

**Town and County of Nantucket
Select Board • County Commissioners**

Brooke Mohr, Chair
Thomas M. Dixon
Matt Fee
Dawn E. Hill Holdgate
Malcolm W. MacNab



16 Broad Street
Nantucket, Massachusetts 02554

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C. Elizabeth Gibson
Town & County Manager

***AGENDA FOR THE MEETING OF THE
SELECT BOARD
APRIL 30, 2025 - 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS***

YOU TUBE LINK FOR VIEWING ONLY:
<https://youtube.com/live/U5CTd0W5ZuY>

ZOOM WEBINAR REGISTRATION LINK TO VIRTUALLY ATTEND MEETING:
https://us06web.zoom.us/webinar/register/WN_sS8J3BsPRc2hlgoVcUZuzA

I. CALL TO ORDER

II. SELECT BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio and Video Recorded.
2. **Come Tour Our Island Home - Tour, Learn and Ask Questions**
Our Operations Administrator, Michelle Munroe, is Available to Give Tours and Answer Any Questions You May Have. Schedule a Tour Today:
<https://calendly.com/mmunroe-nantucket-ma/30min>.
3. **2025 Annual Town Meeting** is Saturday, May 3, 2025 at 8:30 AM at Nantucket High School, Mary P. Walker Auditorium, 10 Surfside Road; Review of Informational Town Meeting Warrant Article Videos: [Community Outreach | Nantucket, MA - Official Website](#).
4. **2025 Annual Town Election** Scheduled for Tuesday, May 20, 2025 from 7:00 AM to 8:00 PM at Nantucket High School, 10 Surfside Road.
5. **Finance Committee Meeting for 2025 Annual Town Meeting Technical Amendments** to be Held Thursday, May 1, 2025 at 2:00 PM via Zoom:
<https://us06web.zoom.us/j/81731570045?pwd=9NrAW5XFBoZ3pmRbSyEZTI6b9w4icq.1>

Pre-Annual Town Meeting Conference with Moderator to be Held Thursday, May 1, 2025 at 3:00 PM via Zoom:
<https://us06web.zoom.us/j/89667235653?pwd=7sIsaN2aSTa0JKUOztcHyft5apMwXL.1>.

6. 2025 Annual Committee/Board/Commission Vacancies and Appointment Timeline; Committee Appointment Process: [Boards, Commissions & Committees | Nantucket, MA - Official Website](#)

7. Select Board Announcements/Comments.

IV. UPDATE ON PUBLIC COMMENT QUESTIONS FROM PRIOR SELECT BOARD MEETINGS (see <https://www.nantucket-ma.gov/3564/> 2025)

V. PUBLIC COMMENT*

VI. NEW BUSINESS**

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of April 14, 2025 at 11:00 AM; April 16, 2025 at 5:30 PM.
2. Approval of Payroll Warrants for April 27, 2025.
3. Approval of Treasury Warrants for April 23, 2025; April 30, 2025.
4. Approval of Pending Contracts for April 30, 2025 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS/REPORTS

1. Overview of IODP3/NSF Expedition 501, Northwest Atlantic Ocean (Off-shore Fresh Water Drilling Project) by Drill Team.
2. Housing Office: Request for Approval and Execution of Regulatory Agreement, Meadows I, between the Commonwealth of Massachusetts Executive Office of Housing and Livable Communities, the Town and Meadows One ACK, LLC.

IX. PUBLIC HEARINGS

1. Public Hearing to Consider the Renewal of Private Shellfish Aquaculture Licenses Held by Matt Herr of 64 South Shore Road (Licenses 13, 13A, 13B, Head of Harbor), Andy Roberts, Inc. of 28 Kelley Road (Licenses 10, 10A, 10B, Head of Harbor), McClain Raith of 7 Milestone Crossing (Licenses 15, 15A, 15B, Head of Harbor), Charles Connors of 53 Polpis Road (License 14, 14A, 14B, Head of Harbor) and Renewal and Expansion for Sean Fitzgibbon of 10 Trotters Lane (Licenses 12, 12A, 12B, Head of Harbor).

X. TOWN MANAGER'S REPORT

1. Update on Town Infrastructure Projects Road Reconstruction Schedule (Tabled from April 16, 2025).
2. Monthly Town Management Report.

XI. SELECT BOARD REPORTS/COMMENT

1. Vote(s) to Approve Asset Purchase and Sale Agreement for Town Purchase of Composter and Transfer Station and Waste Services Agreement (Contract with Solid Waste Facility Operator).
2. Committee Reports.

XII. ADJOURNMENT

****Public Comment: please see attached Public Comment Policy which can also be found at <https://www.nantucket-ma.gov/DocumentCenter/View/51055/Public-Comment-Policy---Adopted-by-the-Select-Board-on-February-12-2025-PDF>.***

*****New Business: 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.***



Town of Nantucket
Public Comment Policy
Adopted by Select Board
February 12, 2025

A. Purpose:

This Policy is adopted to facilitate orderly and efficient public comment periods at meetings of Town public bodies. It will protect the ability of the residents of Nantucket, and other persons, to provide feedback or information to pertinent public bodies regarding matters of public interest, Town initiatives, operations, services, and programs. To allow speakers a fair opportunity to address a public body, and to ensure the public body may accomplish its stated business in an efficient manner, these guidelines seek to ensure compliance with the Open Meeting Law and meet other legal and constitutional obligations. Meetings of public bodies in the Town of Nantucket should be places to engage in orderly and peaceable discourse.

B. Authority:

Principles of free speech and freedom to petition the government, fundamental rights protected by the United States and Massachusetts Constitutions, prohibit public bodies from preventing all speech that may be upsetting or offensive. As such, this Policy establishes reasonable time, place, and manner restrictions sufficient to facilitate orderly and peaceable public comment periods at meetings of elected and appointed public bodies of the Town.

C. Legal Standards:

Meetings of public bodies are subject to the requirements of the Open Meeting Law, G.L. c. 30A, §§ 18-25. The Open Meeting Law empowers the chair of a public body to preside at and regulate the proceedings of meetings. Pursuant to G.L. c. 30A, § 20(g), no person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. Any person wishing to speak at an open meeting must first be recognized by the chair. All questions raised and all comments made by a duly-recognized speaker must be directed to the chair of the public body alone, not to individual members of the public body, staff, or the public. The chair is authorized to maintain order, and, although a rare occurrence, has authority, after appropriate

warnings are ignored, to take action up to and including removal of a person who is disrupting a meeting.

D. Application:

To secure the rights of the public to participate in public comment periods in the Town of Nantucket in a manner consistent with law, and, to thereby protect the Town and members of elected and appointed bodies from civil rights claims, this policy shall apply to all public bodies in the Town of Nantucket.

E. Procedures:

1. All agendas of multiple-member bodies in the Town of Nantucket shall include a period for Public Comment, subject to the limitations set forth in paragraph 3. Where to place Public Comment on the agenda is at the discretion of the chair. If public comment is invited during a separate agenda item, this Policy shall govern.
2. While statements made during a Public Comment period are not required to address an agenda item for that particular meeting, such comments must relate to a matter within the public body's jurisdiction. Public comments on matters outside the public body's jurisdiction may be ruled out of order by the chair. To avoid due process issues, a person seeking to provide comments on a matter appearing on the same agenda will be asked to defer until the specific agenda item is reached.
3. Each speaker will be allowed to speak once for up to 3 minutes. The chair will curtail verbal comments exceeding the allotted time.
4. A recognized speaker may not cede or assign their time to another unless such an assignment is required as reasonable accommodation for such person because of a disability. All speakers who may need an accommodation are strongly encouraged to contact Town staff or the chair of the public body at least 48 hours prior to the meeting. That said, to facilitate an efficient public comment period, groups that have multiple speakers with the same viewpoint may consider consolidating their comments or designating one person to speak on their individual behalf's.

F. Disruptive Conduct/Unprotected Speech:

Disruptive conduct and engaging in other unprotected speech, including but not limited to the following, may be grounds for the chair of a public body to curtail speech and take other action as appropriate:

1. Speaking without being recognized;
2. Continuing to speak after the chair has curtailed additional verbal comment;
3. Interrupting a recognized speaker;
4. Speaking about matters not within the jurisdiction of the public body;
5. Engaging in conversations while another person is speaking;

6. Making true threats of violence directed toward a particular individual; and
7. Making comments inciting imminent lawlessness.

G. Public Body Response:

1. A public comment period is a listening session, and the public body is there to listen. The public body, in fact, should not respond to matters raised at the meeting unless it is
2. Matters raised during public comment periods are not required to, and are unlikely to, be addressed or resolved by the public body at the same meeting. Individual members of the appropriately deferred to a noticed-agenda item due to Open Meeting Law considerations.
3. At the sole discretion of the chair of the public body, matters raised during public comment may or may not appear on a future agenda or be referred to the Town Administrator for appropriate action, if any.
4. A public body cannot demand that persons attending meetings or participating in public comment be civil to one another. Nevertheless, the Town, or the members of the public, and those that appear before them are encouraged to make any/or all residents of the Town feel welcome, including listening to them speak, and acknowledging that speakers may have a different viewpoints.

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

H. Enforcement:

Concerns about Public Comment Periods may be brought to the attention of the Town Manager, who will discuss the concerns with the chair of the public body, and take appropriate action. Failure to comply with this Policy may be deemed a violation of the Town's Code of Conduct, and grounds for the removal of an appointed official.

Select Board
2025 Committee Appointments Timeline
As of 4/17/2025

April 16 – Select Board review list of openings.

April 17 – Notify members of committees whose terms are expiring.

April 24, May 1, May 8 and May 15 – Advertise committee openings in newspaper and on Town's website; put on Select Board agenda as announcement starting April 16.

May 16 at 12:00 PM – Deadline for submitting applications for committee openings to Town Administration office. This includes applications for:

- Agricultural Commission
- Airport Commission
- Board of Health
- Cannabis Advisory Committee
- Capital Program Committee
- Cemetery Commission
- Coastal Resiliency Advisory Committee
- Conservation Commission
- Contract Review Committee, Human Services
- Council for Human Services
- Council on Aging
- Cultural Council
- Finance Committee
- Historic District Commission Associate
- Nantucket Affordable Housing Trust
- Nantucket Historical Commission
- Planning Board Alternate
- Real Estate Assessment Committee
- Roads and Right-of-Way Committee
- Scholarship Committee
- Steamship Authority Port Council
- Tree Advisory Committee
- Zoning Board of Appeals
- Zoning Board of Appeals Alternate

May 21 and May 28 – The names of applicants who have submitted applications will be read aloud and applications will be included in the Board's packet.

June 4 – Meeting for the applicants who applied to the following committees to introduce themselves and review their applications:

- Agricultural Commission
- Airport Commission
- Board of Health

- Cannabis Advisory Committee
- Capital Program Committee
- Cemetery Commission
- Coastal Resiliency Advisory Committee
- Conservation Commission
- Contract Review Committee, Human Services
- Council for Human Services
- Council on Aging
- Cultural Council

June 11 – Meeting for the applicants who applied to the following committees to introduce themselves and review their applications:

- Finance Committee
- Historic District Commission Associate
- Nantucket Affordable Housing Trust
- Nantucket Historical Commission
- Planning Board Alternate
- Real Estate Assessment Committee
- Roads and Right-of-Way Committee
- Scholarship Committee
- Steamship Authority Port Council
- Tree Advisory Committee
- Zoning Board of Appeals
- Zoning Board of Appeals Alternate

June 25 – Committee appointments.

2025 Committee Openings Information
As of 4/9/2025

Committee	# seats open	Term Expiration	Notes
Agricultural Commission	2	2028	
Airport Commission	1	2028	
Board of Health	1	2028	
Cannabis Advisory Committee	1	2028	
Capital Program Committee	1	2028	
Cemetery Commission	1	2028	
Coastal Resiliency Advisory Committee	1	2028	
Conservation Commission	3	2028	
Contract Review Committee, Human Services	1	2028	
Council for Human Services	1	2027	vacant
Council for Human Services	3	2028	
Council on Aging	1	2026	vacant
Council on Aging	3	2028	
Cultural Council	3	2028	
Finance Committee	3	2028	
Historic District Commission Associate	1	2028	
Nantucket Affordable Housing Trust	1	2027	2-year term, at-large
Nantucket Historical Commission	2	2028	
Planning Board Alternate	1	2028	
Real Estate Assessment Committee	1	2028	
Roads and Right of Way Committee	3	2028	
Scholarship Committee	2	2028	
Steamship Authority Port Council	1	2027	2-year term
Tree Advisory Committee	2	2028	
Zoning Board of Appeals	1	2030	5-year term
Zoning Board of Appeals Alternate	1	2028	3-year term

EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY SELECT BOARD
April 30, 2025

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding	Term
Grants						
Grant Agreement	Culture & Tourism/ Select Board	Nantucket Island Chamber of Commerce	\$25,000	Rock Solid Fund Grant	Cape & Islands License Plate Fund	Apr 1, 2025 - Dec 31, 2025
Leases						
License Agreement	Town Administration/ Real Estate	Nantucket Regional Transportation Authority (NRTA)	(\$1.00)	Lease of portions of Greenhound Building at 10-12 Washington St for NRTA	N/A	Apr 15, 2025 - Apr 14, 2026
License Agreement (Commercial Lease)	Town Administration/ Real Estate	Nantucket Food Pantry	(\$1.00)	License for use of portions of Greenhound Building at 10-12 Washington St for Food Pantry	N/A	Apr 15, 2025 - Apr 14, 2026
Technology License Agreements						
Software License Agreement	Information Technology	Environmental Systems Research Institute, Inc.	\$90,600	GIS Software - annual renewal	IT - Professional Services	Apr 7, 2025 - Apr 6, 2028
Software License Agreement	Information Technology	ICC Community Development Solutions, LLC	\$19,062	Renewal of Laserfiche cloud municipality site license & training center for Laserfiche	IT - Professional Services	Jun 27, 2025 - Jun 26, 2026
Software License Agreement	Our Island Home	Wellsky Corporation	\$6,000	Annual subscription to cloud services referral management software	OIH Budget - Professional Services	Mar 31, 2025 - Mar 30, 2026
Contractual Services						
Professional Services Agreement	Public Health	Eastern Research Group	\$140,431	Support for PFAS surface water sampling & exposure to health risk communication	Article 18 ATM 2022	Apr 30, 2025 - Nov 30, 2025
Health Care Agreement	Our Island Home	UnitedHealthcare	n/a	Health care benefit plan for OIH residents	n/a	May 1, 2025 - Apr 30, 2026

Health Care Agreement	Our Island Home	Harvard Pilgrim Health Care	n/a	Health care benefit plan for OIH residents	n/a	May 1, 2025 - Apr 30, 2026
Health Care Agreement	Our Island Home	Tufts Health Public Plans	n/a	Health care benefit plan for OIH residents	n/a	May 1, 2025 - Apr 30, 2026
Contract Amendment	Our Island Home	Eisenstein Flaherty & Associates	Add \$41,600 to original contract amount of \$166,400 for amended contract amount of \$208,000	Contract extension of time & increase in Operational Oversight contract for assistance with annual state Dept of Public Health life safety survey	OIH Admin - Professional Services	Jul 1, 2023 - Jun 30, 2025
Contract Amendment	Town Administration/ Project Management	Iron Mountain Information Management, Inc.	Add \$26,940.36 to original contract amount of \$1,468,063.51 for amended contract amount of \$1,495,003.82	Expansion of scope to include labor costs associated with technical requirements - removal of personal information from PLUS files	Article 10 ATM 2019 - 2024	Dec 18, 2024 - Feb 26, 2026
Professional Services Agreement	Public Works/Parks & Recreation	Garden Divas, Inc.	\$87,000	3-year contract for flower box services at 25 Federal St, 12 Washington St & 3 East Chestnut St	DPW/Parks & Recreation Budget - Professional Services	Apr 18, 2025 - Apr 17, 2028
Purchase Agreement	Public Works	Marcotte Ford	\$114,740	Purchase of 2025 F550 Mechanic's Truck for Central Fleet	Article 10 ATM 2024	Mar 15, 2025 - Mar 15, 2026
Purchase Agreement	Public Works	McGovern MHQ	\$127,267.64	Purchase of 2025 F550 Dump Truck	Article 10 ATM 2024	Apr 23, 2025 - Apr 23, 2026
Purchase Agreement	Public Works	McGovern MHQ	\$127,267.64	Purchase of 2025 F550 Dump Truck	Article 10 ATM 2024	Apr 23, 2025 - Apr 23, 2026
Purchase Agreement	Public Works	McGovern MHQ	\$120,293.11	Purchase of 2025 F550 Stake Body Dump Truck	Article 10 ATM 2024	Apr 23, 2025 - Apr 23, 2026
Purchase Agreement	Public Works	McGovern MHQ	\$133,146.93	Purchase of 2025 F650 Six Wheel Dump Truck	Article 10 ATM 2021	Apr 23, 2025 - Apr 23, 2026
Contract Amendment	Public Works	Plan B Construction Co., LLC	\$2,000	Increase in contract scope - prep, prime & paint exterior doors & wood gutters at Visitor Center 25 Federal St	Article 10 ATM 2021	Jul 1, 2024 - Jun 30, 2025

Professional Services Agreement	Sewer	Weston & Sampson Engineers, Inc.	\$100,000	Assist Town with general engineering & consulting services related to wastewater & stormwater issues	Sewer Budget - Professional Services	Apr 16, 2025 - Mar 31, 2026
Professional Services Agreement	Stormwater	Horsley Witten Group	\$31,061	Provision of technical services for stormwater retrofit design at Pocomo Road	Stormwater Budget - Professional Services	Apr 1, 2025 - Mar 31, 2026

Erika Mooney

From: David McInroy - BGS <dbm@bgs.ac.uk>
Sent: Sunday, April 13, 2025 1:49 PM
To: Brooke Mohr; Matt Fee
Cc: Brandon Dugan; Libby Gibson; Erika Mooney
Subject: Re: Scientific drilling offshore Nantucket

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Brooke,

Thank you for accommodating us at short notice; it's very much appreciated.

April 30th at 5:30pm by Zoom is good for us. Please let us know what you'd like us to do for the meeting. We suggest maybe showing a couple of brief slides, leaving most of the allocated time for questions. Or we can move straight to questions.

At the moment it will just be Brandon and I attending. A colleague from NSF may also join us, if that's OK with you. I will forward their details if they are able to join.

Thanks for your quick reply, and please let me know if I can provide anything ahead of the meeting.

Best regards,
David

From: Brooke Mohr <bmohr@nantucket-ma.gov>
Sent: Saturday, April 12, 2025 00:13
To: David McInroy - BGS <dbm@bgs.ac.uk>; Matt Fee <mfee@nantucket-ma.gov>
Cc: Brandon Dugan <dugan@mines.edu>; Libby Gibson <LGibson@nantucket-ma.gov>; Erika Mooney <EMooney@nantucket-ma.gov>
Subject: Re: Scientific drilling offshore Nantucket

Hello David –

Thank you for your prompt response. Members of our community have voiced concerns and have questions best answered by your team.

We would appreciate your attending our meeting on Wednesday, April 30th, subject to a final review of the agenda early next week.

Our meetings convene at 5:30 PM. We do offer the option to attend virtually via ZOOM.

I have copied our Town Manager Libby Gibson and our Operations Manager Erika Mooney, who manages meeting logistics. Erika will need the name, title and email address for each member of your team who plans to attend. Each attendee gets a unique Zoom link that cannot be shared with others.

I look forward to hearing more about this interesting project.

Brooke

Brooke Mohr
Nantucket Select Board

From: David McInroy - BGS <dbm@bgs.ac.uk>
Sent: Friday, April 11, 2025 5:09:50 PM
To: Brooke Mohr <bmohr@nantucket-ma.gov>; Matt Fee <mfee@nantucket-ma.gov>
Cc: Brandon Dugan <dugan@mines.edu>
Subject: Scientific drilling offshore Nantucket

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Brooke Mohr,

My name is David McInroy, a marine geoscientist from the British Geological Survey, Edinburgh, UK. I represent the team seeking to implement a scientific drilling project offshore Nantucket as part of the International Ocean Drilling Programme. Copied into this e-mail is one of the Chief Scientists for the project, Prof. Brandon Dugan, Colorado School of Mines.

We're reaching out to you at the request of KP Law who, in their response to the NSF's Draft Environmental Assessment for our project, recommended that we seek a meeting before the Nantucket Select Board to answer questions from the town and from members of the public. Brandon and I would be grateful for the opportunity to discuss our project, and to be considered in the agenda of one of your upcoming meetings in April.

If it is possible for us to be included, is there the opportunity to attend via video link?

Thank you, and we look forward to your reply.

Yours sincerely,
David McInroy

David McInroy BSc, MSc
Principal Marine Geoscientist
Science Manager, ECORD Science Operator (ESO)

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Survey



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Libby Gibson

From: Devan C. Braun <DBraun@k-plaw.com>
Sent: Thursday, April 3, 2025 1:50 PM
To: ma-gmac@mass.gov
Cc: Libby Gibson; Lauren Sinatra; Andrew Patnode; John W. Giorgio; Lauren F. Goldberg
Subject: GMAC - Public Comments from the Town of Nantucket
Attachments: NANT - Public Comment Letter to GMAC.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon:

Attached for filing and consideration is a letter containing the Town of Nantucket's public comments on the Grid Modernization Advisory Council's review and recommendation on plans to electrify and update the grid.

Thank you kindly for your attention to this matter. If you have any questions, please contact me.

Best,
Devan

Devan C. Braun, Esq.

KP | LAW

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The Leader in Public Sector Law

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April 3, 2025

BY ELECTRONIC MAIL ONLY (ma-gmac@mass.gov)

Members of the Grid Modernization Advisory Council
100 Cambridge Street, 9th Floor
Boston, MA 02114

Re: Grid Modernization Advisory Council – Comments from the Town of Nantucket

Members of the Grid Modernization Advisory Council:

This firm represents the Town of Nantucket, Massachusetts (Town). Please accept this letter as the Town's public comments on the Grid Modernization Advisory Council (GMAC)'s review and recommendation of the investor-owned electric distribution companies' (EDCs) plans regarding the electrification and updates to the grid.

At the outset, the Town of Nantucket notes its general support for the Commonwealth's mission to create a clean, affordable, resilient, and equitable energy future for all. This letter provides comments on and expresses the Town's ongoing concerns regarding the Commonwealth's grid modernization planning and its implications for the Town's energy future, as Nantucket faces unique challenges as the Commonwealth's most remote community with critical concerns related to the reliability and resiliency of our grid infrastructure, the growing demand for electricity, and the associated cost burden on local ratepayers as the Commonwealth plans its electrification and clean energy transition. The Town appreciates the opportunity to raise these issues and provide input on how Nantucket can best align with the Commonwealth's decarbonization goals while addressing the Town's specific needs.

I. LEGAL FRAMEWORK

Pursuant to "An Act Driving Clean Energy and Offshore Wind," added by St. 2022, § 53, each EDC is required to develop an electric sector modernization plan (ESMP). G.L. c. 164, § 92B. In so doing, each EDC must proactively upgrade the distribution and transmission systems to improve grid reliability and resiliency; enable increased use of renewable resources; promote energy storage and electrification; prepare for climate-drive impacts on the transmission and distribution systems; accommodate future demands; and mitigate impacts on ratepayers of the Commonwealth. *Id.* Grid updates also must comply with An Act Promoting a Clean Energy Grid, Advancing Equity, and Protecting Ratepayers, St. 2024, c. 239, § 134.

As you know, GMAC is required to review and provide recommendations and input on the ESMPs. *Id.* See also G.L. c. 164, § 92C. In its review, GMAC is charged with encouraging least-cost investments in the electric distribution systems, alternatives to the investments or alternative approaches to financing investments that will facilitate the achievement of the statewide greenhouse gas emission limits, and increasing the transparency and stakeholder engagement in the grid planning process. G.L. c. 164, § 92C.

Specifically, GMAC's recommendations must: "maximize net customer benefits and demonstrate cost-effective investments in the distribution grid," including for renewable energy resources; "minimize or mitigate impacts on ratepayers throughout the commonwealth"; and "reduce impacts on and provide benefits to low-income ratepayers throughout the commonwealth." *Id.* Once GMAC has reviewed and provided appropriate

recommendations, the EDCs will make appropriate revisions to their plan and file it with the Department of Public Utilities (DPU).

Please allow this comment letter to address the specific issues on which GMAC may make recommendations as it concerns the Town, such as its current infrastructure constraints, alternatives and least-cost investments, reducing the impact on Nantucket ratepayers, and improving transparency in the grid modernization and planning process.

II. FACTUAL BACKGROUND

To facilitate the clean energy transition in the Commonwealth, substantial electric distribution infrastructure investments are planned.¹ As it concerns Nantucket's current infrastructure and capacity, the Town's peak demand is growing at five times the Massachusetts statewide average, raising concerns about the island's grid infrastructure and capacity.² By way of background, electric service is currently delivered to Nantucket via two undersea cables from the mainland grid. These cables run approximately 30 miles from Cape Cod to the National Grid substation on Candle Street in Nantucket's historic downtown.³ The first cable, installed in 1996, connects to Harwich, Massachusetts and has a capacity of 36 MW at a cost of \$27 million. The second, installed in 2006, connects to Hyannis, Massachusetts and has a capacity of 38 MW at a cost of \$41 million. Both cables are classified as distribution assets of Nantucket Electric Company, a subsidiary of National Grid, with all costs borne solely by island ratepayers.

The island's peak load of 55 MW has already exceeded the capacity of one undersea cable, a 6 MW Tesla Battery Energy Storage System (BESS), and a 10 MW turbine generator installed in 2019. As such, discussions are occurring with National Grid about a third undersea cable to maintain appropriate levels of reliability in future years. A third cable, if deemed necessary, would likely follow the same cost structure, placing a significant financial burden on island ratepayers.

Nantucket also faces a natural "reverse capacity limit" which restricts the amount of local renewable energy that can be developed on the island without risking back feeding events across the undersea cables to the mainland. This limit remains undefined, creating significant uncertainty and hindering the efficient advancement of local solar projects and key non-wire alternatives (NWAs).⁴

Of note, in 2024, two major electric service disruptions occurred: a cable failure in May and a widespread outage during the Christmas Stroll weekend. These incidents underscore the urgent need for

¹ The Town has also submitted comments to DPU and DTC regarding these upgrades as pertinent to their joint inquiry exploring utility pole attachment, conduit access, and related considerations applicable to utility work conducted in the Town as the Commonwealth facilitates its clean energy transition and electrification and modernization of the grid, which it incorporates here by reference. See DPU and DTC, Notice of Inquiry and Request for Comments, dated January 17, 2025, available at <https://www.mass.gov/doc/dpu-25-10dtc-25-1-notice-of-inquiry-and-request-for-comments/download>.

² See Worcester Polytechnic Institute, Stimulating the Adoption of Solar PV on Nantucket, available online at <https://wp.wpi.edu/nantucket/projects/2017-projects/neo/>.

³ Nantucket Current, One Of The Two Undersea Cables That Provide Electricity To Nantucket Is Broken Down (May 4, 2024), available online at https://nantucketcurrent.com/news/one-of-the-two-undersea-cables-that-provide-electricity-to-nantucket-is-broken-down?utm_source=chatgpt.com; see also National Grid, Nantucket Peak Load, available online at <https://www.nationalgridus.com/media/pdfs/resi-ways-to-save/0416-natgrid-ma-hes-ngma-353598-nantucketfaqdocument-v6.pdf>.

⁴ Non-wires alternatives are electric utility system investments that can replace the need for specific transmission and distribution projects at lower total resource cost by reliably reducing transmission congestion or distribution system constraints at times of peak demand in specific grid areas. See NWA at National Grid, <https://www.nationalgridus.com/Business-Partners/Non-Wires-Alternatives/>.

enhanced resiliency and sustainability measures to prevent future events of this magnitude, particularly as the Commonwealth begins exploring additional upgrades and expansions to promote electrification and grid modernization.

The Town appreciates the opportunity to submit public comments on some of its unique grid and infrastructure needs as GMAC and the EDCs undertake their ESMP planning process.

III. GMAC AND THE EDCS MUST TAKE INTO ACCOUNT CURRENT INFRASTRUCTURE CONSTRAINTS, DEMAND AND RELIABILITY ISSUES, AND COST IMPLICATIONS FOR NANTUCKET RATEPAYERS IN GRID MODERNIZATION AND PLANNING EFFORTS

A. Peak Load Growth and Infrastructure Constraints

As noted, Nantucket's electricity demand continues to grow at an unprecedented rate and already exceeds the capacity of each undersea delivery cable from Cape Cod. As electrification accelerates under Massachusetts's decarbonization and electrification plans, there is a heightened risk that the current infrastructure will be unable to meet current and future demand. A failure of one of the two undersea cables during the peak season would leave the island without sufficient capacity to power essential services, posing a significant risk of prolonged outages and widespread disruption. To mitigate this potential catastrophe, the Town requests clarity and transparency on the State's and/or EDCs' plans for deploying additional roll-on generators and/or other contingency measures during this process.

Additionally, given that internal forecasts and communications with National Grid may suggest that a third undersea cable may be required by 2033, the Town urges National Grid to outline a detailed timeline for planning, permitting, and installation as part of these utility and infrastructure system upgrades. When the Tesla BESS was proposed in 2018, the forecast for needing a third cable was projected as far out as 2044. The accelerated timeline highlights the rapid growth in electricity demand and the urgency of addressing these challenges. Recent failures also underscore the vulnerability of current infrastructure, particularly during peak periods, making greater urgency and transparency essential.

Considering the aging infrastructure, the Town also asks what local distribution infrastructure upgrades are planned in the near- and long-term and whether replacing the first cable, which is nearing 30 years old, with a significantly higher-capacity cable, is being evaluated as part of this planning process.

B. Electrification and Renewable Energy Integration

The Town also notes that current substation limitations significantly restrict local renewable energy deployment due to concerns about power back feeding to the mainland during low-demand periods. The Town, therefore, urges the prioritization of essential upgrades, such as 3VO protection at the Candle Street substation, to unlock Nantucket's renewable energy potential and ensure grid reliability as electrification continues to accelerate.

Additionally, the island faces a significant challenge related to its solar capacity limit. Current infrastructure constraints, including the "reverse power limit," hinder Nantucket's ability to effectively plan for and expand distributed generation (DG) projects. As such, the Town requests consideration and a clear

assessment of this limit and the steps being taken to address it. Without such transparency, the Town is unable to adequately prepare for future DG capacity needs. Once this limit is reached, a comprehensive transmission study will be required to determine necessary upgrades, such as reverse power relays.

The Town commends the State's and EDC's efforts to pursue grid modernization and utility system upgrades but stresses the critical need for collaboration to address Nantucket's unique needs and challenges. Nantucket offers a valuable opportunity to pilot innovative solutions, such as NWAs, Virtual Power Plants (VPPs),⁵ and advanced demand-side management strategies. Given the substantial costs associated with traditional infrastructure upgrades, including a potential third undersea cable, leveraging Nantucket as a testing ground could yield insights and scalable solutions with broader applications across Massachusetts.

C. Cost Implications for Ratepayers

Finally, the Town notes that current electricity prices on Nantucket are significantly higher than the national average. The anticipated cost of a third undersea cable, estimated at over \$200 million, also presents a significant economic burden for Nantucket ratepayers, who already finance the existing cables through a roughly 15% cable facility surcharge. To minimize any further impact on Nantucket ratepayers through the grid modernization process, the Town urges the active exploration of funding opportunities through federal and state programs for grid resiliency, such as Section 40101(d) of the Bipartisan Infrastructure Investment and Jobs Act, to help alleviate this financial strain, throughout its electrification and upgrade and expansion projects.

IV. CONCLUSION

The Town thanks GMAC for this opportunity to provide comments regarding the electrification of the grid and cost implications for ratepayers. Nantucket's grid is a vital part of the community's resilience and sustainability, and its modernization must be addressed with urgency and equity. As the Town works to meet the Commonwealth's ambitious decarbonization goals, the Town urges the state agencies and EDCs to prioritize the island's unique challenges in planning and funding decisions to ensure a cleaner, more reliable energy future for Nantucket.

Thank you for your attention to these critical issues.

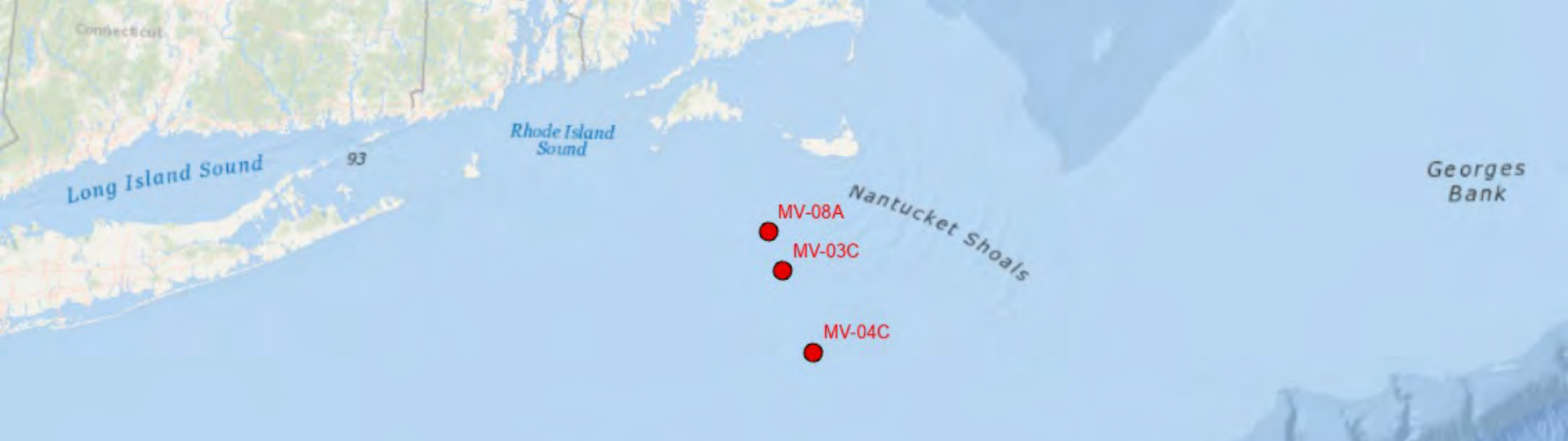
Very truly yours,



Devan C. Braun

cc: Town Manager
DPW Director
Energy Coordinator
Select Board

⁵ Virtual power plants are a network of devices in homes and businesses that can be harnessed by utilities to add power, cut energy demand, or both. See WBUR, How Virtual Power Plants Help Reduce Peak Power Demand in New England, available at <https://www.wbur.org/news/2024/08/28/virtual-power-plants-eversource-massachusetts-batteries-ev-chargers/>.



David McInroy, dbm@bgs.ac.uk



British
Geological
Survey

IODP³ – NSF Expedition 501: New England Shelf Hydrogeology



Science Operator

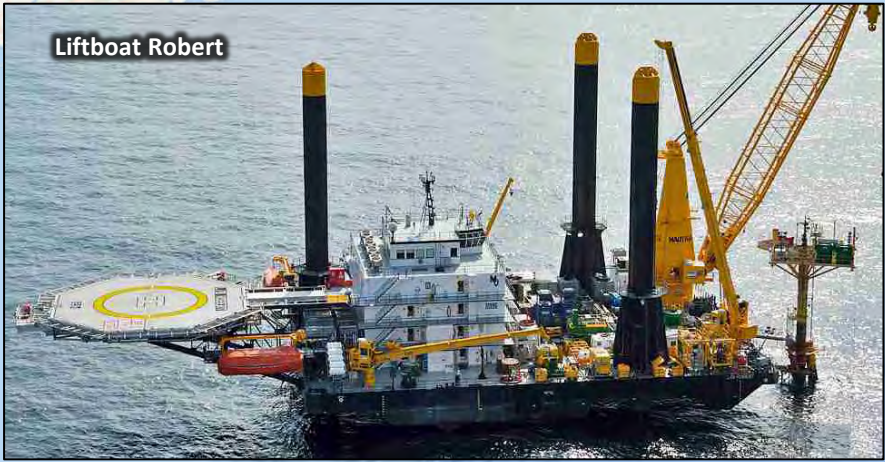
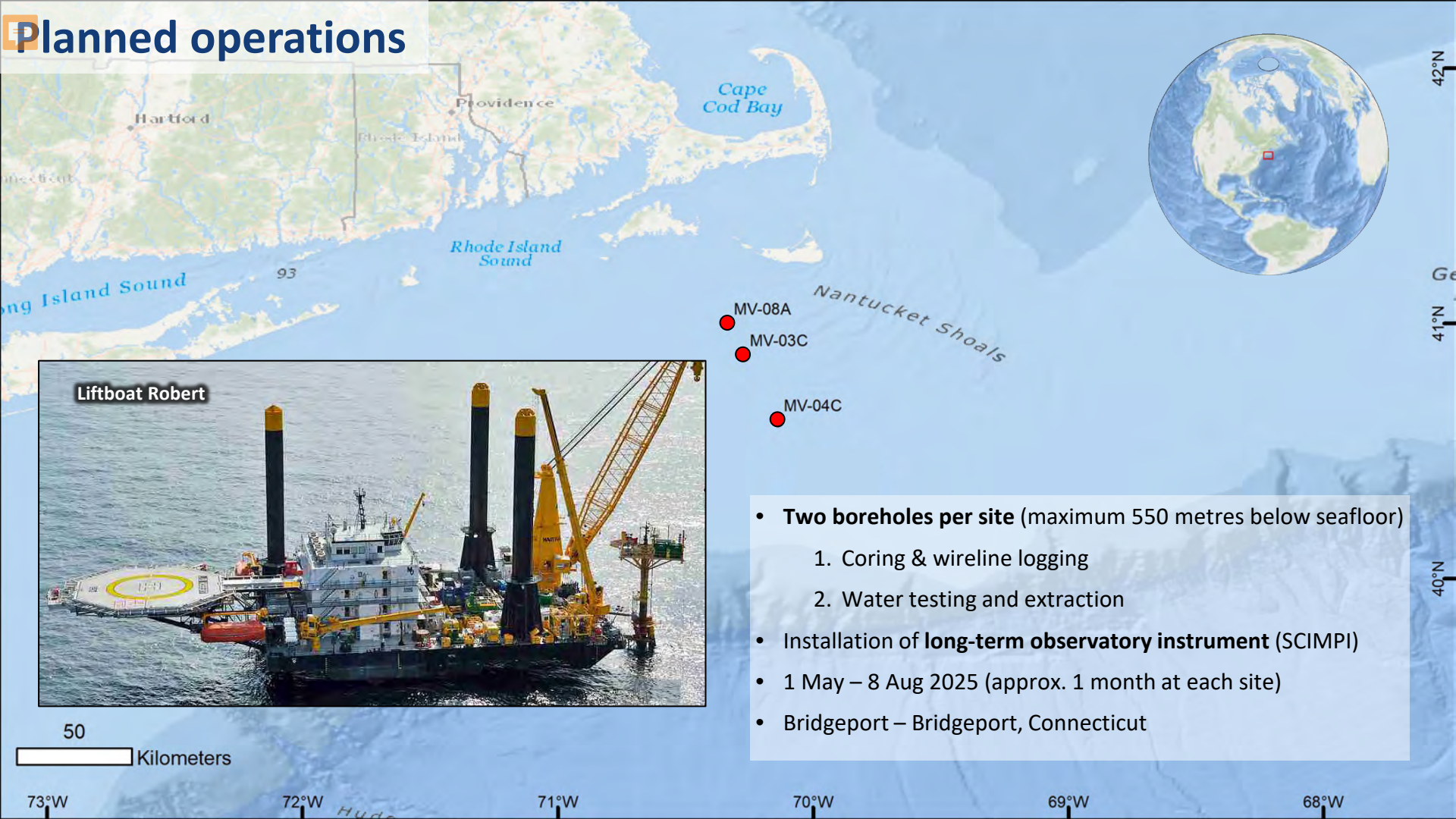


National
Science
Foundation



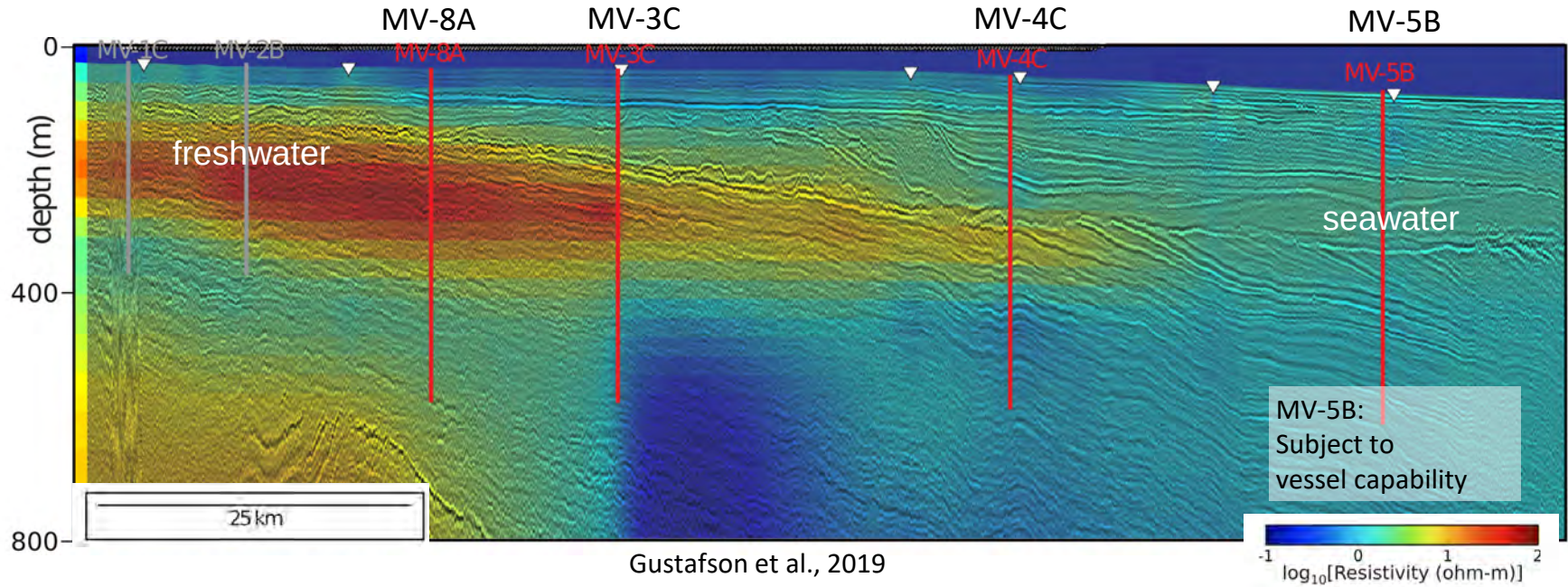
INTERNATIONAL
OCEAN DRILLING
PROGRAMME

Planned operations



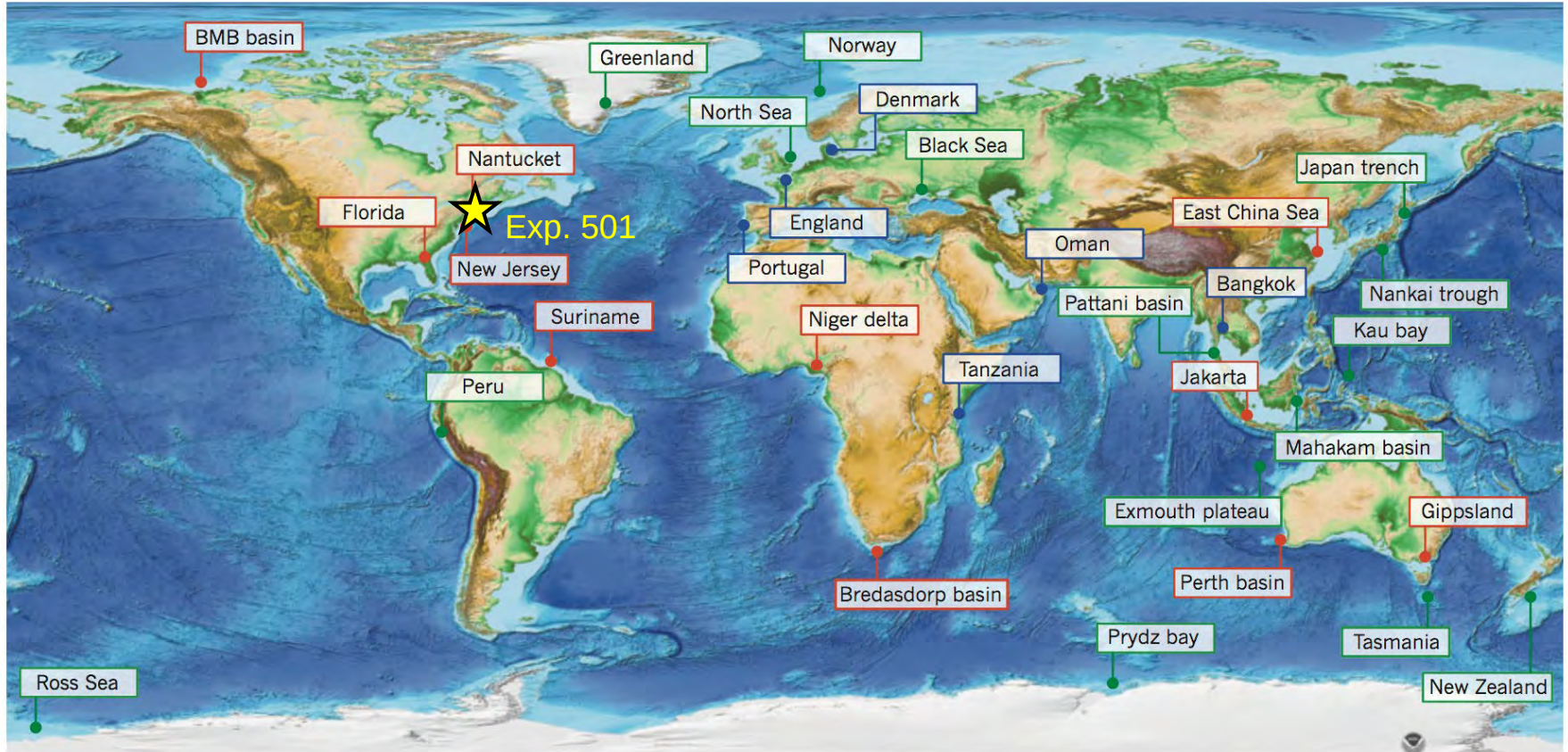
- **Two boreholes per site** (maximum 550 metres below seafloor)
 1. Coring & wireline logging
 2. Water testing and extraction
- Installation of **long-term observatory instrument** (SCIMPI)
- 1 May – 8 Aug 2025 (approx. 1 month at each site)
- Bridgeport – Bridgeport, Connecticut

Operational Strategy: 6 boreholes holes on 3 sites



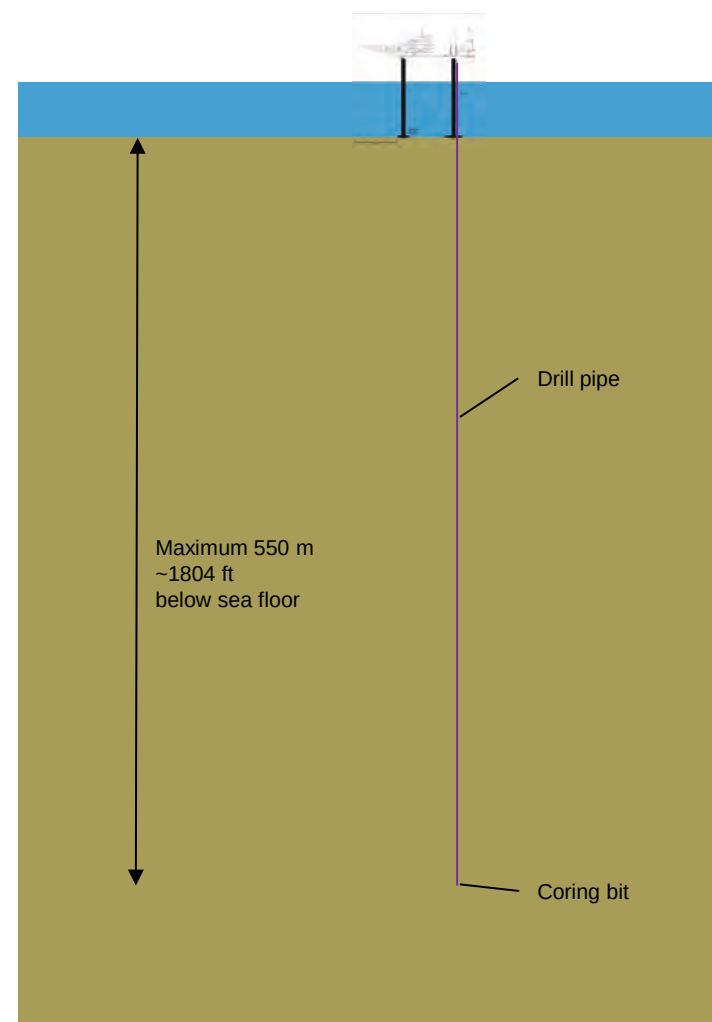
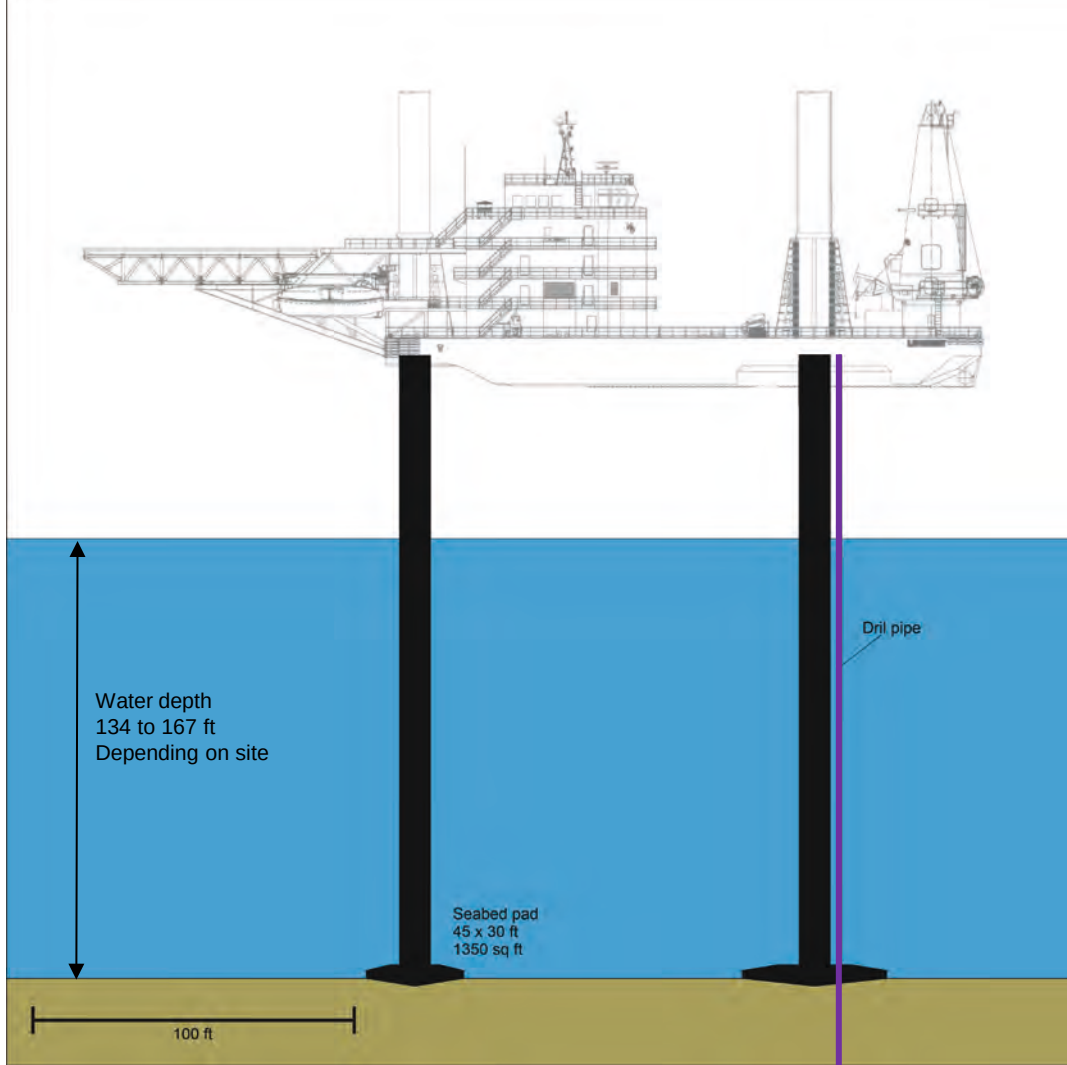
- Hole 1: core, wireline log, long-term condition monitor
- Hole 2: water testing / extraction (~250 – 350 mbsf)
- Preferred operational sequence: MV-8A -> MV-3C -> MV-4C

Global Offshore Freshwater: 500,000 km³



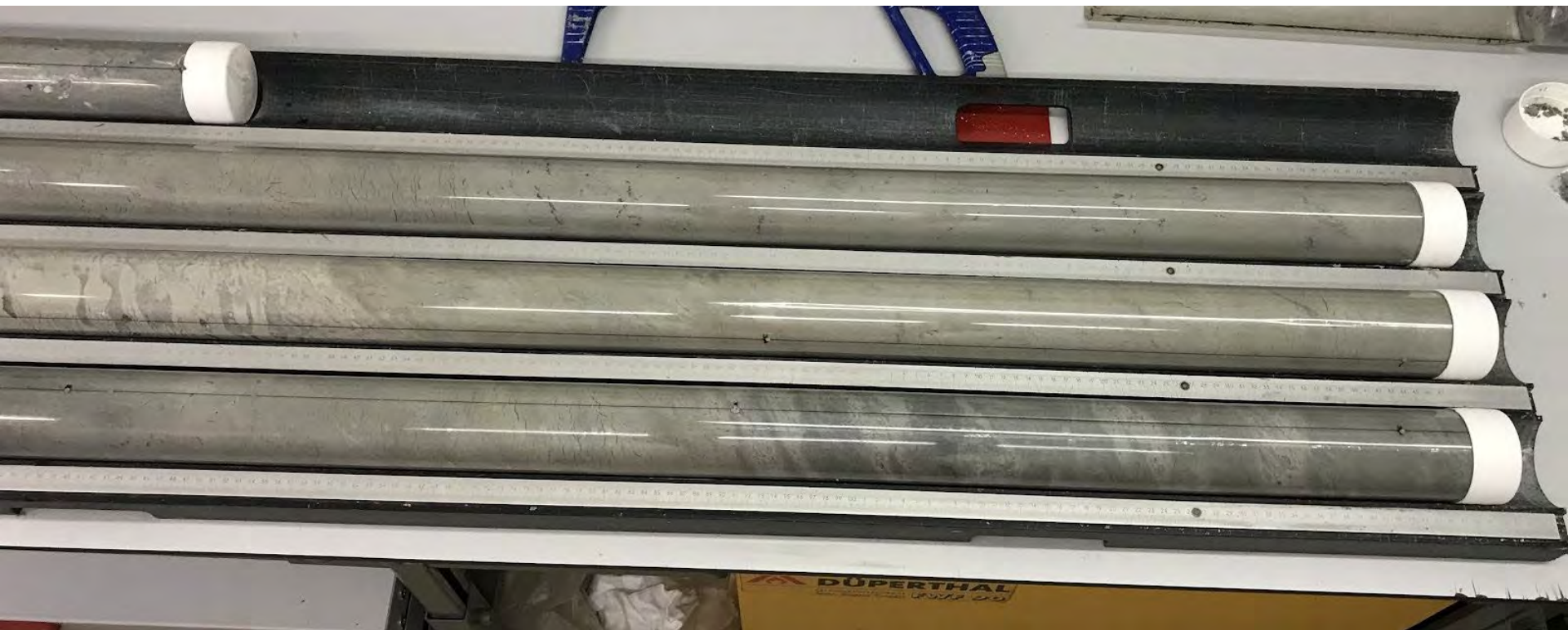








5.5 inches
diameter



42°N

- Exp. 501 Proposed Sites
- Exp. 501 Key Places
- 12 NM limit
- BOEM Wind Leases 6_30_2022
- ⋯ Traffic Lane

Fall River Port, MA

HeliService USA Quonset

Occasional OSV runs



McAllister Towing, Bridgeport, CT

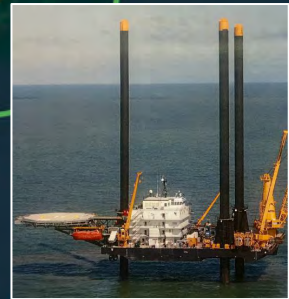


Depart Bridgeport
beginning of May

Visit each site for 30-35 days

- Coring, logging, water sampling

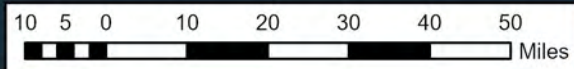
Complete work by 1st week of Aug



MV-08A

MV-03C

MV-04C

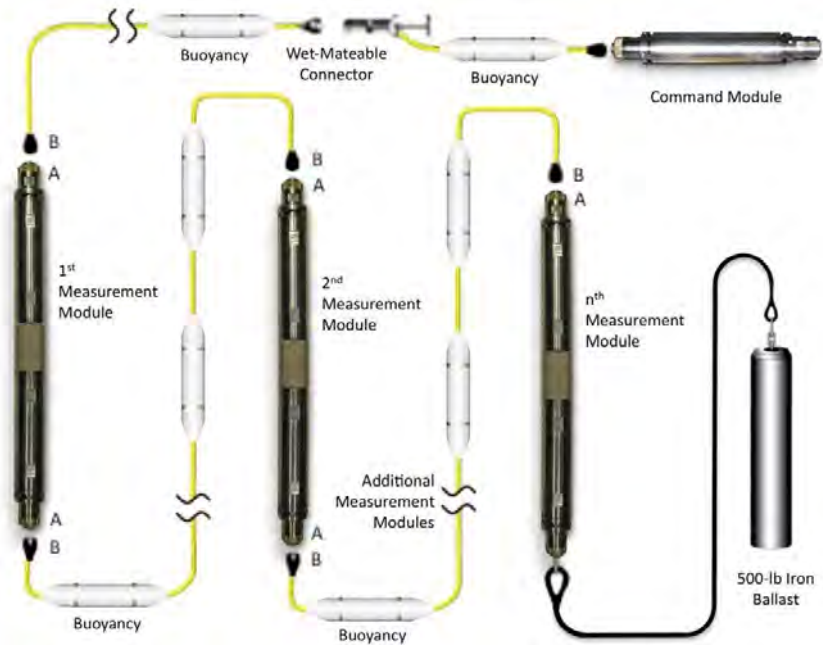


73°W

72°W

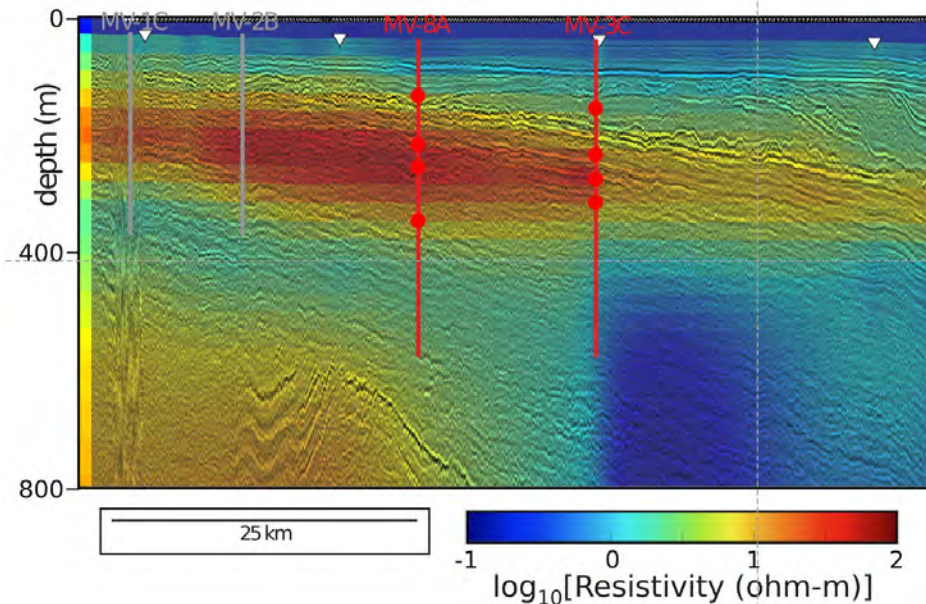
71°W

70°W



Cable (yellow):

- standard underwater electro-optical cable
- copper wire and optical fibre
- polyurethane jacket
- about 2cm diameter

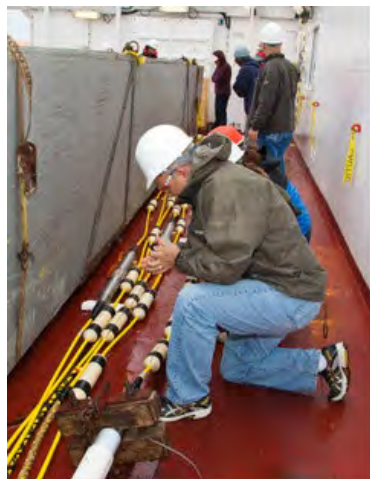


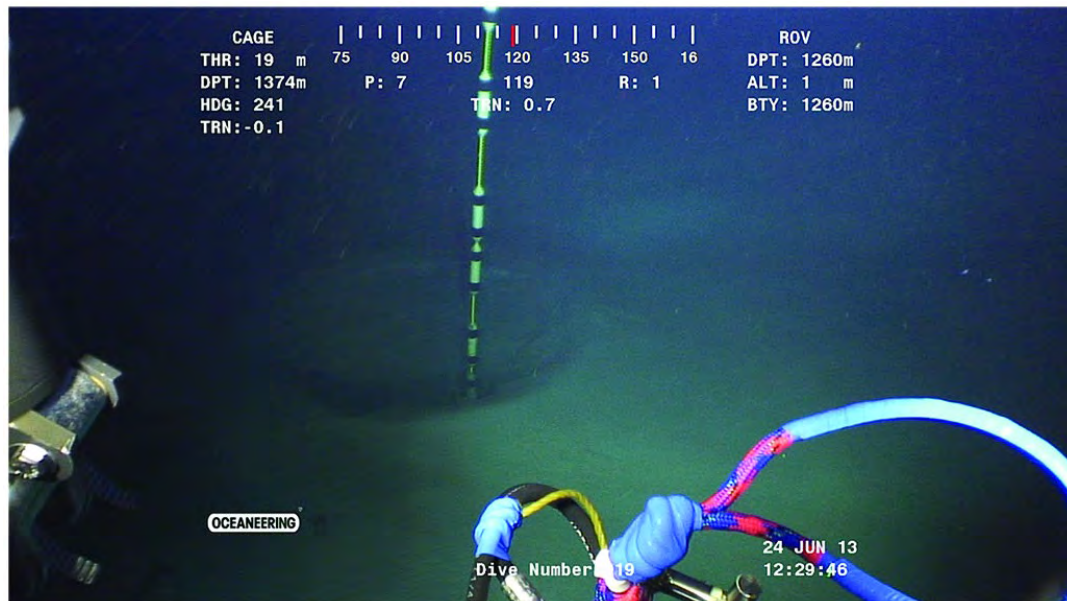
Command module:

- sits on the seafloor
- 2 units
- unit 1 – data recording, 13.876" long, 3" diameter
- unit 2 – power (battery), 37.626" long, 3" diameter

Measurement modules:

- remains in borehole, shown as red dots above
- 3 sensors per module: pressure, temperature, resistivity
- 42" long, 3" diameter per module





Expedition Website

<https://www.ecord.org/expedition501/>



Expedition Blogsite

<https://expedition501.wordpress.com/>



Daily Reports from the vessel, sign up link

<https://www.jiscmail.ac.uk/cgi-bin/webadmin?SUBED1=ECORDSO&A=1>

Managed by the UK-based JISCMail server



YouTube – <https://www.youtube.com/@ECORDES0>

Instagram – @ecord_iodp

Bluesky - @ecord.bsky.social

ECORD: European Consortium for Ocean Research Drilling,
a central member of the International Ocean Drilling Programme
www.iodp3.org



Agenda Item Summary

Agenda Item #	VIII. 2.
Date	4/30/2025

Staff

Kristie Ferrantella, Municipal Housing Director

Subject

Request of approval and execution of regulatory agreement and declaration of restrictive covenants for rental project at 1-7 Chicory Place.

Executive Summary

This is a routine request for the approval and execution of the Regulatory Agreement for the Seven rental units that Richmond developed in Meadows I. The document is reviewed by Town Counsel, EOHLC and The Richmond Company. All 28 units of the property have been approved for our Subsidized Housing Inventory (SHI) list.

Staff Recommendation

Approve and execute the Regulatory Agreement.

Background/Discussion

The approval and execution of the Regulatory Agreement secures the long-term affordability of the rental units at the 80% AMI or less level and further ensures their long-term inclusion in our SHI.

Impact: Environmental ☐ Fiscal ☐ Community ☒ Other ☐

In furtherance of the development of affordable / year-round housing.

Board/Commission Recommendation

N/A

Public Outreach

N/A

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

Strategic Plan – Housing

Attachments

- 1) Regulatory Agreement



LOCAL INITIATIVE PROGRAM

**REGULATORY AGREEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS
FOR
RENTAL PROJECT
Local Action Units**

MEADOWS ONE – NANTUCKET, MASSACHUSETTS

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this _____ day of _____, 2025 by and among the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities ("EOHLC") pursuant to G.L. c.23B §1 as amended by Chapter 7 of the Acts of 2023, the Town of Nantucket (the "Municipality"), a Massachusetts municipal corporation with an address of 16 Broad Street, Nantucket, Massachusetts 02554, and Meadows One ACK, LLC, a Massachusetts limited liability company, having an address C/O The Richmond Company, Inc., 23 Concord Street, Wilmington, Massachusetts 02554, and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low- and Moderate-Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer owns an existing rental housing development known as the "Meadows I", located at an +/- 1.64-acre site on 1-7 Chicory Place in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project consists of a total number of twenty-eight (28) rental dwellings (the "Units") and seven (7) of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low- and Moderate-Income Units");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to EOHLC to certify that the units in the Project are Local Action Units (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, EOHLC has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, EOHLC, the Municipality, and the Developer hereby agree and covenant as follows:

1. Project. All Low- and Moderate-Income Units that are a part of the Project must be indistinguishable from other Units in the Project from the exterior and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup.

2 of the Low- and Moderate-Income Units shall be Studio units;
1 of the Low- and Moderate-Income Units shall be one-bedroom units; and
4 of the Low- and Moderate-Income Units shall be two-bedroom units.

Low- and Moderate-Income Units must have the following minimum areas:

studio units	-	250 square feet
one-bedroom units	-	500 square feet
two-bedroom units	-	900 square feet

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Project and each Low- and Moderate-Income Unit will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability.

(a) Throughout the term of this Agreement, each Low- and Moderate-Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is an individual, or a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low- and Moderate-Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The "Area" is defined as the Nantucket County MSA/HMFA/Non-Metropolitan County.

(b) The monthly rents charged to tenants of Low- and Moderate-Income Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with

adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for a Low- and Moderate-Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low- and Moderate-Income Units are set forth in Exhibit B attached hereto. If the rent for a Low- and Moderate-Income Unit is subsidized by a state or federal rental subsidy program, then the rent applicable to the Low- and Moderate-Income Unit may be limited to that permitted by such rental subsidy program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

Annually as part of the annual report required under Subsection 2(e) below, the Developer shall submit to the Municipality and EOHLC a proposed schedule of monthly rents and utility allowances for all Low- and Moderate-Income Units in the Project. Such schedule shall be subject to the approval of the Municipality and EOHLC for compliance with the requirements of this Section. Rents for Low- and Moderate-Income Units shall not be increased without the Municipality's and EOHLC's prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Developer to all affected tenants. If an annual request for a new schedule of rents for the Low- and Moderate-Income Units as set forth above is based on a change in the Area median income figures published by HUD, and the Municipality and EOHLC fail to respond to such a submission within thirty (30) days of the Municipality's and EOHLC's receipt thereof, the Municipality and EOHLC shall be deemed to have approved the submission. If an annual request for a new schedule of rents for the Low- and Moderate-Income Units is made for any other reason, and the Municipality and EOHLC fail to respond within thirty (30) days of the Municipality's and EOHLC's receipt thereof, the Developer may send EOHLC and the Municipality a notice of reminder, and if the Municipality and EOHLC fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and EOHLC shall be deemed to have approved the submission.

Without limiting the foregoing, the Developer may request a rent increase for the Low and Moderate Units to reflect an increase in the Area median income published by HUD between the date of this Agreement and the date that the Units begin to be marketed or otherwise made available for rental pursuant to Section 4 below; if the Municipality and EOHLC approve such rent increase in accordance with this subsection, the Initial Maximum Rents and Utility Allowances for Low- and Moderate-Income Units in Exhibit B of the Agreement shall be deemed to be modified accordingly.

(c) If, after initial occupancy, the income of a tenant of a Low- and Moderate-Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low- and Moderate-Income Unit in conformance with Section 2(a) of this Agreement, or otherwise demonstrates compliance with Section 2(a) of this Agreement.

(d) If, after initial occupancy, the income of a tenant in a Low- and Moderate-Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of each Low- and Moderate-Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to EOHLC as provided in section 2(g), below.

(f) The Developer shall enter into a written lease with each tenant of a Low- and Moderate-Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to EOHLC that each of the Low- and Moderate-Income Units continues to be Low- and Moderate-Income Unit as provided in sections 2 (a) and(c), above; and that the Project and the Low- and Moderate-Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

3. Subsidized Housing Inventory.

(a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). All of the Units will be deemed Low- and Moderate-Income housing to be included in the Subsidized Housing Inventory.

(b) Units included in the Subsidized Housing Inventory will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and each of the Low- and Moderate-Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time and (3) each Low- and Moderate-Income Unit remains a Low- and Moderate-Income Unit as provided in section 2(c), above.

4. Marketing. Prior to marketing or otherwise making available for rental any of the Units, the Developer must obtain EOHLC's approval of a marketing plan (the "Marketing Plan") for the Low- and Moderate-Income Units. Such Marketing Plan must describe the tenant selection process for the Low- and Moderate-Income Units and must set forth a plan for affirmative fair marketing of Low- and Moderate-Income Units to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%)

of the Low- and Moderate-Income Units, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to EOHLC for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and EOHLC directives reflecting the agreement between EOHLC and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low- and Moderate-Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the last Low- and Moderate-Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by EOHLC which may be inspected at any time by EOHLC. All Marketing Documentation must be approved by EOHLC prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low- and Moderate-Income Units, EOHLC determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by EOHLC.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, disability, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. EOHLC and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the

County where the Project is located (collectively hereinafter, the "Registry of Deeds"), and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to EOHLC and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by EOHLC, or other permitted encumbrances, including mortgages referred to in paragraph 17, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) Except for rental of Units to Low- or Moderate-Income Tenants as permitted by the terms of this Agreement, the Developer will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a "Sale") or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of EOHLC and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Developer's obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow

and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;

- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Development is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless EOHLC or the Municipality notifies the Developer within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Developer shall provide EOHLC and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Developer's interest in the Project or any party of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive

income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, EOHLC's consent under this Section 9 shall not be required with respect to the grant by the Developer of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

Developer hereby agrees that it shall provide copies of any and all written notices received by Developer from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Casualty; Demolition; Change of Use.

(a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not, without prior written approval of EOHLC and the Municipality and an amendment to this Agreement, change the type or number of Low- and Moderate-Income Units. The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project, or permit the use of the dwelling accommodations of the Project for any purpose except residences and any other uses permitted by the applicable zoning then in effect;

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

EOHLC: Executive Office of Housing and Livable Communities
Attention: Local Initiative Program Director
100 Cambridge Street, 3rd Floor
Boston, MA 02114

Municipality: Town of Nantucket
Attention: Select Board

Town & County Building
16 Broad Street
Nantucket, MA 02554

With a copy to:

KP | Law, P.C.
Attention: Vicki S. Marsh, Esq.
101 Arch Street, 12th Floor
Boston, MA 02110

Developer: Meadows One ACK, LLC
Attention: Philip Pastan, Manager
23 Concord Street
Wilmington, MA 01887

13. Term.

(a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, Developer and its successors and assigns, and EOHLC and its successors and assigns and the Municipality and its successors and assigns. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of EOHLC and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Lender Foreclosure. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

15. Further Assurances. The Developer and the Municipality each agree to submit any information, documents, or certifications requested by EOHLC which EOHLC shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. Default.

(a) The Developer and the Municipality each covenant and agree to give EOHLC written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If EOHLC becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, EOHLC shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "EOHLC Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of EOHLC within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the EOHLC Default Notice, then at EOHLC's option, and without further notice, EOHLC may either terminate this Agreement, or EOHLC may apply to any state or federal court for specific performance of this Agreement, or EOHLC may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If EOHLC elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16, then the Low- and Moderate-Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed Low- and Moderate-Income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that EOHLC or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse EOHLC for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

Executed as a sealed instrument as of the date first above written.

DEVELOPER

MEADOWS ONE ACK, LLC

By: _____
Name:

EXECUTIVE OFFICE OF HOUSING AND
LIVABLE COMMUNITIES

By: _____
Its:

TOWN OF NANTUCKET

By: _____
Its Chief Executive Officer

Attachments: Exhibit A - Legal Property Description
Exhibit B - Rents for Low- and Moderate-Income Units

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 2025

On this _____ day of _____, 2025, before me, the undersigned notary public, personally appeared Philip Pastan, in his capacity as the Manager of Meadows One ACK, LLC, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, in his capacity as aforesaid, and acknowledged to me that he signed it voluntarily for its stated purpose as the free act and deed of Meadows One ACK, LLC.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, 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 document, as _____ for the Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, 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 document, as _____ for the City/Town of _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**CONSENT AND SUBORDINATION OF MORTGAGE
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Construction Mortgage and Security Agreement dated as of February 28, 2017 given by MEADOWS ONE ACK, LLC to EASTERN BANK, recorded with the Nantucket County Registry District of the Land Court as Document No. 154521 filed with Certificate of Title No. 26391 (as amended, "Mortgage").

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

EASTERN BANK

By: _____
Its: _____

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss. _____, 20__

On this _____ day of _____, 20__, 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 document, as _____ of _____ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Re: Meadows One
(Project name)
Nantucket, Massachusetts
(City/Town)
Meadows One ACK, LLC
(Developer)

Property Description

Real property in the Town of Nantucket, County of Nantucket, Commonwealth of Massachusetts, with buildings and improvements now or hereafter located thereon, described as follows:

Lots 863, 864, 865, 866, 867, and 868 shown on Land Court Plan No. 16514-102.

For title, see Certificate of Title Number 26,391.

EXHIBIT B

Re: Meadows One
(Project name)
Nantucket, Massachusetts
(City/Town)
Meadows One ACK, LLC
(Developer)

Initial Maximum Rents and Utility Allowances for Low- and Moderate-Income Units

	<u>Maximum Monthly Rents</u>	<u>Utility Allowance</u>
	<u>(net of Utility Allowance)</u>	
Studio units	\$ <u>1,749</u>	\$ <u>169</u>
One-bedroom units	\$ <u>1,995</u>	\$ <u>198</u>
Two-bedroom units	\$ <u>2,209</u>	\$ <u>258</u>
Three-bedroom units	\$ <u>N/A</u>	\$ <u>N/A</u>
Four-bedroom units	\$ <u>N/A</u>	\$ <u>N/A</u>



Agenda Item Summary

Agenda Item #	IX. 1.
Date	4/30/2025

Staff

Jeff Carlson, Natural Resources Director

Subject

Aquaculture License Renewals

Executive Summary

Several existing license holders have requested that expiring leases be renewed for 10 years as allowed by state and local regulation. In addition one grower who currently has six acres is proposed to move to the full ten acres allowed.

Staff Recommendation

Recommend approval

Background/Discussion

The Town issues private aquaculture licenses in accordance with state and local regulation. This is an active group of growers working their licenses in compliance and are requesting a full ten-year renewal.

Impact: Environmental ☒ Fiscal ☐ Community ☐ Other ☐

Existing lease holder; no new impacts.

Board/Commission Recommendation

N/A

Public Outreach

Legal ad run in newspaper as required.

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

Activity encouraged by existing Shellfish Management Plan and Harbor Plan

Attachments

See attachment for summary



NOTICE OF PUBLIC HEARING

In accordance with MGL Chapter 130, Sections 57, 60 and 65 and with Town of Nantucket Shellfish Regulations Section 260-4.44, the Select Board will hold a public hearing on Wednesday April 30, 2025 at 5:30 PM to consider the renewal of private shellfish aquaculture licenses held by Matt Herr of 64 South Shore Road, Andy Roberts, Inc. of 28 Kelley Road, McClain Raith of 7 Milestone Crossing, Charles Connors of 53 Polpis Road and the renewal and expansion for Sean Fitzgibbon of 10 Trotters Lane. The hearing will be held in-person in the first floor Community Room of the Public Safety Facility, 4 Fairgrounds Road and by remote participation via Zoom Webinar. Please see meeting posting for remote participation and viewing links. For further information, please email TownManager@nantucket-ma.gov.

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

JEFF CARLSON, NATURAL RESOURCES DIRECTOR
131 PLEASANT STREET
NANTUCKET, MA 02554

JCARLSON@NANTUCKET-MA.GOV
508-228-7230



To: Select Board

From: Jeff Carlson, Natural Resources Director

Re: Aquaculture Lease Renewal Request

In accordance with MGL Chapter 130, Sections 57, 60 and 65 and with Town of Nantucket Shellfish Regulations Section 260-4.44, the following aquaculture lease holders are requesting their leases be renewed within the approved areas in the Head of the Harbor (deep water site - DW) and Head of the Harbor (Coskata site - COS). In addition, awarding an additional 4 acres to Sean Fitzgibbon within the deep-water area bringing him to his full acreage.

The Natural Resources Department respectfully requests that the following aquaculture grants are renewed for the following lease holders:

Name	Lease Number	Lease Area	Acreage	Proposed Expiration Date
Matthew Herr	13	HOH – DW	4	5/1/2035
Matthew Herr	13A	HOH – Cos	2	5/1/2035
Matthew Herr	13B	HOH – DW	4	5/1/2035
Fifth Bend Oysters (fka Andy Roberts, Inc)	10	HOH – DW	4	5/1/2035
Fifth Bend Oysters	10A	HOH – Cos	2	5/1/2035
Fifth Bend Oysters	10B	HOH – DW	4	5/1/2035
Sean Fitzgibbon	12	HOH – DW	4	5/1/2035
Sean Fitzgibbon	12A	HOH – Cos	2	5/1/2035
Sean Fitzgibbon	12B	HOH – DW	4	5/1/2035
McClain Raith	15	HOH – DW	4	5/1/2035
McClain Raith	15A	HOH – Cos	2	5/1/2035
McClain Raith	15B	HOH – DW	4	5/1/2035

These lease areas are being actively worked, and all requirements of the license and license holder are being met. The Natural Resources Department is recommending the renewal of these leases for the full ten (10) year period.

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

JEFF CARLSON, NATURAL RESOURCES DIRECTOR
131 PLEASANT STREET
NANTUCKET, MA 02554

JCARLSON@NANTUCKET-MA.GOV
508-228-7230



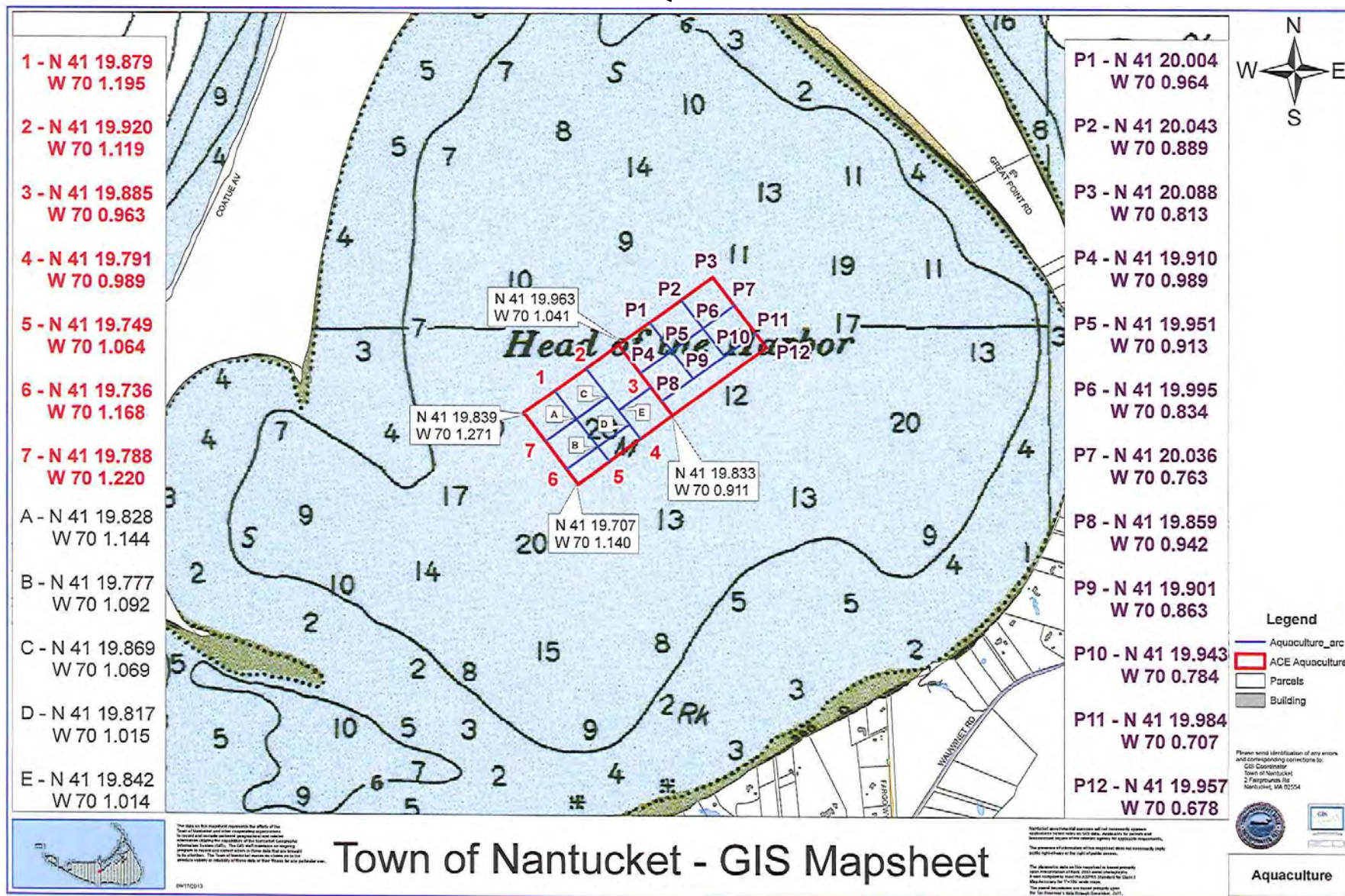
In addition, we have advertised the hearing to include the renewal of expiring leases for Charles Connors and are working toward a final recommendation that we will have to the Select Board in advance of the meeting.

Name	Lease Number	Lease Area	Acreage	Proposed Expiration Date
Charles Connors	14	HOH – DW	4	TBD
Charles Connors	14A	HOH – Cos	2	TBD
Charles Connors	14B	HOH – DW	4	TBD

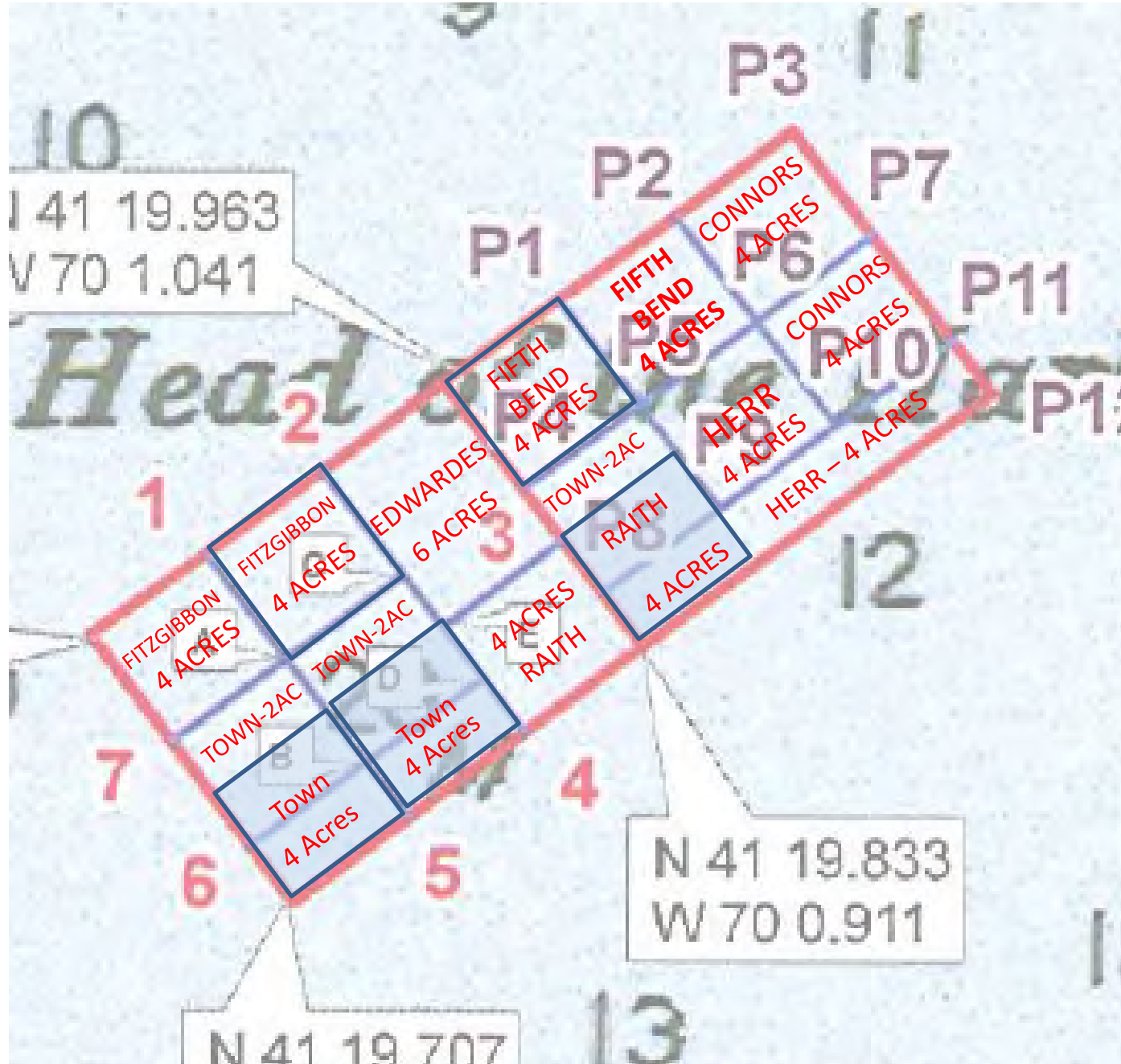
The Natural Resources Department will be present at the April 30, 2025 meeting to answer any questions. Thank you for your attention to this matter.



HEAD OF HARBOR AQUACULTURE AREA

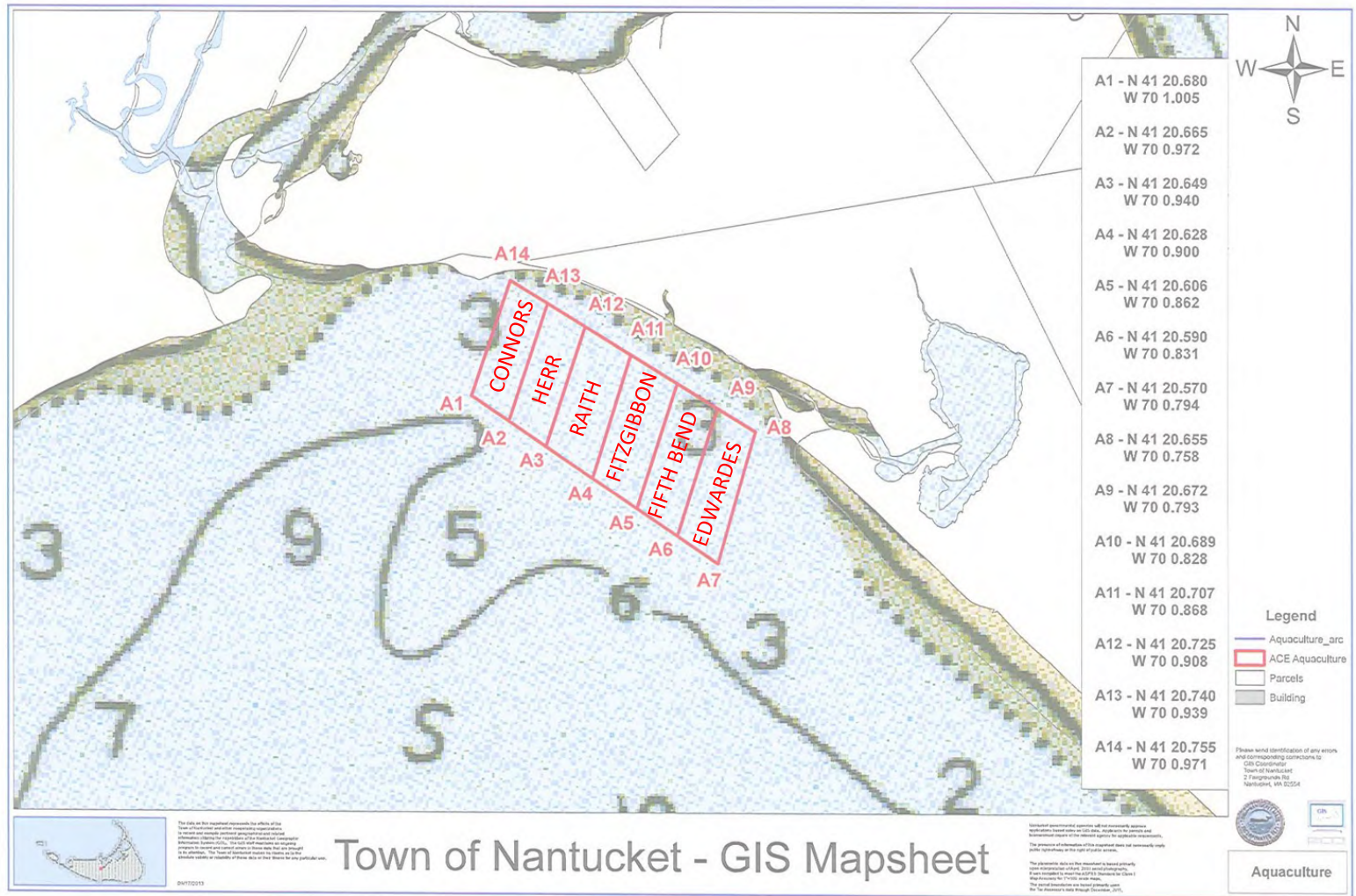


HEAD OF HARBOR AQUACULTURE AREA – HIGHLIGHTED AREAS FOR RENEWAL



Head of the Harbor – Coskata

All Sites are Two (2) Acres



PROJECT UPDATE

Spring 2025 Road Projects

Nantucket Department of Public Works

Andrew Patnode – Director

Nantucket Sewer Department

David Gray - Director



Spring 2025 Road/Paving Projects

Sewer Projects:

- Sea St. Pump Station Force Main #3 (SSPSFM#3)
- CMOM Year 1B

MassDOT Project:

- Milestone at Polpis Intersection and Bike Path Extension

Airport Projects:

- Runway Centerline Paving ✓
- Dormitory Housing Sewer Extension

Water Projects:

- Water Main Expansion West of Airport

DPW Projects:

- FY25 Annual Road Works

Spring 2025 Road/Paving Projects

Additional Projects:

- [illegible]

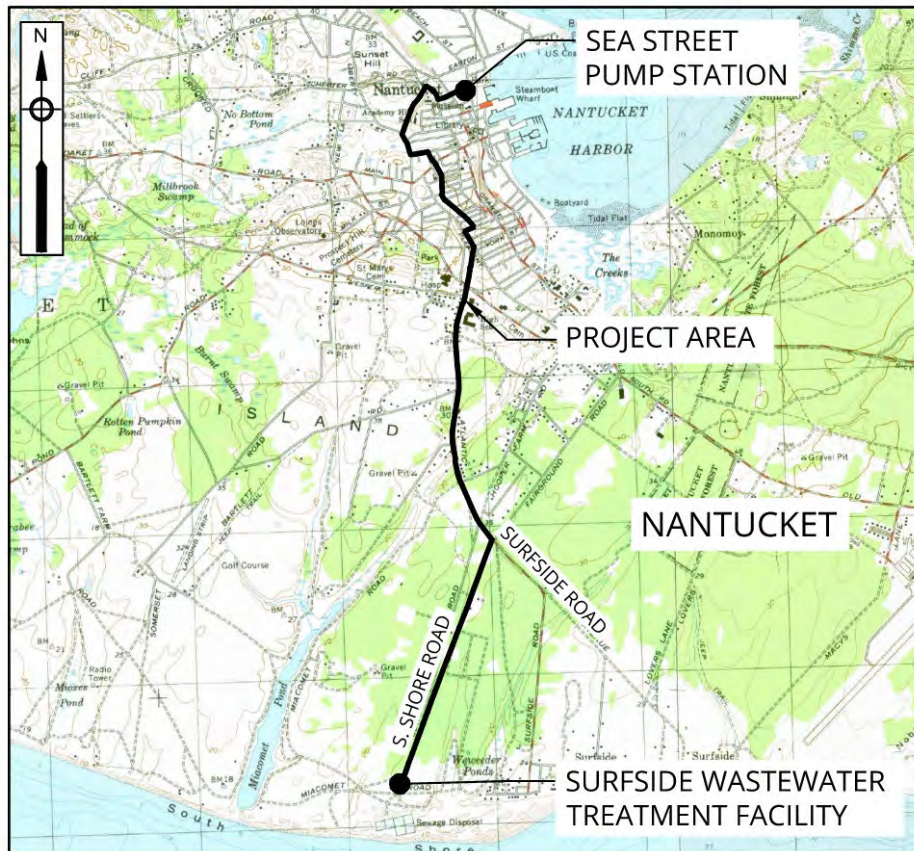


Spring 2025 Sewer Projects

Sea St. Pump Station Force Main #3:

Owner: Nantucket Sewer Dept.

Contractor: Robert B. Our Co.



Sea St.
Step Ln.
Center St.
Lily St.
Liberty St.
Winter St.

Pine St.
Silver St.
Pleasant St.
Atlantic Ave.
Surfside Rd.
S. Shore Rd.

Spring 2025 Sewer Projects

Sea St. Pump Station Force Main #3:

Owner: Nantucket Sewer Dept.

Contractor: Robert B. Our Co.



Liberty St. (1) is Lily to Gardner

Liberty St. (2) is Gardner to Winter

Road	Bike Path	Temp Pavement	Curbing	Sidewalk	Reclaim/Mill	Cobblestone	Base	Binder	Top
Sea St.	N/A	✓	✓	✓	✓	N/A	✓	✓	
N. Water St.	N/A	N/A	✓	✓	N/A	✓	N/A	N/A	N/A
Step Ln.	N/A	✓	✓	✓	✓	N/A	✓	✓	
Center St.	N/A	✓	✓	✓	✓	N/A	✓	✓	
Lily St.	N/A	✓	✓	✓	✓	N/A	✓	✓	
Liberty St. (1)	N/A	N/A	✓	✓	✓	N/A	✓	✓	
Liberty St. (2)	N/A	N/A	✓	✓	✓	N/A			
Winter St.	N/A	N/A	✓	✓	N/A		N/A	N/A	N/A
Main St.	N/A	N/A	✓	N/A	N/A		N/A	N/A	N/A
Pine St.	N/A	N/A				N/A			
Silver St.	N/A	N/A		N/A	✓	N/A	✓	✓	
Pleasant St.	N/A	✓	✓	N/A		N/A	✓	✓	
Atlantic Ave.	N/A	✓	✓	✓	✓	N/A	✓	✓	
Surfside Road	✓	✓	✓	✓		N/A	✓	✓	
South Shore Road		✓	N/A	N/A	✓	N/A	✓		
Windy Way	N/A	✓	N/A	N/A		N/A			
Bartlett Road	N/A	✓	N/A	N/A		N/A			

Spring 2025 Sewer Projects

Sea St. Pump Station Force Main #3:

Owner: Nantucket Sewer Dept.

Contractor: Robert B. Our Co.

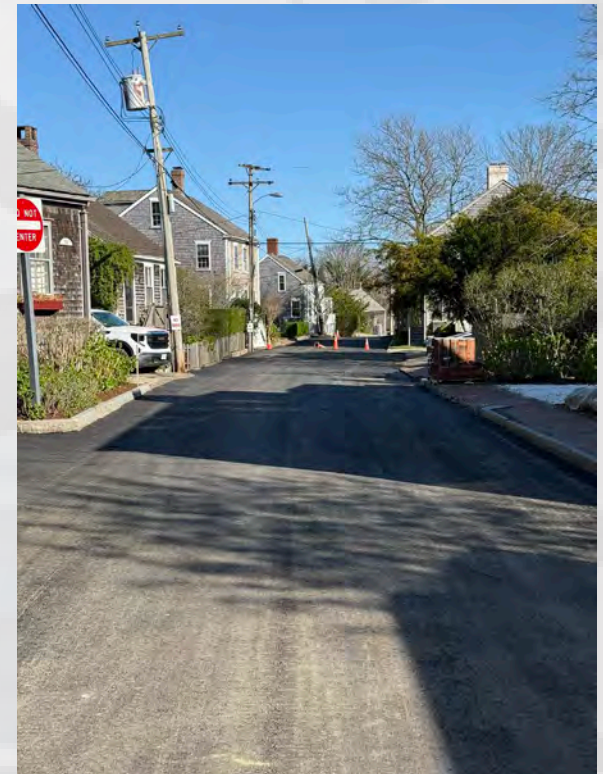
Pine St. at Main St.



Pine St. at School St.



Pine St. at Lyon St.



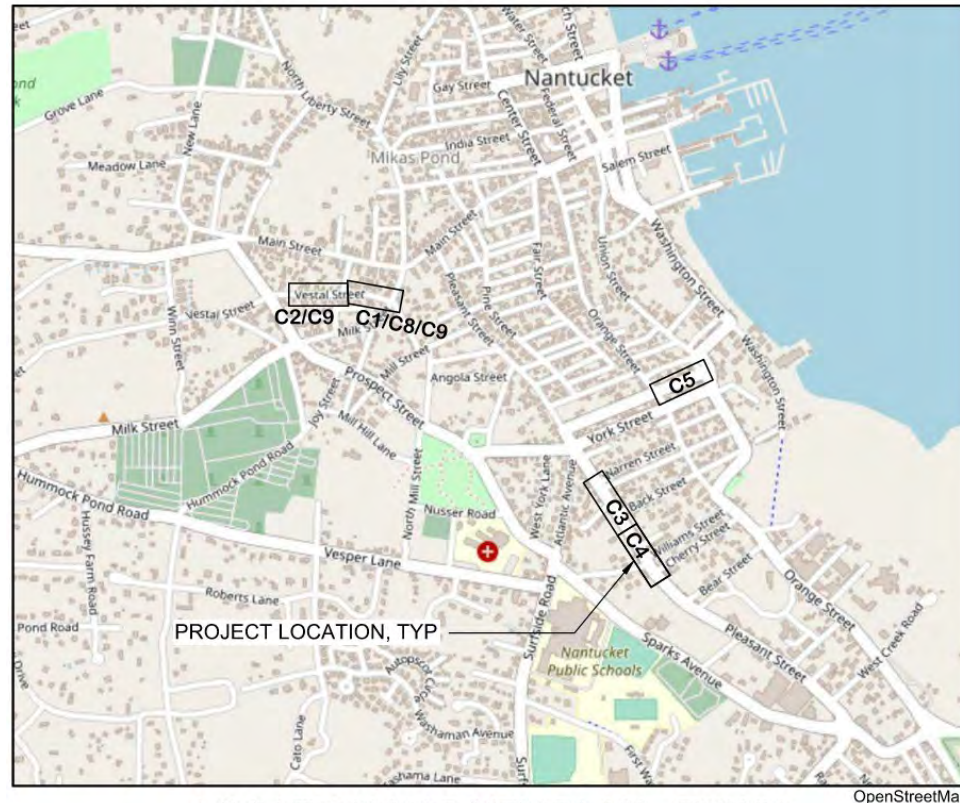
Spring 2025 Sewer Projects

CMOM Yr1B:

Vestal, E Dover, Pleasant, King, Shell, Center

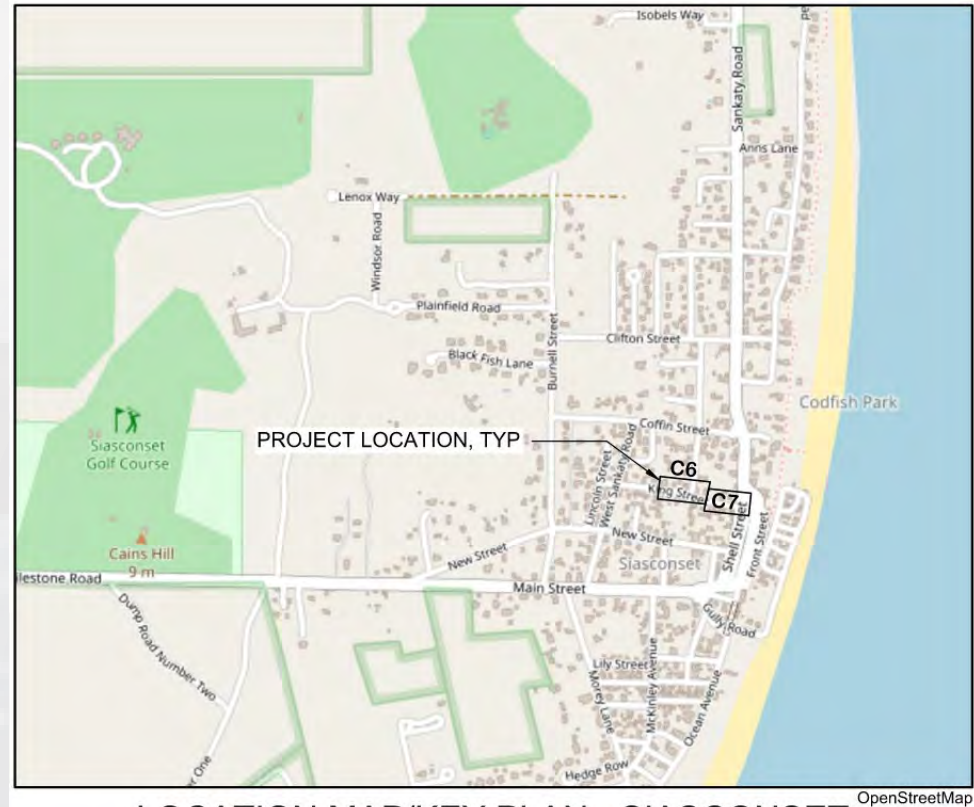
Owner: Nantucket Sewer Dept.

Contractor: N&M Excavating



LOCATION MAP/KEY PLAN - TOWN

NOT TO SCALE



LOCATION MAP/KEY PLAN - SIASCONSET

NOT TO SCALE

Spring 2025 Sewer Projects

CMOM Yr1B:

Vestal, E Dover, Pleasant, King, Shell, Center

Owner: Nantucket Sewer Dept.

Contractor: N&M Excavating

Road	Bike Path	Temp Pavement	Curbing	Sidewalk	Reclaim/Mill	Cobblestone	Base	Binder	Top
E Dover St.	N/A	✓	✓	N/A	✓	N/A	✓	✓	✓
King St. (Sconset)	N/A	✓	N/A	N/A	✓	N/A	✓	✓	✓
Vestal St.	N/A	✓	✓	N/A	✓	N/A	✓	✓	
Pleasant St.	N/A	✓	N/A	N/A		N/A			
Shell St. (Sconset)	N/A	✓	N/A	N/A		N/A			
Center St. (Sconset)	N/A	✓	N/A	N/A		N/A			

Pleasant St: Full-width, full-depth reconstruction and overlay from Cherry St. to 5-corners intersection. Scheduled for 3rd and 4th weeks in May.

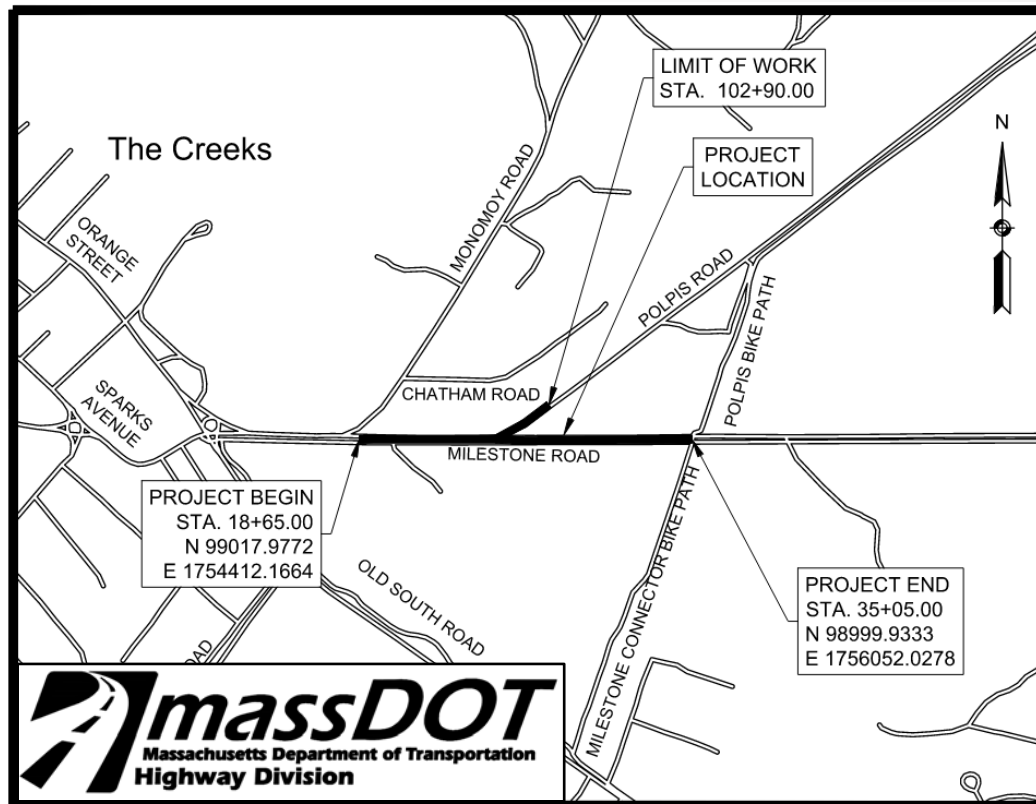
Shell & Center (Sconset): Full-depth patch paving in disturbed areas.

Spring 2025 MassDOT Project

Milestone at Polpis

Owner: MassDOT

Contractor: Northern Construction



SCOPE:

- Widening of Milestone to accommodate turning lane
- Widening and realignment of Polpis to T-intersection with turning lanes
- Extension of new bike path on north side of Milestone from Monomoy Rd. to Polpis Bike Path
- Drainage improvements for water quality at Water Dept. property

Spring 2025 MassDOT Project

Milestone at Polpis – Progress to date

Owner: MassDOT

Contractor: Northern Construction

Milestone Road:

- Drainage & swale: 100% ✓
- Bike path (North): 50%
- Curb ramps: 0%
- Road widening: 50%
- Bike path (South): 100% ✓
- Final paving: 0%



Polpis Road:

- Utility relocations: 0%
- Drainage: 90%
- Road widening: 0%
- Road realignment: 0%
- Belgian block median island: 0%

Miscellaneous:

- Striping/markings, signage, landscaping: 0%

Spring 2025 Water & Airport Projects

Water Main Expansion West of Airport:

- Nobadeer Way full-width overlay pavement

Airport Runway Centerline Pavement:

- Completed mid-April

Airport Dormitory Project Sewer Extension:

- Nobadeer Farm Road
 - Milled on 4/25
 - Full-width overlay from Park Cir. to Nobadeer Fields



Anticipated Completion Timelines

Airport Runway Centerline Paving: Complete

Airport Dorm Project Sewer Extension: Early May 2025

Water Main Expansion West of Airport: Early May 2025

National Grid L1: May 2025

Wiggles Way: May/June 2025

Richmond Development: June/July 2025

SSPSFM#3:

All curbing, sidewalks, base/binder course: June 2025

Top course, final pavement (project wide): Fall 2025

CMOM Yr1B: Fall 2025 (top course on Vestal & Pleasant)

Milestone at Polpis: Fall 2025



Spring 2025 DPW Activities

- **Pothole Patrol**

- Operations Division's #1 priority when asphalt plant reopens
- UPM (cold patch) utilized throughout the winter, but not viable long-term solution
- Infrared repairs when weather permits, typically starting end of April/early May



Spring 2025 DPW Activities

- **Sidewalks, curbing, and cobblestones**
 - Prioritized in early spring and late fall/winter when the asphalt plant isn't operational
 - Striving to identify opportunities in summer (e.g., Amelia Dr. in August)
 - DPW Annual Road Works sidewalk projects in FY24/25
 - Center St., Federal St., S. Water, Candle St., Amelia Dr., N. Water St., Orange St. curb ramps
 - Sidewalks, curbing, and cobblestone repairs take time, are labor-intensive – high labor cost
 - Asphalt paving – high material cost, and many projects competing for finite volume



Spring 2025 DPW Activities

- DPW working to build on/extend other paving efforts to accomplish roadway improvements and maximize efficiency, given volume of work island-wide
 - King St., Pleasant St., Nobadeer Farm Road, etc.
- Annual Road Work projects **MUST** be coordinated with upcoming utility work and infrastructure projects (water, sewer, electric work, lead water service replacements, etc.)



Challenges

- **Volume of work island-wide for one asphalt plant and paving contractor**
- **Scheduling & Coordination**
 - Road work requires full or partial road closures, necessitating coordination with other road closures/blockings, events, house moves, trucking route, and the NRTA/school bus routes
 - Different general contractors working on municipal jobs for various departments, MassDOT, private developers, utility companies, etc.
 - Preparing for pavement installation is time consuming, and must be done properly
 - Curbing and other work is prerequisite
- **Weather – short spring and fall paving seasons**
 - Asphalt plant opened early April, closes in December (weather permitting)
 - Summer moratorium and winter shutdown leaves us with ~6 months each year to do all paving work, without considering other variables
 - Pavement installed when temps are <50° is ill-fated
- **Asphalt plant upgrades and troubleshooting**
- **Asphalt plant permit capacity (ACK FY28 Runway repaving)**

Summary

- This type of work is costly, takes time, and must be done right
- There is a LOT of work happening spring and fall of 2025 – **prioritizing** work is critical
- Need to continue finding opportunities to execute Annual Road Work maintenance projects in the summer months
- Constant coordination is necessary for effective planning, management, and execution of these projects



Agenda Item Summary

Staff

Town Manager, Solid Waste Manager, Finance Director, Town Counsel

Subject

Approval and authorization to execute agreements between the Town of Nantucket (the Town) and Waste Options Nantucket, LLC (Waste Options) related to provision of solid waste management services to the Town, including:

1. the Waste Services Agreement (WSA) for Waste Options to perform a defined Scope of Services for solid waste management for the Town, to be compensated per a defined Service Fee, starting December 1, 2025.
2. the Asset Purchase and Sale Agreement (APSA) for the Town to purchase the two facilities constructed and owned by Waste Options, the Composting Facility and the Transfer Station, before November 30, 2025.
3. The Repairs Letter Agreement, which identifies major and ordinary repair projects to be completed by Waste Options prior to the Closing Date.

Executive Summary

In June 2024, the Town issued an RFP for the operation of all facilities at the Site. The RFP requested Technical Proposals and Price Proposals for contract operation of solid waste management activities at the Town-owned property at 188 Madaket Road (the Site), including operation and maintenance of the Composting Facility, the Transfer Station, the Materials Recovery Facility (MRF), the citizens' drop-off-area, the residuals-only lined landfill cell (the Landfill), the scale and scale-house, the outside storage building and material handling areas, and other features of the Site, all of which will be owned by the Town as of December 1, 2025. The RFP was premised on Town purchase of the Composting Facility and Transfer Station from Waste Options, authorized by 2023 Town meeting vote, in order for the Town to own and control all facilities at the Site.

On the RFP response due date of September 26, 2024, the only response to the RFP was a proposal submitted by Waste Options. The Proposal was reviewed by an Evaluation Committee consisting of the Town Manager, Solid Waste Manager, Finance Director, Town Counsel, a Finance Committee member with solid waste industry experience and the Town's solid waste consultant.

At its meeting on January 29, 2025, the Select Board voted to:

1. Adopt the determination that the Technical and Price Proposals submitted by Waste Options meet the minimum RFP requirements and are the most advantageous alternative available to the Town.
2. Select Waste Options to provide the services on the terms set forth in its Technical and Price Proposals, subject to negotiation of the WSA, the APSA and related Exhibits.
3. Delegate to the Town Manager authority to complete the negotiations for consideration and vote by the Select Board at a future Meeting.

The Town and Waste Options have now completed negotiation of the WSA, APSA and the Repairs Letter Agreement as provided herein, subject to remaining technical corrections and completion of referenced exhibits.

Staff Recommendation

Recommend that the Board consider and approve execution of the WSA, the APSA and the Repairs Letter Agreement.

Background/discussion

Waste Options has provided solid waste management services to the Town since November 2000 pursuant to a prior waste services agreement originally signed in 1996 and scheduled to terminate on November 30, 2025 (the

Prior WSA). The services provided under the Prior WSA evolved to include operation of all of the facilities on the Site, but without clear definition of the scope of services and with fees not matched to the services.

To address these and other concerns with the Prior WSA going forward, the RFP contained a template waste services agreement drafted by Town Counsel. The RFP also defined service tasks and performance goals for eight different solid waste management service areas. The RFP required proposers to submit a Technical Proposal describing their approach for providing the services, and to submit a Price Proposal offering fixed and per-unit pricing, defined pass-through costs and revenue-sharing approaches as applicable for each service area.

The Town has now reached agreement with Waste Options regarding the following:

- The WSA, which is based on the template agreement drafted by Town Counsel for inclusion in the RFP and clarified by negotiation to address issues raised by Waste Options in its proposal.
- The APSA, pursuant to which (a) the Town will purchase the Composting Facility from Waste Options for a price of \$1.0 million by exercising a purchase option under Amendment 1 of the Prior WSA; and (b) the Town will purchase the Transfer Station from Waste Options for a negotiated price of \$3.4 million. The APSA also addresses transfer of documents, licenses, and warranties; inclusion of the Town as a permittee on all permits; and other transition issues.
- The Repairs Letter Agreement, which identifies major and ordinary repair projects to be completed by Waste Options prior to the Closing Date. The Repairs Letter Agreement constitutes a binding addendum to both the Prior WSA and the new WSA.

Much of the content of the WSA and APSA is set forth in exhibits that include the following:

- The **Scope of Services**, which is Exhibit 1D to the WSA. This Scope of Services includes the Technical Operations Plan submitted by Waste Options as part of its Technical Proposal, as well as other technical information referenced either in the RFP or the Technical Proposal and clarified in the exhibit.
- The **Service Fee**, which is Exhibit 1E to the WSA. This Service Fee includes excerpts from the Price Proposal submitted by Waste Options, as well as a template invoice for the services and contextual material referenced either in the RFP or the Price Proposal and clarified in the exhibit.
- The **Purchased Assets**, which is Exhibit A to the APSA and Exhibit 5.9A to the WSA. This Exhibit lists and provides descriptive information on the building components, building and infrastructure systems and process equipment that comprise the Composting Facility and Transfer Station; related supplies, materials, tools and parts; and documents and records. The intent is to delineate precisely what the Town will and will not be purchasing from Waste Options, as well to provide context regarding the condition of the Purchased Assets at the end of the Prior WSA term and for descriptions of the Services that Waste Options will provide.
- The **Town Pre-Owned Assets**, which is Exhibit 5.9B to the WSA. This Exhibit lists and provides descriptive information on the building components, building and infrastructure systems and process equipment that comprise the MRF, the Landfill, the scale and scale-house, and other Site improvements; as well as related supplies, materials, tools and parts; and documents and records. The intent is to provide context regarding the condition of the Town Pre-owned Assets at the end of the Prior WSA term and for the descriptions of the Services that Waste Options will provide.
- The **Permits**, which is Exhibit 1C to the WSA. This Exhibit includes a list of permits and related correspondence from the Massachusetts Department of Environmental Protection (MassDEP) and other

agencies of applicable jurisdiction that regulates activities and operations that can take place on the Site both generally and with respect to specific facilities, waste streams and product streams

- A **Repairs Letter Agreement**, which provides details on repair and replacement projects that Waste Options has agreed to complete prior to November 30, 2025.

Impacts **Environmental** x **Fiscal** x **Community** x

Board/Commission Recommendations N/A

Public outreach Provided opportunity for public comment and responses by presenting overviews of the agreements at the meeting on April 9, 2025, allowing 21 days prior to the meeting on which there will be a vote on the agreements.

Connection to existing applicable plan

Select Board Strategic Plan – Focus Area: Environmental Leadership

Attachments

PowerPoint Presentation on APSA and WSA
Asset Purchase and Sale Agreement (APSA)
Repairs Letter Agreement
Waste Services Agreement (WSA)



Town & County of
NANTUCKET, MA

**Overview of
Agreements with Waste Options Nantucket, LLC**

**The Asset Purchase and Sale Agreement (APSA)
and
The Waste Services Agreement (WSA)**

**Presented to the Nantucket Select Board
30 April 2025**



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

OVERVIEW OF CURRENT OPERATIONS

- Waste Options (WON) operates the Town's solid waste disposal facility located at the Town-owned Site at 188 Madaket Road.
- Facilities at the site include:
 - Materials Recovery Facility (the MRF)
 - Composting Facility (now owned by WON)
 - Transfer Station (now owned by WON)
 - Residuals landfill
- The WON operating contract expires on November 30, 2025.
- Before then, the Town will buy the Composting Facility and the Transfer Station. as authorized by vote approving Article 19 at the 2024 Town Meeting.
- The APSA sets forth the details and conditions of the Town's purchase.



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

WHAT IS INCLUDED IN THE ASSET PURCHASE?

- The Composting Facility and Transfer Station
- All associated fixed equipment and supplies, tools, materials, and spare parts inventory
- All other assets including licenses, design plans, manuals, warranties, agreements, software, records, files and documents
- Purchase excludes all mobile equipment





Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

PURCHASE PRICES

- **\$1.0 million** for the Composting Facility
per Town's purchase option in the existing WSA
- **\$3.4 million** for the Transfer Station
based on a fair market value appraisal





Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

CONDITION

- The Composting Facility entered operation November 2003.
- The Transfer Station was reconstructed after a 2013 fire.
- The Town has negotiated transition arrangements with Waste Options to provide for:
 - ✓ Purchased Assets to stay in **working order** with continued maintenance through date of purchase.
 - ✓ Town inspection rights to assure assets are in acceptable condition.
 - ✓ Repairs Letter Agreement addresses maintenance and replacement projects for Waste Options to complete prior to the purchase date.



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

OPERATOR PROCUREMENT PROCESS

- Town contract with Waste Options expires on November 30, 2025
- Town prepared a detailed RFP for services to start December 1, 2025.
- **Town drafted the RFP Scope of Services, Service Fee and WSA**
- RFP process
 - ✓ June 23, 2024. RFP issued. There were 32 downloads from Open.Gov.
 - ✓ July 30, 2024. Pre-bid conference attended by 7 potential proposers.
 - ✓ Sept. 26, 2024. One proposal received – from Waste Options Nantucket
 - ✓ Fall 2024. Detailed evaluation of Technical and Price Proposals.
 - ✓ Jan 29, 2025. **Select Board voted to award the WSA to Waste Options, subject to successful negotiation of the WSA and APSA.**



How have the business terms changed?

	Existing contract	New WSA
Scope of Services	Generalized contract provisions with <u>no detailed scope of services</u> .	Detailed descriptions are <u>explicit</u> for 8 defined service areas
Service Fees	Fixed fees, per-unit fees, pass-through costs, revenue sharing <u>were not matched with services provided</u> .	Fixed fees, per-unit fees, pass-through costs, revenue sharing will be <u>matched to services</u> .



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

How have the business terms changed?

	Existing contract	New WSA
Ownership	Waste Options owned Composting Facility and Transfer Station	<u>Town will own all facilities on Site</u>
Control	• Waste Options set tip fees for C&D waste and shared revenue • Waste Options chose mainland facilities • Waste Options managed permitting and engineering	• Town will <u>set all tip fees and keep all tip fee revenue</u> • Town will <u>choose facilities for waste delivery.</u> • Town will <u>manage engineering and permitting</u>



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

How have the business terms changed?

	Existing contract	New WSA
Capital projects	Waste Options controlled capital projects at facilities it owned	Town will <u>control capital projects</u> at all facilities
Changes in use of facilities	Waste Options controlled use of facilities it owned	Town will <u>control modifications and upgrades</u> of existing facilities including future incorporation of new waste processing technologies



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

The WSA is structured to include **eight discrete service areas** for processing more than 25 different solid waste streams

EIGHT SERVICE AREAS	SOLID WASTE STREAMS
Composting Facility O&M	Organics and misc. solid waste
Biosolids handling	Biosolids (sewage sludge)
Yard waste, brush and clean wood handling	Feedstocks for compost, mulch and soil products
Landfill and Site O&M	Hard-to-ship process residuals
MRF and Citizens' Drop-off O&M	Recyclables and drop-off items
Transfer Station O&M	C&D waste, NRNCs, shippable residuals
Hard-to-Manage Waste Handling	Scrap metal, tires, appliances, freon coils, screens, mattresses, etc.
Scale House Operations	



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

Scope of Service Details

Performance objectives

Operating tasks

Staffing Plans

Safety Plans

Equipment Plans

Supplies, Tools, Maintenance and Spare Parts

Outside Services

Subcontractors

Technical Professional Support

Software

Practices and Procedures

Communications and Reporting

Pass-through and reimbursed costs

Services to be performed by the Town

Set tipping fees

Choose mainland facilities

Approve subcontractors

Oversee engineering and permitting

Perform capital project procurement

Control changes in facility use and new technology



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

Service Areas	Fixed Fees	Variable Fees	Pass Through Costs	Revenue Sharing
Composting Facility O&M	✓	✓	Baseline Pass-throughs - Off-island haul/tip fees - Capital projects - Major maintenance and replacement projects	50-50
Biosolids Handling	✓	✓		50-50
Yard Waste, Brush and Clean Wood Handling	✓	✓		50-50
Landfill and Site O&M	✓	✓	Out-of-scope vehicle use	N/A
MRF and CDO O&M	✓	None	Baseline Pass-throughs	50-50
Transfer Station O&M	✓	✓	Baseline Pass-throughs	Town
Hard-to-Manage Waste handling	None	✓	Off-Island haul/tip fees	50-50
Scale House	✓	None	Overtime	N/A



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

Other WSA Elements

- Waste Options obligated to perform Services for Service Fees
- Initial term of 10 years. Town option to elect three 5-year extensions.
- Prevailing wage compliance
- Insurance and performance bonding requirements
- Schedule of liquidated damages for performance shortfalls
- Default and termination provisions
- Allowances for Uncontrollable Circumstances and Changes in Law



Town has control to implement operational changes

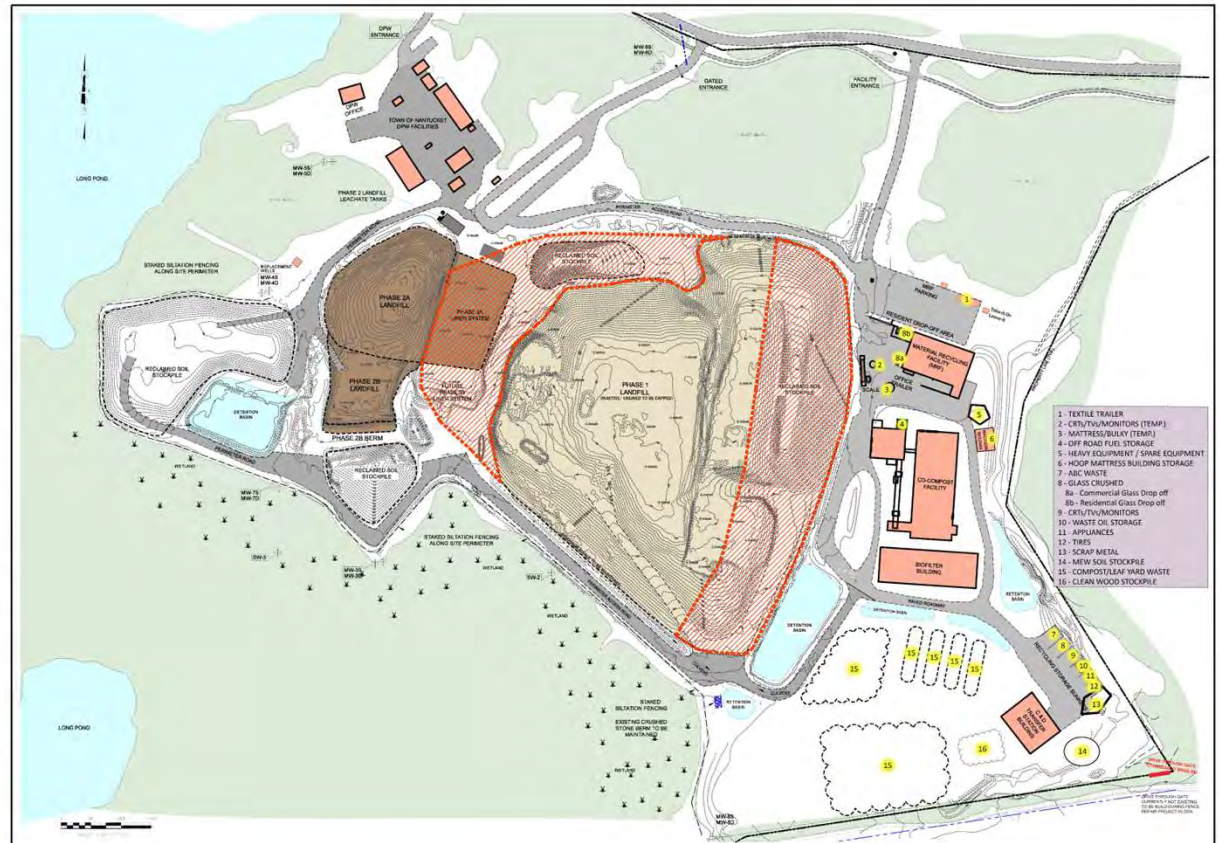
- Change tip fees for incoming waste streams and to incentivize waste reduction.
- Utilize alternatives to the SSA commercial ferry
- Handle C&D waste, NRNCs and residuals separately
- Collect and manage food/organic wastes separately
- Reconfigure the Composter to reduce operating costs
- Change MEW management
- Process film plastics and other NRNCs on-site
- Implement commercially-proven emerging technologies



Town & County of
NANTUCKET, MA

Agreements with Waste Options Nantucket, LLC:
The Asset Purchase and Sale Agreement; (APSA) and
The Waste Services Agreement (WSA)

Questions?



DRAFT 4.24.25

**WASTE SERVICES AGREEMENT FOR THE OPERATION OF THE TOWN OF
NANTUCKET SOLID WASTE MANAGEMENT FACILITIES**

BY AND BETWEEN

WASTE OPTIONS NANTUCKET, LLC

AND

TOWN OF NANTUCKET, MASSACHUSETTS

_____, 2025

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1 **WASTE SERVICES AGREEMENT FOR THE OPERATION**
2 **OF THE TOWN OF NANTUCKET SOLID WASTE MANAGEMENT FACILITIES**
3

4 This WASTE SERVICES AGREEMENT FOR THE OPERATION OF THE TOWN OF
5 NANTUCKET SOLID WASTE MANAGEMENT FACILITIES, (this “Waste Services
6 Agreement”), dated as of the ____ day of ____, 2025 (the “Execution Date”), is made by and
7 between Waste Options Nantucket, LLC, a Massachusetts limited liability company having its
8 principal address at 188 Madaket Road, Nantucket, Massachusetts 02554 (“COMPANY”), and
9 the TOWN OF NANTUCKET, Massachusetts, acting by and through its Town Manager
10 (“TOWN”). All references herein to the “parties” or “Parties” shall mean the above-described
11 TOWN and COMPANY.

12 **WHEREAS**, the TOWN presently owns property at 188 Madaket Road in Nantucket that
13 is site-assigned for use for solid waste management (the “Site” or the “Property”): the Site
14 Assignment is attached as Exhibit 1A; and

15 **WHEREAS**, facilities for solid waste management located on the Site include a
16 composting facility for processing municipal solid waste (MSW) and organic solid wastes (“the
17 Composter”); a materials recovery facility for receiving and processing recyclable materials
18 (“MRF”); a transfer station for handling construction and demolition waste and other solid
19 wastes (the “Transfer Station”); a landfill for receiving and disposing of solid waste residuals
20 after processing (the “Landfill”); a scale and scale-house, an outside cold storage building, and
21 other structures and Site improvements described in Exhibits 5.9A and 5.9B (known together as
22 the “Facilities”); and

WHEREAS, at the 2023 Annual Town Meeting, the Town authorized the Select Board to enter into a contract for a term not to exceed twenty-five (25) years for the operating of the Town's Facilities, a certified copy of such vote is attached hereto as Exhibit 1B; and

WHEREAS, on June 23, 2024, the Town issued a Request for Proposals (RFP) to procure a private operator to operate and maintain the Facilities and perform other functions to accept and process solid waste delivered to the Site; and

WHEREAS, on January 29, 2025 the Town Select Board voted to award the contract to COMPANY and to enter in negotiations with the COMPANY regarding provision of the services proposed in response to the RFP, having deemed the COMPANY's proposal most advantageous; and

WHEREAS, subsequent to the award and based on the contents of the RFP and the COMPANY's proposal, the Town and the COMPANY have negotiated and agreed to execute this Waste Services Agreement; and

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Massachusetts General Laws c. 44, §28C and the Charter of the Town of Nantucket; and

NOW, THEREFORE, in consideration of the representations, warranties, promises, covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

ARTICLE I

DEFINITIONS

For the purpose of this Agreement, the following words and phrases shall have the following meanings:

“Applicable Law” means any federal, state or local law, rule, code, standard, regulation, requirement, written policies, consent decree, consent order, consent agreement, permit,

guideline, action, determination or order of, or legal entitlement issued or deemed to be issued by, any Governmental Authority having jurisdiction, applicable from time to time to any activities associated with the Services provided by the COMPANY at the Site.

“BUD Material” shall mean waste material that has been approved by MADEP pursuant to 310 C.M.R. 19.130(15) for beneficial use at off-Site locations

“Change in Law” means any of the following acts, events, or circumstances to the extent that compliance therewith materially increases or decreases the cost of performing, materially increases the time required to perform, or materially increases or decreases the scope of a party’s obligations hereunder:

(a) the adoption, amendment, promulgation, issuance, modification, repeal, or written change in administrative or judicial interpretation of any Applicable Law on or after the Execution Date, unless such Applicable Law was on or prior to the Execution Date duly adopted, promulgated, issued, or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Authority. Further, if the Massachusetts Executive Office of Labor and Workforce Development, including any agencies within its purview (e.g. the Department of Labor Standards) or any successor agency of comparable jurisdiction (collectively referred to herein as the EOLWD), takes any action or certifies a bargaining unit that leads to changes in the applicability of job classifications or “total prevailing wage rate” (defined as gross wages plus health benefits plus pension), or changes any of the Prevailing Wage Rates set forth in Exhibit 1E, or if new Prevailing Wage Rates applicable to the Services performed by the Company under this Waste Services Agreement are issued by the EOLWD, such changes shall be considered a Change in Law,

provided that relief for such Change in Law shall be limited to adjustment of the annual fees per Section 2.1.4 of Exhibit 1E to this Waste Services Agreement; or

(b) the order or judgment of any Governmental Authority issued on or after the Execution Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was effective as of the Effective Date) to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the COMPANY or of the TOWN, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(c) the denial of an application for, a delay in the review, issuance or renewal of, or the suspension, termination, or interruption of any approval of a Governmental Authority, or the imposition of a term, condition or requirement which is more stringent or burdensome than the requirements of this Agreement in connection with the issuance, renewal or failure of issuance or renewal of any approval by a Government Authority, to the extent that such occurrence is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the COMPANY or of the TOWN, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a willful or negligent action or lack of reasonable diligence; or a change in the nature or severity of the actions typically taken by a Governmental Authority to enforce compliance with Applicable Law which was effective as of the Effective Date shall not constitute a "Change in Law."

"Commencement Date" shall mean December 1, 2025.

94 “COMPANY” shall mean Waste Options Nantucket, LLC, a Massachusetts limited
95 liability company having its principal address at 188 Madaket Road, Nantucket, Massachusetts
96 02554.

97 “Effective Date” shall mean the date on which this Agreement is executed by the TOWN
98 and COMPANY.

99 “Facilities” shall mean the Composter for processing municipal solid waste (MSW) and
100 organic solid wastes (“the Composter”); a materials recovery facility (MRF) for receiving and
101 processing recyclable materials; a transfer station for handling construction and demolition waste
102 and other solid wastes (the “Transfer Station”); a landfill for receiving and disposing of solid waste
103 residuals after processing (the “Landfill”), and other structures necessary to provide solid waste
104 management activities.

105 “Governmental Authority” shall mean all agencies, authorities, boards, bodies, courts,
106 instrumentalities, legislatures and offices of any municipal, local, state or federal governmental
107 unit or subdivision.

108 “Hazardous Waste” shall mean any pollutant, contaminant, chemical, industrial, toxic, or
109 other waste that constitutes Hazardous Waste as defined pursuant to the Resource Conservation
110 and Recovery Act, 42 U.S.C. § 9601 et seq., or M.G.L. c. 21C, or any regulations adopted
111 thereunder at 310 C.M.R. 30.00. Hazardous Waste shall include hazardous materials and
112 hazardous substances as regulated under CERCLA and G.L. c. 21E.

113 “MADEP” shall mean the Massachusetts Department of Environmental Protection.

114 “Permit” shall mean any and all permits, licenses, certificates, consents, registrations, or
115 other approvals required by any Governmental Authority to construct, operate, use, maintain,

expand or close the entirety or any portion of the Facilities, including without limitation all renewals and modifications thereof, including all those listed in Exhibit 1C.

“Services” shall mean the solid waste management services to be provided by the COMPANY to the TOWN pursuant to this Agreement as described in the Scope of Services attached hereto as Exhibit 1D.

“Service Fee” shall mean the fees to be paid by the TOWN to COMPANY pursuant to this Agreement, as described in in Exhibit 1E.

“Solid Waste” shall have the same meaning as set forth in 310 CMR 19.006, except that for purposes of the Agreement Solid Waste shall include biosolids generated at the TOWN’s Surfside Wastewater Treatment Plant and the items identified in 310 CMR 19.006(i).

“TOWN” shall mean the Town of Nantucket, Massachusetts.

“Unacceptable Waste” shall mean Hazardous Waste, regulated medical waste, and radioactive waste, and other items that cannot be handled or processed at the Facilities in accordance with Applicable Law.

“Uncontrollable Circumstances” means any act, event or condition, or more than one act, event or condition taken together, that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or not complying with any condition required of such party under this Agreement, and that materially expands the scope of the obligations of either party hereunder, materially interferes with, materially delays or materially increases the cost of performing the obligations of either party hereunder, to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Agreement on the part of such party.

(1) Inclusions. Subject to the foregoing, Uncontrollable Circumstances shall include, but is not limited to, the following:

1. a Change in Law;
2. the suspension, termination or interruption of any governmental Permit, license, consent, authorization or approval relating to the Facilities or the operation and maintenance thereof or the imposition of a term, condition or requirement for the operation and maintenance of the Facilities which is more stringent or burdensome than the requirements in effect as of the Effective Date in connection with the issuance, renewal or failure of issuance or renewal of, any such Permit, license, consent, authorization or approval to the extent that such occurrence is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the COMPANY or of the TOWN, whichever is asserting the occurrence; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a willful or negligent action or lack of reasonable diligence;
3. naturally occurring events such as landslides, underground movement, earthquakes, fires, tornadoes, severe wind that damages property or impacts the performance of services at the site, hurricanes, floods, lightning, epidemics and other acts of God;
4. explosion, terrorism, sabotage or similar occurrence, acts of a declared public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;
5. labor disputes, except labor disputes involving employees of the COMPANY, its affiliates, or subcontractors which affect the performance of the Services;

159 6. the failure of any appropriate Governmental Authority or private utility
160 having operational jurisdiction in the area in which the Facilities are located to provide and
161 maintain utilities to the Facilities which are required for the performance of this Agreement;

162 7. the preemption, confiscation, diversion, destruction or other interference
163 in possession or performance of materials or services by a Governmental Authority in connection
164 with a public emergency or any condemnation or other taking by eminent domain of any material
165 portion of the Facilities;

166 8. with respect to the COMPANY, any Event of Default by the TOWN as set
167 forth in Article 10 not due to an Event of Default by the COMPANY as set forth in Article 10;

168 9. with respect to the TOWN, any Event of Default by the COMPANY as set
169 forth in Article 10; and

170 10. unavailability of Steamship Authority transport or other marine
171 transportation despite the best efforts of COMPANY to secure such transport.

172 (2) Exclusions. It is specifically understood that, without limitation, none of the
173 following acts, events or circumstances shall constitute Uncontrollable Circumstances:

174 1. any act, event, or circumstance to the extent that such would not have
175 occurred but for the affected party's failure to comply with its obligations hereunder;

176 2. changes in interest rates, inflation rates, wage rates (other than those
177 allowed per the definition of Change in Law), commodity prices, currency values, exchange rates
178 or other general economic conditions;

179 3. changes in the financial condition of the TOWN, the COMPANY, or their
180 affiliates or subcontractors affecting the ability to perform their respective obligations unless the
181 TOWN cannot pay COMPANY;

4. the consequences of error, neglect or omissions by the COMPANY, any Subcontractor, any of their affiliates or any other person in the performance of the Scope of Services;

5. all worker and workplace health and safety rules and regulations imposed under federal and state law; or

6. weather conditions normal for the location of the Facilities.

ARTICLE II REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Section 2.1 Corporate Status

The COMPANY is a corporation duly organized, validly existing, and in good standing under the laws of Massachusetts and is qualified to do business in the Commonwealth of Massachusetts under the name of the COMPANY. The COMPANY has the full corporate power and authority to carry on its business as presently conducted and to enter into and perform its obligations under this Agreement.

Section 2.2 Enforceability

This Agreement is a legal, valid, and binding obligation of the COMPANY, enforceable against the COMPANY subject to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or other similar laws affecting creditors' rights and remedies and subject to the exercise of judicial discretion in accordance with general principles of equity.

Section 2.3 Litigation

There is no material claim, litigation, government proceeding, or investigation pending against the COMPANY which could adversely affect its ability to fulfill its obligations under this Agreement. The COMPANY is not subject to any judgment, order, writ, injunction, or decree which conflicts with this Agreement.

Section 2.4 No Conflicts

The COMPANY represents that existing obligations and commitments of the COMPANY do not conflict with this Agreement and do not adversely affect its ability to fulfill its obligations under this Agreement.

Section 2.5 Authorization

The execution and delivery of this Agreement and the performance of the services contemplated herein have been fully authorized and approved by all requisite corporate actions of the COMPANY.

Section 2.6 Liens

The COMPANY will make payment promptly as due to persons supplying services or materials for the Services under this Agreement. The COMPANY will not permit any lien or claim to be filed or prosecuted against the TOWN on account of labor or materials furnished by or on behalf of the COMPANY and, if any such lien is filed, the COMPANY shall immediately cause the lien to be discharged or bonded to the satisfaction of the TOWN. Pursuant to the Indemnification provisions in Section 9.1 hereof, the COMPANY shall indemnify and hold the TOWN harmless for the COMPANY's failure to pay the COMPANY's creditors for obligations arising out of the COMPANY's operation or maintenance of the Facilities.

Section 2.7 Compliance with Applicable Law

Except as to matters disclosed in writing to the TOWN, to the best of its knowledge, the COMPANY is not in material violation of any law, order, rule, or regulation applicable to its operations, the violation of which may subject any of the foregoing to any significant regulatory enforcement action.

Section 2.8 Federal and State Taxes

Except as otherwise provided in this Agreement, the COMPANY shall be responsible for all federal, State, county and municipal taxes and any other tax imposed in connection with its performance of the Contract Services (unless tax-exempt due to TOWN's tax-exempt status).

Section 2.9 Strict Performance

The failure of either party to insist on the strict performance of any of the terms, covenants, and provisions of this Agreement or to exercise any option herein contained shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition, provision or option.

The Representations and Warranties of the COMPANY shall be a continuing obligation throughout the term of this Agreement.

**ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE TOWN**

Section 3.1 Political Status

The TOWN is a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, with full legal right, power, and authority to enter into and to perform its obligations under this Agreement.

Section 3.2 Enforceability

The TOWN has the necessary power and authority to enter into and perform its duties under this Agreement. This Agreement is a legal, valid, and binding obligation of the TOWN, enforceable against it in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or other similar laws affecting creditors' rights and remedies and subject to the exercise of judicial discretion in accordance with general principles of equity.

Section 3.3 Liens

The TOWN will keep the Facilities free of all liens and encumbrances during the Term of this Agreement which may directly or indirectly interfere with the COMPANY's performance of its obligations hereunder.

Section 3.4 Litigation

There is no material claim, litigation, government proceeding, or investigation pending against the TOWN which could adversely affect its ability to fulfill its obligations under this Agreement. The TOWN is not subject to any judgment, order, writ, injunction, or decree which conflicts with this Agreement.

Section 3.6 Ability to Perform

The existing obligations and commitments of the TOWN do not conflict with this Agreement and do not adversely affect its ability to fulfill its obligations under this Agreement.

Section 3.7 Authorization

The execution and delivery of this Agreement and the performance of the services contemplated herein have been fully authorized and approved by all requisite actions of the TOWN.

**ARTICLE IV
TERM**

Section 4.1 Initial Term

This Agreement shall be effective as of the Effective Date and will continue for a period of ten (10) years beginning on the Commencement Date and ending at midnight on the tenth anniversary of such date, the "Initial Term."

Section 4.2 Term Extensions

This Agreement may be extended at the sole option of the TOWN, subject to the concurrence of the Company, for additional periods not to exceed a total of three (3) additional five-year terms each under the terms and conditions stated in this Agreement (the “Renewal Term”), or for such other term of years as the Parties may mutually agree. The Renewal Term will commence on the day following the expiration of the original Term of this Agreement or any previous Renewal Term. Exercise of this option by the TOWN must be done in writing at least ninety (90) days prior to the expiration of the original Term of this Agreement or the expiration of any previous Renewal Term. In no event shall the total term of this Agreement exceed twenty-five (25) years.

**ARTICLE V
SCOPE OF SERVICES**

Section 5.1 Responsibility to Perform Services at the Facilities

COMPANY shall at its sole cost and expense, subject to reimbursement and compensation from TOWN as set forth herein, perform the Services as described in the Scope of Services. Such responsibilities shall include without limitation (i) employing all necessary personnel for operations, maintenance, management, and other necessary functions, for the Facilities, (ii) providing all mobile equipment and containers,;(iii) acquiring supplies, tools, materials and spare parts; (iv) providing outside services and retain subcontractors and technical professional support as required; (v) implementing practices and procedures for safety and security; and (vii) acquiring and applying other resources and otherwise necessary Services (including but not limited to security, accounting, legal, fire prevention and pollution control). Notwithstanding the foregoing, the Town shall have sole authority to determine tip fees and

other fees charged for management and disposal of all solid waste and other materials delivered to the Site.

Section 5.2 Unacceptable Waste

COMPANY shall accept all Solid Waste delivered to the Site other than Unacceptable Waste or Solid Waste that does not meet posted delivery requirements set by TOWN. COMPANY shall direct incoming waste to the Facilities [and outside areas] where such Solid Waste is accepted, handled and processed in accordance with the Scope of Services and all applicable Permits. COMPANY shall have the right to detain and inspect the contents of all vehicles that are delivering waste to the Facilities to ensure that Unacceptable Waste is not being delivered to the Facilities. COMPANY shall have the right to refuse or reject such Unacceptable Waste in its sole discretion or, if not detected prior to entering the Facilities, COMPANY shall remove the Unacceptable Waste and ensure its proper disposal, all at the hauler's expense. In the event the hauler responsible for the delivery of Unacceptable Waste cannot be identified, any cost associated with the removal of Unacceptable Waste from the Facilities shall be the responsibility of the TOWN and treated as an Uncontrollable Circumstance, unless the Company fails to exercise due diligence in accepting waste at the Facilities. COMPANY agrees that as the designated operator of the Facilities it will not accept or dispose of Unacceptable Waste except as may be expressly permitted by the TOWN. In enforcing the provisions of this section, the COMPANY shall act as the agent of the TOWN.

Section 5.3 Inspection

A. The COMPANY expressly agrees that TOWN officials, as designated by the Town Manager, shall have access to the Facilities at all times, with advanced telephonic notice provided for safety purposes. All visits or inspections shall be conducted in such a manner so as not to interfere with the COMPANY's operations and in compliance with all reasonable safety

rules adopted by the COMPANY. This Section shall not be in derogation of the right of any public official to carry out any public duty in accordance with any applicable laws, including first responders, Board of Health officials and authorized agents acting under Chapter 111 of the Massachusetts General Laws, or otherwise.

B. During the Term of this Agreement, the TOWN shall have the right at any time to install, at its sole cost and expense, any video electronic device, including cameras, to monitor the operation of the Facilities. Town shall also have the right with advance notice to conduct surveys of the Site or of Facilities at Town expense, involving either presence on the Site or the use of drones, provided that Town does not interfere with operations at the Site in the course of performing any such survey. COMPANY shall share with the Town all control points and other data needed to perform surveys of the Site. COMPANY and Town shall timely share survey results with each other upon completion.

Section 5.4 Notice of Regulatory Meetings

COMPANY shall provide advanced notice to the TOWN of all scheduled meetings with and communications from the Company and a Governmental Authority that relates to the Facilities or the Site. The TOWN shall have the right to attend such meetings. COMPANY shall keep and maintain a log of all communications, including phone calls, notices, emails, and correspondence, to and from MADEP and shall copy the TOWN on all such communications. The TOWN shall sign all Permit applications, requests for modification of Permits, and all requests for interpretations submitted to MADEP. COMPANY shall submit to the TOWN for its prior review all draft Permit applications and other submittals to MADEP in sufficient time to allow the Town to review and comment on such draft submittals, but not less than five (5) business days before filing. The Town shall use reasonable efforts to expedite such reviews, and

the TOWN agrees that it shall bear any and all losses, expenses, fees, damages, penalties or other liabilities incurred as a result of failure to make timely reports to DEP.

Section 5.5 Exercise of Regulatory Authority

Nothing herein shall be construed to limit the power and authority of the TOWN or any of its officers, boards, or committees to promulgate bylaws and regulations, or, in any way, to limit the authority of the TOWN to exercise its statutory or regulatory power and authority.

Section 5.6 Obligations to Comply with Terms of the Agreement

COMPANY shall be obligated to comply with the terms of this Agreement in addition to the requirements of any applicable Permits. To the extent that this Agreement imposes obligations on COMPANY that are more stringent than any other applicable Permit, or that are more favorable to the TOWN, COMPANY shall be obligated to comply with the terms of this Agreement in addition to the approvals or conditions imposed by such other officers, boards, or commissions. In the event that the COMPANY fails to comply with any conditions or approvals of any Permit or otherwise fails to comply with the terms of this Agreement, the Town shall have the right, but not the obligation, to step in and, after providing notice to the COMPANY, and correct any Permit conditions or obligations of the COMPANY under this Agreement. In such event the TOWN may withhold payments to the COMPANY otherwise due under this Agreement for the costs of correction incurred by the Town in meeting such obligations.

Section 5.7 Familiarity with Facilities

The COMPANY acknowledges that: (1) the COMPANY's agents and representatives have visited, inspected, observed and are familiar with the Facilities, their design, and their physical condition relevant to the obligations of the COMPANY pursuant to this Agreement; (2) the COMPANY is familiar with all current local conditions which may be material to the COMPANY's performance of its obligations under this Agreement; (3) the COMPANY has

received, reviewed and independently verified the background documents provided in the TOWN's request for proposals and all other records and information pertaining to the Facilities that it has deemed necessary to receive, review and verify for the purposes of entering into and performing this Agreement, and assumes the risk of incompleteness or inaccuracy in any information provided to it by the TOWN or third parties in the process of entering into this Agreement; and (4) based on the foregoing, the Facilities can be managed, operated, and maintained in accordance with the Scope of Services and the other terms and conditions hereof.

Section 5.8 "As-Is" Condition of Facilities

Based on its review of the information provided in the RFP and its inspections of the Facilities, and other inquiries and investigations made by the COMPANY prior to the Commence Date, which the COMPANY acknowledges to be sufficient for this purpose, the COMPANY assumes the risk of the adequacy and sufficiency of the Facilities and the existing "as-is" condition of the Facilities as such condition may affect the ability of the COMPANY to comply with Applicable Law, meet its obligations or perform any of its other obligations for the compensation provided for herein. The COMPANY agrees that any latent or patent defect, flaw, error, inoperability, inadequacy or other condition or aspect of the design or existing condition of the Facilities which exists as of the Commencement Date or which may be revealed during the performance hereof shall not be an Uncontrollable Circumstance, except to the extent that the existing condition relates to inherently unknowable concealed subsurface conditions.

Section 5.9 Town Ownership of Facilities

The tools, materials, spare parts, grounds, Facilities, fixed equipment, machinery, and furniture, now owned by the TOWN or acquired by the TOWN shall remain the property of the TOWN, as well as any equipment or structures added to the Facilities, or repairs made thereto. An inventory of all Town fixed equipment, machinery, and furniture is set forth in Exhibits 5.9A

and 5.9B, which together contain an inventory of all Town-owned buildings, building components and connected spaces; building envelope and structural components; building-related utility and protective systems; fixed processing equipment; and other Site improvements. All communication and computer hardware and software developed and/or installed for the operation of the Facilities and any work product developed under this Agreement will remain the property of the TOWN.

Section 5.10 Transition at the Beginning of the Agreement

The COMPANY will assume the responsibility for providing Services to the Town for the Facilities and all conditions of this Agreement on the Commencement Date.

Section 5.11 Transition at the End of the Term of the Agreement

At the end of the Term of this Agreement, COMPANY will turn over the operations to the Town, including the delivery of manuals, software, vendor contacts, warranties, ferry reservations, and related operations matters, and cooperate with Permit transfers, materials, supplies, license transfers.

Section 5.12 Safety

The COMPANY shall comply with the General Duty Clause of the OSHA Act.

Section 5.13 Prevailing Wage

The COMPANY shall be responsible for complying with all Prevailing Wage requirements applicable to the operations on Nantucket, as may be updated from time to time, set forth in Applicable Law including without limitation G.L. c. 44, §127B. The current schedule of Prevailing Wage Rates for operations at the Facility are include in Exhibit 5.13, but may be updated from time to time by the EOLWD. Any changes in the prevailing wage rates promulgated by the ELOWD over the term of this Agreement shall not constitute a Change in Law or Uncontrollable Circumstance unless allowed per the definition of Change in Law. The

COMPANY shall provide weekly payroll records to the TOWN as required by G.L. c. 149, §27F. At the TOWN's request, COMPANY shall provide the components included in the Prevailing Wage rates paid to employees of the COMPANY.

Section 5.14 Changes to Services, Capital Improvements, and Major Maintenance Projects

The TOWN or the COMPANY each have the right to request a change in the Scope of Services, attached hereto as Exhibit 1D. If the parties agree to any such change, the parties shall negotiate the change to the Service Fees and other elements of compensation consistent with a change in the scope of services and shall execute an Amendment to the Scope of Services and/or an amendment to this Agreement, as appropriate. The TOWN shall reimburse the COMPANY for its reasonable third-party costs approved in advance and incurred in preparing a Scope Change requested by the TOWN. The TOWN shall be responsible for procurement and implementation of capital improvements and major maintenance projects, including landfill expansions, construction and closure activities (Capital Projects), at TOWN cost. The Town anticipates that Capital Projects at the Site will be implemented in full compliance with procurement and other laws applicable to public facilities, including the Prevailing Wage Law, as applicable. Implementation of Capital Projects will typically involve the following steps:

1. Either the TOWN or the COMPANY may propose a Capital Project.
2. The TOWN will create a conceptual design, including a general arrangement plan, process flow description showing changes to equipment; description of impacts on operations; and preliminary budgetary cost estimate for the entire Capital Project.
3. The TOWN will secure funding from Town Meeting after review by Town staff, committees and boards, which shall include Capital Outlay Committee, Finance

Committee, Select Board, and other Town boards and committees as may be applicable.

4. The TOWN will acquire permits or permit modifications.

5. The TOWN will complete the public procurement process required under the Massachusetts Public Construction Laws.

Subject to mutual agreement, the TOWN may also elect to delegate all or part of the implementation effort for such Capital Projects to the COMPANY, at the Town's cost, provided that the COMPANY would conduct procurement activities in strict compliance with applicable Massachusetts public construction requirements and the Town will have approval rights over each work product before it is considered final.

Section 5.15 Subcontractors

The COMPANY shall operate the Facilities with its own employees and in accordance with Article V. Subcontractors may be used to perform other services, subject to the prior approval of the TOWN for any subcontracted services in excess of \$10,000. The COMPANY will be required to provide advance disclosure to the Town of all subcontractors retained to support performance of the Services whether or not the subcontractors are list in the Scope of Services. Subcontractors listed in the Scope of Services, Exhibit 1D, are presumed to be approved by the TOWN as of the Commencement Date, subject to reconsideration in the event of a subsequent non-performance by any such listed subcontractor. The Town retains the right to disapprove use of specific subcontractors for any service being performed on the Facilities on the basis of prior experience and non-performance history of said specific subcontractor. The COMPANY may seek verbal emergency approval for a subcontractor from the Solid Waste Director or the DPW Director.

Section 5.16 Records/Audits

COMPANY shall keep accurate and true records, books, and data with respect to all Services provided to the TOWN under this Agreement., including without limitation all original invoices and all trucking records, weight slips, and any and all other documents pertaining to the amount of Acceptable Waste and other materials received the Facilities per day. The COMPANY shall provide the Town with a monthly report which shall include a description of all materials received at the Facilities.

Section 5.17 Inspection of Records

The TOWN and its agents and auditors shall have the right at all reasonable times to inspect and examine the accounts, records, books, contracts, scale data associated with scale software and other data concerning activities conducted by the COMPANY at the Facilities. COMPANY shall maintain such books and records for a minimum of six (6) years, at which time, all books and records shall be left on site, to the extent storage is available, for the TOWN. If storage on site is not available, the Town will make arrangements to pick up the records and store them at a location of its choosing.

**ARTICLE VI
COMPENSATION**

Section 6.1 Service Fee

The COMPANY shall provide all services pursuant to this Agreement, including the provision of all labor and non-labor resources for the Service Fee to be paid by the TOWN to the COMPANY hereunder, as set forth in Exhibit 1E.

Section 6.2 [RESERVED]

Section 6.3 Billing and Payment

The Town shall pay the Service Fees on a monthly basis in arrears. The TOWN shall review each invoice on a timely basis for consistence with the Service Fee. If the review results in recommendation for approval, the TOWN will submit the invoice for payment on the next available TOWN warrant but in no event less than thirty (30) days after receipt of the invoice. If the review results in recommendation for disapproval, the TOWN shall provide COMPANY with notice of the intent to disapprove along with documentation detailing the reason for disapproval and ten (10) days opportunity to oppose or cure such determination. If the COMPANY fails to respond or take action within the ten (10) day period, the TOWN may reasonably disapprove an invoice or reasonably withhold all or a portion of the payment otherwise due in a sufficient amount to address any documented unsatisfactory or incomplete work or until adequate corrective action or supporting documentation is provided. Amounts that remain unpaid after such thirty (30)-day period shall accrue interest at a rate equal to 4% or as otherwise provided by Applicable Law, whichever is lesser.

Section 6.4 Compliance with Internal Revenue Code

It is the intent of the TOWN and the COMPANY that this Agreement shall be construed and applied so as to constitute a management contract that does not result in private business use of property financed by the TOWN within the meaning and intent of the applicable provisions of the Internal Revenue Code and related regulations, rulings, and revenue procedures (including without limitations Rev. Proc. 2017-13, as amended and supplemented). In the event this Agreement is deemed to be non-compliant with the Internal Revenue Code by a court of competent jurisdiction, the parties shall attempt, in good faith, to renegotiate the terms of this Agreement so as to bring this Agreement into compliance with the Internal Revenue Code.

Section 6.5 Town's Responsibility for Permits and Costs

TOWN shall be responsible for the procurement and cost of all federal, state and local Permits and fees associated with the operation of the Facilities. The Town will be responsible for satisfying any finance assurance requirements imposed by MADEP for the landfill. The Town shall be responsible for paying COMPANY for all Pass-Through costs as set forth in Exhibit 1E, as well as any costs due COMPANY due to Change in Law or Uncontrollable Circumstances.

Section 6.6 COMPANY's Responsibility to Pay Penalties

COMPANY shall be responsible for the payment of any fines, penalties, or other costs associated with compliance with MADEP Permits, notices, orders and/or regulations arising out of or related to the COMPANY's Services provided to the Town under this Agreement, including without limitation the payment of Liquidated Damages assessed by the TOWN pursuant to Section 8.3 of this Agreement and Exhibits 8.2 and 1E.

**ARTICLE VII
INSURANCE**

Section 7.1 Coverage Amounts

Commencing on the Effective Date, COMPANY agrees to provide and maintain throughout the Term of this Agreement and any extensions thereof, and for so long as COMPANY or anyone claiming by, through or under COMPANY remains the operator of the Facilities, insurance coverage in the amount set forth below or such other amounts as the parties may agree from time to time:

<u>Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000.00

532	Personal/Bodily Injury Liability	\$5,000,000.00
533		Combined Single Limit
534	Property Damage Liability	\$5,000,000.00
535		Combined Single Limit
536	Automobile Bodily Injury	\$5,000,000.00
537		Combined Single Limit
538	Automobile Property Damage	\$5,000,000.00
539		Combined Single Limit
540	Excess Umbrella Liability	\$10,000,000.00
541		Each Occurrence
542	Professional Liability	\$1,000,000

543 **Section 7.2 Environmental Impairment**

544 During the Term of this Agreement or for so long as COMPANY or anyone claiming by
545 and through COMPANY remains in occupancy of the Property, COMPANY shall cause the
546 Facilities to be insured for third party environmental impairment under a per occurrence basis.
547 The coverage shall be commercially reasonable and subject to the Town's approval. The policy
548 shall provide coverage of not less than \$10,000,000.00. Any renewal policies shall be subject to
549 this section.

550 **Section 7.3 Certificates of Insurance**

551 Insurance, and any renewals thereof, shall be evidenced by certificates of insurance
552 issued or countersigned by a duly authorized representative of the issuer and delivered to the
553 TOWN for its review prior to the execution of the Agreement or, in the case of a renewal, as
554 reasonably provided by the insurer. The certificates of insurance for all required coverages shall
555 name the TOWN as an additional insured, provide for 30 days written notice to the TOWN of

cancellation (except with respect to cancellation for non-payment of premiums to which a 10-day written notice shall be required), intent not to renew, or, to the extent that it would affect the TOWN or its rights or obligations under such policy or the Agreement, any reduction or change in its coverage by the insurance COMPANY.

Section 7.4 Qualification of Insurance and Surety COMPANY

The insurance and surety COMPANY providing coverages shall (1) have a rating of “A” or better in the latest revision of the A.M. Best COMPANY’s Insurance Report; (2) be listed in the United States Treasury Department’s Circular 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsurance Companies”; and (3) hold a certificate of authority to transact surety business in the Commonwealth of Massachusetts.

ARTICLE VIII PERFORMANCE SECURITY

Section 8.1 Performance and Payment Bond

As of the Commencement Date and to the extent commercially available throughout the term of this Agreement, the COMPANY shall furnish a performance and payment bond (the “Performance Bond”) with an initial term of two years which shall be renewed for additional two year terms for the term of this Agreement in the form set forth in Exhibit 8.1 and with a surety meeting the requirements of Section 7.4 and approved by the TOWN and authorized to do business in the Commonwealth of Massachusetts, conditioned upon the COMPANY fully performing all its obligations under this Agreement or an Event of Default pursuant to Section 10.1 (B) of this Agreement. The penal sum of the performance and payment bond shall be Five Million Dollars (\$5,000,000.00) and COMPANY shall provide TOWN with a 90-day written notice in the event of non-renewal.

TOWN reserves the right to make a call on the Performance Bond throughout its term as indicated in this Agreement, provided that the TOWN will not have the right to call on the Performance Bond solely on the basis that a replacement or extension of the bond term is not provided, or is not expected to be provided, timely, as required.

COMPANY shall immediately replenish the bond value to \$5 million in the event that a demand on the Performance Bond has been made by the TOWN.

In the event that a new bond or bond extension is provided by COMPANY, information regarding the bond shall be delivered to the Town at least sixty (60) days prior to December 1 of each year that this Agreement is in force and effect, including any Extension Terms.

In the event that a new bond or bond extension is not provided by COMPANY prior to the expiration date as required, or the bond is not replenished timely to the required value, COMPANY agrees that it will:

- a. On an ongoing basis, use reasonable commercial efforts to extend the term of or replace the expired Performance Bond with a new bond meeting the requirements of Section 8.1 above.
- b. Until such time as the term of the Performance Bond is extended or replaced, implement one or a combination of the following forms of Collateral acceptable to the TOWN in a total amount of not less than \$2.5 million:
 - (i) Deposit cash in an interest-bearing escrow account held by a mutually acceptable party (the "Escrow Account") pursuant to relevant laws of the Commonwealth of Massachusetts.
 - (ii) Post a letter of credit (the "Letter of Credit"), a Parent Guaranty from a creditworthy party acceptable to the Town (the "Parent Guaranty"), or

604 equivalent instrument acceptable to the TOWN for the benefit of the
605 TOWN.

606 (iii) Secure a pledge of mobile equipment (“Mobile Equipment”) as described
607 below.

608

609 Together, the total value of the Escrow Account, Letter of Credit, Parent Guaranty and
610 value of pledged Mobile Equipment (collectively the “Collateral”) shall not be less than \$2.5
611 million. For each element of the Collateral, the Town shall have draw provisions incorporated
612 into the applicable agreement such that the TOWN has the unilateral right to call on the
613 Collateral as permitted under the terms of this Agreement with respect to the conditions required
614 to call on the Performance Bond.

615 COMPANY shall immediately replenish the Collateral in the event that it has been drawn
616 upon by the TOWN. The Collateral shall be released to COMPANY no earlier than 90 days
617 after the expiry of this Agreement as extended. The TOWN reserves the right to make a demand
618 on the Collateral during such tail period.

619 If Collateral option (b)(iii) above is selected by COMPANY, COMPANY agrees to
620 provide the TOWN with a perfected first lien and security interest in the Mobile Equipment that
621 will be pledged as Collateral as of the date the Collateral option is triggered. The value of the
622 Mobile Equipment shall be equal to the fair market value determined by a third-party appraiser
623 or equipment vendor acceptable to the TOWN.

624 Furthermore, regarding the Collateral Option (b)(iii):

625 c. The COMPANY shall prepare an itemized schedule of inventory of Mobile
626 Equipment (the “Schedule”) and shall provide such inventory to the TOWN on or

before the Commencement Date. TOWN shall be provided with a copy of the title for each asset on the Schedule that might be pledged. The Schedule shall identify the name of every pledgeable asset, a description of such including any ancillary parts (such as attachments), the model year, the VIN, an estimate of current fair market value and other information required to make a UCC filing. The Schedule shall also indicate the total fair market value of all of the listed Mobile Equipment. The Schedule shall be updated and provided to the TOWN from time to time, but no less than annually, to reflect changes in inventory of Mobile Equipment available to be pledged.

- d. COMPANY shall have the right to substitute the specific elements of Mobile Equipment being pledged so long as the replacement results in the total pledged value of Mobile Equipment, if in conjunction with other elements of the Collateral, being at least \$2.5 million and such is acceptable to the TOWN.
- e. In the event COMPANY provides TOWN with a 90-day written notice in the event of non-renewal, COMPANY shall provide with such notice an updated copy of the Schedule confirming that the value of Mobile Equipment available to be pledged is not less than \$2.5 million. COMPANY shall also include in such notice to the TOWN information regarding the value of each form of Collateral to be put in place and perfected before expiration of the existing Performance Bond, along with documentation of the form of Collateral for review by the Town. TOWN shall review each form of Collateral timely to determine whether it is acceptable.

f. If two weeks in advance of the termination date of the Performance Bond the COMPANY has not confirmed that alternative forms of Collateral approved by TOWN have been put in place and perfected in the amount of not less than \$2.5 million, then TOWN may use the information from the Schedule make a UCC filling to activate lien and security interests in the Mobile Equipment in the amount of the anticipated shortfall.

Section 8.2 Liquidated Damages

Except to the extent the COMPANY is excused from performance due to an Uncontrollable Circumstance under Article XI hereof or the TOWN waives an obligation of the COMPANY to pay liquidated damages, in addition to all of its other rights and remedies under the contract, at law or in equity, the Town may assess liquidated damages against the COMPANY for its failure to perform the specified obligations described in Exhibit 8-2. The COMPANY acknowledges and agrees that the liquidated damages provided herein are not penalties but represent a fair measure of damages that will be sustained by the Town in the event the COMPANY defaults on any of the specified obligations set forth in Exhibit 8-2.

To ensure a fair and evidence-based assessment of liquidated damages, prior to the assessment of liquidated damages, the Town Manager shall, in accord with Section 12.6, provide 14 days written notice to COMPANY stating the basis and rationale for the assessment of liquidated damages and providing all reasonably available evidence supporting such assessment to COMPANY. COMPANY shall have the right to appeal such assessment to the Select Board. If the Select Board confirms the assessment following such appeal, the COMPANY shall have the right to take action to contest the assessment pursuant to Section 12.4. Following the conclusion of the final appeal process set forth in Section 12.4, the Town shall have the right to

withhold the amount of liquidated damages assessed by it from any payment owed to the COMPANY as a credit or set-off of such amount. No deduction or withholding of compensation to COMPANY shall be made by TOWN until the appeal rights of COMPANY as set forth herein have been exhausted.

ARTICLE IX INDEMNIFICATION X

Section 9.1 Duty of the COMPANY to Indemnify the Town

Regardless of the terms of any insurance policy of the COMPANY, COMPANY shall defend, indemnify and hold harmless the TOWN, their elected officials, appointed officers, servants, engineers, employees, representatives, agents and contractors (hereinafter collectively referred to as “TOWN Indemnatee”), from and against (and pay the full amount of) any and all Loss-and-Expense incurred by a TOWN Indemnatee arising from or in connection with: (1) any failure by the COMPANY to perform its obligations under this Agreement; (2) the negligent acts, errors, omissions or willful misconduct of the COMPANY or any of its officers, directors, employees, agents, representatives or Subcontractors in connection with this Agreement; (3) from any and all claims, demands and causes of action arising out of, related to, or connected with the operation of the Facilities; and (4) to the extent provided elsewhere in this Agreement. The COMPANY’s indemnity obligations hereunder shall not be limited by coverage exclusions or other provisions or limits in any insurance policy maintained by the COMPANY which is intended to respond to such events. The COMPANY shall not, however, be required to reimburse or indemnify any TOWN Indemnatee for any loss and expense to the extent caused by the negligent acts or omissions of the TOWN, or any Uncontrollable Circumstance. A TOWN Indemnatee shall promptly notify the COMPANY of the assertion of any claim against it for which it is entitled to be indemnified hereunder, and the COMPANY shall have the right to

assume the defense of the claim in any legal proceeding and to approve any settlement claim.

These indemnification provisions are for the protection of the TOWN Indemnitee only and shall not establish, of themselves, any liability to third parties.

Section 9.2 Survival

The provisions of this Article XI shall survive termination of this Agreement.

ARTICLE X DEFAULT AND TERMINATION

Section 10.1 Events of Default by the COMPANY

A. Events of Default By the COMPANY Not Requiring Previous Notice or Further Cure Opportunity for Termination.

Each of the following shall constitute an Event of Default by the COMPANY upon which the TOWN, by notice to the COMPANY, may terminate this Agreement without any requirement of having given notice previously or of providing any further cure opportunity:

1. Abandonment. The abandonment or failure of the COMPANY to operate all or a substantial portion of Facilities for a 24-hour period in any Contract Year, unless caused by Uncontrollable Circumstances or TOWN Fault.

2. Insolvency. The insolvency of the COMPANY as determined under the Bankruptcy Code.

3. Voluntary Bankruptcy. The filing by the COMPANY of a petition of voluntary bankruptcy under the Bankruptcy Code; the consenting of the COMPANY to the filing of any bankruptcy or reorganization petition against the COMPANY under the Bankruptcy Code; or the filing by the COMPANY of a petition to reorganize the COMPANY pursuant to the Bankruptcy Code.

4. Involuntary Bankruptcy. The issuance of an order of a court of competent jurisdiction appointing a receiver, liquidator, custodian or trustee of the COMPANY or of a

major part of the COMPANY's property, respectively, or the filing against the COMPANY of a petition to reorganize the COMPANY pursuant to the Bankruptcy Code, which order shall not have been discharged or which filing shall not have been dismissed within ninety (90) days after such issuance or filing, respectively;

5. Intentional Misrepresentation. Any intentional misrepresentation of information and facts relating and material to the COMPANY's performance of its obligations hereunder or the performance of the Facility.

6. Bonds and Insurance. The failure of the COMPANY to maintain the required performance and payments bonds required in Section 8.1 or the insurance required under Section 7.1.

B. Events of Default Requiring Previous Notice and Cure Opportunity for Termination

It shall be an Event of Default by the COMPANY upon which the TOWN may terminate this Agreement, by notice to the COMPANY, if: (1) any representation or warranty of the COMPANY hereunder was false or inaccurate in any material respect when made, and the legality of this Agreement or the ability of the COMPANY to carry out its obligations hereunder is thereby adversely affected; (2) the COMPANY fails, refuses or otherwise defaults in its duty (a) to pay any amount required to be paid to the TOWN under this Agreement within sixty (60) days following the due date for such payment, or (b) to perform any material obligation under this Agreement (unless such default is excused by an Uncontrollable Circumstance or an Event of Default by the TOWN as and to the extent provided herein), except that no such Event of Default (other than those set forth in subsection (A) of this Section) shall give the TOWN the right to terminate this Agreement for cause under this subsection unless:

1. The TOWN has given prior written notice to the COMPANY stating that in its opinion a specified default in its duty to pay or perform exists which gives the TOWN a right to terminate this Agreement for cause under this Section, and describing the default in reasonable detail; and

2. The COMPANY has not initiated within a reasonable time (in any event not more than thirty (30) days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence. If the COMPANY shall have initiated within such reasonable time and continued with due diligence to carry out to completion all such actions, the default shall not constitute an Event of Default during such period of time (in any event not more than one hundred and twenty (120) days from the initial default notice) as the COMPANY shall continue with due diligence to carry out to completion all such acts.

C. Other Remedies Upon COMPANY Event of Default

The right of termination provided under this Section upon an Event of Default by the COMPANY is not an exclusive remedy. If there is an Event of Default by the COMPANY, the TOWN shall have the right to pursue injunctive relief for specific performance, a cause of action for actual damages and to exercise all other remedies which are available to it under this Agreement and under Applicable Law.

Section 10.2 Event of Default by the Town

A. Events of Default Permitting Termination

Each of the following shall constitute an Event of Default by the TOWN upon which the COMPANY, by notice to the TOWN, may terminate this Agreement:

1. Failure to Pay or Perform. The failure, refusal or other default by the TOWN in its duty: (1) to pay the amount required to be paid to the COMPANY under this

Agreement within fifteen (15) days following the due date for such payment pursuant to complete and satisfactory written invoice, in the reasonable judgment of the TOWN; or (2) to perform any other material obligation under this Agreement (unless such default is excused by an Uncontrollable Circumstance or COMPANY Fault); or

2. Bankruptcy. The authorized filing by the TOWN of a petition seeking relief under the Bankruptcy Code, as applicable to political subdivisions which are insolvent or unable to meet their obligations as they mature; provided that the appointment of a financial control or oversight board by the State for the TOWN shall not in and of itself constitute an Event of Default hereunder.

B. Notice and Cure Opportunity.

No such default described in subsection (A) of this Section shall constitute an Event of Default giving the COMPANY the right to terminate this Agreement for cause under this subsection unless:

1. The COMPANY has given prior written notice to the TOWN stating that a specified Event of Default gives the COMPANY a right to terminate this Agreement for cause under this Section and describing the default in reasonable detail.

2. For an Event of Default described in subsection (A)(1) or (A)(2) of this Section 16.2, the TOWN has neither corrected nor diligently taken steps to correct such default within a reasonable period of time but not more than thirty (30) days from the date of the notice given pursuant to the preceding paragraph (but if the TOWN shall have diligently taken steps to correct such default within a reasonable period of time, the same shall not constitute an Event of Default for as long as the TOWN is continuing to take such steps to correct such default).

Section 10.3. Cooperation Upon Termination

A. Return of the Facilities

Upon termination or expiration of this Agreement for any reason, the COMPANY will return the Facilities to the TOWN in the same condition as they were made available to it upon the Commencement Date, ordinary wear and tear excepted, improvements made as of such date included.

B. Upon Breach

If this Agreement is terminated due to the COMPANY's material breach, the TOWN will pay the COMPANY the Service Fee up to the date the COMPANY ceases to provide Services as set forth in Section 10.1, less any damages suffered by the TOWN because of the COMPANY's breach of the terms of this Agreement. In the event of a breach, the COMPANY shall make arrangements to transfer mobile equipment and containers to the Town in order for the Town to continue solid waste operations in an uninterrupted manner.

C. COMPANY Compensation

The COMPANY will not be entitled to compensation under this Section until the COMPANY has delivered to the TOWN all required financial and other documents, software and reports related to, or required as a deliverable under, this Agreement. The COMPANY will continue to be liable for all of its obligations hereunder during the termination phase and prior to its vacating the Facilities in accordance herewith. The COMPANY shall not interfere in any manner with TOWN efforts to assume operations either itself or through a successor operator.

D. TOWN Breach

If this Agreement is terminated due to a breach by the TOWN, the COMPANY will be entitled to receive all payments due under this Agreement up to the date of such termination including reasonable costs incurred in connection with the termination of its operation and maintenance of the Facilities.

E. No Additional Costs

If the COMPANY's services are properly terminated pursuant to Section 10.1 or this Agreement expires at the end of the Term, the COMPANY may not claim compensation under this Agreement for any additional costs associated with the termination and transition.

F. Month to Month

The TOWN shall have the right, exercisable at its sole option by giving ninety (90) days notice to the COMPANY, to extend the Term of this Agreement on a month-to-month basis in order to allow for the proper transition of management responsibility to a successor manager following the expiration or termination of this Agreement, provided that any such extension shall be no longer than six months. The TOWN shall continue to pay the COMPANY the Service Fee during any such extension period and the COMPANY shall continue to comply with the terms and provisions of this Agreement.

**ARTICLE XI
UNCONTROLLABLE CIRCUMSTANCES**

A. Relief from Obligations

Except as expressly provided under the terms of this Agreement, neither party to this Agreement shall be liable to the other for any loss, damage, delay, default, or failure to perform any obligation to the extent it results from an Uncontrollable Circumstance. The parties agree that the relief for an Uncontrollable Circumstance described in this Section shall apply to all obligations in this Agreement, except to the extent specifically provided otherwise, notwithstanding that such relief is specifically mentioned with respect to certain obligations in this Agreement but not other obligations. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies previously accrued and owing under this Agreement, or to perform any obligation hereunder not affected by

the occurrence of the Uncontrollable Circumstances. The TOWN shall pay the Service Fee during the continuance of any Uncontrollable Circumstance, adjusted to account for any cost reductions achieved through COMPANY mitigation measures required by subsection (b) of this Section, as well as for any cost increases to which the COMPANY is entitled under subsection (c) of this Section.

B. Notice and Mitigation

If either party has a reasonable basis to expect an event or condition will constitute an Uncontrollable Circumstance that will result in an interruption of its obligations under this Agreement, such party shall notify the other of the anticipated condition. The party that asserts the occurrence of an Uncontrollable Circumstance shall notify the other party by email or facsimile, on or promptly after the date the party experiencing such Uncontrollable Circumstance first knew of the occurrence thereof, followed within fifteen (15) days by a written description of: (1) the Uncontrollable Circumstance and the cause thereof (to the extent known); and (2) the date the Uncontrollable Circumstance began, its estimated duration, the estimated time during which the performance of such party's obligations hereunder shall be delayed, or otherwise affected. As soon as practicable after the occurrence of an Uncontrollable Circumstance, the affected party shall also provide the other party with an description of: (1) the amount, if any, by which the Service Fee is proposed to be adjusted as a result of such Uncontrollable Circumstance; (2) any areas where costs might be reduced and the approximate amount of such cost reductions; and (3) its estimated impact on the other obligations of such party under this Agreement. The affected party shall also provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as practicable, use all reasonable

efforts to eliminate the cause therefor, reduce costs and resume performance under this Agreement. While the Uncontrollable Circumstance continues, the affected party shall give notice to the other party, before the first day of each succeeding month, updating the information previously submitted. The party claiming to be adversely affected by an Uncontrollable Circumstance shall bear the burden of proof and shall furnish promptly any additional documents or other information relating to the Uncontrollable Circumstance reasonably requested by the other party.

C. Conditions to Performance, Service Fee and Schedule Relief

If and to the extent that Uncontrollable Circumstances interfere with or increase the cost of the COMPANY's performance of the services, the COMPANY shall be entitled to a reasonable and appropriate increase in the Service Fee which properly reflects the interference with performance and the amount of the increased cost., unless the Town determines that some of the Services shall be modified or suspended, and the COMPANY shall perform all other services. The proceeds of any insurance policy available to meet any such increased cost, and the payment by the COMPANY of any deductible, shall be applied to such purpose prior to any determination of cost increase payable by the TOWN under this Section. Any cost reduction achieved through the mitigating measures undertaken by the COMPANY pursuant to subsection (b) of this Section upon the occurrence of an Uncontrollable Circumstance shall be reflected in a reduction of the amount by which the Service Fee would have otherwise been increased or shall serve to reduce the Service Fee to reflect such mitigation measures, as applicable. In the event that the COMPANY believes it is entitled to any Service Fee or schedule relief on account of any Uncontrollable Circumstance, it shall furnish the TOWN written notice of the specific relief requested and detailing the event giving rise to the claim within thirty (30) days after the giving

of notice delivered pursuant to subsection (b) of this Section, or if the specific relief cannot reasonably be ascertained and such event detailed, with such 30-day period, then within such longer with which it is reasonably possible to detail the event and ascertain such relief. Within thirty (30) days after receipt of such a timely submission from the COMPANY the TOWN shall issue a written determination as to the extent, if any, it concurs with the COMPANY claim for performance, price or schedule relief, and the reasons therefor. The COMPANY acknowledges that its failure to give reasonable and timely notice pertaining to an Uncontrollable Circumstance as required under this Section may increase the costs of the Uncontrollable Circumstances to the TOWN. To the extent the COMPANY's failure to give reasonable and timely notice to the TOWN causes the TOWN to incur additional costs related to the Uncontrollable Circumstance, the relief to the COMPANY shall be reduced to account for such additional cost. The COMPANY shall have the affirmative burden of refuting the TOWN's assertion. Absent such refutation, the reduction in relief to the COMPANY and the reduction in additional cost to the TOWN asserted by the TOWN in such circumstances shall be effective.

ARTICLE XII MISCELLANEOUS

Section 12.1 Discrimination

The COMPANY shall not discriminate against any customer, employee or applicant for employment because of race, color, religion, sex, sexual preference, handicap, or national origin. The COMPANY shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual preference, handicap, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeship. The COMPANY shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The COMPANY shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual preference, age, handicap or national origin.

Section 12.2 Amendments

The parties may amend this Agreement from time to time, provided that any such amendment shall be in writing and executed by each of the parties hereto.

Section 12.3 Cumulative Remedies

The specified remedies to which the TOWN may resort under the terms of this Agreement are cumulative and shall be in addition to, and not in substitution of, any other remedies or means of redress to which the TOWN may be lawfully entitled under this Agreement or in law or equity in case of any breach or threatened breach by COMPANY of any provision or provisions of this Agreement.

Section 12.4 Dispute Resolution

With respect to resolution of disputes finally appealed under Section 8.2, within ten (10) business days of assessment the COMPANY shall send the TOWN a notice of appeal triggering review by a final arbiter. The final arbiter shall be selected by decision of the Parties within ten (10) days after the notice of appeal is received by the TOWN. Such arbiter shall render its final opinion with respect to the validity and amount of the assessed stipulated penalty within sixty (60) days of the notice of appeal, which decision shall be final and binding on both parties. The sixty-day resolution period may be extended by agreement of the parties or by order of the arbiter. Costs for the arbiter shall be shared equally by the Parties, unless otherwise determined by the arbiter. Any other legal action relating to this Agreement shall be filed in the Nantucket

Superior Court Department of the Commonwealth of Massachusetts, unless otherwise agreed by COMPANY and the TOWN in writing. The TOWN and COMPANY may mutually agree to submit any disputes to non-binding mediation.

Section 12.5 Captions and Headings

Captions and headings throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be held or deemed to define, limit, describe, explain, modify, amplify, or add to the interpretation, construction or meaning of any provision or of the scope or intent of this Agreement nor in any way affect this Agreement.

Section 12.6 Notices

All notices or other communications to be given hereunder shall be in writing and may be given by personal delivery, by Federal Express or by registered or certified United States mail, return receipt requested, properly addressed as follows:

To the TOWN: Town of Nantucket
16 Broad Street
Nantucket, MA 02554
Attn: Town Manager

With a copy to: John W. Giorgio, Esq.
KP Law, P.C.
101 Arch Street
Boston, MA 02110

and

Michael Leon, Esq.
Nutter, McClennen & Fish, LLP
155 Seaport Blvd.
Boston, MA 02210

To COMPANY: Nathan A. Widell
Waste Options Nantucket, LLC
188 Madaket Road
Nantucket, MA 02554

968 With a copy to: Jeff Blease, Esq.
969 Foley & Lardner, LLP
970 111 Huntington Ave., Suite 2500
971 Boston, MA 02199
972

973 **Section 12.7 Severability**

974 In the event that any one or more of the provisions contained in this Agreement shall for
975 any reason be held to be invalid, illegal or unenforceable in any respect, such illegality or
976 unenforceability shall not affect any other provisions of this Agreement and this Agreement shall
977 be construed as if such invalid, illegal or unenforceable provision had never been contained
978 herein; provided, however, that it is the intention of the parties that in lieu of such term, clause or
979 provision that is held to be invalid, illegal or unenforceable, there should be added by mutual
980 agreement as a part of this Agreement a term, clause or provision as similar in terms to such
981 illegal, invalid or unenforceable term, clause or provision as may be possible, valid, legal and
982 enforceable, and that the inability of the parties to add such a term, clause or provision shall be
983 treated in the same manner as a Change in Law.

984 **Section 12.8 Construction**

985 Words importing the singular number shall include the plural in each case and vice versa,
986 and words importing persons shall include firms, corporations, or other entities. The terms
987 “herein”, “hereunder”, “hereto”, “hereof” and any similar terms, shall refer to this Agreement;
988 the term “heretofore” shall mean before the date of adoption of this Agreement. This Agreement
989 is the result of joint negotiations and authorship, and no part of this Agreement shall be
990 construed as the product of any one of the parties hereto.

991 **Section 12.9 Further Assurances**

992 The parties agree to cooperate in good faith and in all reasonable respects necessary to
993 enable each party to perform its obligations under this Agreement, and each will take all

reasonable actions within its authority to secure the cooperation of its affiliates, agents, representatives, officials, and representative boards, or departments. Nothing herein shall require the TOWN or any of its officers or boards to issue any necessary approval or Permit, waive any fees or charges (other than the ones expressly set forth herein), or require the TOWN to incur any cost or expense.

Section 12.11 Entire Agreement

This Agreement, including all referenced Exhibits, constitutes the entire agreement between the TOWN and COMPANY, and cancels and supersedes all prior negotiations, representations, understandings, and agreements, either written or oral, between such parties with respect to the subject matter hereof, including without limitation the Existing Agreement. No changes, amendments, alterations, or modifications to this Agreement shall be effective unless in writing and signed by the parties hereto.

Section 12.12 Counterparts

This Agreement may be executed in one or more counterparts, each of which will be considered an original.

Section 12.13 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

Section 12.14 Relationship of the Parties

The COMPANY is an independent contractor as outlined in this Agreement. The COMPANY is not an agent, employee, or joint venturer of the TOWN and will not represent itself as such. No contract made by the COMPANY with any third party will create a contractual relationship between the TOWN and said third party. The parties anticipate that day-to-day

operating contracts and supply orders will be entered into between the COMPANY and the third parties.

Section 12.15 Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and/or assigns.

Section 12.16 Assignment

The COMPANY shall not assign or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN, and shall not assign any of the moneys payable to COMPANY under this Agreement, except by and with the written consent of the TOWN and any such attempted assignment without such written consent shall be void.

Events deemed an assignment include, without limitation: (i) COMPANY's final and adjudicated bankruptcy whether voluntary or involuntary; (ii) COMPANY's takeover or merger by or with any other entity; (iii) COMPANY's outright sale of assets and equity, majority stock sale to another organization or entity for which COMPANY does not maintain a controlling equity interest; (iv) or any other change in ownership or status of the COMPANY; (v) any assignment for the benefit of creditors; and/or (vi) any other assignment not approved in advance in writing by the TOWN. In addition to any other rights and remedies available to the TOWN under this Agreement at law and in equity, such assignment shall entitle the TOWN to terminate this Agreement and all pertinent contractual conditions contained herein shall be affected in favor of the TOWN.

Failure of any subcontractor to perform the Work pursuant to the terms hereunder shall not relieve the COMPANY of its obligation to fulfill the terms and conditions of this Agreement as set forth herein.

1041 IN WITNESS WHEREOF, each party acting through its duly authorized representative(s) has
1042 executed this Agreement under seal as of the date first set forth above.

1043

1044 Town of Nantucket, MASSACHUSETTS

1045 By: _____

1046 Title: Town Manager

1047 Date of Execution: _____

1048

1049 WASTE OPTIONS NANTUCKET, LLC

1050 By: _____

1051 Title: _____

1052 Attest: _____

1053 Date of Execution: _____

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EXHIBIT 1A
SITE ASSIGNMENT

EXHIBIT 1B
TOWN MEETING VOTE

EXHIBIT 1C
PERMITS

EXHIBIT 1D
TECHNICAL OPERATIONS PLAN

EXHIBIT 1E
SERVICE FEE

EXHIBIT 5.9
INVENTORY OF ALL TOWN FIXED EQUIPMENT,
MACHINERY AND FURNITURE

EXHIBIT 5.13
PREVAILING WAGE SCHEDULES

EXHIBIT 8.1
PERFORMANCE BOND AND PAYMENT BOND

EXHIBIT 8.2
LIQUIDATED DAMAGES

ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase Agreement (this “Agreement”) dated as of May ____, 2025, is entered into between Waste Options Nantucket, LLC, a Massachusetts limited liability company having its principal address at 188 Madaket Road, Nantucket, Massachusetts 02554 (“SELLER”) and the Town of Nantucket, a Massachusetts municipal corporation acting by and through its Town Manager, having its address Town & County Building, 16 Broad Street, Nantucket, Massachusetts 02554 (“BUYER”).

WHEREAS, on May 1, 2024, SELLER and BUYER entered into a Memorandum of Understanding regarding sale of certain assets of the SELLER located on land owned by the BUYER, in anticipation of the termination of an existing agreement between the parties concerning the operation of solid waste management activities by the SELLER;

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Purchase and Sale.

1.1 **Purchase and Sale of Assets.** Subject to the terms and conditions set forth herein at the Closing, SELLER shall sell, convey, assign, transfer and deliver to BUYER, and BUYER shall purchase from SELLER, all of SELLER’s right, title and interest in, to, and under the composting facility and the transfer station (collectively, the “**Facilities**”) located at the Town-owned land at 188 Madaket Road, shown on Lot 6 on Land Court Plan No. 35656-C filed with the Nantucket Registry District of the Land Court and shown on Town Assessor’s Map 58 as Parcel 38 (the “**Town Property**”), hereinafter the “**Purchased Assets**”. The Purchased Assets include and all fixtures, machinery and process equipment contained therein, together with the spare parts, materials and supplies (the “**Ancillary Materials**”), as well as all documents and records related to the SELLER’s operations of the Facilities, including but not limited to (1) operation and maintenance data, records and information, (2) third party contracts including service contracts (except for those rejected by BUYER), guarantees and warranties, (3) software and related licenses and operating manuals, and (4) permits to conduct all operations at the Facilities (the “**Documents**”). A complete list of the Purchased Assets, including the Ancillary Materials and Documents are identified and further described on Exhibit A hereto).

1.2 **Excluded Assets.** Notwithstanding the foregoing, the Purchased Assets shall not include the assets, property and rights specifically set forth in Exhibit B herewith, the “**Excluded Assets**” including the mobile equipment, listed in Exhibit B and related supplies, materials and parts (the “**Mobile Equipment**”) or other equipment associated with the Facilities listed in Exhibit B (the “**Other Equipment**”).

1.3 **Purchase Price.** The agreed purchase price for the Purchased Assets is Four Million Four Hundred Thousand and 00/100 (\$4,400,000.00) Dollars which is to be paid on the Closing Date upon the delivery of the Bill of Sale by wire transfer or Electronic Funds Transfer, at BUYER’s option. The Purchase Price was allocated under the above-referenced Memorandum of Understanding and is comprised of One Million Dollars (\$1,000,000.00) for the

composting facility structures, equipment, materials and documents and Three Million Four Hundred Thousand Dollars (\$3,400,000.00) for the transfer station structure, equipment, materials and documents.

1.4 **Closing Date.** The Closing shall occur at 11:00 a.m. on November 25, 2025, or other date to be agreed upon by the Parties, but not later than November 27, 2025 (the “**Closing Date**”).

1.5 **Place.** Closing shall be held at the Nantucket Town Hall, 16 Broad Street, Nantucket, MA, unless a different location is identified by BUYER at least 30 days prior to the Closing Date.

2. **Title to the Purchased Assets and Assignment of Interests.** The SELLER shall convey all of the conveyed Purchased Assets, by a Bill of Sale running to the BUYER, which said Bill of Sale shall convey good, clear record and marketable title thereto free from encumbrances. SELLER shall also execute and deliver an Assignment of all rights and interests in any contracts, warranties and licenses and governmental permits applicable to the Purchased Assets; provided that to the extent such contracts, licenses and governmental permits are unable to be assigned by the Closing Date (the “**Non-Assignable Contracts**”), the BUYER shall cooperate with the SELLER in any arrangement commercially reasonable to the SELLER to provide the BUYER with the interest of the SELLER in the benefits under such Non-Assignable Contract until such time as such required consent to assign such Non-Assignable Contract shall have been obtained, and the SELLER shall cooperate with the BUYER in any such commercially reasonable arrangement, including performance by the SELLER as agent if commercially reasonable to the SELLER, and, in such case, the BUYER shall be liable to the SELLER in a fashion equivalent to what the Buyer’s obligations and liabilities would have been under the Non-Assignable Contract if it had been assigned to the BUYER at the Closing. Notwithstanding the foregoing, the SELLER may condition its obligations under this Section 2 with respect to its performance as agent for Non-Assignable Contracts on the establishment by the Buyer of its ability to meet its corresponding obligations and liabilities with respect to such Non-Assignable Contracts.

3. **Bill of Sale.** SELLER shall be responsible for drafting the Bill of Sale and Assignment of Interests.

4. **Possession and Condition of Assets.** Conveyance of the Purchased Assets shall occur at the time of the delivery of the Bill of Sale on the Closing Date. BUYER and its agents shall be entitled to inspect the Purchased Assets at reasonable times agreed to between BUYER and SELLER during business hours prior to the Closing Date in order to determine the condition of the Purchased Assets. If the Purchased Assets shall have been damaged by fire or casualty insured against and BUYER has not exercised its right to terminate this Agreement, then SELLER shall, unless Seller has previously restored the Purchased Assets to their former condition, either: (a) pay over or assign to BUYER, on delivery of the Bill of Sale, all amounts recovered or recoverable on account of insurance covering the Purchased Assets, less any amounts reasonably expended by SELLER for any partial restoration, or (b) give to BUYER a credit against the purchase price, on delivery of the Bill of Sale, equal to the amount reasonably necessary for the repair or replacement of the damaged Purchased Assets, provided that such

credit shall not exceed the price allocated for such part of the Purchased Assets set forth in paragraph 1.3 above. On the Closing Date, the Purchased Assets shall be delivered to the BUYER on an AS IS / WHERE IS basis and the SELLER makes no representation hereunder as to the condition of the Purchased Assets.

5. **Use of Money to Clear Title.** To enable SELLER to make conveyance as herein provided, SELLER may, at the time of delivery of the Bill of Sale, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests on the assets or other Purchased Assets, provided that all instruments so procured are recorded for institutional mortgages in accordance with customary conveyancing practices.

6. **Conditions to Closing.** BUYER'S performance hereunder is expressly subject to the following conditions:

6.1 BUYER shall have inspected the condition of the Purchased Assets, and, notwithstanding anything herein to the contrary, be satisfied in its sole and reasonable discretion that the conditions thereof are in working order consistent with the relative depreciation of such Purchased Assets and that the repairs to be completed by SELLER as set forth in the Repairs Letter Agreement between the SELLER and the BUYER dated on or about the date hereof have been completed or, if not, remain subject to the Waste Service Agreement dated December, 1996 and effective January 1, 1997, as subsequently amended (the "**Original WSA**") or, if applicable, a new Waste Service Agreement effective upon expiration of the Original WSA (the "**New WSA**") and collectively with the Original WSA, the "**WSA**"; and

6.2 Compliance with any other requirements of the Massachusetts General or Special Laws relative to the acquisition of the Premises by BUYER.

7. **Inspection Rights.** From the date of this Agreement to the Closing Date, SELLER agrees to permit BUYER, its employees, agents and independent contractors reasonable access to enter upon the Town Property for the purposes of conducting surveys, inspections and tests, including testing and inspecting the buildings, the septic systems and other improvements on the Town Property, at such reasonable times determined by the BUYER with reasonable notice to the SELLER. BUYER'S performance hereunder is expressly conditional, at BUYER'S option, upon BUYER being satisfied with the condition of the Purchased Assets and Town Property. Nothing herein shall affect BUYER's continuous rights under any other current agreement between the parties to inspect the Purchased Assets prior to the delivery of the Bill of Sale.

8. **Ongoing Obligations and Transition Responsibilities of SELLER.** From the date of this Agreement to the Closing Date, the SELLER shall be responsible for the following:

8.1 Except as expressly provided in this Agreement, the SELLER shall continue to comply with the terms and conditions of the WSA.

8.2 SELLER shall not, without the prior written agreement by the BUYER, enter into any contract which could bind the BUYER with respect to the Purchased Assets the BUYER is acquiring pursuant to the terms hereof, or establish obligations on the BUYER after the Closing.

8.3 SELLER shall not, without the prior written agreement by the BUYER sell, lease, transfer, mortgage, pledge or subject the Purchased Assets to a lien or encumbrance, nor shall the SELLER cause to be placed or recorded any document affecting the title to the Purchased Assets.

8.4 SELLER shall promptly notify the BUYER of any casualty or any known or alleged violation of law or insurance policy, or receipt of any notice of violation of any law, regulation or governmental approval related to the Facilities and the Site.

8.5 SELLER shall give the BUYER prompt notice of any litigation or threatened litigation affecting the Purchased Assets or any part thereof, or impairing SELLER's right to sell the Purchased Assets or any portion thereof or fulfill its obligations under this Agreement within ten (10) business days of SELLER'S discovery of such claim.

9. **Affidavits, Deliverables; Etc.** Simultaneously with the delivery of the Bill of Sale and Assignment, SELLER shall execute and deliver: (a) customary affidavits with respect to parties in possession and mechanic's liens (including without limitation related to work being performed at, and/or materials delivered to, the Town Property) to the extent that a mechanics lien would be permitted to be placed on the Facilities; (b) Internal Revenue Service Form W 9 with SELLER's tax identification number stating SELLER is not subject to back up withholding; (c) a certificate of the Secretary (or equivalent officer) as to (A) the resolution of the board of directors and the shareholders (or members as applicable) which authorize the execution, delivery and performance of this Agreement, the Bill of Sale, all Assignment agreements, and the other agreements, instruments and documents required to be delivered in connection with this Agreement or at the Closing, and (d) such additional and further instruments and documents as may be consistent with this Agreement and customarily and reasonably required by BUYER.

10. **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be deemed to have been given: (a) when delivered by hand, or (b) when sent by Federal Express or other similar courier service, or (c) when mailed by certified mail, return receipt requested, or (d) upon electronically confirmed receipt of facsimile delivery (provided that such facsimile delivery is promptly followed by one of the other permitted forms of notice contained herein), to the party with a copy to the party's attorney at the addresses set forth in Section 1.

Notices to BUYER shall be made to

Town of Nantucket Att: Town Manager
Town & County Building
16 Broad Street
Nantucket, MA 02554

With a copy to:

John W. Giorgio, Esq.
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110

And

Michael A. Leon
Nutter, McClennen & Fish, LLP
155 Seaport Blvd, Boston, MA 02210

Notices to SELLER shall be made to:

Waste Options Nantucket, LLC
188 Madaket Road
Nantucket, MA 02554
Attn: Nathan Widell

With a copy to:

Martin Scully
Oyster Capital Partners
Oyster Point
Temple Road
Blackrock Co. Dublin A94 E3P9
Ireland

With a further copy to:

Jeffrey Blease, Esq.
Foley & Lardner LLP
111 Huntington Ave, Suite 2500
Boston, MA 02199

11. **Liability of Trustee, Shareholder, Fiduciary, etc.** If SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

12. **Errors.** If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice thereof is given within sixty (60) days of the date of delivery of the deed to the party to be charged, then such party agrees to make payment to correct the error or omission.

13. **Construction of Agreement.** This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both SELLER and BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several.

14. **Captions.** The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

15. **SELLER'S Records.** SELLER agrees that it shall as soon as practical from the execution date of this Agreement, and (b) five (5) business days prior to the Closing Date, provide and deliver to BUYER true, accurate, and complete copies of the following documents or records in SELLER'S possession and control and as they exist in SELLER'S records (collectively, "**SELLER'S Records**"): any contracts, service agreements or other agreements with respect to the operation, maintenance and/or management of the Purchased Assets (the "Operating Contracts") that are not terminable within thirty (30) days prior notice and may become the obligation of the BUYER after the Closing.

16. **Representations and Warranties.** SELLER represents and warrants to BUYER, effective as of the date of this Agreement and also effective as of the Closing Date, that:

16.1 To SELLER'S actual knowledge, SELLER holds good and clear and marketable title to the Purchased Assets.

16.2 SELLER has all requisite power and authority, has taken or will take all actions required by its organizational documents and applicable law, and has obtained or will obtain all necessary consents, to execute and deliver this Agreement and to consummate the transactions contemplated in this Agreement, and the person(s) signing this Agreement on behalf of the SELLER have been authorized to sign on behalf of SELLER.

16.3 To the SELLER'S actual knowledge, SELLER'S execution of this Agreement does not violate any other contracts, agreements or any other arrangements of any nature whatsoever that SELLER has with third parties.

16.4 SELLER has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused suffered or consented to the appointment of a receiver, trustee administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceeding, to hold, administer and/or liquidate all or substantially all of its assets.

16.5 There is no litigation pending, or to SELLER'S actual knowledge, threatened against SELLER or the Facilities and the Site, which if determined adverse to SELLER would affect, in any material adverse respect, the ability of SELLER to transfer title to the Purchased Assets as herein provided or to otherwise perform its obligations hereunder.

16.6 To SELLER'S actual knowledge and belief, the SELLER Records delivered pursuant to this agreement are true, accurate and complete copies of same in SELLER'S possession, and SELLER does not have in its possession or control, or have actual knowledge of, any documents or records which would make the SELLER Records, as described herein,

inaccurate or misleading in any material respect or any documents or records that relate to the subject matter addressed in such SELLER Records but not provided to BUYER.

The above representations and warranties of SELLER shall be deemed restated at Closing, and it shall be a condition of BUYER'S obligation to close that the representations and warranties set forth above remain true and correct in all material respects as of the Closing Date.

17. **Survival.** All representations, warranties, covenants, and agreements contained herein and all related liabilities and rights to indemnification shall terminate at the Closing other than the obligations in Section 2 (Title to the Purchased Assets and Assignment of Interests) and the representations in Section 16.1 which, in each case, shall survive for a period of three (3) years after the Closing Date. For the avoidance of doubt, BUYER is not a party to the indemnification provisions of Section 18 below as an indemnifying party, however BUYER will have contractual liability for any breach by BUYER of any of its obligations under Section 2 (Title to the Purchased Assets and Assignment of Interests).

18. **Indemnification by SELLER.**

18.1 **Indemnification.** Subject to the other terms and conditions of this paragraph, from and after Closing but subject to the time period in Section 17, SELLER shall indemnify and defend each of BUYER and its Affiliates and their respective Representatives (collectively, the "**BUYER Indemnitees**") against, and shall hold each of them harmless from and against, any and all losses, damages, liabilities, deficiencies, Actions, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees (collectively, "**Losses**"), incurred or sustained by, or imposed upon, the BUYER Indemnitees based upon, arising out of, or with respect to:

(a) any inaccuracy in or breach of any of the representations or warranties of Seller contained in Section 16(a) of this Agreement as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date; or

(b) any breach or non-fulfillment of any covenant to be performed by SELLER pursuant to Section 2 (Title to the Purchased Assets and Assignment of Interests) of this Agreement.

18.2 **Indemnification Procedures.** Whenever any claim shall arise for indemnification hereunder, the party entitled to indemnification (the "**Indemnified Party**") shall promptly provide written notice of such claim to the Seller (the "**Indemnifying Party**"). In connection with any claim giving rise to indemnity hereunder resulting from or arising out of any Action by a Person who is not a party to this Agreement, the Indemnifying Party, at its sole cost and expense and upon written notice to the Indemnified Party, may assume the defense of any such Action with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall be entitled to participate in the defense of any such Action, with its counsel and at its own cost and expense. If the Indemnifying Party does not assume the defense of any such Action, the Indemnified Party may, but shall not be obligated to, defend against such Action in such manner as it may deem appropriate, including settling such Action, after giving notice of it to the Indemnifying Party, on such terms as the Indemnified Party may deem appropriate and no

action taken by the Indemnified Party in accordance with such defense and settlement shall relieve the Indemnifying Party of its indemnification obligations herein provided with respect to any damages resulting therefrom. The Indemnifying Party shall not settle any Action without the Indemnified Party's prior written consent (which consent shall not be unreasonably withheld or delayed).

19. **Exclusive Remedy.** From and after the Closing, subject to any other provisions of this Agreement, the indemnification provisions of Article 18 shall be the exclusive remedy of the Indemnified Parties with respect to this Agreement, except to the extent that a party suffers Losses as a result of any Fraud in which case such party shall be entitled to additional relief and remedies otherwise available. "**Fraud**" means an actual fraud by a party hereto with the intention that the other party hereto rely thereon to its detriment.

20. **Entire Agreement.** The SELLER and the BUYER agree that they have incorporated in this Agreement their entire understanding and no oral statement or prior written statement made by either of them, or by any other person, extrinsic to this Agreement, shall have any force and effect, other than the WSA which shall remain in effect in accordance with its terms.

In witness whereof, the parties hereto sign this Agreement under seal as of this ____ day of _____, 2025.

SELLER:

BUYER:

WASTE OPTIONS NANTUCKET, LLC

TOWN OF NANTUCKET
By its Town Manager

By: _____

Nathan Widell, Chief Executive Officer

C. Elizabeth Gibson
Duly Authorized

By: _____

Martin Scully, Chairman

Exhibit A

Purchased Assets

Inventory of Purchased Assets

The Purchased Assets, as referenced in this Agreement and the WPA include the two facilities that the Town is purchasing from the Seller: namely, the **Composting Facility** and the **Transfer Station** (also referred to as the Facilities).

This exhibit is intended to serve as a summary description of the components of each of the Composting Facility and the Transfer Station for reference regarding inspection of condition at the time of transfer of ownership (the Closing Date) and commencement of operations under the WSA (the Commencement Date of December 1, 2025). More detailed information on the Composting Facility and the Transfer Station can be found in the following sources that the Town has received from the COMPANY:

- Operating manuals and plans
 - o Maintenance manuals
 - Monitoring and Preventative Maintenance, Stationary Equipment, MRF and Co-Compost Facility
 - Compost Plant O&M Manual,
 - Digester O&M Manual
 - Digester Control Schematics
 - Philadelphia Gearbox 37338 PG165HPS-4C, Timken Gears and Services O&M Manual
- Building drawings
 - o C&D Building (Transfer Station): Architectural, Civil, Mechanical, Metal Building, Structural
 - o Compost Plant: Architectural, Civil, Digester, Electrical, Mechanical, Structural
- Permit documents issued by, and Annual Reports and semi-annual inspection reports submitted by COMPANY to, the Massachusetts Department of Environmental Protection (MassDEP) as listed in Exhibit 1.C to the WSA.
- Technical Operations Plan from the COMPANY's Technical Proposal, included in Exhibit 1.D to the WSA.

The **Composting Facility** and **Transfer Station** assets being purchased by the Town include the following items:

1. All buildings and connected rooms and spaces that comprise the **Composting Facility** including:
 - 1.1 The Tipping Building and associated rest rooms.
 - 1.2 The Aeration Building, which includes (i) the main aeration floor area and eight adjacent aeration zones; (ii) the initial screening area, including the area for drum discharge, the main ventilation fans and the air scrubbers; and (iii) the final screening area.

- 1.3 The Biofilter Building.
2. All buildings and connected rooms that comprise the **Transfer Station** including:
 - 2.1 The main tipping, transfer and load-out areas.
 - 2.2 Ancillary Rooms, including the lunchroom, the rest rooms, the fire pump room, the electrical room, and the tool room/workshop.
3. Building envelope and structural components for the Composting Facility, which include but are not limited to the following:
 - 3.1 Tipping Building roof, walls, floor, foundation, internal walls, push walls and dividers.

Note: The Tipping Building roof is scheduled to be replaced in 2025 prior to the Commencement Date. The Town anticipates that the roof will come warranties comparable to those provided for the Transfer Station roof as described below.
 - 3.2 Tipping Building roll-up doors.
 - 3.3 Tipping Building personnel access doors.
 - 3.4 Rest room roof, walls, floor, foundation, internal walls and dividers.
 - 3.5 Rest room personnel access doors.
 - 3.6 Aeration Building fabric panel roof/walls and structural supports.
 - 3.7 Aeration Building floors, foundations, knee walls, internal walls, push walls and dividers.
 - 3.8 Aeration Building roll-up doors.
 - 3.9 Aeration Building personnel access doors.
 - 3.10 Biofilter Building fabric panel roof/walls and structural supports.
 - 3.11 Biofilter Building floor, foundation and media containment walls.
 - 3.12 Biofilter Building personnel access doors.
 - 3.13 Stormwater controls on outside walls adjacent to the Composting Facility building perimeters.
4. Building envelope and structural components for the Transfer Station, which include but are not limited to the following:
 - 4.1 Main area roof, walls, floor, foundation, internal push walls and grade separation features.

Note: the Transfer Station roof was installed in 2014 when the entire Transfer Station structure was reconstructed after destruction by a fire in 2013. The roof of the Transfer Station is covered under the terms of the Nucor American Buildings Warranty Program from the completion date for roof installation. Coverage includes a Standard 20-year warranty on Weathertightness; a 25-year Silicone Polyester Paint and Material Finish Warranty; and a 35-year PVDF Paint Warranty for pre-painted galvanized and galvalume aluminum-zinc alloy-coated panels, in each case for protection against fading, cracking, peeling and chalking.

- 4.2 Main area personnel access doors.
- 4.3 Main area roll-up doors.
- 4.4 Ancillary Rooms internal and outside walls, floors, foundations and roofs
- 4.5 Ancillary Rooms personnel access doors.
- 4.6 Ancillary Rooms roll-up doors.

5. Building-related utility and protective systems for the Composting Facility, which include but are not limited to the following:

	System	Equipment description	Function	Last major repair or maintenance	Next major repair or maintenance
5.1	Air collection system	Large overhead ducts	Collects air from Tipping and Aeration Buildings	Duct work has not been replaced	Duct work that runs parallel to final screen to be repaired in FY 2025, needs clamp connecting section
5.2	Negative air pressure and odor control system	Two large ventilation fan/motors located in the Aeration Building initial screening area Two ventilation fans/motors serving the Tipping Fee Building Two exhaust fans/motors at the Biofilter Building	Pulls air through collection system; pressurizes air to push through scrubbers to biofilter	Both motors replaced in FY 2017	Motors should last through at least 2030
5.3	Odor removal system	Two Indusco Environmental air scrubbers with exhaust fans, pumps, and media	Remove odorants from collected air	Media last cleaned in FY 2023	Next media cleaning in FY 2026
5.4	Aeration system	Aeration blower/motor units, air duct system and air passages for 8 aeration zones	Force air to aerate piles of organic material in 8 aeration beds	Grates – FY 2017; motors FY 2017	Air zone fans are inexpensive and replaced when necessary (if damaged or are not operational).

					Transfer fans from tip floor to aeration floor inspected, repaired and replaced when necessary (if damaged or not operational).
5.5	Sprinkler system	Water pumps, pipes, and distributed sprinkler heads and assemblies with control panel and sensors/alarms	Fire suppression system	Strobes – FY 2017; Radio Boxes – FY 2018; 4 inch main FY 2019; 6 inch gem valve replaced in FY 2020; Rerouting of fire system outside – FY 2022; sprinkler heads in aeration building – FY 2023; ongoing repairs, replacement of valves and other components; repacked jockey pump in FY 2024	Fire suppression system is routinely inspected by third party fire suppression company to determine when and if major components need repair, replacement or upgrades. Over the next 2 – 5 years the sprinkler heads in biofilter building and tip building should be replaced. Jockey pump feeding MRF and Compost Plant may need replacement over next few years.
5.6	Electrical system	Motor control center, panels, power receptacles and lighting for all buildings	Provide electric power and lighting	Lighting – FY 2019; MCC panels inspected FY 2024	GE to come out in FY 2025 to replace components on main circuit breaker (main circuit breaker is still working)
5.7	Unit heaters	Heaters located in scrubber room, and valve rooms of for buildings	Provide supplemental heat	Unit heaters in valve room replaced in FY 2023	These can last anywhere from a few years to several years, unit heaters are not material capital items
5.8	Sanitary system	Rest room plumbing fixtures,	Sanitation	Septic inspected in FY 2024/2025	Work to be performed being determined

		piping and septic system			
5.9	Biofilter media	Wood chips for air filtration and odorant adsorption	Media to filter and adsorb odorants and air pollutants	Media last fluffed in FY 2024	Next media change expected depends on back flow pressure; possibly in FY 2026

6. Building-related utility and protective systems for the Transfer Station, which include but are not limited to the following:

	System	Equipment description	Function	Last major repair or maintenance	Next major repair or maintenance
6.1	Sprinkler system	Fire pump driven by US motor, pipes, and distributed sprinkler heads and assemblies with control panel and sensors/alarms	Fire suppression	Radio boxes – FY 2018; sprinkler heads replaced in FY 2022; entire fire system replaced in FY 2014	Fire suppression system in working order and no major replacements identified at this time. System is routinely monitored and inspected by third party fire suppression company.
6.2	Electrical system	Panels, power receptacles and lighting; ventilations fans	Provide electric power and lighting	Electric system inspected in FY 2024	
6.3	Sanitary system	Rest room plumbing fixtures , piping and septic system	Sanitation	Septic inspected in FY 2025	Work to be performed being determined in current year

7. Fixed processing equipment for the Composting Facility, which includes but is not limited to the following:

	Equipment	Description	Function	Last major repair or maintenance	Next major repair or maintenance
7.1	Feed conveyor	Steel apron conveyor with horizontal and inclined sections	Accept MSW Convey to ram for feeding into drum	New Conveyor installed in late FY 2013; April 2019 Replaced steel apron conveyor	2025 Replace steel apron conveyor

7.2	Hydraulic ram feeder	Horizontal ram on elevated structure	Move MSW into the drum	Late 2013 and early 2014	Renovation or replacement in FY 2026 – 2027; replace hydraulic cylinders, renovate ram
7.3	Rotating drum digester	Rotating insulated metal cylinder with internal vanes, feed zone steel plate seals, discharge door	Mix MSW to accelerate decomposition	Shell section reinforced in FY 2024 into FY 2025	Ongoing inspections determine when wrapper for shell, wear bars, end walls or other to be required.
7.4	Drum drive system	Gearbox by Philadelphia Gear with 200-Hp electric motor and pinion gears Feed seals and discharge seals	Rotate drum at low speed.	New gear box, coupler, high speed disengage coupler, drive motor all replaced in FY 2021; new variable frequency drive in FY 2020	Undetermined, larger redundant gear box should last longer than prior Falk 525 gear boxes which lasted anywhere from a year to 15 years. Primary pinion flipped in FY 2014, may want to flip pinion again in 3 – 5 years. No excessive wear observed on primary digester gear or pinion. Based on inspections, digester tires, bearings (trunnions) in fair and working condition.
7.5	Discharge and trommel feed conveyor	Discharge conveyor from composter to trommel screen installed by DG Marshall	Accept material discharged from drum Convey to trommel	Replaced discharge conveyor 2022	2032

7.6	Trommel screen	Primary trommel screen with material received from discharge conveyor provided by AMADUS	Screen to separate fine organics from residual materials	Replaced trommel 2021	2034
7.7	Baler for residuals	IBC	Bale trommel overs for delivery to landfill	Replaced baler 2014	2027 - 2028
7.8	Feed hopper with belt conveyor and gate valve	Material received from air floor and transported to final screen system, installed by DG Marshall	Accept composted organic material in hopper and move onto belt	Current conveyor and feed hopper system was installed in late FY 2018	2032 - 2033
7.9	Vibratory screen, compactor, feed conveyor	Bivi Tech screen Compactor Conveyors	Separate fine compost from heavy contaminants Compact heavies Move lights to destoner	New cyclone installed in FY 2016; new set of screens in bivi-tech in FY 2019	no major renovations or replacement anticipated for foreseeable future, screen sections and gaskets replaced from time to time 2029 - 2030
7.10	De-stoner, conveyors, and blower		Remove heavy fraction	De-stoner components and conveyor parts in FY 2016	no major renovations or replacement anticipated for foreseeable future 2029 - 2030
7.11	Cyclone and screw conveyors		Separate fine particulates from air and return to compost	Replaced cyclone 2014	no major renovations or replacement anticipated for foreseeable future 2029 - 2030

8. Initial inventory of supplies, tools, materials and spare parts for the Composting Facility and Transfer Station, which include but are not limited to the following:

- 8.1 All items for use in performing major repairs, replacements and refurbishments of fixed processing equipment and building systems or components that were on-site as of September 26, 2024 (the submittal date of the Waste Options Proposal, or the Submittal Date)) and that are (a) listed as “STORED ONSITE” in Section 1.5 of the Technical Operations Plan; or (b) overhead door parts listed in Section 6.5 of the Technical Operations Plan; or (c) load cells, main board and communications board listed in Section 8.5 of the Technical Operation Plan; such items in the aggregate to be known as “Initial Spare Parts.”
 - 8.2 The hydro-pack tool kit for moving the drum digester uphill or downhill.
 - 8.3 The high speed coupler tool kit for detaching and re-attaching the coupler from the gear box
 - 8.4 All supplies, tools, materials, consumables, fasteners, and other commodity spare parts typically kept on-site consistent with good industry practice as of the Submittal Date for use in the performance of minor routine operations, maintenance and repair tasks, such as lubrication and replacement of consumables and commodity wear parts (Supplies). Waste Options would replenish the Supplies as part of the Scope of Services at no incremental cost to the Service Fee, which Supplies would be owned by the Town upon delivery to and receipt at the Site.
9. Other non-building, non-equipment assets or intangible assets associated with the Composting Facility or the Transfer Station, which include but are not limited to the following:
- 9.1 Licenses.
 - 9.2 Designs and as-built plans and surveys.
 - 9.3 Installation and operation instructions and guides; owners’ and user manuals; and warranties for building components and for building systems and process equipment.
 - 9.4 Vendor agreements and relationships.
 - 9.5 Software purchased and installed and used for operations or maintenance.
 - 9.6 Records, files and data on past operations, operating performance, maintenance performed and maintenance methods, frequency and costs.

Exhibit B

Excluded Assets

Inventory of Excluded Assets

Assets associated with the Composting Facility and Transfer Station that are not being purchased by the Town as part of this transaction include the following:

1. Mobile equipment and containers utilized by Waste Options during operations to handle or to process materials as listed in the Technical Operations Plan, Schedule B.
2. Lubricants, hydraulic fluids, fuels and other materials, parts, tools and supplies needed for operation and maintenance of mobile equipment and containers, which Waste Options is obligated to provide as needed to provide the Services.
3. The composter gear box/coupler and the composter motor listed in Section 1.5 of the Technical Operations Plan as “STORED OFFSITE.”
4. Replacements for Initial Spare Parts referenced in Section 8.1 above that are placed in service after the Closing Date. Waste Options has offered to buy and store such replacement parts on-site, which Waste Option would sell to the Town at the cost of purchase when such parts are needed.

WASTE OPTIONS NANTUCKET, LLC
REPAIRS LETTER AGREEMENT

THIS REPAIRS LETTER AGREEMENT (this “**Agreement**”) is entered into as of May ____ 2025 between **WASTE OPTIONS NANTUCKET, LLC** a Massachusetts limited liability company having its principal address at 188 Madaket Road, Nantucket, Massachusetts 02554 (“**WON**”) and the **TOWN OF NANTUCKET**, a Massachusetts municipal corporation acting by and through its Select Board, having its address Town & County Building, 16 Broad Street, Nantucket, Massachusetts 02554 (the “**Town**”).

1. ORIGINAL WSA.

The Town and WON are parties to a Waste Service Agreement dated December, 1996 and effective January 1, 1997, as subsequently amended (the “**Original WSA**”). The Town and WON have agreed to enter into a new Waste Service Agreement effecting upon expiration of the Original WSA (the “**New WSA**”). This Agreement shall constitute a binding addendum to the Original WSA and identifies projects that WON endeavors to complete under the Original WSA prior to November 27, 2025 (the “**Desired Completion Date**”) or such earlier date as may be mentioned below and shall also constitute a binding addendum to the New WSA to the extent identified below.

1.1 Major Repair Projects

WON shall perform the projects listed in this in accordance with the following:

- (a) WON shall endeavor to complete each project by September 27, 2025 (within 90 days of the end of the Billing Year as defined in the Original WSA) consistent with the required schedule for WON delivery to the Town of the annual reconciliation statement per Section 9.04(g) of the Original WSA, which shall address payments for such projects within the context of such annual reconciliation statement.
- (b) WON shall not invoice or request payment from the Town for any such project prior to July 1, 2025. The Town shall pay invoiced amounts due WON for completed authorized work on or before the Desired Completion Date.
- (c) Cumulative Town payments to date for any such project shall at no time be required to exceed the value of the work performed to date in the applicable schedule of values.
- (d) In the event any project is not completed by the expiration of the Original WSA, the parties agree that any uncompleted portion of the project shall be performed by WON under the New WSA and the New WSA shall be deemed to be amended accordingly.

1.1.1 Composting Facility Tip Building roof replacement.

Scope of services: WON shall replace the existing roof with new roof panels that are comparable to and compatible with the existing roof and shall replace selected side panels as deemed necessary. Spikes shall be added to the roof in locations selected strategically to discourage perching by turkey vultures and seagulls. The scope of services shall be subject to review and approval by the Town Solid Waste Director or other designee of the Director of Public Works.

Schedule: Anticipate project start in April 2025. Desired completion by June 2025.

Cost allocation: WON shall advance funds for project payment, subject to reimbursement by the Town as follows:

- (a) The Town shall reimburse third-party contractor costs without mark-up by WON subject to a discount of 4.167 percent (6/144) based on WON use of the roof for a six-month period and an assumed roof lifetime of 12 years (144 months).
- (b) Total project cost paid by the Town shall not exceed \$275,000.

1.1.2 Inclined feed conveyor repair.

Scope of services: Replace belt and side aprons for the inclined feed conveyor in the Composter Tip Building that feeds the hydraulic ram for feeding solid waste into the rotating drum.

Schedule: Anticipate project start in April 2025. Desired completion by June 2025.

Cost allocation: WON shall advance funds for project payment, subject to reimbursement by the Town as follows:

- (a) The Town shall reimburse third-party contractor costs without mark-up by WON subject to a discount of 8.333 percent (6/72) based on WON use of the roof for a six-month period and an assumed roof lifetime of 6 years (72 months).
- (b) Total project cost paid by the Town shall not exceed \$175,000.

1.1.3 Septic system repairs

Scope of services: Repair two on-Site septic systems, including (i) the septic system adjacent to and serving the Transfer Station (the TS Septic System); and (ii) the septic system adjacent to and serving both the Composting Facility and the Town-owned Materials Recovery Facility (the MRF) (the MRF Septic System). The TS and MRF Septic Systems shall be repaired per the requirements of the Town Board of Health.

Schedule: Anticipate project start in April 2025 and desired completion by June 2025.

Cost allocation:

The main components of the TS Septic System have been inspected and found to be in working order; provided, however, that the TS Septic System distribution box has not yet been located and inspected. It is presumed that the scope of repairs to the distribution box will be nominal, in which case WON shall pay for such repairs. In the unforeseen event that the scope of repairs would exceed \$20,000, the Town shall procure, oversee implementation of and pay for such repairs to the TS Septic System.

The MRF Septic System has been inspected by the Board of Health inspector, who has identified a scope of required repairs. The Town shall procure, oversee implementation of and pay for such repairs to the MRF Septic System.

1.2 Ordinary repair projects

WON shall perform each of the projects listed in this section in accordance with the following:

- (a) WON shall endeavor to complete each project by September 27, 2025.
- (b) In the event any project is not completed by the expiration of the Original WSA, the parties agree that any uncompleted portion of the project shall be performed by WON under the New WSA and the New WSA shall be deemed to be amended accordingly.

1.2.1 Composting Facility

- 1. Repair fabric tears in areas adjacent to the roll-up doors.
- 2. Fill and grade depressed and settled tipping floor areas near the roll-up door in the Tipping Building consistent with drainage requirements.
- 3. Repair damage to the composter drum insulation and walls at the opening to the discharge area.

1.2.2 Transfer Station

- 1. Repair damage from vehicle impacts to the roll-up door and adjacent doorways and wall panels.
- 2. Repair damage from vehicle impacts to the back wall panels.
- 3. Remove vegetation and organic matter from gutters at the roof perimeter and refasten downspout discharge elbows.

1.2.3 Other repair and compliance projects. WON and Town acknowledge that the Town may identify additional projects for desired completion by WON prior to the Commencement Date in the New WSA. Projects that the Town Solid Waste Manager presents to WON and that WON agrees in its sole discretion to complete shall be compiled on a list, tracked and monitored by the Town Solid Waste Manager and shall be subject to Sections 1.2 (a) and (b) thereof.

1.3 Notice of Casualty or Violation of Law

1.3.1 Between the date hereof and the date of the New WSA, WON shall notify the Town of any casualty or any noticed violation of law or insurance policy with respect to the Facilities (as defined in the new WSA) in writing within ten business days of WON's discovery of any casualty or any noticed violation of law or insurance policy.

2. GENERAL.

2.1 Governing Law. This Agreement and any claim, controversy, dispute, or cause of action (whether in contract, tort or otherwise) based upon, arising out of or relating to this Agreement and the transactions contemplated hereby shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts, without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction).

In witness whereof, the parties hereto sign this Repairs Letter Agreement under seal as of the date first above written.

WASTE OPTIONS NANTUCKET, LLC

TOWN OF NANTUCKET

By its Town Manager

By: _____
Nathan Widell, Chief Executive Officer

C. Elizabeth Gibson, Town Manager
Duly Authorized

By: _____
Martin Scully, Chairman

Motion for 4/30/25 SB Agenda Item:

XI-1 (Vote(s) to Approve Asset Purchase and Sale Agreement for Town Purchase of Composter and Transfer Station and Waste Services Agreement (Contract with Solid Waste Facility Operator).

Move that the Select Board vote to authorize the Town Manager to execute the Waste Services Agreement, the Asset Purchase Agreement, and the Repair Agreement between the Town and Waste Options Nantucket, all as set forth in the agenda packet for this meeting.