to original contract amount of \$75,000 for a new contract total of \$77,000	Amend existing contract for Resilient Nantucket to include additional public workshops (min. of 3)	State Grant	March 3, 2021 - June 30, 2021

CONSENT AGENDA ITEMS FOR 3/3/2021 SELECT BOARD MEETING

1. Gift Acceptances

Recommend the acceptance of the following gifts to Town agencies:

- Fire Department:
 - o Gift of \$1,000 from The Barry S. Sternlicht Foundation for fire and emergency medical training
- Natural Resources Department:
 - o Gift of \$1,000 from Henri Rainaud for the Brant Point Shellfish Propagation Facility

Recommended Motion: To accept all gifts for their designated purposes, with thanks to the donors.

Town Administration will ensure that letters of thanks are sent.

Nantucket Fire Department

131 Pleasant Street
Nantucket, MA 02554
Tel. (508)228-2324
Fax (508)325-7500



February 4, 2021

Dawn Holdgate, Chair
16 Broad St.
Nantucket, Massachusetts 02554

Dear Madam Chair:

The Sternlicht Family Foundation has made a generous donation of \$1,000.00 to the Nantucket Fire Department.

The funding is for fire and emergency medical training. We ask that the Select Board accept the donation for the fire department.

Please let us know if you have any questions or need any further information

Thank you,

A handwritten signature in black ink, appearing to be "Stephen Murphy", written over a horizontal line.

Stephen Murphy, Chief

SM/
Enclosure

cc:

THE BARRY S. STERNLICHT FOUNDATION

December 24, 2020

Fire Chief Stephen A. Murphy
Nantucket Fire Department
131 Pleasant St.
Nantucket, MA 02554

Re: General and Unrestricted

Dear Fire Chief Murphy:

The Barry S. Sternlicht Foundation is pleased to enclose a check in the amount of \$1,000 as a grant to your organization for the above purpose. This grant is made **in honor of NANTUCKET FIRE DEPARTMENT**. This grant is subject to the terms set forth in the attached Grant Terms and, by cashing the grant check, you are indicating that you agree to its terms.

Please send any receipts, grant confirmations or other correspondence regarding this contribution, to the address specified below.

The Barry S. Sternlicht Foundation wishes you and your organization every success in your important work. If you have any questions concerning this grant agreement, please contact Foundation Source, the administrator for The Barry S. Sternlicht Foundation, at 1-800-839-1821.

Sincerely,

Foundation Source
Administrator, The Barry S. Sternlicht Foundation

Address for Grant Acknowledgements
Barry Sternlicht c/o The Barry S. Sternlicht Foundation 591 W. Putnam Avenue Greenwich, CT 06830

GRANT TERMS

Grantor: The Barry S. Sternlicht Foundation (the "Grantor")

Grant Recipient: NANTUCKET FIRE DEPARTMENT (the "Grantee")

Grant Amount: \$1,000

Grant Purpose: General and Unrestricted (the "Purpose")

- a. **Tax Status:** The Grantee represents and warrants that it is an exempt governmental unit treated as a public organization under Internal Revenue Code Section 509(a)(1).
- b. **Expenditure of Funds:** The Grantee will use the grant funds only for educational, scientific, literary, religious, or other charitable purposes consistent with the Grantee's tax-exempt status described above. This grant is not earmarked to support any voter registration drive, or to influence legislation or the outcome of any election; any use of grant funds for such activities constitutes a decision of the Grantee that is wholly independent of the Grantor. The Grantee may not use any of the grant funds to satisfy a charitable pledge or obligation of any person or organization other than the Grantor, or to provide any tangible economic benefit to any of the Grantor's officers, directors, trustees, substantial contributors, or the family members of the foregoing individuals (collectively, the "Insiders").
- c. **Return of Grant Funds:** The Grantee agrees to return the enclosed grant if the Grantee is no longer recognized by the IRS as having the above tax-exempt status or if the grant funds are not expended for the purposes described above. If required, grant funds should be returned to the Grantor c/o Foundation Source at 55 Walls Drive, 3rd Floor, Fairfield, CT 06824-5163.
- d. **Control:** If the Grantor or its Insiders, acting separately or together, "controls" the Grantee (or any of its supported organizations), additional terms apply. Here, "control" means the ability to require the Grantee (or any of its supported organizations) to make or refrain from making an expenditure, or to perform or prevent it from performing any act which significantly affects its operations. If the Grantee believes that such control exists, the Grantee agrees to notify the Grantor immediately and may need to return the grant funds unless mutually agreed upon terms are reached. Any notification required under this paragraph shall be sent to the Grantor at the address listed in Paragraph c.
- e. **Other Terms:** These Grant Terms encompass the entire agreement between the parties and supersede all previous understandings and agreements between the parties, whether oral or written. This grant is subject to these Grant Terms; by cashing the grant check, the Grantee indicates its agreement to these terms. If check is not cashed within 180 days, it will be voided.

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

2 BATHING BEACH ROAD
NANTUCKET, MA 02554

(508) 228-7230



Select Board
16 Broad Street
Nantucket, MA 02554

02/12/2021

Dear Board Members,

On behalf of the Natural Resources Department we are requesting that the Select Board accept the following gift of \$1,000.00 from Henri Rainaud. This donation will be put towards the Shellfish propagation facility.

We will be in attendance at the upcoming meeting of the Board to answer any questions that you have in regards to this gift and program. Thank you for your attention to this matter.

Sincerely,

Jeff Carlson,
Town of Nantucket
Natural Resources Coordinator



Agenda Item Summary

Agenda Item #	VIII. 2.
Date	3/3/2021

Staff

Amy Baxter, Licensing Administrator

Subject

Notification of change in hours to sell alcohol on Sunday for Nantucket Meat & Fish Market.

Executive Summary

Effective October 23, 2014, off-premises retail alcoholic beverages licensees (M.G.L. c. 138, §15) will be permitted to sell alcoholic beverages beginning at 10:00 a.m. on Sundays. Although under the law, these licensees are entitled as a matter of right to open at 10:00 a.m. and as such do not need the approval of the Local Licensing Authorities, licensees must notify the Local Licensing Authorities about the change of hours.

Staff Recommendation

Recommend acceptance of notification.

Background/Discussion

The following is applying for a change of hours to sell alcohol on Sundays from Noon – 8:00 PM to 10:00 AM – 8:00 PM:

Nantucket Meat & Fish Market

21 Old South Road: Sean Ready

Impact: Environmental ☐ Fiscal ☐ Community ☐ Other ☐

N/A

Board/Commission Recommendation

N/A

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

N/A

Attachments

Notification from Nantucket Meat & Fish Market; current liquor license; ABCC Advisory



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE
LOCAL LICENSING AUTHORITY.

REVENUE CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: NO FEE

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY):

89740-PK-0762

LICENSEE NAME:

Nantucket Meat & Fish Market

ADDRESS:

21 Old South Road

CITY/TOWN:

Nantucket

STATE MA

ZIP CODE

02554

TRANSACTION TYPE (Please check all relevant transactions):

☒ Change of Hours

☐ Change of DBA

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL
FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND
SUPPORTING DOCUMENTS TO:

**ALCOHOLIC BEVERAGES CONTROL COMMISSION
P. O. BOX 3396
BOSTON, MA 02241-3396**

January 19, 2021

Nantucket Select Board,

The Nantucket Meat & Fish Market would like to request a change of hours on Sundays to reflect 10:00 am-8:00 pm. Please reach out with any questions or further information needed.

Thank you,

A handwritten signature in blue ink, appearing to read 'Sean Ready', with a stylized flourish at the end.

Sean Ready

Nantucket Meat & Fish Market

January 19, 2021

On January 1, 2021 the two members of the Nantucket Meat & Fish Board voted in favor of a change of hours to sell alcohol for off-premise use to 10:00 am – 8:00 pm.

Thank you,

A handwritten signature in blue ink, consisting of a stylized 'S' followed by a series of loops and a final flourish.

Sean Ready

LICENSE #: 89740-PK-0762

LICENSE FEE: \$1,500.00

THE LICENSING BOARD *for the*
TOWN OF NANTUCKET, MASSACHUSETTS
HEREBY GRANTS AN
ANNUAL RETAIL PACKAGE STORE LICENSE
TO EXPOSE, KEEP FOR SALE, AND TO SELL
WINE AND MALT BEVERAGES
TO BE CONSUMED OFF THE PREMISES

BUSINESS: Nantucket Meat and Fish Market, Inc. **ON PREMISES DESCRIBED AS:**

DBA: Nantucket Meat and Fish Market

PREMISES: 21 Old South Road

Nantucket, MA 02554

MANAGER: Sean Ready

First floor of the building, having two rooms and total square footage of 4,176 square feet, will be dedicated to beer and wine sales with 3 display cases/coolers: 4'x12', 54"x31", 3.5'x10'. A portion of the basement, having total square footage of 4,298 square feet, will be used for storage.

The hours during which alcoholic beverages may be sold: Per Special Permit #20-15, the closing time is no later than 8:00 pm, seven days a week. In accordance with MGL Chapter 138 and amendments thereto with the local provision that **Sunday sales shall not begin until 12:00PM** (Noon). Package stores shall not sell or deliver alcoholic beverages on Thanksgiving Day or Christmas Day. Package stores may not sell alcoholic beverages until 12:00 noon on Memorial Day. Any restrictions apply as are on file by the Local Licensing Authority. In accordance with Article 40 ATM 2001, Chapter 86.1 Board of Health Regulations Prohibit Smoking in Certain Places Within The Town of Nantucket.

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the Massachusetts General Laws, as amended and any rules or regulations made thereunder by the licensing authorities, including, but not limited to Chapter 250 of the Town of Nantucket Rules and Regulations Governing Alcoholic Beverages.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed his official signature on this 16th day of December 2020.

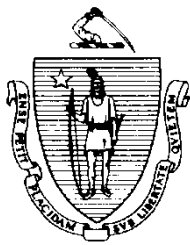


Dawn Hill Holdgate
Chair, Select Board

THIS LICENSE WILL EXPIRE DECEMBER 31, 2021

**Unless earlier suspended, cancelled, or revoked*

ELECTRONIC COPY VALID FOR DURATION OF MASSACHUSETTS STATE OF EMERGENCY IN RESPONSE TO COVID-19. ALL EMERGENCY ORDERS ISSUED BY THE COMMONWEALTH OF MASSACHUSETTS, ABCC AND TOWN OF NANTUCKET APPLY. ORIGINAL LICENSE WILL BE ISSUED UPON LIFTING OF EMERGENCY ORDERS.



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114

Steven Grossman
Treasurer and Receiver General

Kim S. Gainsboro
Chairman

THE ALCOHOLIC BEVERAGES CONTROL COMMISSION (“ABCC”) ADVISORY
M.G.L. c. 138, §15 OFF-PREMISES RETAIL LICENSEES SUNDAY OPENING TIME
ALLOWED AT 10:00 A.M.

Effective October 23, 2014¹, off-premises retail alcoholic beverages licensees (M.G.L. c. 138, §15) will be permitted to sell alcoholic beverages beginning at 10:00 a.m. on Sundays. Although under the law, these licensees are entitled as a matter of right to open at 10:00 a.m. and as such do not need the approval of the Local Licensing Authorities, licensees must notify the Local Licensing Authorities about the change of hours.

The simplest way for licensees to effectuate this change is to follow the process outlined in the CHANGE OF HOURS Application which may be found on our website at <http://www.mass.gov/abcc/pdf/forms/nofeetransmittal.pdf>. Licensees should use this form to notify the Local Licensing Authority of the change in hours and attach a corporate vote authorizing the change. Upon receipt of this request, the Local Licensing Authority must approve it. The Local Licensing Authority should forward an approved “Form 43” with the additional Sunday hours of sale to the ABCC for each licensee affected.

As mentioned above, this law does not go into effect until October 23, 2014. All licensees should ensure that sales of alcoholic beverages take place only on the days and hours approved by the Local Licensing Authority. Licensees who fail to notify the Local Licensing Authority about the change to their hours are prohibited from making sales at an earlier time than those permitted on the face of their license.

As always, all licensees must ensure that they are in compliance with the Laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by applicable law. Individuals with questions concerning this advisory may contact Ralph Sacramone, Executive Director, at 617-727-3040 x 731.

(Issued: September 8, 2014)

¹ The Massachusetts Legislature amended M.G.L. c 136, §6(52) which allow off-premises M.G.L. c. 138, §15 or so called “package store” license holders to sell alcoholic beverages, beginning at 10 A.M. on Sundays.



Agenda Item Summary

Agenda Item #	IX. 1.
Date	3/3/2021

Staff

Erika Mooney, Operations Administrator

Subject

NCTV 18 request to expand number of directors

Executive Summary

NCTV 18 is looking to expand its number of directors from nine to a minimum of nine and a maximum of 13 to allow for more diversification and varied expertise to contribute to its planned growth. Pursuant to Article III, section C, any board expansion must be approved by the Select Board.

Staff Recommendation

N/A

Background/Discussion

N/A

Impact: Environmental ☐ Fiscal ☐ Community ☐ Other ☐

N/A

Board/Commission Recommendation

N/A

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

N/A

Attachments

Request letter from NCTV 18



BOARD OF DIRECTORS

DAN DRISCOLL, PRESIDENT & CLERK
JOHN COPENHAVER, TREASURER
HEATHER AVESON
ARTHUR BERGERON, ESQ.
JASON BRIDGES
THOMAS DICKSON
KRISTIE FERRANTELLA
MERRILL MASON
FLORENCIA RULLO

February 10, 2021

Erika Mooney
Town of Nantucket

Dear Erika,

I'm writing on behalf of NCTV 18 and making a request to expand our board of directors. In pursuing this, our bylaws require that we seek approval from the Nantucket Select Board. The reasons for expanding the board are to allow for more diversification and varied expertise to contribute to our planned growth.

Currently:

ARTICLE III. Board of Directors.

A. Powers.

The Board of Directors shall have the entire charge, control and management of the corporation and its property and may exercise all or any of its powers.

EXECUTIVE DIRECTOR

LISA GETTER

B. Number and Election.

Except as otherwise provided by these By Laws or in the Articles of Organization, *the number of Directors that shall constitute the whole Board of Directors shall be fixed at nine (9) directors.* One of the Directors shall be appointed by the Nantucket Board of Selectmen. One of the Directors shall be a representative of Town administration, to be appointed by the Town Manager. One of the Directors shall be appointed by the Nantucket School Committee. The remaining directors shall be elected by the existing Board of Directors.

**DIRECTOR OF COMMUNICATIONS
& DEVELOPMENT**

ARLENE O'REILLY

STATION MANAGER & SENIOR PRODUCER

ANDREW CROMARTIE

C. Board Expansion.

Additional positions on the Board of Directors may be voted by the Board and will become effective upon a vote approving such expansion by the Nantucket Board of Selectmen. Vacancies created by such a vote shall be filled by vote of the then-current Directors.

FX ARTIST & PRODUCER

DEE WHITE

GOVERNMENT COORDINATOR PRODUCER

FRANK SCHAT

We seek the Select Board's approval to make the following change to Article 3 subsection B. Proposed change:

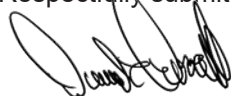
B. Number and Election.

Except as otherwise provided by these By Laws or in the Articles of Organization, *the number of Directors that shall constitute the whole Board of Directors shall be a minimum of nine (9) directors and a maximum of (13) directors.* One of the Directors shall be appointed by the Nantucket Select Board. One of the Directors shall be a representative of Town administration, to be appointed by the Town Manager. One of the Directors shall be appointed by the Nantucket School Committee. The remaining directors shall be elected by the existing Board of Directors.

**MARKETING ASSISTANT &
MEMBERS COORDINATOR**

RACHEL LARSON DEVINE

Respectfully submitted,



Dan Driscoll
President of the NCTV Board of Directors



Agenda Item Summary

Agenda Item #	IX. 2.
Date	3/3/2021

Staff

Erika Mooney, Operations Administrator

Subject

Request for Hardship Waiver of Sewer Connection Fees and Sewer Capacity Fee for home destroyed by explosion at 39 Surfside Road.

Executive Summary

Per the Select Board's Policy for Sewer Fee Waiver Requests, the Board has the authority to waive any town fee or charge, upon a determination that the public interest so requires.

Staff Recommendation

The Housing Director has indicated that feels this request warrants a hardship waiver.

Background/Discussion

The home at 39 Surfside Road was completely destroyed following an explosion on 11/4/2020. The requestor notes that the owner has suffered severe burns and has incurred extensive medical costs. They are asking for a hardship waiver in order to re-connect the property to sewer when it is rebuilt. The waiver letter notes that the property is not only used by the homeowner who is a local business owner, but also for her employees.

Impact: Environmental ☒ **Fiscal** ☒ **Community** ☒ **Other** ☐

Support of year-round housing for employees.

Board/Commission Recommendation

N/A

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

Strategic Plan – Housing, Environment

Attachments

Hardship waiver request letter from Topham Design; Email from Housing Director; Sewer Cost Calculation from Sewer Dept.; Sewer Fee Waiver Policy (12/3/2020)





TOPHAM DESIGN

February 19, 2021

Town of Nantucket
Board of Select Board
16 Board Street
Nantucket, MA 02554

RE: Ms. Melissa Pigue, 39 Surfside Road Sewer Relief
Map: 55 Parcel: 438

Dear Members of the Select Board,

I am requesting a hardship waiver on behalf of Melissa Pigue, 39 Surfside Road. It is my hope that the sewer connection and Sewer Capacity Fee can be waived.

Melissa Pigue suffered a devastating explosion at her home on 39 Surfside Road in the early morning of November 4th, 2020. Her home was completely destroyed, and everyone's possessions were lost. Both Melissa and Russell Ferguson were severely injured, requiring medical evacuation to Boston hospitals specializing in burn treatment. She spent several weeks for treatment of second-and third-degree burns on various parts of her body, most specifically her hands. She also had inhalational injury when the smoke and soot from the fire in a house affected her pulmonary system.

Melissa, or Mel, as our friends affectionately like to call her, has been a member of the Nantucket community since 2010. She opened up a modest hair salon, Melissa David Salon, on Washington Street in 2017, where she has several employees. She is well respected by her professional colleagues, clients, and friends for her strong work ethic, her kindness, compassion, and willingness to help those in need. Her business also serves to promote and support the island's wedding destination business. Her home houses her family members as well as a couple of her employees and helps to meet the year-round workforce housing needs.

No one could anticipate the devastation that befell her. The impact to her health, home, business, and finances is not something that anyone could fathom. Her medical expenses are astronomical and still rising. Her business has been limping along with one employee working during her absence, allowing her to barely keep the lights on. Her best friend, Jasmine Cruz, created a "Go Fund Me" which has helped Melissa's and Russell's with some of their medical expenses. The rehabilitation to all of her burns will take many months, if not years, to allow her to function as a hairstylist, make-up artist and get to her "new normal" level of functioning.

The complete demolition of her home now needs to be replaced at today's inflation rates; the difference between 1982 and 2021 is 167.04%. As you may know, the evaluations of the old structure by the insurance company are well short of the new construction replacement cost and why the plan is to go with a modular home.

Melissa's home is in the sewer district, and initially we were not able to identify if she was on sewer or had a septic system. Research done by the Sewer Department and Don Bracken; Engineering verified that the property was in fact connected to the town sewer. Melissa had three bedrooms in her previous home. Her new plan includes six-bedrooms in her modular home, which is to accommodate family members, current and future employees. The costs for the disconnect fee (\$300.00) and new reconnection fee (\$300.00) plus the cost of the Sewer Capacity Fee (SCF) is \$6,705.00. for a grand total of \$7,305.00. Sewer Fee estimate attached.

The Town of Nantucket, the Historic District Commission (HDC), Building Department and the entire P.L.U.S. Department were very responsive in helping to permit the demolition of her destroyed home. We have applied to the HDC for her new home and concurrently started our due diligence with other local boards, which is how we obtained the cost of the sewer connection fee. Melissa and I are hopeful that you find her worthy of this request and feel this unique circumstance meets your criteria for a waiver. She is looking forward to getting back to the island next week and being able to contribute as a beloved washed ashore citizen and business owner in this community she loves to call her home.

Thank you for your consideration of this request,

A handwritten signature in black ink, appearing to read 'JMT', with a large, stylized flourish extending from the bottom left.

Joseph M Topham

Topham Design, LLC
18 Hummock Pond Rd
Nantucket, MA 02554
joseph@tophamdesignack.com
www.tophamdesignack.com

Erika Mooney

From: Lora Kebbati
Sent: Wednesday, February 24, 2021 9:13 AM
To: Erika Mooney; Libby Gibson; David Gray
Subject: RE: Sewer Waiver for Ms. Pigue at 39 Surfside Road Map: 55 Parcel: 438

Erika:

Our crew met on site with the contractor yesterday and confirmed the property is on sewer. No repairs will be needed to the existing line. The final permit requirements and fee calculations are:

	<u>PERMIT TYPE / FEE</u>	<u>SEWER CAPACITY FEE</u>	<u>TOTAL</u>
3 Bedroom House Add 3 Bedrooms (6 Bedrooms total)	Disconnect \$300.00	N/A	\$ 300.00
	Reconnect \$300.00	N/A	\$ 300.00
	Modification \$0	Mod SCF (3 BR to 6 BR differential) \$6,705.60	\$6,705.00
	Total Fees:		\$7,305.00

The fees on the Disconnect and Reconnect permits cover permit processing, review of engineer's designed plan, inspectional services and other services performed (camera work, dye tests, etc.) as required.

Let us know if we can provide anything else.

Thank you,
Lora

From: [Tucker Holland](#)
To: [Erika Mooney](#)
Cc: [Joseph Topham](#)
Subject: RE: Sewer fee waiver
Date: Tuesday, February 23, 2021 2:59:09 PM
Attachments: [image001.png](#)

If ever there were a circumstance warranting a hardship waiver for the benefit of a year-round community member, this would be it. I completely support the request.

Tucker Holland

Municipal Housing Director



m: Town Administration Building, 16 Broad Street -- Office 111, Nantucket, MA 02554
e: tholland@nantucket-ma.gov
p: 508-228-7200 ext. 7023
c: 802-233-3177

From: Erika Mooney
Sent: Tuesday, February 23, 2021 2:40 PM
To: Tucker Holland <tholland@nantucket-ma.gov>
Subject: Sewer fee waiver

Hey Tucker – FYI – we received this hardship sewer waiver request for the house that was destroyed by fire at 39 Surfside Rd. Do you have anything to add to the attached AIS?

Erika

Erika D. Mooney
Operations Administrator
Town of Nantucket
16 Broad Street
Nantucket MA 02554
508-228-7266
508-228-7272 Fax



TOWN & COUNTY OF NANTUCKET
SELECT BOARD
POLICY FOR SEWER FEE WAIVER REQUESTS
Adopted: 07/20/2016; Revised 10/24/2018, 12/03/2020

I. Policy.

The Select Board, acting as the Nantucket Sewer Commission pursuant to Chapter 396 of the Acts of 2008, and in accordance with Chapter 38, Article III, section 38-3B of the Code of the Town of Nantucket, has the authority to waive any town fee or charge, upon a determination that the public interest so requires.

The Select Board hereby determines that it is in the public interest to encourage the production of affordable housing, including workforce housing units for the Island's working population. Therefore, the Select Board will consider, on a case-by-case basis, waivers of one or both of the Town's fees relating to the connection of dwelling units that are located in an existing Sewer District as established under Chapter 396 of the Acts of 2008.

II. Sewer Connection and Sewer Capacity Fee Waivers.

The Select Board may, at its discretion, waive the sewer connection fee or the Sewer Capacity Fee upon the request of a property owner, developer, or public entity seeking to connect one or more dwelling units to the Town's sewer system if such unit or units are bound by a permanent affordable housing deed restriction in a form acceptable to the Town and enforceable by the Town, and provided that the dwelling unit or units are part of a project where a minimum of 25% of the units are eligible for inclusion on the Town's Subsidized Housing Inventory ("SHI") as maintained by DHCD or any successor agency and provided that the developer and/or unit owner shall cooperate fully with the Town in obtaining SHI status for the eligible unit or units by timely providing all required documentation and notifying the Town Manager when a building permit issues and when an occupancy permit issues.

In the case where less than all of the units in the project are income-restricted, the Select Board may waive up to 100% of both sewer fees where the unit is restricted at 80% AMI or less, up to 75% of both fees where the unit is restricted between 81% and 100% AMI, and up to 50% of both fees where the unit is restricted between 101% AMI and 150% AMI. In the case where all of the units in a project are income-restricted, 100% of both sewer fees may be waived as long as a minimum of 25% of the total number of units are SHI-eligible. In exercising its discretion, in applying the policy, the Select Board may consider the total value of Town subsidies for the project, including closing cost assistance, direct grants, land contribution by the Town, other fee waivers, and market rate sales in the project.

In the case of dwelling units that are subject to a permanent affordable housing covenant meeting the requirements of Chapter 301 of the Acts of 2002, and Chapter 100 of the Code of Nantucket, the Select Board may, in its discretion, waive all or a portion of the sewer connection fee.



Agenda Item Summary

Agenda Item #	IX. 3.
Date	3/3/2021

Staff

Holly E. Backus, Preservation Planner

Subject

Request to Re-affirm Nantucket's Support as a Signatory for Letter to Senator Cyr and Representative Fernandes in Regard to Supporting Federal Protection for Nantucket Sound

Executive Summary

Nantucket Sound is a very sacred place to both the Native American people and to the residents of the Cape & Islands due to its rich cultural and maritime history. Thankfully, Nantucket Sound has been designated as a *traditional cultural property* that is eligible for listing on the National Register of Historic Places. The *Alliance to Protect Nantucket Sound* requests our continued support for Federal protection of Nantucket Sound to become a National Historic Landmark, a prestigious designation already bestowed to Nantucket Island since 1966. The proposed bill will also allow for future cable infrastructure that may be needed to serve the growing energy needs and requirements of Nantucket.

Staff Recommendation

Staff recommends endorsement of the letter written by *Alliance to Protect Nantucket Sound* and re-affirm previous support to Senator Cyr and Representative Fernandez in preserving Nantucket Sound as a National Historic Landmark in perpetuity.

Background/Discussion

Other Cape towns have also endorsed the request in recent years.

Alliance to Protect Nantucket Sound (<https://saveoursound.org>) was founded in 2002 in response to the proposed Cape Wind Farm within Nantucket Sound.

Impact: Environmental ☒ Fiscal ☐ Community ☒ Other ☐

Click or tap here to enter text.

Board/Commission Recommendation

Public Outreach

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

Strategic Plan – re: sustainability, environment & historic preservation

Attachments

Letter for endorsement



February 18, 2021

Dear Senator Cyr and Representative Fernandes:

We, the undersigned, as your constituents, and representatives of your constituents, write to ask that you support community efforts underway to permanently preserve Nantucket Sound through federal legislation. Nantucket Sound and its historic, environmental, wildlife, and cultural resources are of great importance to the regional economy - supporting commercial and recreational fishing, tourism, marine transportation, marine trades, and other businesses and industries vital to the Cape and Islands. As we all know, the environment is our economy, and Nantucket Sound which connects Cape Cod, Nantucket, and Martha's Vineyard, is at the center of that economy.

Permanent protection would preserve Nantucket Sound's rich cultural, tribal heritage and maritime history. It would maintain its unique habitat, promote tourism, and benefit the regional economy. It would protect Nantucket Sound as open space and address threats to coastal resilience and water quality. As historic preservation advocates, environmentalists, commercial fishermen, tribal representatives, chambers of commerce, and municipalities, we fully embrace this important preservation goal. Many of us have individually campaigned for, and participated in, advocacy efforts on behalf of this bill as it truly addresses the needs and priorities of a diversity of Cape and Islands residents.

The Nantucket Sound National Historic Landmark Act (NSNHLA) is a comprehensive and forward-thinking bill, which has been strengthened and refined with input from many members of our community. As you may know, we have sent a letter of support, along with many other Cape and Islands stakeholders, to encourage our federal delegation to introduce and enact this bill. The NSNHLA formally recognizes Nantucket Sound's extraordinary maritime and tribal history and recognizes Nantucket Sound as one marine ecosystem by improving the consistency of regulations which cross state and federal boundaries within the Sound. Importantly, the bill also addresses water quality, climate change, and coastal resilience requiring a formal evaluation of environmental threats facing Nantucket Sound using federal resources.

The NSNHLA is compatible with our need to develop renewable energy resources. It supports properly sited renewable energy facilities, facilitates cable infrastructure needed for offshore wind projects in designated federal lease areas, and allows for future technology such as tidal energy in Muskeget Channel, the only location that may prove suitable for hydrokinetic power. The bill also allows cable infrastructure that may be needed to serve the energy requirements of Nantucket and Martha's Vineyard.

Nantucket Sound is integral to the maritime history of this country, and it is surrounded by numerous historic properties and the National Historic Landmarks of Nantucket, Wesleyan Grove, and the Kennedy Compound. Because it is sacred to the Native American people of the region, the Sound has been designated a traditional cultural property eligible for listing on the National Register of Historic Places. It is time for Nantucket Sound to join the National Seashore and our surrounding state sanctuaries and receive the protection it and the people on the Cape and Islands deserve.

We appreciate your thoughtful consideration of our request. We are hopeful that you will work with us to support the Nantucket Sound National Historic Landmark Act and achieve preservation of this important national treasure in perpetuity. Thank you.



John R. Miller

Executive director

Marine Renewable Energy Collaborative of New England (MRECo)



Agenda Item Summary

Agenda Item #	IX. 4.
Date	3/3/2021

Staff

Brian E. Turbitt, Finance Director

Subject

Bond Anticipation Notes

Executive Summary

The Town recently sold Bond Anticipation Notes (BANs) in the amount of \$10,250,000. The BAN Sale was made up of a Series A taxable issue in the amount of \$2,325,000, with the award going to Oppenheimer & Co. with a Net Interest Cost of .2985%, and the sale of tax exempt BANs in Series B in the amount of \$7,925,000, with the award made to TD Securities, with a Net Interest Cost of .1866%. The proceeds will be used by the Affordable Housing Trust Fund.

Staff Recommendation

Approve the sale of the Bond Anticipation Notes.

Background/Discussion

The issuance of Bond Anticipation Notes is part of a cash flow strategy that the Town employs for large scale projects.

Impact: Environmental ☐ Fiscal ☒ Community ☐ Other ☐

Short Term interest costs in the amount of \$26,785.93

Board/Commission Recommendation

N/A

Public Outreach

N/A

Connection to Existing Applicable Plan (i.e. Strategic Plan, Master Plan, etc.)

N/A

Attachments

Vote of the Select Board



VOTE OF THE SELECT BOARD

I, the Clerk of the Select Board (the “Select Board”) of the Town of Nantucket, Massachusetts, certify that at a meeting of the board held March 3, 2021 of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: to approve the sale of \$2,325,000 1.00 percent General Obligation Bond Anticipation Notes, Series A (Subject to Federal and Massachusetts Income Taxation) (the “Series A Notes”) of the Town dated March 8, 2021, and payable October 15, 2021, to Oppenheimer & Co. at par and accrued interest, if any, plus a premium of \$9,831.00.

Further Voted: to approve the sale of \$7,925,000 1.25 percent General Obligation Bond Anticipation Notes, Series B (the “Series B Notes” and together with the Series A Notes, the “Notes”) of the Town dated March 8, 2021, payable October 15, 2021, to TD Securities (USA) LLC at par and accrued interest, if any, plus a premium of \$50,799.25.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated February 18, 2021, and a final Official Statement dated February 25, 2021, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Town Treasurer and the Select Board be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that we authorize and direct the Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such form as the Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes and to comply with relevant securities laws.

Further Voted: that any certificates or documents relating to the Notes (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures.

Further Voted: that each member of the Select Board, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Notes were taken in executive session, all in accordance with G.L. c.30A, §§18-25 as amended, and as further suspended, supplemented or modified by the Executive Order of the Governor of The Commonwealth of Massachusetts Suspending Certain Provisions of the Open Meeting Law, Chapter 30A, §20 dated March 12, 2020.

Dated: March 3, 2021

Clerk of the Select Board

91357013v.1



Agenda Item Summary

Agenda Item #	IX. 5.
Date	3/3/2021

Staff

Nancy Holmes, Town & County Clerk

Subject

Request for Select Board vote and letter to discontinue current voting tabulators/approve use of newly purchased voting tabulators

Executive Summary

MGL Ch. 54 s. 34 requires that the Select Board hold a vote not later than 60 days prior to a Municipal Election where new (State approved) Voting Tabulators are to be first used, and then also vote to discontinue the use of the current equipment. The vote must be approved by a majority of the Select Board; the Town Clerk must then send notice thereof to the Secretary of the Commonwealth's Office within five days of the determination.

Staff Recommendation

The purchase of the new tabulators was approved last fiscal year and has been made. A positive vote is recommended here, and a template for a notice letter is attached.

Background/Discussion

N/A

Impact: Environmental ☐ Fiscal ☐ Community ☐ Other ☒

Compliance with above noted MGL

Board/Commission Recommendation

N/A

Public Outreach

At the appropriate time, Town Clerk will utilize the Town's social media to notify the public regarding the new tabulators, which will be in place for the June 15th Annual Town Election.

Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

N/A

Attachments:

- Copy of: MGL: Chapter 54, ss 34
- Draft Determination Letter for Sec. of Commonwealth



Part I ADMINISTRATION OF THE GOVERNMENT

Title VIII ELECTIONS

Chapter 54 ELECTIONS

Section 34 USE OF VOTING MACHINES BY CITIES AND TOWNS

Section 34. A city or town may, by vote of a majority of the city council or by vote of a majority of the board of selectmen, at a meeting held at least one hundred and twenty days before the primary, preliminary election or election at which voting machines are to be used, determine upon and purchase, lease, or lease with an option to purchase, one or more voting machines approved as provided in section thirty-two, and order the use thereof at primaries, preliminary elections and elections of state, city or town officers in such city or town; and thereafter at all primaries and elections of state, city or town officers in that city or town, until otherwise ordered by the city council in a city and the selectmen in a town, said machines shall be used at primaries and preliminary elections and for voting for the officers to be elected at such elections and for taking the vote upon questions submitted to the voters. Notice of such determination to use voting machines, or to discontinue the use thereof, shall be sent to the state secretary by the city or town clerk within five days after such determination; provided, however, that no such discontinuance shall take place later than ninety days prior to a state or

presidential primary or state election, nor later than thirty days prior to a city or town primary, preliminary election or election at which it is to become effective.

A city or town may, by vote of a majority of the city council or by vote of a majority of the board of selectmen, at a meeting held not later than one hundred and twenty days prior to a state or presidential primary or state election, and not later than sixty days prior to a municipal primary, preliminary election or election at which an electronic voting system is first to be used, determine upon the use of, and may lease, purchase, or lease with an option to purchase, the marking units or automatic tabulating equipment necessary to any electronic voting system approved for use in the commonwealth in accordance with section thirty-two. Thereafter, at all primaries, preliminary elections and elections held in said city or town, until otherwise ordered by vote of the city council in a city or of the selectmen in a town, said electronic voting system shall be used in those polling places designated by the city council or board of selectmen.

Notice of determination to use an approved electronic voting system, or to discontinue its use, shall be sent to the state secretary by the city or town clerk within five days after such determination; provided, however, that no such discontinuance shall take place later than ninety days prior to a state or presidential primary or state election, nor later than thirty days prior to a city or town primary, preliminary election or election at which it is to become effective; and, provided further, that no such discontinuance shall prevent the state secretary from selecting appropriate voting machines and vote tally systems pursuant to section thirty-two.

Town and County of Nantucket Select Board • County Commissioners

Dawn E. Hill Holdgate, Chair
Jason Bridges
Matt Fee
Kristie L. Ferrantella
Melissa Murphy



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

March 3, 2021

Secretary of the Commonwealth
Elections Division
One Ashburton Place, Room 1705
Boston, MA 02108

This notice of determination and the vote herein made is pursuant to Massachusetts General Law, Chapter 54, Section 34. We, the Select Board of the Town of Nantucket, hereby vote the use of the ImageCast Precinct Optical (ICP) Tabulator at the June 15, 2021 Annual Town Election, and thereafter, at all primaries, preliminary elections and elections held in the Town of Nantucket. Until otherwise ordered by the vote of the Nantucket Select Board, said electronic voting system shall be used in those polling places designated by the Select Board.

Further, the Town of Nantucket will discontinue the use of the Accu-Vote Tabulator in all further elections in the Town of Nantucket.

Vote of the Select Board:

Approved and Signed this 3rd day of March, 2021

Dawn Hill Holdgate, Chair

Jason Bridges, Vice Chair

Matt Fee

Kristie L. Ferrantella

Melissa Murphy



Agenda Item Summary

Agenda Item #	X. 1.
Date	3/3/2021

Staff

Ken Beaugrand, Real Estate Specialist

Subject

Acceptance of gift to Town of roadway improvements as required in the conditions of the Planning Board approval of the subdivision known as Woodland Hills; acceptance of Non-Exclusive Pedestrian, Bike and Vehicular Easement and acceptance of First Amendment to Grant of Right to Enforce Restrictions in the Declaration of Protective Covenants, Easements and Restrictions for Woodland Hills Subdivision.

Executive Summary

The residential development has now been completed and the last lot is waiting for the Town to accept the gift of the roadway improvements in order for the Covenant to be released. It is my understanding that the roadway improvements have been inspected by the Town. The owner of the Subdivision, GG Development is also granting a non-exclusive easement to the Town for pedestrian, bike and vehicular use. The Homeowners Association is also granting the Town the right to enforce the restrictions as set forth in the Declaration of Protective Covenants.

Staff Recommendation

Proceed to accept the gift and execute the Acceptances reviewed and approved by Town Counsel

Background/Discussion

The Planning Board approved this newly created subdivision for a maximum of twelve lots on May 12, 2014, with three roadways for access. All the infrastructure has now been completed and the last lot will be sold, hence the timing of the proposed gift to the Town.

Impact: Environmental ☒ **Fiscal** ☒ **Community** ☐ **Other** ☐

News roads are completed without cost to the Town and the Tax base is enhanced because of the completion of the structures in the development.

Board/Commission Recommendation

N/A

Public Outreach

Public hearings at the Planning Board



Connection to Existing Applicable Plan (i.e., Strategic Plan, Master Plan, etc.)

N/A

Attachments

Donation of Roadway Improvements, Acceptance by Select Board; original license and map; Third Amendment to Declaration of Protective Covenants, Easements and Restrictions and Acceptance by Select Board; and First Amendment Woodland Hills Subdivision Grant of Right to Enforce Restrictions, and Acceptance by Select Board.



LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated the 17 day of ^{December} ~~November~~, 2014, by and between TOWN OF NANTUCKET, a political subdivision of The Commonwealth of Massachusetts, acting by and through its Board of Selectmen, having its principal office at 16 Broad Street, Nantucket, Massachusetts 02554 (the "Licensor") and the GG DEVELOPMENT LLC, Massachusetts limited liability company with a mailing address of 27 Harvard Street, Brookline, MA 02445 (the "Licensee").

WITNESSETH

WHEREAS, the Licensor is the owner of record of a certain parcel of land situated in the Town and County of Nantucket, Commonwealth of Massachusetts, now known and numbered as 29 Vesper Lane, shown as Map 55, Parcel 1 in the Nantucket Assessor records and more particularly described on Exhibit "A" attached hereto (hereafter referred to as the "Land");

WHEREAS, the Licensee desires to construct a "turn around" and perform landscaping activities, including installation of a temporary earth berm two (2') feet high by four (4') feet wide on the land comprised of approximately 4,201± square feet ("Work/Construction Activities"), such activities conducted pursuant to the provisions of Approval of Definitive Subdivision Plan dated May 14, 2014 approved by the Nantucket Planning Board and attached hereto as Exhibit C

WHEREAS, the general location of the herein described Work/Construction Activities is depicted on Exhibit "B" attached hereto (the "Land"); and

WHEREAS, the Licensor desires to grant to the Licensee a revocable license in accordance with the terms hereof.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and the payment of other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby enter into a license agreement upon the terms and conditions set forth herein.

1. Grant of License. The Licensor hereby grants to the Licensee a non-exclusive license to enter upon a portion of the Land as shown on Exhibit B and to erect, install and maintain the herein described Work/Construction Activities upon the Land, subject to the following specified terms and conditions.

2. Permitted Use. The rights of this License shall be exercised by the Licensee or its contractors, agents, representatives and invitees solely for the purposes of the erection,

installation, maintenance, repair and reconstruction of the herein described Work/Construction Activities (the "Purpose") upon the Land, subject to the terms and conditions hereof. The License shall be exercised from the date of the execution of this License and shall continue until December 31, 2016, unless terminated in accordance with the License.

3. License Fees. In consideration for the use of this License, the Licensee agrees to pay the Licenser a one-time License Fee of One Dollar (\$1.00).

4. Indemnification; Bond. The exercise of this License shall constitute the Licensee's acceptance of complete liability for the actions or omissions of Licensee, its contractors, agents, representatives, employees and assignees while present on the Land in connection with the license granted hereby. The Licensee shall indemnify, defend and hold harmless the Licenser from and against any and all claim, demands, suits, actions, costs judgments, whatsoever, including reasonable attorney's fees and expense which may be imposed upon, incurred by or asserted against the Licenser or its agents, employees, successor and assigns by reason of (a) any failure on the part of Licensee to comply with any provision or term required to be performed or complied with by Licensee, its contractors, agent, representatives or invitees or under this License, or (b) for the death, injury or property damage suffered by any person on account of or based upon the act, omission, negligence or misconduct of any person whomsoever, other than the Licenser relating in any way, to the Licensee's exercise of its rights under this License.

5. Insurance. Licensee shall maintain during the term of this License public liability insurance with coverage for bodily injury, wrongful death and property damage during the installation and maintenance of the Work/Construction Activities as described herein in the amount of: General Liability: one million (\$1,000,000.00) dollars per occurrence; Bodily Injury Liability one million (\$1,000,000.00) dollars per occurrence; and Property Damage Liability of two million (\$2,000,000.00) dollars cumulative and shall deposit a certificate of insurance with the Town of Nantucket prior to the exercise of this License by the Licensee. The insurance coverage required hereunder shall be placed with insurance companies licensed by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and have a Best's rating of B+ or better.

Licensee or the Licensee's contractors shall maintain worker's compensation during any of the Work/Construction Activities as required by law. Prior to any construction performed by Licensee or any contractor on behalf of Licensee on the Land, Licensee shall provide Licenser with a copy of the contractor's insurance certificate including liability insurance coverage as herein specified

6. Conduct

a. Entry and use under this License by the Licensee and its contractors, agents, representatives, employees and assignees, shall, at all times, be subject to review and control by the Licenser and its duly designated agents and representatives.

b. During the exercise of rights hereby granted, Licensee shall at all times conduct itself so as not to interfere with activities of the Licensors within or upon the Land.

c. The Licensors shall have the right, at all reasonable times, to enter onto and inspect the Land.

d. The Licensee shall observe and obey all applicable laws, statutes, ordinances, regulations and permitting or license requirements, and shall procure all necessary permits before undertaking any work on the Land..

e. The Licensee shall not undertake any construction, reconstruction, rehabilitation or refurbishment upon the Land without having received the written approval of the Licensors or its authorized representative; provided, however, that, by executing this License Agreement, the Licensors hereby consent to the hereinabove described Work/Construction Activities as more particularly described in Approval of Subdivision Plan, a copy of which is attached hereto as Exhibit "C". If there are any changes in the Work/Construction Activities and their location, then Licensee must first obtain Licensors' prior written approval to any changes in the Work/Construction Activities.

f. The Licensee shall not permit any mechanics' liens or similar liens, to remain upon the Land for labor and material furnished to the Licensee or claimed to have been furnished to the Land or any part thereof, but all such improvements shall be done and materials and labor furnished at Licensee's expense, and the laborers and materialmen's furnishing labor and materials for the work shall release the Licensors from any liability.

These provisions shall survive the termination or expiration of the License.

7. Termination; Ownership of Improvements. This License shall be revocable by either party upon written notice of revocation at least thirty (30) days prior to the termination date stated within said notice. Upon any termination of this License Agreement, the improvements made by the Licensee to the Land shall become and remain the property of the Licensors and the Licensee shall restore any portion of the Land damaged as a result of the Work/Construction Activities to its original condition.

8. Modification; Assignment. Any modification or amendment to this License must be in writing. This License is not transferable and no privilege contained herein may be sublet or assigned to any other person or organization without the express written consent of the Licensors.

9. Licensors' Right to Enter and Maintain. Notwithstanding any provisions or agreement to the contrary, the Licensors maintains its right to enter the Land at any time and from time to time that the Licensors, in its sole judgment, shall deem necessary.

10. No Warranty or Representation. The Licensee accepts the Land in “as is” condition for the purpose of this License and the Licenser makes no warranty or representation, expressed or implied regarding the fitness of said Land for purposes of this License.

11. Successors in Interest and Assignment. The terms and conditions of this instrument shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto. Notwithstanding the foregoing, the Licensee agrees that any right and license granted to the Licensee by this License Agreement may not be assigned or transferred without the prior written consent of the Licenser.

12. Notice. All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms hereof, shall be in writing and shall be deemed to have been properly given when addressed to the addresses listed above and deposited in registered or certified mail, postage prepaid, return receipt requested. The Licensee and the Licenser may at any time and from time to time, specify as its proper address for purposes of this License Agreement any other address(es) pursuant to the terms of this section.

13. Waiver. Notwithstanding anything herein to the contrary, no provision of this License, no entry upon, travel over or other use of the affected Land by the Licenser, nor the Licenser’s granting of any rights or assumption of any obligations hereunder shall not waive, bar, diminish or in any way affect: (i) any legal or equitable right of the Licenser to regulate or issue any order with respect to the affected premises; (ii) waive any limitations on liability afforded a body politic of the Commonwealth of Massachusetts; or (iii) pursue any other claim, action, suit, damages or demand related thereto.

14. Severability. If any court determines any provision of this License to be invalid or unenforceable, the remainder of this instrument shall not be affected and each provision of this License Agreement shall be valid and enforceable to the fullest extent permitted by law.

15. Miscellaneous. This License Agreement: (i) may be signed in multiple counterparts; (ii) shall become effective only when fully signed by the Licensee and duly authorized representatives of the Licenser; and (iii) shall be governed by the laws of the Commonwealth of Massachusetts.

16. Survival of Terms and Provisions. All appropriate terms and provisions hereof shall survive the termination or revocation of this License.

17. No Estate Created. This License shall not be construed as creating or vesting in the Licensee any estate in the Land, but only the limited right of possession as hereinabove stated.

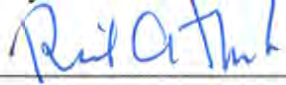
[SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS HEREOF, the parties hereto have caused this License Agreement to be executed as a sealed instrument the day and year first written above.

LICENSOR: TOWN OF NANTUCKET,

By its Board of Selectmen

Date: Dec. 17, 2014





mfee



Colidden

LICENSEE: GG DEVELOPMENT LLC

By: _____

James Georgaklis, duly authorized
Its Manager

Date: _____

IN WITNESS HEREOF, the parties hereto have caused this License Agreement to be executed as a sealed instrument the day and year first written above.

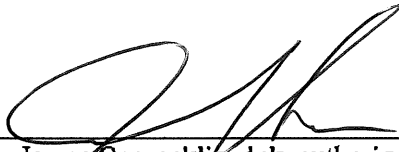
LICENSOR: TOWN OF NANTUCKET,

By its Board of Selectmen

Date: _____

LICENSEE: GG DEVELOPMENT LLC

By: _____


James Georgaklis, duly authorized
Its Manager

Date: 12/17/14

512280v3/NANT- 19713/0001

EXHIBIT “A”

29 Vesper Lane, Nantucket, MA

EXHIBIT A
LEGAL DESCRIPTION

That certain parcel of land known as 29 Vesper Lane and shown as Lot 15 on a plan recorded with the Nantucket Registry of Deeds in Plan Book 24, Page 84, and bounded and described as follows:

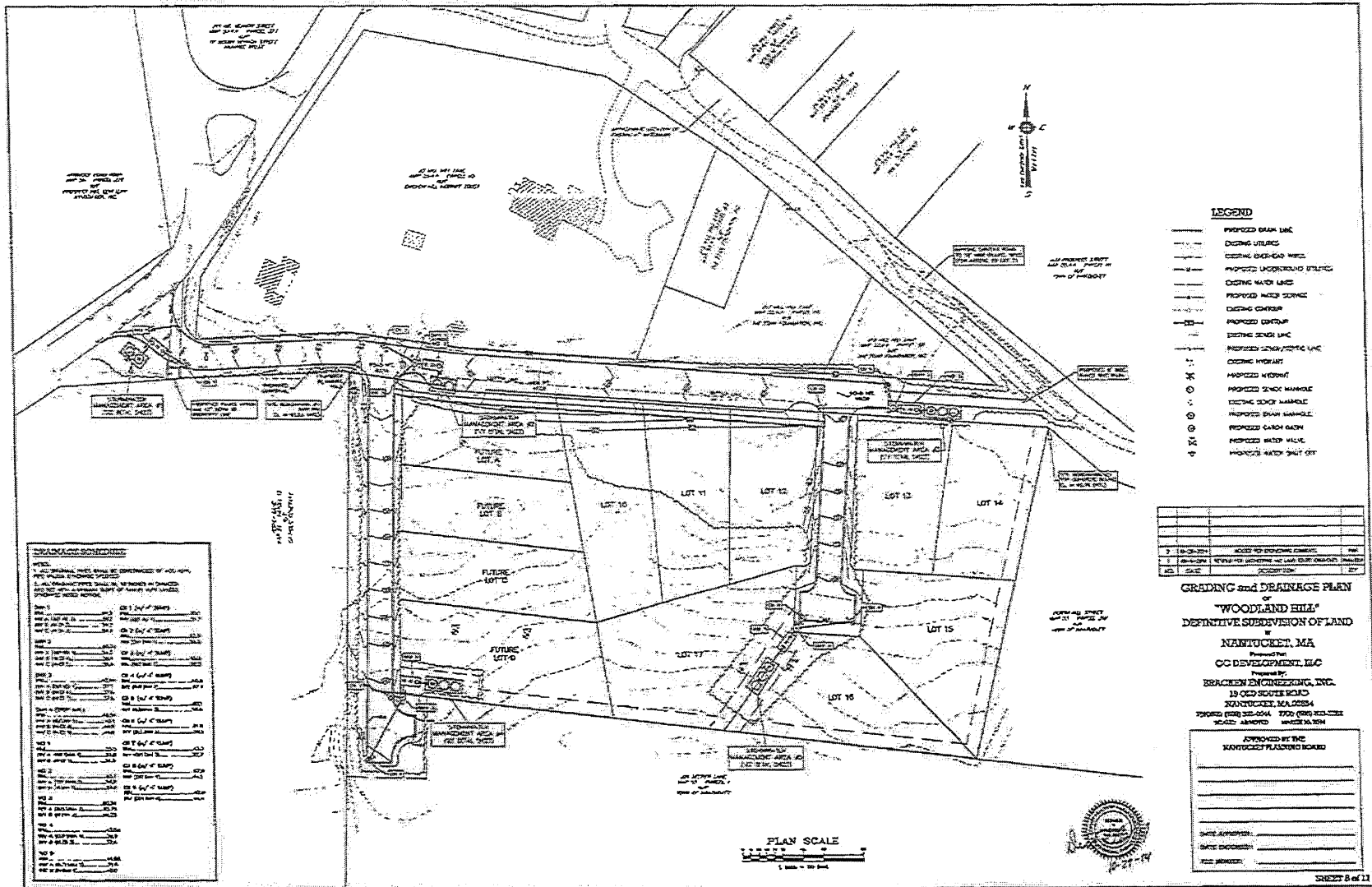
SOUTHERLY	by Vesper Lane, ninety and 74/100 (90.74) feet;
EASTERLY	by Lot 5 on said plan, one hundred and 90/100 (100.90) feet;
SOUTHERLY	by Lots 5,6,7,8,9 and 10 on said plan a total of three hundred (300.00) feet;
EASTERLY	by a private way, four hundred seventy-two and 38/100 (472.38) feet;
NORTHERLY	by land of the Town of Nantucket and by land now or formerly of Egan, a total of seven hundred twenty and 58/100 (720.58) feet;
WESTERLY	by Cato Lane, one hundred sixty-three and 75/100 (163.75) feet;
SOUTHERLY	by Lot 14 on said plan, one hundred one and 46/100 (101.46) feet;
SOUTHERLY, SOUTHWESTERLY AND WESTERLY	by Lot 12 on said plan, by three lines measuring seventy-seven and 75/100 (77.75) feet, thirty-six and 8/100 (36.08) feet, and thirty (30.00) feet, Respectively, and

Containing 287,526 square feet, more or less, as described in Exhibit "A" to the deed recorded at the Nantucket Registry of Deeds in Book 408, page 109.

EXHIBIT "B"

General Location of the Work/Construction Activities

Exhibit B



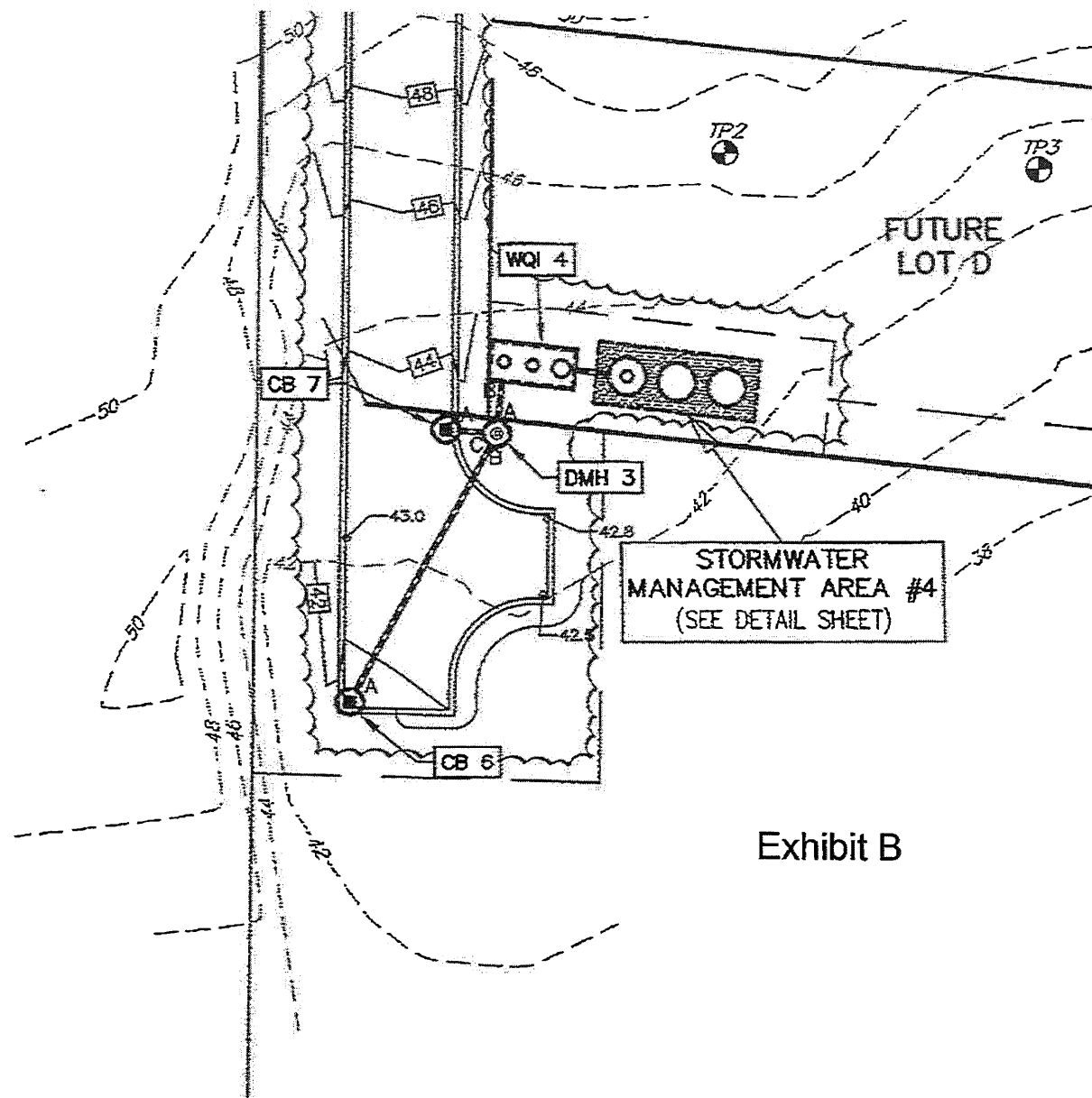
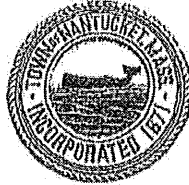


Exhibit B

EXHIBIT C

MCD Permit No.

Exhibit C



RECEIVED
2014 JUN 3 PM 3 2
NANTUCKET TOWN CLERK

Nantucket Planning Board

APPROVAL OF A DEFINITIVE SUBDIVISION PLAN (AR)

Woodland Hill Subdivision
Planning Board File #7661

Applicant: GG Development, LLC

Owner: Dorothy Harrison Egan Foundation

Property located off of an Unnamed Way off of Mill Hill

Registered in the Nantucket Registry District of the Land Court, Certificate of Title #19810 and #22778

Parcels 314, 316, 317, 318 shown on Nantucket Tax Assessors Map 55
Parcel 26 shown on Nantucket Tax Assessors Map 55.4.4

May 12, 2014

The applicant is proposing an Approval Required (AR) subdivision on a 2.8 acre parcel with frontage on an unnamed way in the vicinity of Hummock Pond Road and Mill Hill Lane. There are a total of ten (10) buildable lots in the subdivision, all of which meet or exceed the minimum lot size, frontage, and upland requirements. In addition, Lot 2 (buildable) and Lots 14 and 15 (unbuildable) are anticipated to be combined and reconfigured in the future to result in a total of three (3) buildable lots, shown as Future Lot A, B, and C on sheet 5 of the plans. A maximum of twelve (12) buildable total lots may result from the proposal.

Three (3) roadways will provide access and frontage to the lots within the subdivision. Roadway A is an existing unnamed road that will provide the primary access from Hummock Pond Road to the proposed Roadway C. Roadway B will connect to the proposed 1950's Cato Lane roadway layout that was never established as a public way, and Roadway C is a dead-end street within the subdivision. The specific proposal for each of these roads is as follows:

- Roadway A will be paved to a width of eighteen (18) feet between Hummock Pond Road and Roadway B, and between Roadway C and the terminus of the paved portion of the roadway as shown on the proposed plans. Between Roadway B and Roadway C, the pavement width will be increased twenty-seven (27) feet to accommodate on-street parking spaces of nine (9) feet in width. Six (6) inch vertical granite curbing will be installed along the edge of the roadway and associated parking spaces. Roadway A will provide driveway access to two (2) lots within the subdivision;
- Roadway B will be paved to a width of eighteen (18) feet and will terminate in a "Turning L" configuration. Cape Cod berms will be installed along the edge of the roadway. Roadway C will provide driveway access to a maximum of four (4) lots within the subdivision;

- Roadway C will be paved to a width of eighteen (18) feet and will terminate in a "Turning T" configuration. Cape Cod berms will be installed along the edge of the roadway. Roadway C will provide driveway access to five (5) lots within the subdivision.

Stormwater runoff from the proposed roadway construction will be collected by deep sump catch basins, which will discharge to subsurface infiltration systems designed to contain and infiltrate up to the twenty-five (25) year storm event. All lots within the proposed subdivision will be serviced by municipal water and sewer.

The Nantucket Planning Board at its May 12, 2014 meeting voted 5-0 to close the public hearing and voted 5-0 to **APPROVE** the Definitive Subdivision Plan (AR) for the subject property. The application for approval of this definitive subdivision plan was received by the Planning Board on March 11, 2014 and approval of the subdivision was based on the following documents:

- A letter from Bracken Engineering, Inc. dated March 10, 2014. This letter includes the requests for waivers from the "Rules and Regulations Governing the Subdivision of Land";
- Plans entitled "Definitive Subdivision Plan Set of "Woodland Hill" in Nantucket, Massachusetts", sheets 1 through 11, prepared by Bracken Engineering, Inc., dated March 10, 2014;
- A document entitled "Supplemental Information" prepared by Bracken Engineering Inc., dated March 10, 2014;
- Engineering review reports from Pesce Engineering & Associates, Inc., engineering consultants for the Planning Board, dated April 11, 2014;
- A 2013 Preliminary Plan approval issued by the Planning Board;
- Representation and testimony received in connection with the public hearings held April 16, 2014 and May 12, 2014. Minutes of these meetings are on file with the Planning Board; and
- Other assorted documents (including correspondence from various Town departments) that are on file with the Planning Board.

Approval of the subdivision is granted conditionally upon the aforementioned documents, compliance with the Planning Board's *Rules and Regulations Governing the Subdivision of Land* (as amended through December 20, 1999), and on the following additional requirements and agreements:

1. That the applicant be granted the following waivers from the *Rules and Regulations Governing the Subdivision of Land*:

4.03a(1) Streets

Waiver Granted – the finished roadway width of eighteen (18) feet for the travel lanes is appropriate for the scale of this subdivision;

4.03(e) Streets

Waiver Granted – the existing width of the roadway layout for Roadway A is thirty (30) feet. This roadway is shown on a 1928 Land Court Plan. The proposal includes an additional twelve (12) foot easement for a total of forty (42) feet to be dedicated to roadway purposes. Roadway C will have a layout of thirty (30) feet total. This is an interior roadway and additional width is not required for infrastructure improvements.

4.09 Shoulders

Waiver Granted – to reduce the width of the shoulder along the north side of Roadway A from four (4) feet to one (1) foot. This waiver is appropriate based on the roadway construction including vertical curbing. No pedestrian infrastructure will be affected.

Waiver Granted – to reduce the width of the shoulder along both sides of Roadway B and Roadway C from four (4) feet to two (2) feet. This waiver is appropriate based on the number of lots served by these dead-end roadways and the lack of affect on any pedestrian infrastructure.

4.18 Sidewalks

Waiver Granted – the applicant has agreed to construct a bike path connection between the terminus of Roadway A and Mill Hill Lane.

Sidewalks for the proposed roadways are unnecessary due to the scale and location of this subdivision. The bike path connection will positively impact the ability to access the existing pedestrian network in proximity to this subdivision;

4.19

Bicycle Paths

Waiver Granted -- the applicant has agreed to construct a bike path connection between the terminus of Roadway A and Mill Hill Lane. The bike path connection will positively impact the ability to access the existing pedestrian network in proximity to this subdivision, and will provide a much needed connection between Prospect Street and Hummock Pond and Madaket Roads;

4.20

Street Lights

Waiver Granted -- street lighting in this located would be inconsistent with the semi-rural landscape of the surrounding open space.

2. That the interior roadway and associated infrastructure improvements shall not commence until the definitive plans have been endorsed by the Planning Board. The definitive plans shall be presented to the Planning Board within six (6) months of the date of this decision (November 12, 2014) and shall incorporate any changes required by Pesce Engineering & Associates;
3. That recorded copies of all legal documents (Homeowners Association documents, Statement of Conditions, Grant of Right of Enforcement, Declaration of Restrictions and Easements for Access, Driveways, Utilities, and Drainage, and Covenant) shall be presented to the Planning Board prior to the release of any lot from the Covenant or within six (6) months from the date of this decision (November 12, 2014);
4. That a Homeowners Association be established by the applicant, along with a Road Maintenance Endowment Fund for the maintenance of all required improvements to the interior roadway including the drainage structures, grading, utilities, etc.. The Association shall be initially endowed at \$1000 per buildable lot (\$10,000.00 total). This fund shall be administered by the Homeowners Association with the Planning Board named as a third party enforcing agent. Proof of this endowment shall be provided prior to the release of any lot from the covenant;
5. That the roadway layout for the interior roadway be transferred to the Homeowners Association. Evidence of the conveyance shall be presented to the Planning Board prior to the release of any lot from the covenant;
6. That the following easements shall be granted to the Town/County of Nantucket upon installation of the blinder course of pavement, and prior to the release of any lots thereafter:
 - a. Bicycle and pedestrian access shall be granted within Roadway A, within the land east of the terminus of Roadway A at Roadway C to Mill Hill Lane, and Roadway B. Applicant has agreed to prepared the plan showing these easements;
 - b. Vehicular access shall be granted within Roadway A between Hummock Pond Road and a line extending the eastern sideline of Roadway B, and through Roadway B. Applicant has agreed to prepared the plan showing these easements;
 - c. Vehicular access shall be granted from the southern sideline of Roadway A to the property line separating the land within this subdivision from land owned by the Town of Nantucket. Applicant has agreed to prepared the plan showing these easements;
 - d. Water and sewer easements within Roadway A, B, and C and within the land east of the terminus of Roadway A at Roadway C to Mill Hill Lane. Applicant has agreed to prepared the plan showing these easements;
 - e. To the extent necessary, an easement shall also be granted for the existing sewer in Lots 12 and 15 as shown on the plans referenced in this decision. Applicant has agreed to prepared the plan showing these easements;
7. That the applicant has agreed to offer as a gift to the Town the construction of the turn-around at the terminus of Roadway B and within land owned by the Town of Nantucket as shown on the plans referenced in this decision. This gift shall be offered prior to the construction of the turn-around and shall be completed prior to the release of the final lot from the covenant;
8. That all lots within the subdivision be restricted to no further division, with the exception of Lot 2. Minor lot line adjustments shall be permitted through the submission of an Approval Not Required (ANR) plan, however, no additional building lots shall be created;
9. That five (5) lots shall be restricted to a single dwelling unit. Studios, garages, sheds, outbuildings, or other accessory structures that do not contain dwelling units shall be permitted;

10. That access to Lots 5, 6, and 7 shall be prohibited from Roadway A. Lots 5 and 6 shall be accessed from Roadway C and Lot 7 shall be accessed from Mill Hill Lane;
11. That access to Lots 15, 14, and 2 (which are anticipated to be combined and reconfigured to create future Lots A, B, and C) shall be prohibited from Roadway A;
12. That a ten (10) foot wide, densely vegetated buffer including a mixture of coniferous and deciduous plant material, shall be established and permanently maintained along the southern and eastern limits of the subdivision, specifically affecting Lots 1, 7, 8, 9, and 10, but excluding the drainage easement area within Lots 1, 9, and 10. This restriction shall be included in future deeds and included within the legal documents, with enforcement granted to the Town of Nantucket. On an as-needed basis, plantings shall be replaced within a year of their removal/deterioration/demise;
13. That one (1) lot shall be released upon endorsement of the definitive plans. Other lots shall be released as infrastructure improvements are completed. At anytime, the applicant shall have the right to obtain release(s) of the lots from the covenant in return for a deposit of money or negotiable securities with the Planning Board sufficient, in the opinion of the Board, to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan as set forth in the covenant, and the Planning Board may require that the applicant specify the time within which such construction shall be completed, all in accordance with Section 20.65(2) of Rules & Regulations Governing the Subdivision of Land, Nantucket Island, Massachusetts, as amended;
14. That a dense gravel tracking pad shall be installed at the entrance to the site from Hummock Pond Road during the construction period to remove construction debris from the tires of construction vehicles, as shown on the plans;
15. That all utilities shall be installed underground in accordance with the requirements of the respective utility;
16. That all required infrastructure improvements be completed within two (2) years from the date of definitive plan endorsement;
17. That the Planning Board may grant extensions of deadlines stated herein without holding a public hearing;
18. The failure or refusal of any Town board, commission, agency, or department, including, but not limited to the Nantucket Board of Selectmen, Nantucket Islands Land Bank, and the Wannacomet Water Department to accept any easement, gift, contribution, improvement, or the like, shall not affect the intent or findings of this decision, the applicant's ability to proceed under the other provisions of this decision, or the special permits and waivers granted in this decision.

SIGNATURE PAGE TO FOLLOW

TOWN OF NANTUCKET

GIFT OF ROADWAY IMPROVEMENTS ON OLD MILL COURT

GG DEVELOPMENT, LLC, a Massachusetts limited liability company, having a mailing address of 50 Terminal Street, Suite 716, Charlestown, Massachusetts 02129 (“Donor”) hereby donates all of its right, title and interest in the roadway improvements constructed in Old Mill Court, Nantucket (the “Improvements”) to the **TOWN OF NANTUCKET** (the “Town”), a Massachusetts municipal corporation, acting by and through its Select Board, having an address of Town & County Building, 16 Broad Street, Nantucket, Massachusetts 02554.

RECITALS

WHEREAS, the Donor was the owner of the property off Mill Hill Lane, Nantucket, shown as Lots 7- 20, inclusive, on Land Court Plan No. 12559-G (the “Subdivision Plan”) and described on Certificate of Title No. 25308 filed with the Nantucket Registry District of the Land Court;

WHEREAS, the Donor received approval of an Approval Required Subdivision for the Woodland Hill Subdivision by the Nantucket Planning Board in its Decision dated May 12, 2014, filed with the Planning Board as Planning Board File # 7661 (the “Approval”);

WHEREAS, the Approval of the Subdivision was granted subject to several conditions including Condition No. 7 which requires that the Donor offer as a gift to the Town the construction of the turn-around at the terminus of the roadway shown as Road “C” on said Subdivision Plan and shown as Old Mill Court on plan entitled “Subdivision Modification Plan of Land in Nantucket, Mass. Owned by GG Development LLC,” dated April 29, 2016, filed with said Registry District of the Land Court as Land Court Plan No. 12559-I;

WHEREAS, the Donor has completed the construction of the Improvements and the Improvements have been inspected by the Town and been approved;

NOW THEREFORE, the Donor requests that the Town accept the donation of the Improvements as being in the public interest, in order that the last lot of the Subdivision may be released from the Planning Board Covenant dated August 11, 2014, filed with said Registry District of the Land Court as Document No. 145372.

The Parties hereto agree that Condition # 7 of the Approval has been satisfied and that the Town shall accept the Improvements on Old Mill Court as being in the public interest.

Executed as a sealed instrument this _____ day of _____, 2021.

GG DEVELOPMENT, LLC

By: _____
Gregory J. Grant, Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared Gregory J. Grant, Manager, of GG Development, LLC, who proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding instrument and acknowledged to me that he signed the foregoing instrument voluntarily for its stated purpose on behalf of GG Development, LLC

Notary Public
My commission expires:

ACCEPTANCE OF ROADWAY IMPROVEMENTS ON OLD MILL COURT

On this _____ day of _____, 2021, the Town of Nantucket, acting by and through its Select Board, hereby accepts the gift of the roadway improvements on Old Mill Court, Nantucket granted by GG Development LLC to the Town pursuant to Condition No. 7 of the Nantucket Planning Board Decision for Woodland Hill Subdivision, Planning Board File # 7661, dated May 12, 2014, as being in the public interest.

TOWN OF NANTUCKET
By its Select Board

Dawn E. Hill Holdgate

Jason Bridges

Matthew G. Fee

Kristie L. Ferrantella

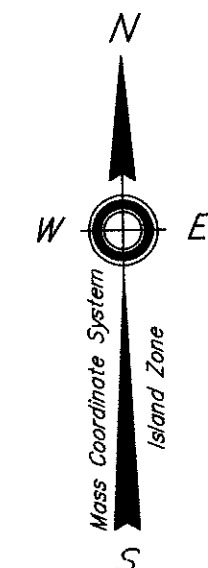
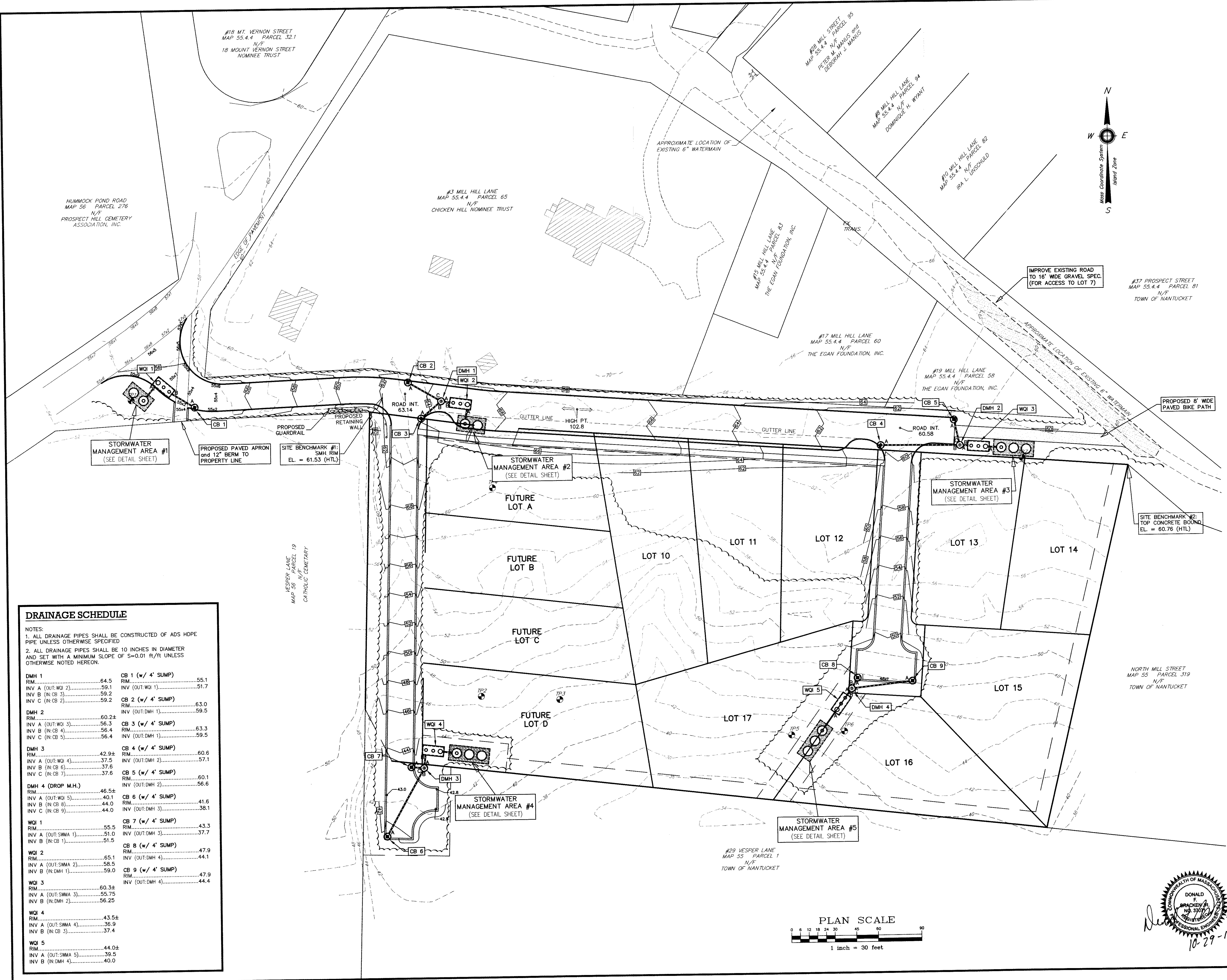
Melissa K. Murphy

COMMONWEALTH OF MASSACHUSETTS

Nantucket ss.

On this ____ day of _____, 2021, before me, the undersigned notary public, personally appeared Dawn E. Hill Holdgate, Jason Bridges, Matthew G. Fee, Kristie L. Ferrantella and Melissa K. Murphy, members of the Town of Nantucket Select Board as aforesaid, who proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding instrument and acknowledged to me that they signed the foregoing instrument on behalf of the Town of Nantucket Select Board.

Notary Public
My commission expires:



LEGEND

- PROPOSED DRAIN LINE
- EXISTING UTILITIES
- EXISTING OVERHEAD WIRES
- PROPOSED UNDERGROUND UTILITIES
- EXISTING WATER LINES
- PROPOSED WATER SERVICE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING SEWER LINE
- PROPOSED SEWER/SEPTIC LINE
- EXISTING HYDRANT
- PROPOSED HYDRANT
- PROPOSED SEWER MANHOLE
- EXISTING SEWER MANHOLE
- PROPOSED DRAIN MANHOLE
- PROPOSED CATCH BASIN
- PROPOSED WATER VALVE
- PROPOSED WATER SHUT OFF

DRAINAGE SCHEDULE

NOTES:
1. ALL DRAINAGE PIPES SHALL BE CONSTRUCTED OF ADS HDPE PIPE UNLESS OTHERWISE SPECIFIED.
2. ALL DRAINAGE PIPES SHALL BE 10 INCHES IN DIAMETER AND SET WITH A MINIMUM SLOPE OF S=0.01 R/R UNLESS OTHERWISE NOTED HEREON.

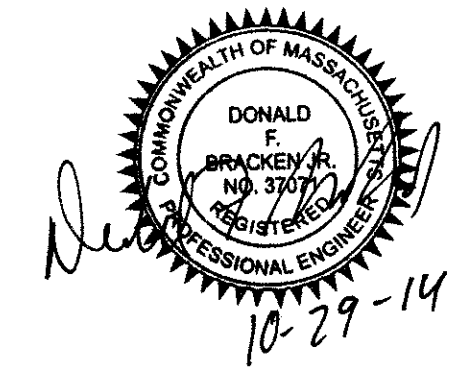
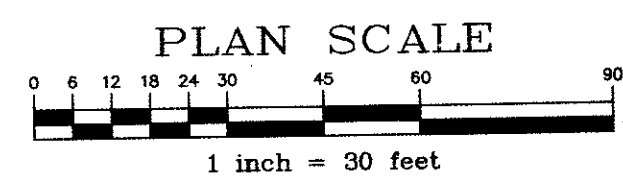
DMH 1	64.5	CB 1 (w/ 4' SUMP)	55.1
RIM	59.1	INV (OUT: WQI 1)	51.7
INV A (OUT: WQI 2)	59.2	CB 2 (w/ 4' SUMP)	63.0
INV B (IN: CB 3)	59.2	RIM	59.5
INV C (IN: CB 2)	59.2	INV (OUT: DMH 1)	59.5
DMH 2	60.2±	CB 3 (w/ 4' SUMP)	63.3
RIM	56.3	INV (OUT: DMH 1)	59.5
INV A (OUT: WQI 3)	56.4	CB 4 (w/ 4' SUMP)	60.6
INV B (IN: CB 4)	56.4	INV (OUT: DMH 2)	57.1
INV C (IN: CB 5)	56.4	CB 5 (w/ 4' SUMP)	60.1
DMH 3	42.9±	RIM	56.6
RIM	37.5	INV (OUT: DMH 2)	56.6
INV A (OUT: WQI 4)	37.6	CB 6 (w/ 4' SUMP)	41.6
INV B (IN: CB 6)	37.6	INV (OUT: DMH 3)	38.1
INV C (IN: CB 7)	37.6	CB 7 (w/ 4' SUMP)	43.3
DMH 4 (DROP M.H.)	46.5±	RIM	37.7
RIM	40.1	INV (OUT: DMH 3)	37.7
INV A (OUT: WQI 5)	44.0	CB 8 (w/ 4' SUMP)	47.9
INV B (IN: CB 8)	44.0	INV (OUT: DMH 4)	44.1
INV C (IN: CB 9)	44.0	CB 9 (w/ 4' SUMP)	47.9
WQI 1	55.5	RIM	44.4
INV A (OUT: SWMA 1)	51.0	INV (OUT: DMH 4)	44.4
INV B (IN: CB 1)	51.5	CB 10 (w/ 4' SUMP)	47.9
WQI 2	65.1	RIM	47.9
INV A (OUT: SWMA 2)	58.5	INV (OUT: DMH 4)	44.4
INV B (IN: DMH 1)	59.0	CB 11 (w/ 4' SUMP)	47.9
WQI 3	60.3±	RIM	47.9
INV A (OUT: SWMA 3)	55.75	INV (OUT: DMH 4)	44.4
INV B (IN: DMH 2)	56.25	CB 12 (w/ 4' SUMP)	47.9
WQI 4	43.5±	RIM	47.9
INV A (OUT: SWMA 4)	36.9	INV (OUT: DMH 4)	44.4
INV B (IN: CB 3)	37.4	CB 13 (w/ 4' SUMP)	47.9
WQI 5	44.0±	RIM	47.9
INV A (OUT: SWMA 5)	39.5	INV (OUT: DMH 4)	44.4
INV B (IN: DMH 4)	40.0	CB 14 (w/ 4' SUMP)	47.9

NO.	DATE	DESCRIPTION	BY
2	10-29-2014	REVISED PER ENGINEERING COMMENTS	RMM
1	08-8-2014	REVISED PER ENGINEERING and LAND COURT COMMENTS	RMM/DLH

GRADING and DRAINAGE PLAN
OF
"WOODLAND HILL"
DEFINITIVE SUBDIVISION OF LAND
IN
NANTUCKET, MA
Prepared For:
GG DEVELOPMENT, LLC
Prepared By:
BRACKEN ENGINEERING, INC.
19 OLD SOUTH ROAD
NANTUCKET, MA 02554
PHONE: (508) 325-0044 FAX: (508) 833-2282
SCALE: AS NOTED MARCH 10, 2014

APPROVED BY THE
NANTUCKET PLANNING BOARD

DATE APPROVED: _____
DATE ENDORSED: _____
FILE NUMBER: _____



**THIRD AMENDMENT TO
WOODLAND HILL SUBDIVISION
DECLARATION OF
PROTECTIVE COVENANTS, EASEMENTS AND RESTRICTIONS**

THIS AMENDMENT is made as of the ____ day of March 2021, to the WOODLAND HILL SUBDIVISION DECLARATION OF PROTECTIVE COVENANTS, EASEMENTS AND RESTRICTIONS dated August 30, 2014 and registered as Document No. 147766 at the Nantucket Registry District for the Land Court; as affected by a First Amendment dated June 24, 2015 and registered as Document No. 149010, as affected by a Second Amendment dated October 19, 2016 and registered as Document No. 153289 (hereinafter the "Protective Covenants").

The undersigned, being the present Trustee and Developer of the Woodland Hill Homeowners Association Declaration of Trust dated August 11, 2014 and registered as Document No 147764 hereby desires to amend said Protective Covenants as follows:

Article Two: RESTRICTIONS, COVENANTS AND EASEMENTS

NON-EXCLUSIVE PEDESTRIAN, BIKE AND VEHICULAR EASEMENT, SHALL BE INCLUDED AS FOLLOWS:

"2.04.09 Non-Exclusive Pedestrian, Bike and Vehicular Easement. The Town of Nantucket, a Massachusetts municipal corporation, acting by and through its Select Board, shall have a permanent non-exclusive pedestrian, bike and vehicular easement on, over, across and along those portions of Mill Hill Lane designated as "Old Farm Road," and "Red Mill Lane, Lot 27" on the plan of land registered at the Nantucket Registry District of the Land Court as Land Court Plan No. 12559-I, prepared by Bracken Engineering, Inc., a copy of which is attached hereto as Exhibit "A".

GG Development, LLC, Trustee of Woodland Hill Homeowners Associations Trust u/d/t dated August 11, 2014 and registered as Document No. 147764 at the Nantucket Registry District, hereby certify that it is the sole Trustee of said Trust; that said Trust has not been altered, amended, revoked or terminated; that pursuant to said Trust and upon the specific direction of the beneficiaries, the Trustee has the power and authority to purchase property for the Trust ,to mortgage all or any part of the Trust property, to sell or otherwise dispose of all or any part of the Trust property, and to do all things necessary and required to subdivide and manage the Trust property; that all beneficiaries of the Trust are of full age and competent; that pursuant to the provisions of the Trust, the Trustee has been authorized and directed by the beneficiaries to subdivide, manage and develop the Trust property and to sign any and all necessary documents necessary to effectuate these actions for nominal consideration.

Executed under seal this ____ day of _____ 2021.

WOODLAND HILL
HOMEOWNERS ASSOCIATION TRUST

By: GG DEVELOPMENT, LLC, Trustee

By: _____
Paul E. Grant, duly authorized
Its Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared Paul E. Grant, Manager of GG Development, LLC proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as Trustee of the Woodland Hill Homeowners Association Trust, as his free act and deed.

Notary Public
My Commission Expires:

CONSENT OF MORTGAGEE

ROCKLAND TRUST COMPANY, being the holder of certain mortgage from GG Development, LLC to it dated March 2, 2017 and registered as Document No. 154586, as amended by Document No. 155103, and filed with Certificate of Title 25308 at the Nantucket Registry of Deeds, for consideration paid, hereby consents to the foregoing Third Amendment to Declaration of Protective Covenants, Easements and Restrictions and agrees that said mortgage shall be held subject to and with the benefit of said Third Amendment to Declaration of Protective Covenants and Restrictions.

Executed and Sealed on _____, 2021.

ROCKLAND TRUST COMPANY

By: _____

Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____ 2021, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily, in said capacity, for its stated purpose, as his/her free act and deed.

NOTARY PUBLIC

My Commission Expires:

ACCEPTANCE OF PLANNING BOARD

We, as a majority of the members of the Nantucket Planning Board, hereby accept and approve the foregoing Third Amendment to the Woodland Hill Subdivision Declaration of Protective Covenants Easements and Restrictions.

Dated this _____ day of _____, 2021

Judith Wegner, Chair
Term Expires: 2025

John Trudell III, Vice Chair
Term Expires: 2021

Nathaniel Lowell
Term Expires: 2022

Frederick "Fritz" McClure
Term Expires: 2023

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____ 2021, before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification, which were _____ to be the person whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily, in said capacity, for its stated purpose, as their free act and deed.

NOTARY PUBLIC
My Commission Expires:

ACCEPTANCE OF SELECT BOARD

The Town of Nantucket, acting by and through its Select Board, pursuant to the provisions of G.L, c. 83, §1, hereby accepts the foregoing Third Amendment to the Woodland Hill Subdivision Declaration of Protective Covenants Easements and Restrictions and hereby accepts the Non-Exclusive Pedestrian, Bike and Vehicular Easement as set forth therein, on this ____ day of _____, March 2021.

TOWN OF NANTUCKET

BY ITS SELECT BOARD:

DAWN E. HILL HOLDGATE

JASON BRIDGES

MATTHEW G. FEE

KRISTIE L. FERRANTELLA

MELISSA K. MURPHY

COMMONWEALTH OF MASSACHUSETTS

County of Nantucket, ss.

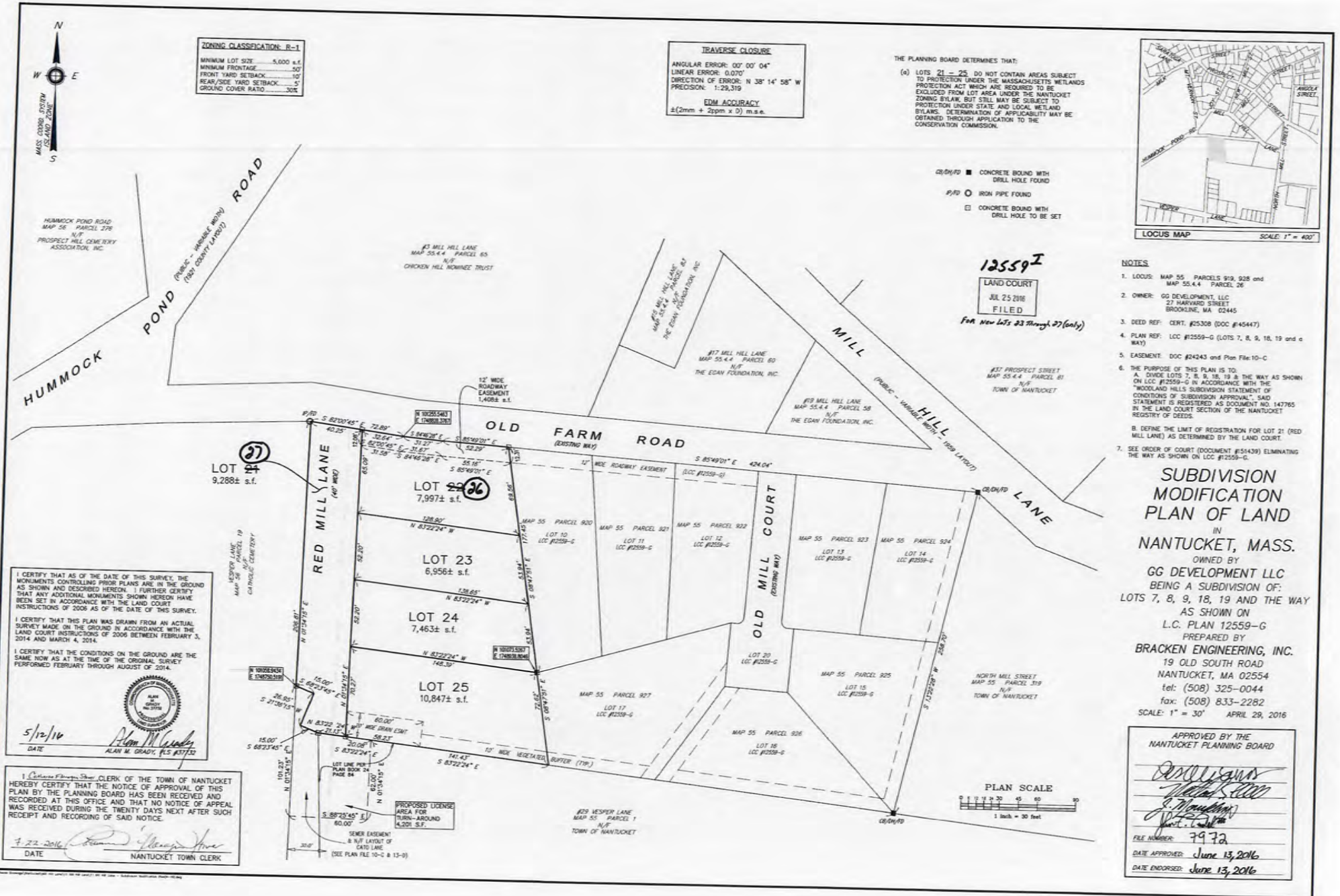
On this ____ day of March 2021, before me, the undersigned notary public, personally appeared the above-named Dawn E. Hill Holdgate, Jason Bridges, Matthew G. Fee, Kristie L. Ferrantella and Melissa K. Murphy, members of the Town of Nantucket Select Board, as aforesaid, who proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose as the free act and deed of the Select Board of the Town of Nantucket.

Notary Public

Printed Name:

My Commission Expires:

EXHIBIT A



FIRST AMENDMENT
WOODLAND HILL SUBDIVISION
GRANT OF RIGHT TO ENFORCE RESTRICTIONS

GG DEVELOPMENT, LLC, Trustee of Woodland Hill Homeowners Association Trust u/d/t dated August 11, 2014, registered as Document No. 147764, noted on Certificate of Title No. 25308 at the Nantucket Registry District for the Land Court, with a mailing address of 27 Harvard Street, Brookline, MA 02445, the Declarant of that certain Declaration of Protective Covenants, Easements and Restrictions, dated as of August 11, 2014, registered with the Nantucket Registry District as Document No. 147766, as amended by First Amendment registered as Document No. 149010, as amended by Second Amendment registered as Document No. 153289, as amended by Third Amendment registered as Document No. _____, noted on Certificate of Title No. Certificate of Title No. 25308 (the "Declaration"), encumbering those certain parcels of land being a portion of 11 Mill Hill Lane, shown as Lots 7 through 20, inclusive on the GG Development, LLC Definitive Subdivision Plan, Nantucket Planning Board File No. 7661 and Lots 7 through 20 inclusive on Land Court Plan No. 12559-G filed with Certificate of Title No. 22778 at the Nantucket Registry District (the "Plan"), hereby grants to the Town of Nantucket, a Massachusetts municipal corporation, acting by and through its Select Board, the right to enforce the following Easements, as defined in the Declaration to the fullest extent permitted under the laws of the Commonwealth of Massachusetts, in common with all others entitled to enforce such Easements:

- 2.04 Easements; General:
- 2.04.03 Sewer Easement;
- 2.04.07 Bicycle Path, Sidewalk and Pedestrian Easement; and
- 2.04.09 Non-Exclusive Pedestrian, Bike and Vehicular Easement.

SIGNATURE PAGES TO FOLLOW

GG Development, LLC, Trustee of Woodland Hill Homeowners Associations Trust u/d/t dated August 11, 2014 and registered as Document No. 147764 at the Nantucket Registry District, hereby certify that it is the sole Trustee of said Trust; that said Trust has not been altered, amended, revoked or terminated; that pursuant to said Trust and upon the specific direction of the beneficiaries, the Trustee has the power and authority to purchase property for the Trust ,to mortgage all or any part of the Trust property, to sell or otherwise dispose of all or any part of the Trust property, and to do all things necessary and required to subdivide and manage the Trust property; that all beneficiaries of the Trust are of full age and competent; that pursuant to the provisions of the Trust, the Trustee has been authorized and directed by the beneficiaries to subdivide, manage and develop the Trust property and to sign any and all necessary documents necessary to effectuate these actions for nominal consideration.

Executed under seal this ____ day of _____ 2021.

WOODLAND HILL
HOMEOWNERS ASSOCIATION TRUST

By: GG DEVELOPMENT, LLC, Trustee

By: _____
Paul E. Grant, duly authorized
Its Manager

COMMONWEALTH OF MASSACHUSETTS

_____, ss. _____, 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared Paul E. Grant, Manager of GG Development, LLC proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose in his capacity as Trustee of the Woodland Hill Homeowners Association Trust, as his free act and deed.

Notary Public
My Commission Expires:

CONSENT OF MORTGAGEE

ROCKLAND TRUST COMPANY, being the holder of certain mortgage from GG Development, LLC to it dated March 2, 2017 and registered as Document No. 154586, as amended by Document No. 155103, and filed with Certificate of Title 25308 at the Nantucket Registry of Deeds, for consideration paid, hereby consents to the foregoing First Amendment to Woodland Hill Subdivision Grant of Right to Enforce Restrictions and agrees that said mortgage shall be held subject to and with the benefit of said Grant of Right to Enforce Restrictions.

Executed and Sealed on _____, 2021.

ROCKLAND TRUST COMPANY

By: _____

Title:

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this _____ day of _____ 2021, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily, in said capacity, for its stated purpose, as his/her free act and deed.

NOTARY PUBLIC
My Commission Expires:

ACCEPTANCE OF PLANNING BOARD

We, as a majority of the members of the Nantucket Planning Board, hereby accept and approve the foregoing First Amendment to Woodland Hill Subdivision Grant of Right to Enforce Restrictions.

Dated this _____ day of _____, 2021

Judith Wegner, Chair
Term Expires: 2025

John Trudell III, Vice Chair
Term Expires: 2021

Nathaniel Lowell
Term Expires: 2022

Frederick "Fritz" McClure
Term Expires: 2023

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On this _____ day of _____ 2021, before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification, which were _____ to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily, in said capacity, for its stated purpose, as the free act and deed of the Nantucket Planning Board.

NOTARY PUBLIC
My Commission Expires:

ACCEPTANCE OF SELECT BOARD

The Town of Nantucket, acting by and through its Select Board, pursuant to the provisions of G.L, c. 83, §1, hereby accepts the foregoing First Amendment to Woodland Hill Subdivision Grant of Right to Enforce Restrictions, on this ____ day of January 2021.

TOWN OF NANTUCKET

BY ITS SELECT BOARD:

DAWN E. HILL HOLDGATE

JASON BRIDGES

MATTHEW G. FEE

KRISTIE L. FERRANTELLA

MELISSA K. MURPHY

COMMONWEALTH OF MASSACHUSETTS

County of Nantucket, ss.

On this ____ day of January 2021, before me, the undersigned notary public, personally appeared the above-named Dawn E. Hill Holdgate, Jason Bridges, Matthew G. Fee, Kristie L. Ferrantella and Melissa K. Murphy, members to the Town of Nantucket Select Board, as aforesaid, who proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose names are signed on the preceding or attached document and acknowledged to me that they signed it voluntarily for its stated purpose as the free act and deed of the Select Board of the Town of Nantucket.

Notary Public
Printed Name:

My Commission Expires:

MEMO

Town of Nantucket

TO: L. Gibson, Town Manager

FROM: B. Turbitt, Director of Municipal Finance

CC:

DATE: February 25, 2021

RE: Jetties Awning and RFP Discussion (Continued from 2/10/2021 Select Board Meeting)



At its February 10, 2021 meeting, the Select Board requested more information and a recommendation regarding the Jetties Beach Concession awning for the remainder of the current contract as well as terms for the next Request for Proposals (RFP).

The internal workgroup that has been preparing the RFP for the next public bid consulted with John Giorgio, Esq. from KP Law. That discussion and recommendation are outlined below.

Background

Town Administration has been investigating the history of the Jetties Beach Concessionaire Lease and, in particular, the ownership of the awning that is attached to the building. The area under the awning is used for dining on picnic tables. In 2017, when the current tenant was awarded the lease for a five-year term, the new tenant acquired from the former tenant the awning that existed at that time. Currently, the awning is in need of substantial repair due to wear and tear from the elements. The Town expended approximately \$35,000 to repair the awning in 2018 for which the Town received an insurance reimbursement. Recently, the Town issued a bid to make additional needed repairs. The Town received one bid in the amount of approximately \$30,000. The contract has not yet been signed because the successful bidder is seeking to insert an indemnification clause into the contract, which would absolve the contractor from any liability to the Town. We understand that the successful bidder is requesting indemnification due to the poor condition of the awning.

The current lease expires on December 31, 2021. The Town is in the process of finalizing a Request for Proposals to award a new five-year lease.

The current lease acknowledges that the existing tenant acquired the awning from the previous tenant, and Town staff has verified with the current tenant that the tenant owns the awning. The lease includes a provision, however, that states that if the Town undertakes any repairs to the facility, the Town shall assume the ownership of the improvement. See Section H.3, which states: "Any improvements or replacement of equipment made to the Premises at the expense of the Town of Nantucket will become the property of the Town of Nantucket." There is nothing in the existing lease that affirmatively obligates the tenant to maintain the awning. The awning,

from the desk of. . .

Brian Turbitt
Director of Municipal Finance
37 Washington Street
Nantucket, MA 02554
508-228-7200 • 508-228-7218 (fax)

however, is an important asset to the Town and the tenant because it allows the tenant to provide outside seating to customers during inclement weather, thereby increasing restaurant sales. The current lease also provides in Section I.6 that upon termination of the lease, the Town has the right to take possession of the premises “and to remove the Concessionaire’s effects.”

Based upon the terms of the current lease, Town Administration has determined that the Town cannot use public funds to repair the awning unless the Town first acquires ownership of the awning through an amendment to the lease or by executing a bill of sale with the current tenant. Likewise, Staff believes that there is no legal obligation under the lease for either the Town or the tenant to maintain the awning during the term of the lease. Finally, at the end of the current term, the tenant has the right to remove the awning from the premises. If it chooses not to, the Town may take possession of the premises and either keep the awning or remove it from the premises.

In terms of long-term improvements to the awning, Town Administration has developed a very preliminary estimate to replace the awning altogether, including installing footings in the sand to assist in the stabilization of the awning. That is estimated to cost approximately \$500,000, but there has been no design work done nor is there an engineer’s estimate for the work. If the Town were to decide to remove the awning and replace it with a permanent structure, such as a wooden roof, the estimated cost is likely to be much higher.

In order to move forward with either repairing the awning for the 2021 summer season and/or finalizing the RFP for a new five-year term, Town Administration will need a policy decision from the Select Board regarding the awning. There are two viable options for the Select Board to consider.

Option 1:

The Town would not make any repairs to the awning for the upcoming season. The awning would remain under the ownership of the current tenant who would retain the discretion to repair or remove the awning. If the tenant determined that repair of the awning was not cost effective, the tenant could, in its discretion, remove the awning and replace it with other suitable protection, such as restaurant-sized umbrellas.

In the new RFP that is being developed, the Town could specify either (1) the tenant is responsible for maintaining or replacing the awning at the tenant’s sole cost and expense, and/or (2) specify that any new tenant is required to provide adequate covering for a minimum number of seats outside of the restaurant building itself. If the RFP makes clear the decision whether to replace the awning or provide other means of protection is within the sole discretion of the tenant, that any new equipment or structures installed by the tenant shall be owned by the tenant, and that the equipment or structures may be removed by the tenant at the end of the five-year lease, the public bidding laws would not be implicated.

Option 2:

The Town would make the repairs for the current season and thereby take ownership of the awning. The RFP would make clear that for the new five-year term, the Town will be responsible for continuing to repair and/or replace the awning and would reserve the right to

remove the awning and replace it with a new permanent structure. Under this option, the Town would have the sole discretion to determine the appropriate method of repairing or replacing the awning, and that the Town would be under no obligation to repair or replace the awning.

In order to ensure that there would be a dedicated funding source to enable the Town to maintain or replace the awning, or in the long term, to construct a more permanent solution, Town Administration would recommend that the Select Board consider establishing a new revolving fund at the 2022 Annual Town Meeting. Because the current lease revenue is deposited in the general Fund and, therefore, available to fund the Town's operating budget, the vote establishes the revolving fund would provide that in the first year 25% of the lease revenue would go into the revolving fund, 50% in the second year, and 100% in the third and succeeding years. The revolving fund would not necessarily have to be restricted to the Jetties Beach concession. It could include all three of the Town-owned concessions. That would allow for a faster accumulation of funds to make repairs and the total amount in the Fund at any one time could be used at any of the facilities covered by the Revolving Fund. Should there be a need for a costly emergency repair; the Town could supplement any accumulated amount in the revolving fund with other funding sources. Furthermore, the money in the revolving fund would be available to make other general repairs and improvements to the facilities covered under the revolving fund.

Town Administration recommends Option 2 for the following reasons:

1. Because the Jetties Beach Concession is a Town asset, the Town has a compelling interest in insuring that the facility and all of its components are properly maintained.
2. By taking responsibility for making repairs and improvements, the Town would control decisions as to timing and need for specific improvements without having to involve a third party in the decision-making process.
3. By establishing a revolving fund, the Town will have a dedicated funding source to make necessary improvements to the concession facilities.

Town Administration further recommends that the Select Board convene a work group in conjunction with the Parks and Recreation Commission to review the Jetties recreation area campus and provide recommendations for improvements, taking into consideration public need, best practices and long-term resiliency.



Agenda Item Summary

Agenda Item #	XI. 2.
Date	2/10/2021

Staff

Assistant Town Managers, Director of Culture and Tourism, Licensing Agent, Finance
Director (Work Group)

Subject

Jetties Beach Concession 2022-2026 Lease RFP

Executive Summary

Proposed RFP and Term Sheet for a 5-year lease agreement for the Jetties Beach concession, retail shop, bathhouse and beach event area. This is a real property transaction and regulated under Ch30B, Sec. 16: Real Property; Disposition or Acquisition.

Staff Recommendation

Using the current concession lease agreement as a model, staff recommends the following:

- A Request for Proposals (RFP) under Ch30B, Sec. 16 to publicly solicit bids. An RFP includes comparative criteria to ensure the Town can choose the most responsive and responsible bid. Price (Lease Payment in this case) is submitted separately and not considered until comparative criteria are reviewed, graded and the most advantageous bid is selected.
- 5-year lease agreement
- Minimum 2022 Lease Rent = \$150,236; 3.0% increase over 2021 as base (2021 Lease Rent = \$145,860).
- Minimum annual lease rent payment increase at 3.0%
- Minimum revenue share of 5.0% over \$1,000,000 in gross food, retail and event revenue
- Remove alcohol sales from Revenue Share due to restrictions on the Town having beneficial interest in an alcohol license it awards to a Town vendor.
- No more than 15 permitted events (May-October)
- No more than 4 private events (May, June, September, or October only)

Background/Discussion

The current 5-year lease agreement for the Jetties Beach Concession expires at the end of the 2021 season (2017-2021). Disposition of real property is regulated by M.G.L. Ch30B, Sec. 16 therefore the concession lease must be publicly bid via a Request for Proposals (RFP). In order to give enough lead time for the winning vendor to prepare for the 2022 season, an RFP is issued before the 2021 season begins.

Starting in October 2020 a staff work group was assembled by the Town Manager to review the concession RFP process and contract language. The work group looked at a few other towns' RFPs or agreements but nowhere did the work group find a seasonal concession with as complex an operation as Jetties that includes a large dine-in and take-out restaurant with full liquor license, a large retail shop, bathhouse facility and a beach event area. The work group also reviewed the last two Jetties RFPs and contracts and came up with the following revised documents, eliminating quite a bit of unnecessary or repetitive language and correcting a few contradictions and inconsistencies (dates, contact information, missing Exhibits, extra Exhibits, inconsistent terms, spelling, etc.).

In an attempt to make the RFP (and eventually the lease agreement) more manageable and less prone to inserting new language in one location and forgetting to do it in another, the work group pulled out all the lease terms from the body of the previous RFPs and the contracts and put them into "Exhibit A". Within Exhibit A the Jetties Agreement Lease Terms are grouped into 8 sections to better capture the different complex business areas of the operation and avoid repeating language in each function area:

- Section I - General Lease Terms
- Section II - Premises Maintenance, Custodial and Litter
- Section III - Concession Service (Food and Alcohol)
- Section IV - Concession Building
- Section V - Retail Shop
- Section VI - Bathhouse
- Section VII - Function Area
- Section VIII - Insurance and General Obligations

After the work group completed its efforts, the draft RFP and Term Sheet were circulated to Town Departments for input and edits. The attached RFP and nine Exhibits are the final version.

The current Lease Agreement payment terms for Sandbar, LLC are as follows:

- a. **Lease Amount:** ~~\$663,075.00~~
 (\$593,617.50 – first 2020 payment waived due to COVID)
- b. **Payment Increments**
 (3.0% increase annually required; 5.0% increase annually bid):
- | | | | |
|---------------|--|-----------------|--------------------|
| July 1, 2017: | \$60,000.00 (paid) | August 1, 2017: | \$60,000.00 (paid) |
| July 1, 2018: | \$63,000.00 (paid) | August 1, 2018: | \$63,000.00 (paid) |
| July 1, 2019: | \$66,150.00 (paid) | August 1, 2019: | \$66,150.00 (paid) |
| July 1 2020: | \$69,457.50 (waived by Board due to COVID) | | |
| | | August 1, 2020: | \$69,457.50 (paid) |
| July 1, 2021: | \$72,930.00 | August 1, 2021: | \$72,930.00 |
- c. **Monthly Sales Percentage Over \$1,000,000 Gross Sales**
 (3.0% increase annually required):
-

2017: 5.0% (\$85,797 all deposited to General Fund)
2018: 5.0% (\$102,500 - \$61,856 General Fund; \$40,635 to A Safe Place)
2019: 6.0% (\$132,892 - \$87,978 to General Fund; \$44,914 to ASAP Inc)
2020: 6.0% (\$91,871 - \$53,405 to Gen Fund; \$38,467 to Food, Fuel & Rental Assist)
2021: 6.0%

It was determined after the 2017 season that the Town cannot have a beneficial interest (e.g. revenue share) in a liquor license that is awarded by the Town. Per Kris Foster, General Counsel to the ABCC, that per G.L.c.44, §58:

“No city or town shall pay a bill incurred by any official thereof for wines, liquors or cigars – would prohibit a municipality from having an interest in a liquor license, absent a special act that permitted it. . . It is the ABCC’s position that (1) a lessor or landlord may not receive a percentage of alcohol sales without being listed as a beneficial interest holder in the license, and (2) a municipality may not hold such an interest in a license without authority from a special act.”

Since 2017 the current concessionaire, Sandbar LLC, has been donating the contracted revenue share of liquor sales to a local human services agency. This was deemed appropriate by Town Counsel.

d. Gross Sales:

2017: \$2,715,940
2018: \$3,050,000
2019: \$3,214,867
2020: \$2,531,184
2021:

Regarding the awning, Town Counsel had offered the following opinion:

Since the awning structure is attached to the building and has been maintained by the Town, in my opinion, if the Town were to include a requirement in the lease that the concessionaire keep the awning in good repair, the work of the concessionaire in doing so would be subject to the public construction laws, including the Prevailing Wage Law, in the same manner that as the Town would be.

While you could certainly require the concessionaire to perform the repair work on the awning, I am not sure what advantage the Town achieves from a cost standpoint. Further, it may be a challenge to insure proper repairs are made and that compliance with the public construction laws is achieved if a private party performs the work

One option you may want to consider is to include in the RFP a requirement that the concessionaire maintain a maintenance and repair reserve fund out of proceeds from operating the concession. While this will likely reduce the revenue the Town sees from the concession, this would insure a dedicated fund is available which the Town would have available to maintain the awning. The lease could provide that the concessionaire is required a set aside a designated amount each month to maintain the awning with

either the concessionaire or the Town having access to the fund depending on how you wish to set this up.

Impact: Environmental	☐	Fiscal	☒	Community	☒	Other	☐
------------------------------	--------------------------	--------	-------------------------------------	-----------	-------------------------------------	-------	--------------------------

Fiscal: Annual lease payments and revenue share to the Town

Community: A long-serving island tradition for the enjoyment of residents and visitors

Board/Commission Recommendation

N/A

Public Outreach

Public Procurement under Ch30B outreach requirements to include posting in local newspaper, Town website and bulletin board. Optional site walk-through.

Attachments

Draft 2022-2026 Jetties Concession RFP; Exhibits A thru H; Concession Lease and Revenue Actuals 2017-2020



Town of Nantucket

REQUEST FOR PROPOSALS

LEASE AGREEMENT FOR CONCESSION AND RETAIL SERVICES AT JETTIES BEACH 4 BATHING BEACH ROAD, NANTUCKET, MA 02554

The Town of Nantucket invites qualified responders to submit proposals for a 5-year lease agreement for Concession and Retail Services at Jetties Beach, Nantucket, MA. This contract begins January 1, 2022 and expires on December 31, 2026. This procurement shall be governed by the requirements of G.L. c. 30B, §16.

IMPORTANT DATES

- 1st Advertising: Thursday, February 18, 2021 (Inquirer & Mirror)
- 2nd Advertising: Thursday, February 25, 2021 (Inquirer & Mirror)
- RFP Available Online: Friday, February 26, 2021
- Optional Pre-Proposal Site Tour: Friday, March 12, 2021 at 10:00 AM – 12:00 PM
- Written Inquiries Deadline: Friday, March 26, 2021 by 12:00 PM
- Inquiries Answered by: Friday, April 2, 2021 by 12:00 PM
- Bid Submission Deadline: Friday, April 16, 2021 by 12:00 PM
- Public Opening: Tuesday, April 6, 2021 at 10:00 AM (Zoom)
- Award Selection by: Friday, April 30, 2021

I. GENERAL INFORMATION AND SUBMISSION REQUIREMENTS.

1. Requests for Proposals can be obtained from, and proposals will be accepted at the Town of Nantucket, Procurement Office, 37 Washington Street, Nantucket, MA 02554, until **2:00 PM, THURSDAY, APRIL 1, 2021**. **Five (5) copies and one (1) electronic copy of the proposal are required.**
2. Proposals must be submitted in **A SEALED ENVELOPE** clearly marked:

o *PROPOSAL FOR JETTIES BEACH CONCESSION LEASE*



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Please note that unlike the Chapter 30B RFP requirements for supplies and services, the Chapter 30B requirements for real property transactions under Section 16 do not allow for separate submissions of price and non-price (technical) proposals. They are to be included in the same sealed envelope. Moreover, real property proposals, including price proposals, are opened publicly and are not confidential after they are opened.

If the proposal is mailed, the sealed proposal must be enclosed in a sealed envelope for mailing. Failure to comply strictly with these requirements may result in the rejection of a proposal.

Proposals shall be opened publicly.

At the opening of the proposals the Chief Procurement Officer or his/her Designee shall prepare a Register of Proposals which shall include the name of each Bidder and the number of modifications, if any, received. The Register of Proposals shall be open for public inspection.

3. Award date. Award will be made within forty-five (45) days after proposal opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All submittals shall be valid for a minimum period of sixty (60) calendar days following the date established for acceptance. The Town shall award a contract, if at all, to the responsible Bidder whose proposal is responsive and the most advantageous taking into consideration price and the evaluation criteria set forth in this Request for Proposals.
4. If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed or faxed to all companies and individuals on record as having requested the RFP. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda; and if no such forms are provided with the addenda, on the face of the Bidder's non-price proposal. Failure to do so shall be cause to reject the submittal as being unresponsive.
5. Optional site visit and walk through of the property at Jetties Beach Concession and Retail Shop located at 4 Bathing Beach Road, Nantucket, MA 02554 on **FRIDAY, MARCH 12, 2021 from 10:00 AM – 12:00 PM**
6. Questions concerning this RFP must be submitted in writing **before 12:00 PM, FRIDAY, MARCH 26, 2021** to procurement@nantucket-ma.gov

Attempts made by proposers to contact Town employees directly with questions may subject the proposer to disqualification.



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Questions must be emailed (procurement@nantucket-ma.gov). Written responses, if any, will be in the form of addenda to this RFP and will be posted on the Town website and emailed or faxed to all companies and individuals on record as having requested the RFP.

7. Responses may be modified, corrected or withdrawn only by written notice received by the Town of Nantucket prior to the time and date set for the response opening, except as provided in the next paragraph. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____" and must reference the original RFP response.
8. An Bidder may correct, modify, or withdraw a proposal by written notice received in the office designated above prior to the time and date set for the receipt of all proposals. After such time and date, an Bidder may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. The procurement officer shall waive minor informalities or allow the Bidder to correct them. If a mistake and the intended bid are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct offer and so notify the Bidder in writing, and the Bidder may not withdraw the proposal. An Bidder may withdraw a proposal if a mistake is clearly evident on the face of the proposal document, but the intended correct offer is not similarly evident.
9. Negligence on the part of the responder in preparing the proposal confers no rights for the withdrawal of the proposal after it has been opened.
10. The Town of Nantucket reserves the right to reject any and all proposals, to waive any minor informalities, and to cancel this procurement at any time, whenever such rejection, waiver, or cancellation is in the best interest of the Town.
11. The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting proposals. All submittals shall become the property of the Town of Nantucket. All plans, specifications and other documents resulting from this contract shall become the property of the Town of Nantucket. All proposals shall be deemed a public record.
12. Responders must be willing to enter into the Town of Nantucket's standard form of lease in accordance with the terms of this RFP.
13. Sealed proposals received prior to the date of opening will be kept unopened. No responsibility will attach to an officer or person for the premature opening of a proposal not properly addressed, sealed and/or identified.



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14. Any proposals received after the advertised date and time for opening will be returned to the responder unopened.
15. Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
16. The Tax Compliance Certification and the Certificate of Non-Collusion, included in this RFP, must be completed, signed, and enclosed with the proposal. These forms must be signed by the authorized individual(s).
17. Unexpected closures. If, at the time of the scheduled response opening, Town offices are closed due to uncontrolled events such as pandemic response, fire, snow, ice, wind or building evacuation, the response opening will be postponed until 3:00 PM on the next normal business day. Proposals will be accepted until that date and time.
18. The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages submittals from qualified MBE/DBE/WBE firms.
19. Responders should be aware that many overnight mailing services do not guarantee service to Nantucket.
20. Responses to the RFP must be prepared according to the guidelines set forth herein. Selection of the successful responder will be based upon an evaluation and analysis of the information and materials required under the RFP, and in accordance with section 16 of Chapter 30B of the General Laws.
21. Bidders must submit a **bid deposit of ten percent (10%) of the amount of the total base bid for the first year of the lease**. Bid deposit may be in the form of a certified check; a bank, treasurers or cashier's check; or a bid bond from a surety company. Bid deposits of bidders not awarded the contract will be returned. The bid deposit of the winning bidder will be applied to the first-year lease payment.



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II. LEASE AGREEMENT TERMS.

See Exhibit A: **Jetties Beach Concession, Retail Shop, Bathhouse and Function Area 2022-2026 Term Sheet**

III. PROPOSAL SUBMISSIONS.

Non- Price (Technical) Proposal:

Proposal: The Proposal shall include a business plan that clearly addresses the Lease Agreement Terms of this RFP. See **Exhibit A** for Lease Agreement Term Sheet.

Experience: Proposals must provide proof that the business or members of the business, as currently constituted, has been regularly and actively engaged on a full-time basis in the type of work described in the section of this RFP entitled “LEASE AGREEMENT TERMS” for a **minimum** of the past **five (5) years** either working on Nantucket or **ten (10) years** in a similar busy seasonal beach environment such as Nantucket. Such proof must include contact information for all owners for whom the Bidder has performed services over the past five (5) years.

Financial stability: Proposer must also include proof of financial stability. This shall be in the form of a bank reference or audited financial statements of the business entity.

Required Forms: Proposer must sign and return the Tax Compliance Certification Form and Certificate of Non-Collusion Form with the sealed bid. The Tax Compliance and Certificate of Non-Collusion Forms are included in this RFP. Proposer must also complete and return Exhibit A (Lease Agreement Term Sheet) and Exhibit B (Bid Price Proposal) with the sealed bid.

Please note that there are eight (8) Exhibits associated with this bid but only Exhibit A and Exhibit B are required to be returned.

References: References are to be included with the Proposal. Please include a list of at least five (5) references that can adequately attest to the Proposer’s ability to perform the concession, retail, bathhouse and event venue provisions outlined in this RFP. The Town expects to check references. One or more poor references may be a basis for determining that a proposer is not responsible and result in a rejection of the proposal. Reference questions will include but may not be limited to service quality, Nantucket community involvement, and general customer satisfaction.



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Insurance Required: Proof of the following insurance is required to be submitted with the Proposal.

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$2 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

Price Proposal:

Please provide a Price Proposal within the sealed Proposal. Bidders must use the **Proposal Response Form (Bid Form)** contained within this RFP (**Exhibit B**).

IV. PROPOSAL EVALUATION PROCEDURE

The Chief Procurement Officer shall designate one or more persons to a Review Committee to evaluate the proposals according to the evaluation criteria contained below. Submittals that comply with the minimum qualification requirements will be further evaluated based on the comparative criteria detailed below and the price.

Minimum Quality Criteria/Requirements

Proposals must meet the following minimum criteria/requirements:

- a. In order for a bid proposal to get to the Review Committee, Bidders must provide all of the items described in Section I and below. This includes but is not limited to one sealed envelope that includes
 - Bid deposit of 10%
 - Bid Proposal
 - Price Proposal (Exhibit B)
 - Evidence of financial stability
 - Proof of insurance



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- List of references
- Certificate of Non-Collusion
- Tax Compliance Form
- Exhibit A – Lease Agreement Term Sheet
- Exhibit B – Bid Price Proposal
- All official Addenda if any are issued by the Town

Comparative Criteria

The Town will evaluate all applications submitted. Any application which fails to meet any of the minimum qualifications will be rejected as non-responsive. In addition to the minimum qualifications, the Town will consider the following comparative criteria. These matters should be addressed in the written application and will be explored further in any interview with the applicant.

The following schedule will be utilized:

Grade	Mark	Measure
<i>Highly Advantageous</i>	HA	Response is superior and excels on the specific criterion
<i>Advantageous</i>	A	Response is satisfactory and meets evaluation standard for the criterion
<i>Not Advantageous</i>	NA	Response does not fully meet the criterion or leaves a question or issue not fully addressed
<i>Unacceptable</i>	U*	Does not address the criterion

*Proposal may be automatically eliminated from further consideration if “U” is received in any category.

Comparative Criteria:

1. Plan of Services (Business Plan):

HA – Proposer’s response is superior and excels at addressing the Lease Agreement Terms (Exhibit A) and displays the resources, and specifically states the ability, to meet the requirements of a seasonal beach restaurant, bar, retail shop, bathhouse and event venue with a focus on the island community from the third weekend in May through Columbus Day with potentially limited hours in May, June, September and October.

A - Proposer’s response is satisfactory and meets the Lease Agreement Terms (Exhibit A) and displays the resources, and specifically states the ability, to meet the requirements of a seasonal beach restaurant, bar, retail shop, bathhouse and event venue with a focus on the island



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community from the third weekend in May through Columbus Day with potentially limited hours in May, June, September and October.

NA – Proposer’s response does not fully meet the criterion or leaves a question or issue about ability to address Lease Agreement Terms (Exhibit A) and does not display the resources, or specifically states the ability, to meet the requirements of a seasonal beach restaurant, bar, retail shop, bathhouse and event venue with a focus on the island community from the third weekend in May through Columbus Day with potentially limited hours in May, June, September and October.

U - Does not address the criterion.

2. **Quality Control:**

HA – Proposal clearly demonstrates superior quality control and superior availability of resources, staff and relevant experience to perform the Lease Agreement Terms (Exhibit A) requested.

A – Proposal demonstrates satisfactory quality control and satisfactory availability of resources, staff and relevant experience to perform the Lease Agreement Terms (Exhibit A) requested.

NA – Proposal does not demonstrate adequate quality control, and leaves questions of availability of resources, staff or experience to perform the Lease Agreement Terms (Exhibit A) requested.

U - Does not address the criterion.

3. **Experience working with Concessions, Municipal Concessions or on Nantucket Island specifically:**

HA – Proposer clearly demonstrates superior community-focused concessions, retail shop, bathhouse and event venue experience on Nantucket or a similar busy seasonal beach environment as Nantucket for more than five (5) years.

A -- Proposer demonstrates satisfactory concessions, retail shop, bathhouse and event venue experience on Nantucket or a similar busy seasonal beach environment as Nantucket for more than three (3) year but less than five (5) years.

NA -- Proposer does not demonstrate adequate concessions, retail shop, bathhouse and event venue experience or has worked on Nantucket or a similar busy seasonal beach environment as Nantucket for less than three (3) years or leaves questions about it.



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U - Does not address the criterion.

4. Reference

HA – Proposer provides more than five (5) relevant professional or community references that clearly identifies superior service quality, community commitment and general customer satisfaction.

A – Proposer provides more than three (3) but less than five (5) relevant professional or community references that satisfactorily address service quality, community commitment and general customer satisfaction.

NA – Proposer provides less than three (3) relevant professional or community references that address service quality, community commitment and general customer satisfaction or leave questions.

U - Does not address the criterion.

V. RULE FOR AWARD.

The Town will award the lease to the most advantageous proposal from a responsible and responsive proposer, taking into consideration price and all evaluation criteria set forth in the RFP.

VI. TERM OF CONTRACT.

The lease agreement awarded will be for five (5) years ending on December 31, 2026.



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REQUIRED FORMS (Sign and Include with Proposal)

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of person signing bid or proposal

Name of Business



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TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Employer ID Number

Name of Corporation

By: _____
Authorized Signature

Date: _____



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CHECKLIST

- o Bid arrives before deadline
 - o Consider the weather, COVID restrictions and other factors that could delay delivery of the proposal
- o Sealed envelope containing another sealed envelope containing:
 - o Bid deposit of 10%
 - o Bid Proposal
 - o Price Proposal (Exhibit B)
 - o Evidence of financial stability
 - o Proof of insurance
 - o List of references
 - o Certificate of Non-Collusion signed
 - o Tax Compliance Form signed
 - o Exhibit A – Lease Agreement Term Sheet signed
 - o Exhibit B – Bid Price Proposal filled-out and signed
 - o Any Addenda IF issued by the Town



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Sign and date
last page and
return with
Proposal

EXHIBIT A

Jetties Beach Concession, Retail Shop, Bathhouse and Function Area 2022-2026 Lease Agreement Term Sheet

The Jetties Beach Concession, Retail Shop, Bathhouse and Function Area Lease Agreement Term Sheet is divided into eight Sections to better understand the multiple business operations covered by this Lease Agreement.

The Term Sheet Sections include:

Section I – General Lease Terms	Page 2
Section II – Premises Maintenance, Custodial and Litter	Page 4
Section III – Concession Service	Page 7
Section IV – Concession Building	Page 10
Section V – Retail Shop	Page 13
Section VI – Bathhouse	Page 14
Section VII – Function Area	Page 15
Section VIII – Insurance and General Obligations	Page 18



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SECTION I - GENERAL LEASE TERMS

Lease Term:	Five years beginning January 1, 2022 and expiring December 31, 2026
Leased Area:	See Exhibit F: Jetties Beach Concession Lease Area . Lease Area, or “Premises”, consists of (a) Concession Building, (b) Bathhouse, (c) Retail Shop, and (d) Function Area (180’ from the Concession Building north towards the shoreline and 100’ from eastern edge of Concession Building west towards the dune).
Operating Dates:	Occupancy and operations on Premises allowed beginning the second week of May through Columbus Day Weekend each year
Security Deposit:	The Concessionaire shall file with the Town of Nantucket a \$5,000.00 security deposit; refundable at the end of the lease term, without interest to the Concessionaire within sixty (60) days, after determination has been made that the Concessionaire has fulfilled all of the terms of the contract and left the premises in adequate condition according to the Town and after presenting proof that all utility payments as well as landfill and sewer fees have been made and no defaults are left outstanding.
Bid Deposit:	10% of the first-year base bid required; applied to winning Bidder’s first year’s lease payment.
Lease Fee:	Minimum bid \$xxx,xxx with minimum x.x% increase annually.
Revenue Share:	Minimum % above Gross Sales or: Minimum bid x.x% of food sales Minimum bid x.x% of retail sales Minimum bid x.x% of event sales Health and Human Services contribution from alcohol sales?
State and Federally Protected Species:	The Concessionaire must be aware that Jetties Beach is a known traditional habitat area for State and Federally listed species, such as the Piping Plover. Such listed species are protected under the Endangered Species Act and are monitored and protected by the Town of Nantucket’s Endangered Species Program. The Town’s Endangered Species Program is based on set State and Federal Guidelines. Failure to follow the rules, regulations and guidelines created by the State and Federal



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Government and implemented by the Town of Nantucket's Endangered Species Program may result in the potential closure of Jetties Beach. The Concessionaire is required to abide by all rules and regulations set forth regarding the "State and Federally listed species" and therefore must notify the Town of any "Private Function, Special Event or Activity" as soon as they are scheduled and no later than one week in advance of the event. See **Exhibit D – Nantucket Endangered Species Program**.

Signs and Structures:

Before any temporary or permanent signs or structures are erected the Concessionaire shall first obtain such written approvals as may be required under existing Town regulations including but not limited to a Certificate of Appropriateness from the Historic District Commission of the Town. The Concessionaire shall then obtain the written permission of the Town of Nantucket.

Beach Access:

The Concessionaire will contact the Town of Nantucket if he/she requires vehicle access to the beach. The Town of Nantucket may deny access to the beach for motorized vehicles at the Town's discretion.

**Boardwalk/
Mobility Mat:**

The Boardwalk/Mobility Mat will be installed each season on or around April 15th by the Department of Public Works in concert with the Town of Nantucket. The Boardwalk/Mobility Mat will be placed to the far right, between the leased area and the parking area, and will be flush with the sand. The Boardwalk/Mobility Mat will remain in place for the summer season. The only event for which the Boardwalk/Mobility Mat may be moved is the Hospital Fundraiser. Problems with this provision should be brought to the attention of the Town of Nantucket at least 48 hours prior to the event.

Service Animals:

The Concessionaire and/or its employees are prohibited from bringing animals to work anywhere on the Premises, unless a certified service animal.

Keys:

Provide keys to the Town for all locked areas within the Premises.



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SECTION II – PREMISES MAINTENANCE, CUSTODIAL AND LITTER

Utility Payments: The Concessionaire shall pay all water, power, gas, sewer, landfill, oil and telephone costs incidental to its Concession operation. This obligation includes but is not limited to payment of water and electric bills, Landfill and Sewer User Fees for both the Concession, Retail Shop, Bathhouse, and Function Area of the Premises. The Concessionaire is also responsible for turning on and turning off of all utilities and any and all utility deposits required doing so. The Concessionaire shall present proof of payment of all utilities to the Town of Nantucket within thirty days (30) of closing for the season. Should proof of payment not be presented the Concessionaire shall be considered in default and the Town of Nantucket has the right at its discretion to pay any outstanding amounts from the security deposit.

Other Utilities and Fees: The Concessionaire shall also be responsible for all licensing fees as determined by the Town, all utilities, small and large event permitting fees, entertainment or pouring licenses, and all other costs associated with the operation of the Premises including events; including any additional fees brought on by the presence of listed shorebirds and the protection plan implemented by the Town of Nantucket's Endangered Species Program, through the Beach Management Plan. Those items specifically provided herein are excluded.

Ownership: Any improvements made by the Concessionaire to the Premises during the term of the contract including any structure, fixture or equipment affixed permanently to the premises shall become the property of the Town of Nantucket except as agreed upon in writing prior to installation.

Building Improvement Consent: The Concessionaire shall not undertake any improvements to the Premises without having first received the written consent of the designated contact with the Town of Nantucket. Should the Town of Nantucket consent to such improvements the Concessionaire shall obtain all required permits and present copies of all permits to the Town of Nantucket prior to starting work. Any improvements to the premises shall be completed before May 15th. Should there be an emergency need for improvements after May 15th the Town must be provided with copies of the permits and details of the work. Before any work begins an assessment may be made by the Town of Nantucket based on the current status of the State and Federally listed species and the effect the work may have on their habitat/productivity.



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Custodial and Litter

Maintenance:

The Concessionaire shall provide all custodial clean-up and litter maintenance inside and outside the Premises including the Lower Parking Lot in the Maintenance Area indicated on **Exhibit F**, policing the beach and Lower Parking Lot areas daily to keep it free of all litter and other trash generated by the patrons of the concession and beach. All rubbish/trash collected by the Concessionaire or generated from the concession's operation will be sorted appropriately, secured, removed from the beach and disposed of at the Concessionaire's expense including landfill fees. The Concessionaire is not responsible for trash deposited in official Town of Nantucket trash and recycling receptacles in the parking lot, tennis and playground area.

Once a pair of potentially nesting listed shorebirds has been recognized, all cleaning of the beach's litter must be done by hand. NO beach raking will be permitted until the status of the State and Federally listed shorebirds has been examined by the Town and has been deemed permissible. Removal of the wrack line by hand or machine is prohibited. The Town is responsible for beach raking.

Non-Emergency Repairs:

Concessionaire shall request prior written approval from the Town for any non-emergency repairs to be made to the Premises at Concessionaire's expense. If the work is scheduled between May 15th and Labor Day the Town must also sign off on any non-emergency repairs. Pending the status of the State and Federally listed species and the description of the non-emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the approved repairs.

Emergency Repairs:

Any emergency repairs Concessionaire will confirm in writing; responsibility for payment of such repairs will be determined in accordance with the terms herein. If the work is scheduled between May 15th and Labor Day the Town must also sign off on any emergency repairs. Pending the status of the State and Federally listed species and the description of the emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the repairs.

Premises Facility Maintenance:

The Concessionaire shall provide all day-to-day light operational maintenance, upkeep and non-M.G.L. Ch. 149 facility maintenance inside and outside the Premises, with the approval of the designated Town of Nantucket contact. Examples include but are not limited to touch-up painting, loose deck board repairs, power-washing, broken screens or windows, shingle replacement, loose railings or



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steps, changing lightbulbs, standard plumber and electrician calls, etc. The Concessionaire should not engage in any facility maintenance or capital improvement project in excess of state procurement thresholds (e.g. M.G.L. Ch. 30B and Ch. 149) without written approval from the Town.

The Town is responsible for Premises capital projects (over \$50,000). These include code upgrades, major plumbing and electrical/lighting fixes, facility-wide window or screen replacement, painting, roofing, awning, decking, flooring, engineering studies, etc. The Town strictly follows state procurement laws (e.g. M.G.L. Ch. 30B and Ch. 149).

All significant repairs, maintenance construction, power washing, or any other action that may involve excessive noise must be completed prior to May 15th.

End of Season Premises Inspection:

The Concessionaire shall schedule with the Town of Nantucket a date and time for the end of season inspection by November 15 or when the Town shuts off utilities, whichever comes first. The purpose of the inspection is:

- a) To ascertain any and all repairs necessary prior to opening for the upcoming season.
- b) To make sure the premises are clean and all items are secured prior to closing for the season.
- c) To make sure the Concessionaire adequately performed the annual maintenance on kitchen equipment prior to closing the Concession Building for the fall. A schedule of the minimum annual maintenance requirements is attached hereto, and incorporated herein, marked **Exhibit G**.



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SECTION III - CONCESSION SERVICE

Concession/Food

Service:

Concessionaire agrees to operate a community-oriented concession facility of a typical beach “family-friendly” snack bar restaurant with alcohol service and a small retail business in accordance with the applicable rules and regulations and to obtain appropriate licenses before operating the facility and presenting the Town of Nantucket with the same. The Concessionaire is responsible for compliance with all laws and regulations applicable to the operation of the premises, including but not limited to compliance with applicable ADA regulations.

“Family-Friendly”

Service:

“Family-friendly” Services includes but is not limited to such elements as:

- a Children’s Menu;
- no cover charges;
- use of picnic tables and casual furniture with no abundance of couches and lounge furniture;
- no over-crowding of furniture on the patio or beach to allow for a more open and relaxing atmosphere leaving room for the public to set up beach chairs to enjoy the sand;
- unamplified music indoors only; non-club hours (8:00 am to 10:00 pm); and
- no more than fifteen (15) permitted events per season (May-October), which includes no more than four (4) private events that close down the Concession to the public; and
- community-focus.

The Concessionaire is responsible to offer food service including breakfast (optional), lunch and dinner service. The concessionaire shall operate the premises to enhance the public’s use and enjoyment of the adjacent public beach facility and in the best interest of the Town of Nantucket with focus on supporting and building community (e.g. support of local non-profits or youth groups).

Concession Service

Area:

See **Exhibit F: Jetties Beach Concession Lease Area**. Concession Building consists of the kitchen area, raised indoor bar area, awning-covered indoor seating area, two restrooms, two second-floor apartments/office space and 100’ of outside dining area on decking and beach area.



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The outdoor restaurant food/alcohol service area is limited within the Leased Area to within 100' from the Concession Building north towards the beach for the purposes of food and alcohol services. Concession patrons are not allowed to take alcoholic beverages beyond the 100' area defined for the purposes of food and alcohol services, which must be approved by the Town annually and clearly marked by the Town's Facility Manager or his/her designee at the beginning of the season. No alcohol can be served outside of the legally defined and approved premises. The remaining 80' Function Area may be used for events (see FUNCTION AREA).

The Lower Parking Lot may be used by the Concessionaire for an optional mobile food unit operated by the Concessionaire in a designated spot upon approval of the Town.

Mobile Food Truck: Concessionaire may operate an optional mobile food truck in the Lower Lot to expand its food service operation upon approval of the Town.

Alcoholic Beverage Service:

In accordance with Section 54-1C of the Nantucket Code, the Town of Nantucket hereby grants its consent to the Concessionaire to serve alcoholic beverages for possession and consumption on the premises subject to the following condition:

- a) Concessionaire must obtain a liquor license from the Nantucket Select Board in accordance with all local, state and federal rules and regulations.
- b) The area of the Premises in which alcoholic beverages will be served and consumed shall be limited and clearly delineated to the satisfaction of the Town of Nantucket. Appropriate precautions shall be taken to assure that alcoholic beverages are not consumed outside the premises.
- c) The Concessionaire will be responsible for compliance with all Massachusetts and Nantucket laws, regulations and ordinances governing the serving and consumption of alcoholic beverages on the premises including the consumption of alcoholic beverages by minors.
- d) Alcohol may only be served as indicated on the Concessionaire's liquor license.

If it is the intent of the successful concessionaire to extend the liquor license hours they will be required to obtain Select Board approval in advance.

- e) The Concessionaire shall hire a police detail for any private function at which alcohol will be served where more than 150 persons are expected to attend. The number of details required for events is at the discretion of the Nantucket Police



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Department. The cost of such police detail will be paid by the Concessionaire or the sponsor of the function.

- f) The Concessionaire hereby agrees to indemnify and hold harmless the Town and County of Nantucket and all of their officials, members, officers, employees and agents from any and all claims arising out of the sale or consumption of alcoholic beverages on the premises and all other costs (including legal fees) related thereto. The Concessionaire will maintain liability insurance with respect to the serving of alcoholic beverages as required by the laws and regulations of the Commonwealth of Massachusetts and the Town and County of Nantucket. All Such policies of liability insurance shall name the Town and County of Nantucket and all other indemnified parties as additional insured parties under the policy. The Concessionaire shall deliver written proof of such insurance, by a certificate of insurance or otherwise as required by the Town, to the Town's designee on or before March 1 of each year during the term herein.
- g) Such provisions are subject to review, modification or termination by the Town of Nantucket at its sole discretion at any time.
- h) Tents set up on the beach portion of the premises cannot be set up until the day of the event for which they are being used and must be removed by Noon on the day after the event without written approval by the Town of Nantucket. Problems with this provision should be brought to the attention of the Town of Nantucket at least one week prior to the event if not previously addressed during the permitting process. Before erecting or removing a tent and/or floor on Jetties Beach, the Licensing Agent/Events Manager and the Chief Procurement Officer must be notified of the size of the tent(s), the times and the date(s). If the Town feels it is necessary, the Concessionaire will hire monitor(s) through the Town's Endangered Species Program to be present during both the erection of the tent and/or floor and the removal. Failure to contact the Town regarding a tent and/or floor may result in the loss of future tent/floor use.



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SECTION IV - CONCESSION BUILDING

Kitchen

Equipment:

The Town of Nantucket provides various kitchen equipment for use by the Concessionaire. See **Exhibit G – Jetties Beach Concession Asset List**. The Concessionaire is responsible for upkeep and preventive maintenance for the equipment provided by the Town of Nantucket.

The Concessionaire shall provide and install additional kitchen equipment and food and drink equipment not already provided by the Town of Nantucket, at the Concessionaire's expense as approved by the Town of Nantucket. Any purchase of equipment by Concessionaire from a previous Concessionaire is a private agreement and is not part of this Lease Agreement for use of the facilities and said equipment is property of the Concessionaire. Concessionaire is responsible for maintenance, replacement, sale and/or removal of his/her own equipment. Any equipment affixed permanently to the premises shall immediately become the property of the Town of Nantucket subject only to the Concessionaire's right to use such equipment during the term hereof.

In addition, the Concessionaire agrees to perform annual maintenance on kitchen equipment prior to closing the Concession Building each fall. See "End of Season Inspection". A schedule of the minimum annual maintenance requirements is attached hereto, and incorporated herein, marked **Exhibit G**.

The Concessionaire shall not use the kitchen as a commercial kitchen for other off-premise catering services or for a third-party catering business. The kitchen may be used for a mobile food truck owned and operated by the Concessionaire for use only in the Jetties Beach Lower Parking Lot with approval of the Town of Nantucket. Kitchen equipment may be used for on-premises catering when the restaurant is closed to the public for approved and permitted Private Event Functions.

Any such equipment remaining after the expiration of this contract shall, at the option of the Town of Nantucket, either become the property of the Town of Nantucket or be removed and disposed of by the Town of Nantucket at the expense of the Concessionaire.

Concessionaire

Restrooms:

The Concession Building has two (2) restrooms for private use by the Concessionaire to ensure safe and accessible restroom facilities for Concessionaire



Town of Nantucket

staff. The Concessionaire is responsible for cleaning and daily maintenance of these two (2) restrooms. Repairs and upgrades are the Town's responsibility except in case of emergency. See Concession Building Emergency Repairs.

Awning:

The Jetties Beach Concession Building awning is owned by the Town of Nantucket. The awning is a custom-made, non-retractable, non-sliding fixed aluminum frame structure permanently attached to the Concession Building. The awning consists of the aluminum frame, canvas/vinyl canopy, and canvas/vinyl side panels and sliding doors. Per M.G.L. Ch. 149 renovations and maintenance are the responsibility of the Town to comply with state public procurement and living wage requirements. The Concessionaire is responsible for daily upkeep and routine maintenance in accordance with installation guidelines approved by the Facility Manager. The Town is responsible for capital repairs and replacement.

Concession Building Use for Dwelling

Purposes:

The Concessionaire is expressly prohibited from using any part of the premises for dwelling purposes except upon the following terms and conditions:

- a) Only that portion of the second floor of the main building known as the apartment ("Apartment") may be used for dwelling purposes and may be so used only by the Concessionaire or employees of the Concessionaire during the period of Occupancy if approved by the Town. If allowed to be used by the Concessionaire, immediate family only may enter the Apartment two weeks prior to the occupancy period or two weeks prior to opening the concession whichever is later for the sole purpose of preparing the buildings for the summer season. The Concessionaire with immediate family only may remain in the Apartment for up to two weeks after the occupancy period or two weeks after closing the concession whichever is earlier for the sole purpose of closing and winterizing the buildings.
- b) Use of the Apartment is specifically restricted to a single-family occupancy with the number of occupants allowed determined by the Nantucket Building Inspector.
- c) Leasing of the Apartment or rooms or space to transients or in any temporary basis is strictly prohibited.
- d) The Apartment may not be sublet.
- e) Occupancy of the Apartment for dwelling purposes may commence only after it has been inspected and approved by the Nantucket Building Inspector. Concessionaire shall be responsible for requesting this inspection by the Nantucket Building Inspector and for complying with all required safety requirements. The Nantucket Building Inspector shall have the right from time to time and upon reasonable notice to the Concessionaire to inspect the premises to see that all terms and



Town of Nantucket

conditions of these specifications are being met.

- f) No structural changes or improvements may be made to the Apartment by the Concessionaire without written consent of the Town of Nantucket. Any improvements made to the Apartment including those necessary to meet building codes are the sole responsibility of the Concessionaire.

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Town of Nantucket

SECTION V - RETAIL SHOP

Retail Sales: Retail Sales are required in the Retail Shop. The Retail Shop Area cannot be used as an extension of the Concession Service area nor sublet to a third party. The business plan for retail sales is at the discretion of the Concessionaire but expected to serve the beach-going public with common beach-related items in addition to other retail options.

Retail Shop Area: The Retail Shop Area is denoted in **Exhibit F: Jetties Beach Concession Lease Area**. The Concessionaire is allowed to extend Retail Sale into the Concession Service Outside Area if desired but not into the Parking Lot or Function Area.

Retail Shop Hours of Operation: Retail Shop Hours of Operations are to be similar to the Concession Service Operation hours. It is the intent to not just have a retail shop on the premises without having food and beverage service. It is, however, sufficient to have food and beverage service without a retail shop on occasion.



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SECTION VI - BATHHOUSE

Public Restrooms, Bathhouse and Shower Facilities:

All areas designated as Public Restrooms, Bathhouse and Shower facilities shall be available as such for the public's use. At a minimum when the concession is not in operation the Concessionaire shall operate the Bathhouse, toilet and shower facilities between the hours of 9:00 am and 5:30 pm seven (7) days per week from the second weekend in May through Columbus Day Weekend each year. Concession operating hours may be different than the Public Restroom, Bathhouse and Shower Facilities hours above, however the Concessionaire shall open the Bathhouse and toilet facilities at all times while the concession is operating. The Town of Nantucket reserves the right to open and staff the toilet facilities only at other hours for special events. Toilet room facilities must remain open even in inclement weather. The Concessionaire shall be responsible for the cleanliness of the Public Restroom facility and area surrounding the Public Restroom facility.

Bathhouse Custodial Services:

The Concessionaire shall clean the Bathhouse/Restrooms as often as required to maintain them in a condition satisfactory to the Town of Nantucket. The Concessionaire shall supply and maintain paper, soap and supplies as needed.



Town of Nantucket

SECTION VII - FUNCTION AREA

Function Area: The Function Area is denoted **Exhibit F: Jetties Beach Concession Lease Area**. For additional restrictions to the Function Area see the State and Federally Protected Species provision in **Section I – General Lease Terms**.

Private Functions/

Special Events: An Event Permit is required for each special event. Contact the Town's Licensing and Permit office. No more than fifteen (15) permitted events per season (May-October), which includes no more than four (4) private events that close the Concession to the public. These fifteen permitted events do not include events permitted by the Town for other organizations such as the Nantucket Cottage Hospital's Boston Pops, the Nantucket Triathlon, the Opera House Cup, the Swim Across America, etc.

No Private Functions or Private Special Events resulting in the closure of the Concession shall occur in July and August. Private Functions or Private Special Events may occur in July and August however Concession operations cannot be interrupted. Tented events are not permitted in July and August unless tents do not obstruct the view from the Concession Facility as approved by the Town. No closing of the Concession and Retail Shop in July and August except for the Nantucket Cottage Hospital Boston Pops Event or extreme weather-related instances.

Events will be limited to under 250 people per Event in July and August, with the exception of the Fourth of July Fireworks Event and the Nantucket Cottage Hospital Boston Pops Event.

Concessionaire is subject to the published Event Permitting Fees for Special Events (under 250 persons) and Public Assembly Events (over 250 persons) for any Private Function or Special Event on the Premises.

In the shoulder months (May, June, September and October) only four (4) Private Functions or Private Special Events that close the Concession operations to the public are allowed in total during these months. The Concessionaire may have additional Events under 250 persons each in the shoulder months as long as the Concession operations are not closed to the public.

Prior to holding any Private Function, Special Event or Public Assembly Event, the



Town of Nantucket

Concessionaire shall obtain in writing approval from the Town of Nantucket and the Events Manager.

A list of upcoming events, as well as completed Beach Event Forms (**Exhibit C**) must be submitted to Natural Resources Department, Licensing and Permit Office and the Chief Procurement Officer by May 1st. Any additional events after May 15th will require a Beach Event Form to be completed and submitted to the Town of Nantucket as soon as the event is scheduled and approved by the Town. The Town of Nantucket shall have full discretion to deny permission to hold any Private Function, Special Event, or activity.

Should the Town of Nantucket approve such a function all of the following conditions must be met:

- a) If a fire on the beach is planned the Concessionaire must obtain a permit from the Fire Department. A copy of the permit will be give to the Town of Nantucket prior to the day of the function.
- b) Concessionaire will be responsible for compliance with all Massachusetts, County and Town laws regulations and ordinances governing noise.
- c) Private functions at the concession will be held in the premises only as shown on **Exhibit F** and not on the remainder of the beach or dunes. The Town of Nantucket's policy is to disallow private functions on the remainder of the property.
- d) Section C 2 Private Functions may be overridden by the additional provisions of this lease. Not any other part of the lease is affected by any such changes.
- e) A completed copy of the Beach Event Form (**Exhibit C**) must be submitted to the Events Manager and the Chief Procurement Officer.
- f) Depending on the status of the State & Federally listed species and after the review of the Town, the Concessionaire may be required to hire monitor(s) through the Town's Endangered Species Program. If the hiring of monitor(s) is deemed necessary a completed Detail Form must be completed and submitted to the Events Manager before the event (**Exhibit D**)

Hospital Event:

The Nantucket Cottage Hospital will have the use of the beach and the concession for two days during the summer to use for a major fundraiser. The Town of Nantucket will be responsible for providing the Concessionaire with up to three alternate dates for this event six months prior to the date of the event and providing the concessionaire the final date and dollar amount of compensation to be paid to the Concessionaire at least six months prior to the event. The Concessionaire can charge up to but no more than twenty-five thousand dollars (\$25,000) to the



Town of Nantucket

Nantucket Cottage Hospital for disruption of operations during this time.

Fourth of July Fireworks:

The Town has discretion to schedule this event at Jetties Beach at any time from July through Labor Day in consultation with the Concessionaire, weather dependent. Concession operations are not required to be closed during this event and are encouraged to stay open to serve the public during this event. The Town of Nantucket will not reimburse the Concessionaire for disruption of services for this event.

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Town of Nantucket

SECTION VIII – INSURANCE AND GENERAL OBLIGATIONS:

Insurance: The Concessionaire will maintain insurance as listed below and will deliver certificates to the Town of Nantucket, on or before March 1 of each year during the term, stating this insurance is in force, in any calendar year for the duration of this Agreement before he enters the premises:

- 1) **Worker's Compensation:** Worker's Compensation insurance in accordance with Massachusetts General Laws Chapter 152, as amended.
- 2) **Liability:** Comprehensive General Liability insurance including products liability for a combined single amount of \$2,000,000. This policy must have as one of its terms a provision that the Town and County of Nantucket and its Town of Nantucket are additional insured parties. A copy of this policy showing the Town as an additional insured is to be provided to the Town of Nantucket annually on or before March 1. Such policy must also contain a provision that the Town of Nantucket will be provided with ten (10) days written notice by the insurer of any intent to cancel or a determination that such insurance will not be renewed.

Disclosure Statement

Disposition of

Real Property:

Per M.G.L. Ch. 7 §40J, the Concessionaire is required to provide a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in a public real estate transaction. This disclosure must be filed with the Massachusetts Division of Capital Planning and Operations prior to the conveyance or execution of a lease for real property. See **Exhibit H – Disclosure Statement Disposition of Real Property**

Indemnification:

The Concessionaire agrees at all times during the term of this contract to indemnify, hold and save harmless, the Town of Nantucket and the Town of Nantucket and its officials, employees and agents from and against any and all action or causes of actions, claims, demands, liabilities, losses, damages or expense of whatsoever kind and nature including all legal costs arising out of or in connection with the operation and rental by Concessionaire of the premises or its performance or failure to perform or any provision of this contract.

Waiver of Rights of Recovery:

The Concessionaire also agrees to waive all rights of recovery it may have against the Town of Nantucket and the Town and County of Nantucket for any loss to property or person for which the Concessionaire is insured.



Town of Nantucket

Waiver of Liability

1. **Town of Nantucket's Obligation:** Except as a result of its failure to perform the obligations specifically provided herein within a reasonable period after receipt of written notice thereof, the Town of Nantucket shall not be liable to the Concessionaire for any injury or damage to the Premises or to any property of the Concessionaire or to any property of any third person, firm, association or corporation on or about the Premises.
2. **Beach Use:** Operation of the Premises by the Concessionaire is independent of the operation of the beach. The Town of Nantucket of Town may from time to time close the beach, acting in the public's interest or in the interest of the State and Federal regulations and guidelines set in place for the protection of listed species. The Town of Nantucket shall not be financially or otherwise liable to the Concessionaire or to the Concessionaire or its agents for any such closure, and such closure shall not change the Concessionaire's obligations as detailed elsewhere in this lease.

Events of Default: The occurrence of any of the following shall constitute an Event of Default by the Concessionaire hereunder:

Failure to Make Payment: The Concessionaire shall default in the payment of any installment of rent, utility, fee, or other sum herein specified on or before the date such payment is due; or

Failure to Operate in the Public Interest or to Fulfill Other Non-Monetary Terms: The Town of Nantucket determines that the Concessionaire has failed to operate the Premises in the best interest of the Town and/or has failed to operate in accordance to the guidelines set for the management/protection of the State and Federally listed species, or the Concessionaire shall default in the observance or performance of the Concessionaire's non-financial covenants, agreements or obligations hereunder, and such default shall not be corrected within twenty (20) days after written notice thereof; or

Bankruptcy: The Concessionaire shall be declared bankrupt or insolvent according to the law, or, if any assignment be made of the Concessionaire's property for the benefit of creditors.

Termination: Upon the occurrence of any Event of Default hereunder, the Town of Nantucket



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shall have the right thereafter, in its discretion, to re-enter and take complete possession of the Premises, to declare the term of this Agreement ended, and to remove the Concessionaire's effects, without prejudice to any remedies which might otherwise be used for arrears of rent or other default.

Remedies:

The Concessionaire shall indemnify the Town of Nantucket against all loss of rent and other payments which the Town of Nantucket may incur by reason of such termination during the residue of the term. If the Concessionaire shall default (after reasonable notice thereof in the case of non-monetary default) in the observance or performance of any conditions or covenants on Concessionaire's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the Town of Nantucket, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the Concessionaire. If the Town of Nantucket makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of the Prime Rate plus two percent (2%) per annum and costs, shall be paid to the Town of Nantucket by the Concessionaire as additional rent. "Prime Rate" shall be the interest rate published from time to time in the Wall Street Journal as the prime rate charged by the US money center commercial banks.

Late Charges:

A late charge of three percent (3%) of any amount due and unpaid fifteen (15) days after due date shall be added to the amount due from Concessionaire and a finance charge of one point five percent (1½%) per month will be added to all amounts remaining unpaid thirty (30) days after the date the amount was originally due, such charge constituting a charge equal to eighteen percent (18%) per annum.

Compliance with M.G.L. Ch. 7:

The Concessionaire covenants and agrees that it will comply with the requirements of M.G.L. Ch. 7, § 40J, including but not limited to, the filing with the Massachusetts Executive Office for Administration and Finance, Division of Capital Asset Management of a disclosure statement in connection with the disposition of an interest in real property by the Town of Nantucket. A copy of the Disclosure Statement is attached hereto.

Independent Concessionaire

Relationship:

There is no relationship of joint venture, partnership, employment or agency between the Town of Nantucket, on the one hand, and the Concessionaire on the other, and neither party shall have nor exercise any control or direction over the



Town of Nantucket

method by which the other performs its work or functions, aside from such control or direction as provided in this Agreement, which the parties view as consistent with their independent Concessionaire relationship.

Binding Obligations,

Related Obligor: It is further intended by the Concessionaire and its principals as a condition to this Agreement, that any corporations or other entities which control or are under direct or indirect common control of or with the Concessionaire or which may otherwise be reasonably considered to be a part of its operating business, shall be jointly and severally liable with the Concessionaire for its liabilities as a party to the Town of Nantucket hereunder.

Successors and Assigns;

No Right to Assign: Concessionaire shall have no right to assign this Agreement or the rights granted hereby with respect to the Premises, or otherwise delegate any of its duties hereunder without the prior written consent of the Town of Nantucket, which may be withheld at the sole discretion of the Town of Nantucket. Any such attempted disposition without the consent of the Town of Nantucket in writing shall be null and void and of no force and effect. The terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.

Decisions by the

Town of Nantucket: Except as otherwise expressly provided in this Agreement, any decision or action taken by the Town of Nantucket relating to this Agreement or its operation or its termination shall be made by a majority vote of the Select Board. Responsibilities to monitor obligations shall be undertaken by the Procurement Office.

Notices:

All notices required or permitted to be given to Town of Nantucket or Concessionaire shall be in writing and shall be given personally, or sent by certified mail return receipt requested, addressed to such party at its latest address of record. Notices to and payments to the Town of Nantucket shall be addressed to the Town of Nantucket at its offices, Two Bathing Beach Road, Nantucket, MA 02554 and notices to the Concessionaire addressed to it at its principal business address, which Concessionaire represents as appearing on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.

Governing Law:

This Agreement is governed by the laws of the Commonwealth of Massachusetts. In any controversy, litigation or action arising hereunder, each party, including successors and assigns, irrevocably consents to the jurisdiction of the courts of



Town of Nantucket

Massachusetts, agrees that venue shall be proper only there; and waives personal service of any summons, complaint or other process and agrees that service thereof may be made in the manner of other notice given hereunder.

Entire Agreement; Amendment

Interpretation:

This Agreement and the specifications advertised by the Town of Nantucket constitute the entire agreement between the parties superseding all prior or contemporaneous oral or written understandings. No amendment or other modification of the terms of the Agreement shall be binding unless in writing, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions of this Agreement shall be deemed continuing or extending beyond the terms specifically waived in writing. If any provision of this Agreement shall be held unlawful, invalid, or unenforceable, the remainder of the Agreement shall not be affected thereby. Paragraph headings contained herein are for reference only and are not intended to define or limit the scope of any provisions of this Agreement.

Accidents:

Concessionaire shall report any emergencies, accidents or incidents that occur within the Premises to the Town in a timely manner. See **Exhibit E – Incident Report Form**.

Parties shall in good faith negotiate the terms and conditions of the Lease in accordance with the terms contained in this term sheet as well as all customary and usual lease provisions.

CONCESSIONAIRE

NANTUCKET SELECT BOARD

Printed Name and Title

Printed Name and Title



Town of Nantucket

EXHIBIT B PROPOSAL RESPONSE FORM (BID FORM)

(Submit in sealed envelope with Bid Proposal)

JETTIES BEACH CONCESSION LEASE 2022-2026

The undersigned proposes to the Town of Nantucket the lease price specified below for the specifications contained herein. Proposal Price must include all costs and all other expenses. There will be no reimbursable expenses allowed in the lease.

CONTRACT YEAR	ANNUAL RENTAL FEE (MINIMUM 3.0% INCREASE ANNUALLY)	REVENUE SHARE (MINIMUM 5.0% OVER \$1.0M GROSS SALES ANNUALLY; EXCLUDING ALCOHOL SALES)
Year 1: Jan. 1, 2022 – Dec. 31, 2022	\$	_____ % above \$1,000,000 gross sales.
Year 2: Jan. 1, 2023 – Dec. 31, 2023	\$	_____ % above \$1,000,000 gross sales.
Year 3: Jan. 1, 2024 – Dec. 31, 2024	\$	_____ % above \$1,000,000 gross sales.
Year 4: Jan. 1, 2025 – Dec. 31, 2025	\$	_____ % above \$1,000,000 gross sales.
Year 5: Jan. 1, 2026 – Dec. 31, 2026	\$	_____ % above \$1,000,000 gross sales.
TOTAL PROPOSAL AMOUNT FOR 5 YEAR LEASE:	\$	Average %: _____ %

Total proposal amount in words:



Town of Nantucket

PROPOSAL RESPONSE FORM (BID FORM)

(Submit in separate, sealed envelope clearly marked "Price Proposal")

JETTIES BEACH CONCESSION LEASE 2022-2026

Name of proposer

Telephone Number

FEIN or SSN

Address, City, State and Zip Code

Signature of proposer's authorized individual

Date

Printed Name & Title

NOTE: If the proposer is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.

Exhibit C

JETTIES CONCESSION – BEACH EVENT FORM

One of these forms must be completed and submitted to the Natural Resources Department and Licensing/Permit Office for each event; either before the initial May 15th deadline or directly after any event at Jetties Beach has been scheduled. Failure to do so may result in the loss of Jetties Beach use for future events. It is required by the state that the Town of Nantucket implement a Beach Management Plan, including an Endangered Species Program, to protect both state and federally listed species. The following information will be required for any event held within proximity of any state or federally listed species habitat, nesting adults, juvenile chicks, and or unfledged chicks. Each event must hire endangered species monitor(s) through the Town to be present during the event and, if necessary, during the set up and removal of any tent(s), tables, floors and etc. There will be a ***\$15/hr fee (per monitor)**** for any additional use of the monitors outside of their scheduled times, usually 8am-6pm. If needed, alterations may be made to this information within 48 hours of the event.

BASIC INFORMATION

Location of Event:		Type of Event:
Date of Event:	Time of Event (start-finish):	Number of Expected Guests:

TENT INFORMATION

Is a Tent being used; if yes what Company? ☐ No ☐ Yes, _____		Contact person of Tent Company and Phone Number:
If yes to tent:	Date to set up Tent:	Time to set up Tent:
	Contingency date to set up Tent:	Contingency time to set up Tent:
	Date to remove Tent:	Time to remove Tent:
	Contingency date to remove Tent::	Contingency time to remove Tent::

FLOOR INFORMATION

Is a Floor being used; if yes what Company? ☐ No ☐ Yes, _____		Contact person of Floor Company and Phone Number:
If yes to Floor:	Date to set up Floor:	Time to set up Floor:
	Contingency date to set up Floor:	Contingency time to set up Floor:
	Date to remove Floor:	Time to remove Floor:
	Contingency date to remove Floor::	Contingency time to remove Floor::

MUSIC INFORMATION

Is there going to be Music? ☐ No ☐ Yes		If yes by whom/what type?	Contact name & information for Music:
If yes to Music:	Sound Check Date:	Sound Check Time:	

CATERING INFORMATION

Is it Catered? ☐ No ☐ Yes		If yes, by whom?		Contact Number:
If yes to Caterer	Number of Caterers Staff:	Set up time:	Take down time:	
	Are there going to be other structures used at the event, if yes what type (tables, chairs, generators, etc.) and how many? ☐ No ☐ Yes, _____			

REMINDER: A THOROUGH CLEAN UP PLAN IS REQUIRED FOR EVERY EVENT!

Note: Monitors are usually scheduled to be on the beaches from 8:00am to 6:00pm 7 days a week. It is suggested that any preparations for the event, such as tent erection, be done between the hours when monitors are scheduled to be present on the beach. Anything before or after these hours will be ***\$15 per hour/per monitor****, and will be charged to the event. No event, or setting up/taking down of an event, can take place without a monitor present first. Be sure to contact the Town Licensing and Permit Office (508-325-4100 x-5951) to be sure the appropriate people are present.

CONCESSIONAIRE: _____ DATE: _____ TOWN OFFICIAL: _____ DATE: _____

** This figure is subject to change at the Annual Town Meeting.*



Exhibit D
Nantucket Endangered Species Program
Beach Event Detail

Employer-Billing Information
Event/Detail Information

Type of detail: (wedding, cocktail party, Co. event, cookout)		Location:
Date of detail:	Actual detail start time:	Actual detail finish time:
Total hours to be invoiced:	Detail rate*:	Total due:

Name of company or person to be invoiced for this detail:	
Federal tax ID number of company or social security number of person to be invoiced for this detail:	
Has the invoice company/person previously Hired detail beach monitors?	☐ Yes ☐ No
Contact name of person to be invoiced for this detail:	
Billing Mailing Street Address:	
City, State, & Zip Code:	

* RATES: 2 hour minimum charge: 0600 to 2400 \$15.00. 0001 to 0600 \$18.00.

** The Town of Nantucket has a 10% Administration Surcharge and a Medicare Charge of 1.45% on all details. This will be added to the total due.

Beach Monitor Information

Beach monitor name:	Date:
Beach monitor signature:	

Exhibit E

BEACH & PAVILION - INCIDENT REPORT FORM

INSTRUCTIONS:

1. This form should be completed by the Concessionaire, Beach Manager and Town of Nantucket when they or their employees are involved with an incident in the vicinity of Jetties Beach.
2. Keep a copy for your records and submit a completed form to the Town of Nantucket, 16 Broad Street, Nantucket, MA

GENERAL INFORMATION

1. Individual(s) Involved in the Incident:		
2. Address:		
3. Home Phone:	4. Work Phone:	5. ☐ Concessionaire ☐ Beach Management ☐ Town of Nantucket ☐ Other: _____
6. Date and Time of Incident:		
7. Exact Location of Incident:		
8. Witness Name:	9. Phone Number:	10. Other Contact Information:

INCIDENT

11. How did the Incident occur? Describe fully the events that took place; give details on all facts that led to the incident/accidents. Identify the individuals involved in the incident/accident and what their roles were.	
12. Describe the immediate action taken and state by whom:	
13. Was an Official Agency Contacted? No Yes	14. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____
15. Contact person at the Official Agency:	16. Phone Number:

DAMAGE OR THEFT

17. Exact Description of Damage or Loss:		
18. Describe the property/location in detail:		
19. Was an Official Agency Contacted? No Yes	20. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____	21. Was there a case number and if yes, what was it? No Yes, _____
22. First Noticed by Whom?	23. Phone Number:	

ADDITIONAL INFORMATION

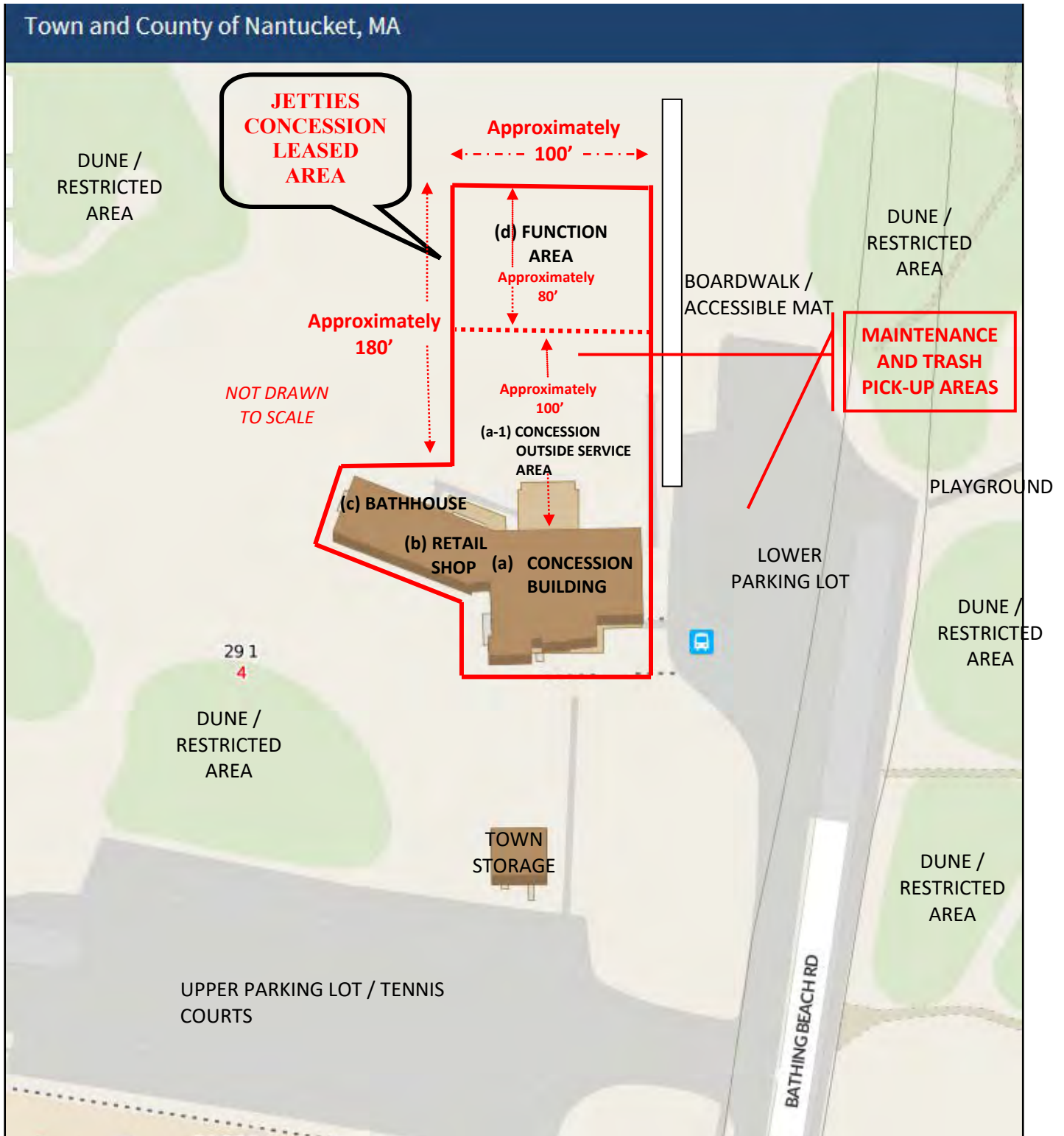
24. Person Completing Report:	25. ☐ Concessionaire ☐ Beach Management ☐ Town of Nantucket
26. Phone Number:	27. E-mail Address:
28. Additional Information:	

29. I attest that the information given here is accurate to the best of my knowledge.	
30. Person receiving the Incident Report Form:	31. Date Received:

EXHIBIT F

JETTIES BEACH CONCESSION LEASE AREA

The Concession premises (hereinafter called the Premises) shall include the Concession building and the Retail Bathhouse and the tent function area; beginning at the corner of the concession deck closest to the Parking lot walking approximately 180' perpendicular towards the ocean at that point turning West, parallel to the Ocean, walking approximately 100' thence turning South heading approximately 180' to the corner to Bathhouse squaring off the parameters of the tent function area. as shown in Exhibit "F".





Town of Nantucket

EXHIBIT G JETTIES BEACH CONCESSION ASSET LIST STATEMENT (as of XX XXXX)

ALL TOWN-OWNED CONCESSIONS:

General Maintenance:

- All equipment is cleaned, oiled and maintained to manufacturer's specifications as needed, i.e. fryolator and grills.
- Concessionaire responsible for light maintenance for screens, screen doors and windows.
- See *Exhibit A, Section II – Premises Maintenance, Custodial and Litter* for additional equipment and facility maintenance information.

End of each season:

- Hoods and fans are cleaned. Hood fan wrapped for winter.
- Grease traps are emptied.
- Walls and floors are scrubbed to remove all grease.
- Nothing is to be stored under concession buildings.
- Nothing is to be left outside, i.e. ice machine and bins
- Concessionaires meet with Town designee to go over Premises and review repairs, upgrades or items to be addressed prior to next season.

JETTIES BEACH CONCESSION:

The Jetties Beach Concession consists of the following Town owned assets (See *Exhibit F – Jetties Beach Concession Lease Area*):

Concession Building – Building 1 – Concession: Two story, wood framed, non-insulated structure on pier type foundations, with water, sewer, electrical and fire alarm system services.

o First Floor

- Kitchen area (10' x 40") complete with:
 - o 1 Large walk-in cooler (10' x 6') with an outdoor condenser.
Concessionaire is responsible for starting it up for the season and for properly closing it down after the season is over.
 - o 1 Vent hood (12 ft.) and exhaust fan over a grill/frying area.
Concessionaire is responsible for properly cleaning it each season and for



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- cleaning any grease filters etc., as needed.
- o 1 Fire suppression system mounted to the Vent hood. Concessionaire is responsible for having it inspected annually and for any ongoing maintenance as necessary.
- o 1 kitchen scullery sink (3 bay) connected to the floor level grease trap. The concessionaire is responsible for emptying the grease trap as needed and for draining and cleaning at the end of each season.
- o 1 set of kitchen ventilation/cooling fans with an open wall screened vent.. (Currently no AC in the building.) Concessionaire is responsible for cleaning and maintaining the fans on an as needed basis.
- o Currently kitchen is not plumbed for a dishwasher.
- o Gas lines extending from 3 - 420 lb LP tanks (located outside) and leading to the grill area under the vent hood. (Note: the 12 burner grill, fryolators, and charbroiler are owned by the current concessionaire)
- o 1 small, wall mounted hand washing sink (Stainless Steel)
- o Misc electrical outlets for convection ovens, steamer, freezers and coolers, etc. (Note: The convection ovens, freezers and coolers are all owned by the current concessionaire)
- Salad, Drink and Order Prep area (12' x 40') with:
 - o 1 small, wall mounted, hand washing sink (Stainless Steel)
 - o Take-out windows (2)
 - o Electrical outlets over the door and take-out window for 2 Air-Doors. (Existing Air Doors are owned by the current concessionaire)
 - o (Note: The several, various sized refrigerators, coolers and freezers located in the kitchen and the prep area, are all owned by the current concessionaire.)
 - o Hot food transfer counter (from kitchen to order prep)
- Wood Roof covered deck area (14' x 55') with:
 - o Outdoor bar, sink, cabinet and counter-top. (Bar stools and beer cooler are owned by the current concessionaire)
 - o 1 small wall mounted, hand washing sink (Stainless Steel)
 - o The existing 25 or so high top tables are owned by the current concessionaire as do the accompanying bar stools & chairs.
 - o The three large ceiling fans are owned by the current concessionaire.
 - o Gas line to service two space heaters. Note, existing space heaters are owned by current concessionaire.
 - o Two ADA accessible restrooms are entered through this area. Note, the concessionaire is responsible for cleaning and maintaining these restrooms as well as stocking them with appropriate supplies. These restrooms are for both patrons of the restaurant and of the beach. They are to be opened during hours of concession operations or at least 9:00 am to 5:30 pm when concession is closed the second week of May through Columbus Day.



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- Fabric Awning covered deck area (1,350 ft²) with:
 - o 18 picnic tables
 - o Fixed wooden decking with wooden railing and posts
 - o Note the fabric awning and the associated metal framing, are owned by the current concessionaire.
- Second Floor
 - o Office area (Note, office furnishings are owned by the current concessionaire).
 - o Bedroom 1
 - o Bedroom 2
 - o Bathroom
 - o Open area for shelving storage

Concession Building - Building 2 – Retail Shop:

- Single-story, single-room wood frame, open construction retail space
- Retail Shop Area (Outfitted by the Concessionaire)

Concession Building - Building 3 – Bath House:

- Single story, wood frame, open construction bath house, with:
 - o Public Restrooms
 - o Outdoor showers on the beach side wall
 - o Storage Rooms for concessionaire use
 - o Washer and Dryer are property of current concessionaire
 - o 4 chest style freezers are property of current concessionaire

Building Surroundings:

- o The concession has its own paved driveway with room to accommodate 2 vehicles, three roll-off dumpsters, three 420 lb propane tanks and a 6' x 8' plastic storage shed (owned by the current concessionaire)
- o Leased Beach Area: The concession also has about 500 ft² of moveable boardwalk. They are built in sections that can be arranged in a variety of configurations to suit the concessionaire and are often configured to accommodate Concessionaire. The Town's Department of Public Works places the boardwalk sections in the spring and stores them in the fall. Public Works also maintain the boardwalk sections throughout the year.
- o Electrical Service is the responsibility of the Concessionaire.
- o Water Service
 - The Concession is serviced by Town water – Wannacomet Water Company.
 - Concessionaire is responsible for turning the water off at the end of the season (or the lease) and is responsible for all costs associated with that (plumber and water company charges, etc.) and for all water bills during the term of the



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lease.

- Concessionaire is responsible for turning the water on at the beginning of each season (or the start of the lease) and is responsible for all costs associated with that (plumber and water company charges, etc). Coordination of these efforts is by the concessionaire.
- o Sewer Service
 - The Concession is serviced by Town Sewer.

Miscellaneous Information of Note

With the exception of the fire alarm system, the concessionaire is responsible for arranging all necessary permits and inspections (equipment and/or facility) needed for him to operate his business in accordance with all of the applicable laws and ordinances. Concessionaire is also responsible for any costs associated with the permits, the inspections and with bringing everything into compliance.

Concessionaire is responsible for containing and properly disposing of all of his trash in the leased area, including the Lower Parking Lot (See Exhibit F).



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EXHIBIT H

DISCLOSURE STATEMENT DISPOSITION OF REAL PROPERTY

JETTIES BEACH CONCESSION LEASE 2022-2026

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Planning and Operations, as required by M.G.L. Ch. 7 §40J, prior to the conveyance or execution for the real property described below. Attach additional sheets if necessary.

1. Public Agency involved with this transaction: Town of Nantucket, Massachusetts

2. Complete Legal Description of Real Property: Beach Concession Facilities with
Restaurant, Retail Shop,
Bathhouse, and Beach Area
4 Bathing Beach Road
Nantucket, Massachusetts 02554

3. Type of Transaction: ☐ Sale
☒ Lease or Rental (Term: Five Years)

4. Seller(s) or Lessor(s): Town of Nantucket
16 Broad Street
Nantucket, MA 02554

5. Purchaser(s) or Lessee(s):

6. Names and addresses for all persons who have or will have a direct or indirect beneficial interest in the real property described above. *Note: if a corporation has, or will have, a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock or corporation is listed for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need **not** be disclosed.*

Exhibit H – Disclosure Statement for Disposition of Real Property



Town of Nantucket

Name		Address

None of the persons are elected officials to public office in the Commonwealth of Massachusetts, except as listed below:

Name		Title or Position

7. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in Item 1. If this Form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation. The undersigned acknowledges that any changes or additions to Item 4 of this Form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this Form is complete and accurate in all respects.

Signature		Date
Printed Name		
Title		

Exhibit H - Disclosure Statement for Disposition of Real Property

TOWN CONCESSIONS ACTUALS (2017-2020)

	2017				2018			
	Gross Revenue	Lease Payment	Revenue Share	Alcohol Revenue Share	Gross Revenue	Lease Payment	Revenue Share ⁽²⁾	Alcohol Revenue Share
Jetties	\$2,715,940	\$120,000	\$85,797	\$0	\$3,050,000	\$126,000	\$61,856	\$40,644
Children's	\$76,159	\$17,000	\$0	N/A	\$95,312	\$17,859	\$0	N/A
Surfside ⁽¹⁾	\$385,298	\$2,823		N/A	\$481,114	\$30,500		N/A
TOTALS		\$139,823	\$85,797	\$0		\$174,359	\$61,856	\$40,644

	2019				2020 ⁽³⁾			
	Gross Revenue	Lease Payment	Revenue Share	Alcohol Revenue Share	Gross Revenue	Lease Payment	Revenue Share	Alcohol Revenue Share
Jetties	\$3,214,867	\$132,300	\$87,797	\$44,914	\$2,531,184	\$69,458	\$53,405	\$38,466
Children's	\$77,669	\$18,743	\$0	N/A	\$34,344	\$0	\$0	N/A
Surfside	\$615,777	\$35,500		N/A	\$385,298	\$18,750		N/A
TOTALS		\$186,543	\$87,797	\$44,914		\$88,208	\$53,405	\$38,466

TOTAL PAYMENTS 2017-2022					
	Gross Revenue	Lease Payments	Revenue Share	Alcohol Revenue Share	TOTAL PAYMENTS TO TOWN
Jetties	\$11,511,991	\$447,758	\$288,855	\$124,024	\$860,637
Children's		\$53,602	\$0	N/A	\$53,602
Surfside		\$87,573	\$0	N/A	\$87,573
TOTALS		\$588,932	\$288,855	\$124,024	\$1,001,812

⁽¹⁾ Surfside changed vendors in 2020 ("Jetties at Surfside" 2017-2019; "The Surf" 2020-2024)

⁽²⁾ Revenue share of Gross Revenues is in current Lease Agreement. In 2018 Counsel opined the Town cannot have a beneficial share of alcohol revenue so this portion is gifted to a health and human services agency

⁽³⁾ One contracted lease payment waived for Jetties (\$69,457) and Surfside (\$18,750) and all lease payments waived for Children's (\$19,680) due COVID-19 (\$107,887 total waived)

AREA OF STRATEGIC FOCUS:

Environmental Leadership



ASPIRATIONAL STATEMENT:

Nantucket residents and visitors share responsibility for the long-term sustainability of our beautiful island. We recognize our stewardship of the land, air, and water and work to ensure our community is resilient and self-sufficient. Other communities look to Nantucket to learn how to care for the natural environment.

GOALS:

- > Provide data-driven recommendations on island-wide solid waste management guided by principles of sustainability.
- > Finalize an island-wide, long-term water quality management plan that addresses ponds, harbors, stormwater, and wastewater with specific ways/methods to measure improvement.

AREA OF STRATEGIC FOCUS:

Efficient Town Operations



ASPIRATIONAL STATEMENT:

The Town of Nantucket reflects the community value of fiscal responsibility in its operations. Governance is collaborative; and representation on Boards, Committees, and Commissions is reflective of the diversity of our community. Town facilities and offices incorporate modern technology and are efficient in design, energy use and location. The Town is committed to planning for a resilient and sustainable community and maintaining and improving municipal infrastructure and assets. Town employees provide vital municipal services that are valued by residents and visitors and are engaged members of our community.

GOALS:

- > Develop a Facilities Master Plan.
- > Invest in technology.

AREA OF STRATEGIC FOCUS:

Quality of Life



ASPIRATIONAL STATEMENT:

Nantucket is a vibrant and inclusive community committed to the health and well-being of our residents and visitors. The local economy provides middle-class job opportunities and the Old Historic District is vibrant year-round. The economic vitality of the Island is bolstered by seasonal residents and visitors. Everyone enjoys public access to our beaches, waterways and conservation land. The Island has maintained its strong rural identity and well-preserved historic character.

GOALS:

- > *Develop a comprehensive plan to address and ensure equity throughout Town policies and procedures.*
- > *Evaluate partnership opportunities that promote healthy, active living and provide facilities, programs, and support for vulnerable populations.*

MEMORANDUM

TO: C. Elizabeth Gibson, Town Manager, Town of Nantucket
Robert D. McNeil III, P.E., Director of Public Works, Town of Nantucket
FROM: George Aronson, Principal, CRMC
RE: RFEI Responses
DATE: 24 February 2021

This memo provides highlights of responses received by the Town on February 11, 2021, to the Request for Expressions of Interest in Solid Waste Management for Nantucket Island (the RFEI).

The Town's Waste Services Agreement with Waste Options for providing solid waste management services (the WSA) expires on November 30, 2025. The RFEI was issued to get information to inform the Town's process for deciding how to manage its solid waste after the WSA expires and to ascertain the level of interest from vendors in providing services for all or part of the Town's solid waste operations. The RFEI focuses on the following services related to options for solid waste management that the Town might consider starting in December 2025:

- Contract operations services for the Co-composting Facility in the event that the Town decides to exercise its option to purchase it and continues to operate it after 2025.
- Development of a new facility to replace the Co-composting Facility, or to handle other waste streams, using technology chosen and provided by the respondent.
- Development and operation of a system for transferring solid waste to the mainland for processing and disposal.

The RFEI was widely circulated via advertisements in trade press, notices in trade association publications, presence on the Town's website and in social media. Also, direct email invitations were sent to firms identified as having a potential interest on Nantucket, in New England and across the USA. The RFEI documents were downloaded by 66 unique firms. A Zoom information session on the RFEI was attended by 30 firms. The Town ultimately received 12 responses, including four that had not received direct email invitations, but found out about the RFEI through general publicity.

Regarding the 12 responses:

1. Four respondents expressed interest in providing any or all of the services – contract operations of the Composter or MRF, development of a new facility, and/or transfer to the mainland. These are:
 - Waste Options, which submitted a comprehensive response addressing all areas of the RFEI.
 - WeCare/Denali, a national firm that develops, owns and operates composting facilities, with experience operating other drum composting facilities in Marlborough, MA, and in New York.
 - Casella Resource Solutions, a regional integrated waste management firm with a major regional presence and broad range of capabilities in organics, recycling and waste management.
 - The Richmond Companies, a development firm active on Nantucket. They responded as part of a team that includes Capitol Waste Services, a waste management firm that serves the City of Boston, and Semper Diving and Marine/Semper Off-shore, which offers barging services.

2. Regarding these four:
 - Waste Options expressed interest in developing a new facility with new technology to process residuals from the Co-Composting Facility as well as mined residuals from the landfill, with potential to process plastics, biosolids and other organic wastes.
 - WeCare/Denali expressed general interest in developing a gasification facility, and Casella and the Richmond Companies each expressed general interest in developing a new processing facility, but none of these presented their own proprietary technology or provided specifics regarding the technology supplier. Rather, these three firms expressed potential interest in teaming with a technology supplier.
3. The other eight respondents expressed a primary interest in development of a new facility with new technology to process MSW, yard waste, and, in some cases, sewage sludge, clean wood, plastics and/or other materials. Of these:
 - RNN Partners provided a basic description of its own technology for development.
 - The other seven firms – Aries Clean Technology, Bioforcetech Corporation, Genifuel Corporation, Green Waste Energy, Hitachi Zosen Inova USA, InnoWaCon and Trashology --- primarily expressed interest in providing equipment on a turnkey or sales basis to the Town or to another entity that would be the owner and operator. It follows that these seven might be candidates for teaming with the firms that did not identify a specific technology for development.
4. The technologies offer a range of stages of development. Three respondents identified reference facilities using their technology in commercial operation at scale in the United States. Others have completed various levels of pilot testing, commercial trials and commercial facility development.
5. At least three firms are interested in providing a new facility with technology that processes sewage sludge and destroys PFAS.
6. Generally, the RFEI responses provide a wealth of information that the Town staff has just begun to review. We anticipate a process whereby respondents are asked for more information and interviewed to respond to questions of particular interest regarding development approach, technology experience, business terms, schedules and economics. The information will be used for development of procurement strategies for securing solid waste management services for the Town for 2025 and beyond.

Generally, the number and strength of the responses are extremely encouraging and will be invaluable in fashioning a path forward that is based on best available information and data on approaches to solid waste management that might be implemented on Nantucket.