

SELECT BOARD

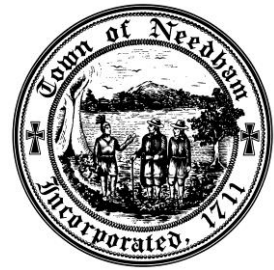
Meeting Agenda

6:00 p.m. April 12, 2023

NEEDHAM TOWN HALL

Select Board Chambers & Zoom

REVISED



Pursuant to Chapter 2 of the Acts of 2023, meetings of public bodies may be conducted virtually provided that adequate access is provided to the public.

To listen and view this virtual meeting on a phone, computer, laptop, or tablet, download the “Zoom Cloud Meeting” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the meeting or click the link below to join the webinar:

Link:

<https://us02web.zoom.us/j/83195693588?pwd=azkzYmNMT2FMMk5oWEZkVklqYlhlUT09>

Webinar ID: 831 9569 3588

Passcode: 961563

One tap mobile: +16465588656,,83195693588#

	6:00	Public Comment Period Citizens are encouraged to inform the Office of the Town Manager in advance via email (OTM@needhamma.gov), telephone (781) 455-7500 extension 204, or in person by the end of the business day prior to the meeting of their intent to participate in the public comment period. The Chair will first recognize those who have communicated in advance their desire to speak for up to three minutes. If time allows, others wishing to speak will be recognized in an order determined by the Chair for up to three minutes. The Board’s policy on public participation in meetings can be found here .
1.	6:00	Select Board Reorganization
2.	6:00	Public Hearing: Eversource Grant of Location – 37 Forest Street • Joanne Callender, Eversource Representative
3.	6:00	Public Hearing: Eversource Grant of Location – 212 Forest Street • Joanne Callender, Eversource Representative
4.	6:00	Public Hearing: Outdoor Dining License – French Press LLC, d/b/a French Press • Raji Spencer, Manager
5.	6:00	Public Hearing: Alteration of Premises for a Wine and Malts License in a Restaurant – French Press LLC, d/b/a French Press • Raji Spencer, Manager

6.	6:30	Citizens Petition – Single Use Plastic Bags • Robert Fernandez, Lead Petitioner • Kathy Raiz, Petitioner
7.	6:45	Zoning Articles • Lee Newman, Director of Planning & Community Development • Adam Block, Planning Board • Jeanne McKnight, Planning Board
8.	7:00	Public Hearing: Relative to Suspended Alcohol License – Poet King, LLC d/b/a Hungry Coyote (Continued) • Michael Magerer, Applicant Counsel • Nezahualcoyotl Leon, LLC Manager
9.	7:15	Public Hearing: ABCC Amendment Application for Change of Officers and Change of Stock Interest – Poet King, LLC d/b/a Hungry Coyote (Continued) • Michael Magerer, Applicant Counsel • Nezahualcoyotl Leon, LLC Manager
10.	7:30	Town Manager • Outdoor Space Use Permit Policy • Town Alcohol Regulations – Proposed Revisions • Approve Stormwater Fees • Positions on Warrant Articles • Town Manager Report
11.	8:40	Board Discussion • Open Meeting Complaint • Ballot Questions • Committee Reports

CONSENT AGENDA *=Backup attached

1.*	Update SB-PERS-003 Policy Contributory Insurance Rules and Regulations (extend Opt-out Program to 2025).
2.*	Approve minutes for February 15, 2023 (open session) and March 14, 2023 (open and executive session).
3.	Approve two One Day Special Licenses from Leslie Laputz of PanMass Challenge for Friday, August 4, 2023, 2:00-8:00PM and Sunday, August 6, 2023, 10:00am – 4:00pm for PanMass Challenge. The event will be held at the Trim Parking Lot, Babson College. All documents are in order.
4.	Approve a One Day Special License from Leslie Nelken of the League of Women Voters of Needham for Thursday, May 18, 2023, 6:00-8:30PM for their Annual Meeting. The event will be held at the Center at the Heights multipurpose room. All documents are in order.
5.	Approve a One Day Special License from Gloria Greis of the Needham History Center & Museum for Saturday, April 29, 2023, 6:30-11:00PM for the Spring into Springtime Gala. The event will be held at the History Center. All documents are in order.
6.	Declare April 26, 2023 Doris Kearns Goodwin Day in Needham.
7.	Approve a one-day suspension as penalty for the failure of an alcohol compliance

	check on December 7, 2022 for Vinodivino3 LLC, d/b/a Vinodivino.
8.*	Approve 20B Exemption for the following individual to engage in work with the Needham Planning and Community Development Department: Kristan Patenaude.

NEEDHAM SELECT BOARD RE~ORGANIZATION MEETING FOR APRIL 12, 2023

1. Chair calls for nominations for the re-organization of the Select Board.

Chair: _____

Vice Chair: _____

Secretary/Clerk: _____

2. Members now change to new seating arrangement.
3. The Select Board regular meeting schedule for the year.

April 25, 2023	August 15, 2023	November 28, 2023	February 27, 2024
May 9, 2023	September 12, 2023	December 5, 2023	March 12, 2024
May 23, 2023	September 26, 2023	December 19, 2023	March 26, 2024
June 13, 2023	October 10, 2023	January 9, 2024	April 10, 2024*
June 27, 2023	October 24, 2023	January 23, 2024	
July 25, 2023	November 14, 2023	February 13, 2024	

*Wednesday

4. Committee Secretary for Select Board: ☐ Myles Tucker

6. Recording Secretary for Select Board: ☐ Mary Hunt

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-

Town of Needham Select Board (1950 - 2023)

Spring Town Election					
2025-26					
2024-25	Heidi Frail				
2023-24					
2022-23				Kevin Keane	
2021-22				Lakshmi Balachandra	Marcus Nelson
2020-21	Daniel P. Matthews	Matthew D. Borrelli	Marianne B. Cooley		
2019-20					
2018-19	Daniel P. Matthews	Matthew D. Borrelli	Marianne B. Cooley	Maurice P. Handel	John A. Bulian
2017-18					
2016-17	Daniel P. Matthews				
2015-16	Daniel P. Matthews			Maurice P. Handel	John A. Bulian
2014-15		Matthew D. Borrelli	Marianne B. Cooley		
2013-14	Daniel P. Matthews		Marianne B. Cooley		
2012-13	Daniel P. Matthews	Matthew D. Borrelli		Maurice P. Handel	John A. Bulian
2011-12		James G. Healy	Gerald A. Wasserman		
2010-11	Daniel P. Matthews				
2009-10	Daniel P. Matthews	Denise C. Garlick	Gerald A. Wasserman	Maurice P. Handel	John A. Bulian
2008-09					
2007-08	Daniel P. Matthews			James G. Healy	John A. Bulian
2006-07	Daniel P. Matthews	John H. Cogswell	Gerald A. Wasserman		
2005-06					
2004-05	Daniel P. Matthews			James G. Healy	John A. Bulian
2003-04	Daniel P. Matthews	John H. Cogswell	Gerald A. Wasserman		
2002-03					
2001-02	Daniel P. Matthews				
2000-01	Daniel P. Matthews	John H. Cogswell	Gerald A. Wasserman	Colleen Schaller	William M. Powers
1999-00					
1998-99	Daniel P. Matthews				
1997-98	Daniel P. Matthews	John H. Cogswell	John D. Marr, Jr.	Ted Owens	William M. Powers
1996-97					William M. Powers
1995-96	Daniel P. Matthews				
1994-95	H. Phillip Garrity, Jr.	Sally B. Davis	John D. Marr, Jr.	Ted Owens	David F. Edridge, Jr.
1993-94				Ted Owens	
1992-93	H. Phillip Garrity, Jr.				
1991-92	H. Phillip Garrity, Jr.	Sally B. Davis	John D. Marr, Jr.	Marcia M. Carleton	David F. Edridge, Jr.
1990-91					
1989-90	H. Phillip Garrity, Jr.				
1988-89				Marcia M. Carleton	David F. Edridge, Jr.

**Town of Needham Select Board
(1950 - 2023)**

1987-88		Sally B. Davis	John D. Marr, Jr.		
1986-87	H. Phillip Garrity, Jr.			Marcia M. Carleton	David F. Edridge, Jr.
1985-86					
1984-85		Sally B. Davis	Norman P. Jacques		
1983-84	H. Phillip Garrity, Jr.			Marcia M. Carleton	Francis A. Faccetti
1982-83		Henry D. Hersey	Norman P. Jacques		
1981-82					
1980-81	H. Phillip Garrity, Jr.			Marcia M. Carleton	Francis A. Faccetti
1979-80	H. Phillip Garrity, Jr.	Henry D. Hersey	Norman P. Jacques		
1978-79					
1977-78	Richard M. Salamone			E. Loretta Reynolds	Francis A. Faccetti
1976-77		Henry D. Hersey	Benedict Horowitz		
1975-76					
1974-75	Richard M. Salamone			E. Loretta Reynolds	H. Phillip Garrity, Jr.
1973-74		Henry D. Hersey	Benedict Horowitz		
1972-73					
1971-72	Richard M. Salamone			John C. Hatch	H. Phillip Garrity, Jr.
1970-71		Henry D. Hersey	Benedict Horowitz		
1969-70					
1968-69	Richard M. Salamone			Paul F. Saint	Philip F. Foss
1967-68		Henry D. Hersey	Peter W. Carre		
1966-67					
1965-66	Clarke H. Wertheim			Paul F. Saint	Philip F. Foss
1964-65		Henry D. Hersey	Peter W. Carre	Paul F. Saint	
1963-64					
1962-63	Clarke H. Wertheim			J. Roland Ackroyd	Philip F. Foss
1961-62		Marian F. Keith	Peter W. Carre		
1960-61					
1959-60	Clarke H. Wertheim			J. Roland Ackroyd	Philip F. Foss
1958-59		Marian F. Keith	Peter W. Carre		
1957-58					
1956-57	Clarke H. Wertheim	Marian F. Keith	Edward J. Stewart	Everett C. Cross	Philip F. Foss
1955-56			Edward J. Stewart	Everett C. Cross	Philip F. Foss
1954-55	By vote of STM		Edward J. Stewart	Everett C. Cross	Philip F. Foss
1953-54	11.14.1955, the Board	Until 1956, there were	Edward J. Stewart	George M. Pond	Frank E. Godfrey
1952-53	expanded to five	three members	Edward J. Stewart	George M. Pond	Frank E. Godfrey
1951-52	members elected to	elected to one-year	Edward J. Stewart	George M. Pond	Emery S. Doane
1950-51	three-year terms	terms	Edward J. Stewart	George M. Pond	Emery S. Doane



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Public Hearing: Eversource Grant of Location: 37 Forest Street
Presenter(s)	Joanne Callender, Eversource Representative

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Eversource Energy requests permission to install approximately 15 feet of conduit in Forest Street. This work is necessary to provide underground service to a traffic signal at 37 Forest Street, Needham. The Department of Public Works has approved this petition, based on Eversource Energy's commitment to adhere to the Town's regulation that all conduit installed must be 3" schedule 40 minimum; and, that when buried, that conduit must be placed at 24" below grade to the top of the conduit.	
2.	VOTE REQUIRED BY SELECT BOARD
Suggested Motion: That the Select Board approve and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Forest Street.	
3.	BACK UP INFORMATION ATTACHED
a. DPW Review Sheet b. Letter of Application c. Petition d. Order e. Petition Plan f. Notice Sent to Abutters g. List of Abutters	

TOWN OF NEEDHAM
PUBLIC WORKS DEPARTMENT

NEEDHAM, MA 02492 Telephone: (781) 455-7550

www.needhamma.gov/dpw

TO: Kristin Scoble, Select Board Office

FROM: DPW Office

DATE:

RE:

For Select Board Meeting of

Abutters list & labels at Assessors Office.

Please email confirmation date & time of hearing

GRANT OF LOCATION PETITION REVIEW

DATE OF FIELD REVIEW: 3-27-23

REVIEWER: Raw.

SITE LOCATION: #37 FOREST ST. / #12 CLARKE RD.

UTILITY REQUESTING: EVERSOURCE

Conduit Work Area Description

☒ A Sidewalk/Grass Strip Crossing Only

Peer Review tar 3/30/23

B Work Within Paved Road Perpendicular Crossing

Peer Review _____

C Work Within a Plaza Area/Landscaped Island/Parallel Along Roadway

Peer Review _____ Div. Head Review _____

D Other

Peer Review _____ Div. Head Review _____

☒ Petition Plan Consistent with Field Review

☒ Old Pole Removed N/A

☒ Diameter of Conduit 2"

☒ Cables Transferred to New Pole N/A

☐ Depth of Conduit

☒ New Riser on Pole YES

☒ Utility Conflicts

☒ Visible Trench Patch across Road/Sidewalk YES

☒ Crossing Perpendicular to Road

☐ Abutters List Complete

☒ Public Road

☒ Photos Included

☒ Double Pole N/A

Department Head _____

COMMENTS:

TRENCHING VISIBLE, RISER ON POLE, NO D.H. CONNECTION ^{AS}
(WORK BEING DONE TO "HARD-WIRE" LED SPEED LIMIT SIGN) ^{OF}
OTHERWISE THE PETITION LOOKS GOOD. ^{YET.}

The application is in order pending a public hearing- tar 3/30/23



180 Calvary Street
Waltham, Ma 02453

March 20, 2023

Select Board
Town Hall
1471 Highland Avenue
Needham, MA 02192

RE: Forest Street
Needham, MA
W.O.#11833950

Dear Members of the Board:

The enclosed petition and plan are being presented by the NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY for the purpose of obtaining a Grant of Location to install approximately 15 feet of conduit in Forest Street.

The reason for this work is to provide electric service to traffic signal @ 37 Forest Street.

If you have any further questions, contact Joanne Callender at (781) 314-5054.
Your prompt attention to this matter would be greatly appreciated.

Very truly yours,

Richard M. Schifone

Richard M. Schifone, Supervisor
Rights and Permits

RMS/jc
Attachments

**PETITION OF NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY
FOR LOCATION FOR CONDUITS AND MANHOLES**

To the **Select Board** of the Town of **NEEDHAM** Massachusetts:

Respectfully represents **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** a company incorporated for the transmission of electricity for lighting, heating or power, that it desires to construct a line for such transmission under the public way or ways hereinafter specified.

WHEREFORE, your petitioner prays that, after due notice and hearing as provided by law, the Board may by Order grant to your petitioner permission to construct, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, said conduits and manholes to be located, substantially as shown on the plan made by **T. Thibault, dated March 8, 2023,** and filed herewith, under the following public way or ways of said Town:

**Forest Street - Westerly from pole 18/30, approximately 20 feet
northeast of Clarke Road, install approximately 15
feet of conduit.**

W.O.#11833950

**NSTAR ELECTRIC COMPANY
dba EVERSOURCE ENERGY**

By: *Richard M. Schifone*

Richard M. Schifone, Supervisor
Rights & Permits

Dated this 20th day of March

Town of **NEEDHAM** Massachusetts

Received and filed _____ 2023

**ORDER FOR LOCATION FOR CONDUITS AND MANHOLES
Town of NEEDHAM**

WHEREAS, **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** has petitioned for permission to construct a line for the transmission of electricity for lighting, heating or power under the public way or ways of the Town thereafter specified, and notice has been given and a hearing held on said petition as provided by law.

It is ORDERED that **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** be and hereby is granted permission to construct and a location for, such a line of conduits and manholes with the necessary wires and cables therein under the following public way or ways of said Town:

**Forest Street - Westerly from pole 18/30, approximately 20 feet
 northeast of Clarke Road, install approximately 15
 feet of conduit.**

W.O.# 11833950

All construction work under this Order shall be in accordance with the following conditions:

1. Conduits and manholes shall be located as shown on the plan made by **T. Thibault,**
dated March 8, 2023 on the file with said petition.
2. Said company shall comply with the requirements of existing by-laws and such as may hereafter be adopted governing the construction and maintenance of conduits and manholes.
3. All work shall be done to the satisfaction of the Select Board or such officer or officers as it may appoint to supervise the work.

1	_____	
2	_____	
3	_____	
4	_____	
5	_____	

Select Board
the Town of
NEEDHAM

CERTIFICATE

We hereby certify that the foregoing Order was adopted after due notice and a public hearing as prescribed by Section 22 of Chapter 166 of the General Laws (Ter. Ed.), and any additions thereto or amendments thereof, to wit: after written notice of the time and place of the hearing mailed at least seven days prior to the date of the hearing by the Selectmen to all owners of real estate abutting upon that part of the way or ways upon, along or across which the line is to be constructed under said Order, as determined by the last preceding assessment for taxation, and a public hearing held on the _____ day of _____ 2023 at _____ in said Town.

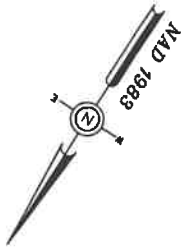
1	_____	
2	_____	
3	_____	
4	_____	
5	_____	

Select Board
the Town of
NEEDHAM

CERTIFICATE

I hereby certify that the foregoing are true copies of the Order of the **Select Board** of the Town of **NEEDHAM**, Massachusetts, duly adopted on the _____ day of _____, 2023 and recorded with the records of location Orders of said Town, Book _____, Page _____ and of the certificate of notice of hearing thereon required by Section 22 of Chapter 166 of the General Laws (Ter.Ed.) and any additions thereto or amendments thereof, as the same appear of record.

Attest: _____
Clerk of the Town of **NEEDHAM**, Massachusetts



#12

CUSTOMER TO INSTALL
1-2" PVC CONDUIT

15'±

APPROX. RIGHT OF WAY

GRASS

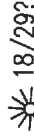
TRAFFIC SIGNAL

EDGE OF PAVEMENT



GRASS

APPROX. RIGHT OF WAY



EDGE OF PAVEMENT

#5

FOREST ST

EDGE OF PAVEMENT

GRASS

APPROX. RIGHT OF WAY

APPROX. R

#37

#51



SCALE IN FEET

BY YOUR USE OF THE INFORMATION CONTAINED IN THIS MAP, YOU AGREE THAT NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS GIVEN WITH RESPECT TO THE INFORMATION. NEITHER NSTAR ELECTRIC COMPANY, NSTAR GAS COMPANY NOR ITS PARENTS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS (COLLECTIVELY, THE "NSTAR ENTITIES"), SHALL BE LIABLE FOR ANY LOSS OR INJURY CAUSED IN WHOLE OR IN PART BY USE OF THIS INFORMATION, OR IN RELIANCE UPON IT, TO THE MAXIMUM EXTENT ALLOWED BY LAW. YOU AGREE BY YOUR ACCEPTANCE OF THE INFORMATION TO RELEASE, INDEMNIFY AND HOLD THE NSTAR ENTITIES HARMLESS FROM ANY SUCH LOSS OR INJURY.

THE INFORMATION MAY NOT REPRESENT A SURVEY. MAY NOT BE THE MOST COMPLETE AND IS SUBJECT TO ANY SURVEY NOTICE OF DISCREPANCY. THE INFORMATION IS FOR THE USE OF THE CUSTOMER AND IS NOT TO BE USED FOR ANY OTHER PURPOSES. UNAUTHORIZED ATTEMPTS TO MODIFY THE INFORMATION OR USE THE INFORMATION FOR OTHER THAN ITS INTENDED PURPOSES ARE PROHIBITED.

MASS. LAW

REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

C#	
Ward #	
Work Order #	11833950
Surveyed by:	N/A
Research by:	GR
Plotted by:	JC
Proposed Structures:	JC
Approved:	T THIBAUT
P#	

NSTAR EVERSOURCE
ELECTRIC
d/b/a
1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125

Plan of FOREST STREET

NEEDHAM

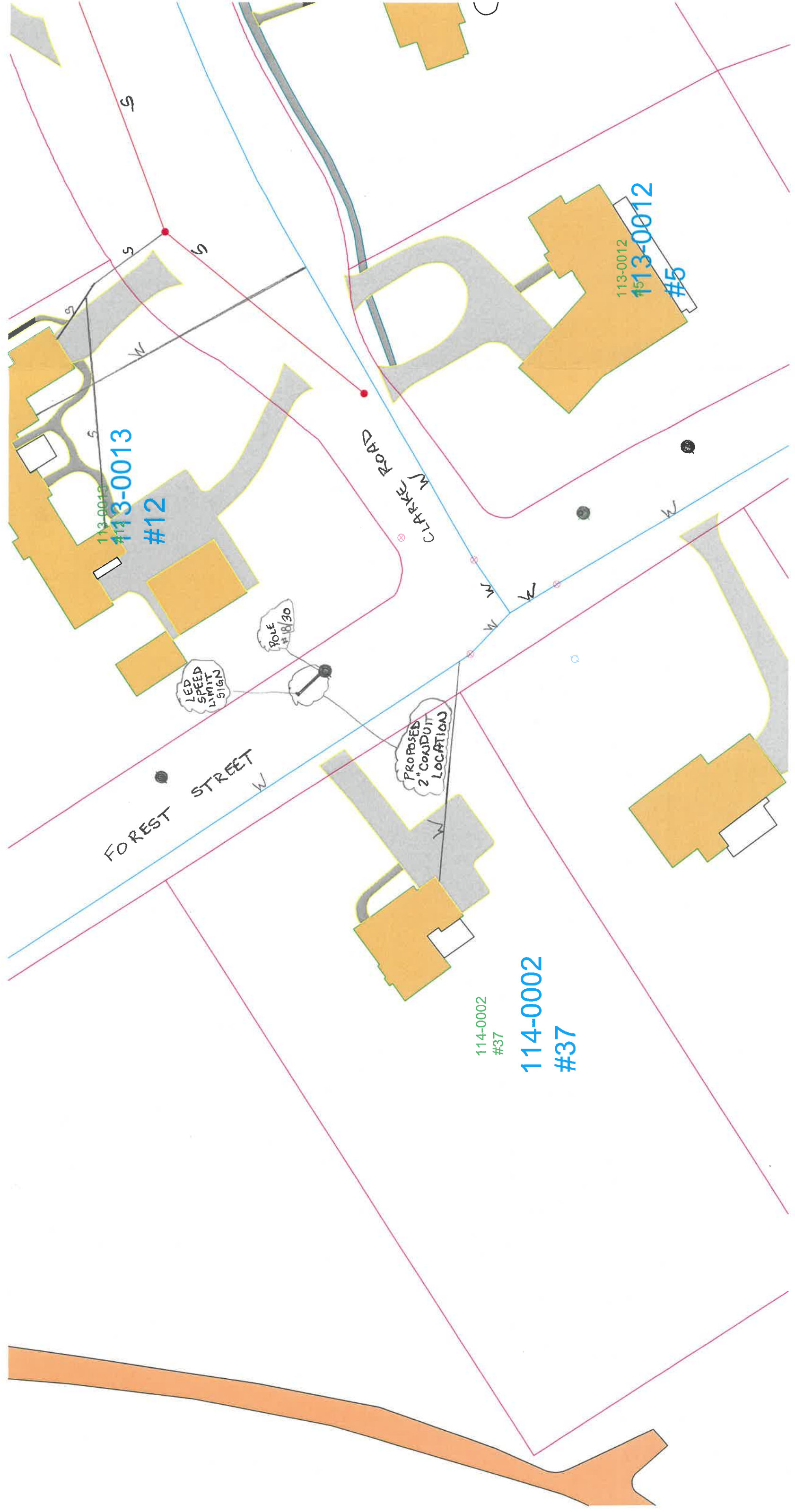
Showing PROPOSED CUSTOMER CONDUIT LOCATION

Scale 1"=20'

Date 3/8/23

SHEET 1 of 1

1"=40'
N



113-0013
#12

113-0012
#5

114-0002
#37

FOREST STREET W

CLARK ROAD W

LED SPEED LIMIT SIGN

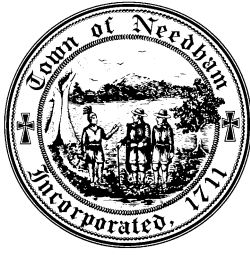
POLE #18/30

PROPOSED 2" CONDUIT LOCATION

YOUR
SPEED

CLARK

18-30



NOTICE

To the Record

You are hereby notified that a public hearing will be held **at 6:00 p.m. on April 12 , 2023 via Zoom and in person at Town Hall, 1471 Highland Avenue, Needham, MA 02492** upon petition of Eversource Energy dated **March 20, 2023** to install approximately 15 feet of conduit in Forest Street. The reason for this work is to provide electric service to traffic signal @ 37 Forest Street.

A public hearing is required, and abutters are notified.

If you have any questions regarding this petition, please contact Joanne Callender, Eversource Energy representative at (781) 314-5054.

Marianne B. Cooley
Marcus A. Nelson
Kevin Keane
Matthew D. Borrelli
Heidi Frail

SELECT BOARD

You are invited to a Zoom webinar;
<https://us02web.zoom.us/j/83195693588?pwd=azkzYmNMT2FMMk5oWEZkVklqYlhiUT09>

Passcode: 961563

Webinar ID: 831 9569 3588

Dated: March 31,2023

37 FOREST STREET

PARCEL ID	OWNER NAME 1	OWNER NAME 2	MAILING ADDRESS	CITY	ST	ZIP
199/113.0-0029-0000.0	WELLESLEY COUNTRY CLUB		WELLESLEY AVE	WELLESLEY HILLS	MA	02481
199/114.0-0002-0000.0	BABSON COLLEGE	FACILITIES MANAGEMENT & PLANNING	COLLEGE DR	BABSON PARK	MA	02457
199/113.0-0013-0000.0	GRIMES, KEVIN T. &	GRIMES, ELIZABETH J	12 CLARKE RD	NEEDHAM	MA	02492
199/114.0-0001-0000.0	BABSON INSTITUTE		BABSON PK	BABSON PARK	MA	02457
199/114.0-0003-0000.0	MULROY, JAMES T. &	MULROY, ALICE E	51 FOREST ST	NEEDHAM	MA	02492
199/113.0-0012-0000.0	FISCHER, HEIDI		5 CLARKE RD	NEEDHAM	MA	02492



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Public Hearing: Eversource Grant of Location: 212 Forest Street
Presenter(s)	Joanne Callender, Eversource Representative

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Eversource Energy requests permission to install approximately 15 feet of conduit in Forest Street. This work is necessary to provide underground service to a traffic signal at 212 Forest Street, Needham. The Department of Public Works has approved this petition, based on Eversource Energy's commitment to adhere to the Town's regulation that all conduit installed must be 3" schedule 40 minimum; and, that when buried, that conduit must be placed at 24" below grade to the top of the conduit.	
2.	VOTE REQUIRED BY SELECT BOARD
Suggested Motion: That the Select Board approve and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Forest Street.	
3.	BACK UP INFORMATION ATTACHED
a. DPW Review Sheet b. Letter of Application c. Petition d. Order e. Petition Plan f. Notice Sent to Abutters g. List of Abutters	

**TOWN OF NEEDHAM
PUBLIC WORKS DEPARTMENT**

NEEDHAM, MA 02492 Telephone: (781) 455-7550

www.needhamma.gov/dpw

TO: Kristin Scoble, Select Board Office

FROM: DPW Office

DATE:

RE:

For Select Board Meeting of

Abutters list & labels at Assessors Office.

Please email confirmation date & time of hearing

GRANT OF LOCATION PETITION REVIEW

DATE OF FIELD REVIEW: 3-27-23

REVIEWER: RAWW.

SITE LOCATION: #212 FOREST STREET

UTILITY REQUESTING: EVERSOURCE

Conduit Work Area Description

☒ A Sidewalk/Grass Strip Crossing Only

Peer Review tar 3/30/23

B Work Within Paved Road Perpendicular Crossing

Peer Review _____

C Work Within a Plaza Area/Landscaped Island/Parallel Along Roadway

Peer Review _____ Div. Head Review _____

D Other

Peer Review _____ Div. Head Review _____

☒ Petition Plan Consistent with Field Review

☒ Old Pole Removed N/A

☒ Diameter of Conduit 2"

☒ Cables Transferred to New Pole N/A

☒ Depth of Conduit

☒ New Riser on Pole YES

☒ Utility Conflicts

☒ Visible Trench Patch across Road/Sidewalk YES

☒ Crossing Perpendicular to Road

☐ Abutters List Complete

☒ Public Road

☒ Photos Included

☒ Double Pole N/A

Department Head _____

COMMENTS:

TRENCHING VISIBLE, RISER ON POLE, NO D.H. CONNECTION AS OF YET.
(WORK BEING DONE TO HARD-WIRE L.E.D. SPEED LIMIT SIGN)
OTHERWISE THE PETITION LOOKS GOOD.

The application is in order pending a public hearing- tar 3/30/23



180 Calvary Street
Waltham, Ma 02453

March 20, 2023

Select Board
Town Hall
1471 Highland Avenue
Needham, MA 02192

RE: Forest Street
Needham, MA
W.O.#11833876

Dear Members of the Board:

The enclosed petition and plan are being presented by the NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY for the purpose of obtaining a Grant of Location to install approximately 15 feet of conduit in Forest Street.

The reason for this work is to provide electric service to traffic signal @ 212 Forest Street.

If you have any further questions, contact Joanne Callender at (781) 314-5054. Your prompt attention to this matter would be greatly appreciated.

Very truly yours,

Richard M. Schifone

Richard M. Schifone, Supervisor
Rights and Permits

RMS/jc
Attachments

**PETITION OF NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY
FOR LOCATION FOR CONDUITS AND MANHOLES**

To the **Select Board** of the Town of **NEEDHAM** Massachusetts:

Respectfully represents **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** a company incorporated for the transmission of electricity for lighting, heating or power, that it desires to construct a line for such transmission under the public way or ways hereinafter specified.

WHEREFORE, your petitioner prays that, after due notice and hearing as provided by law, the Board may by Order grant to your petitioner permission to construct, and a location for, such a line of conduits and manholes with the necessary wires and cables therein, said conduits and manholes to be located, substantially as shown on the plan made by **T. Thibault, dated March 8, 2023,** and filed herewith, under the following public way or ways of said Town:

Forest Street - Easterly from pole 18/10, approximately 705 feet west of Brookside Road, install approximately 15 feet of conduit.

W.O.#11833876

**NSTAR ELECTRIC COMPANY
dba EVERSOURCE ENERGY**

By: *Richard M. Schifone*
Richard M. Schifone, Supervisor
Rights & Permits

Dated this 20th day of March

Town of **NEEDHAM** Massachusetts

Received and filed _____ 2023

**ORDER FOR LOCATION FOR CONDUITS AND MANHOLES
Town of NEEDHAM**

WHEREAS, **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** has petitioned for permission to construct a line for the transmission of electricity for lighting, heating or power under the public way or ways of the Town thereafter specified, and notice has been given and a hearing held on said petition as provided by law.

It is ORDERED that **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** be and hereby is granted permission to construct and a location for, such a line of conduits and manholes with the necessary wires and cables therein under the following public way or ways of said Town:

Forest Street - Easterly from pole 18/10, approximately 705 feet west of Brookside Road, install approximately 15 feet of conduit.

W.O.# 11838876

All construction work under this Order shall be in accordance with the following conditions:

1. Conduits and manholes shall be located as shown on the plan made by **T. Thibault, dated March 8, 2023** on the file with said petition.
2. Said company shall comply with the requirements of existing by-laws and such as may hereafter be adopted governing the construction and maintenance of conduits and manholes.
3. All work shall be done to the satisfaction of the Select Board or such officer or officers as it may appoint to supervise the work.

1	_____	
2	_____	
3	_____	
4	_____	
5	_____	

Select Board
the Town of
NEEDHAM

CERTIFICATE

We hereby certify that the foregoing Order was adopted after due notice and a public hearing as prescribed by Section 22 of Chapter 166 of the General Laws (Ter. Ed.), and any additions thereto or amendments thereof, to wit:-after written notice of the time and place of the hearing mailed at least seven days prior to the date of the hearing by the Selectmen to all owners of real estate abutting upon that part of the way or ways upon, along or across which the line is to be constructed under said Order, as determined by the last preceding assessment for taxation, and a public hearing held on the _____ day of _____ 2023 at _____ in said Town.

1	_____	
2	_____	
3	_____	
4	_____	
5	_____	

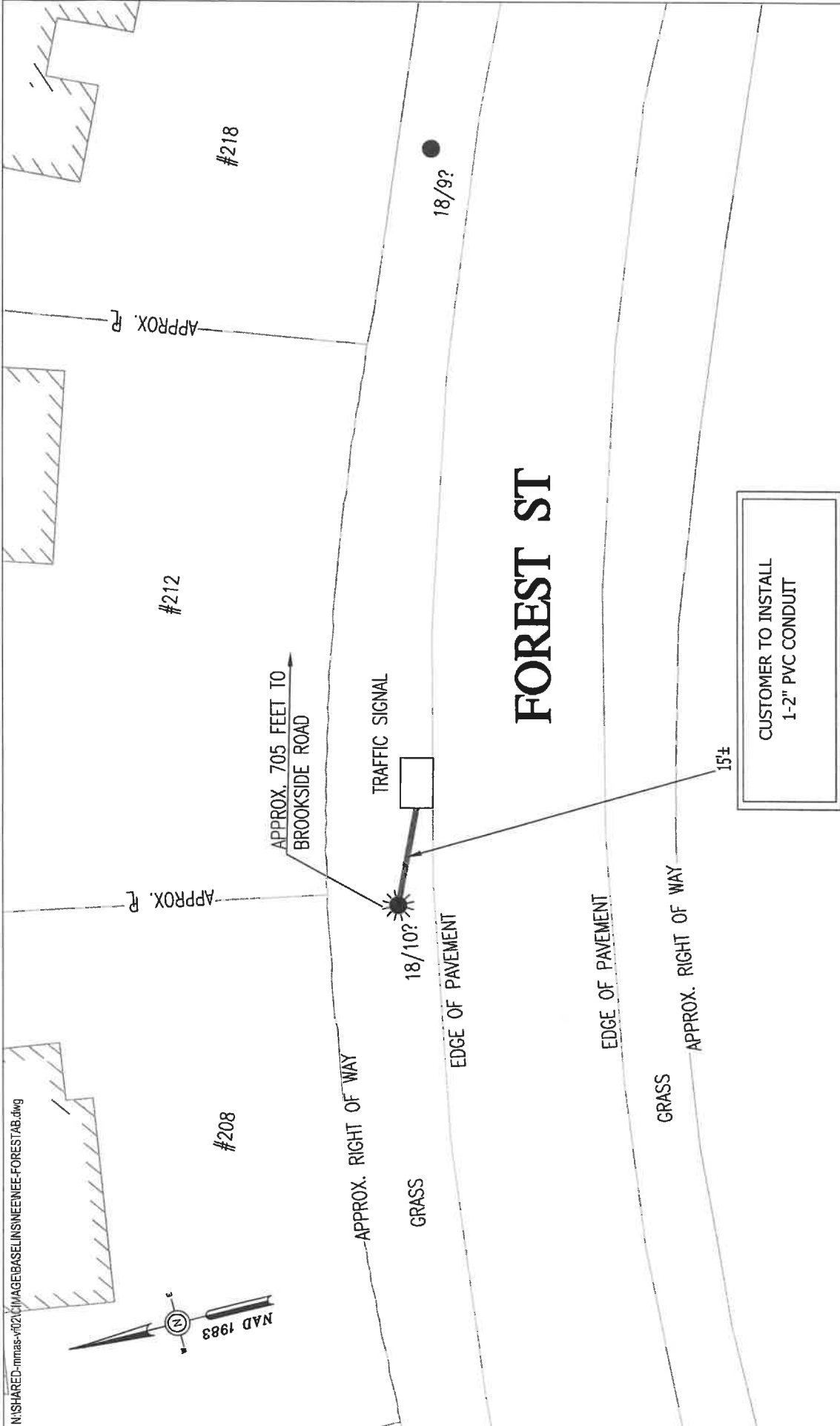
Select Board
the Town of
NEEDHAM

CERTIFICATE

I hereby certify that the foregoing are true copies of the Order of the **Select Board** of the Town of **NEEDHAM**, Massachusetts, duly adopted on the _____ day of _____, 2023 and recorded with the records of location Orders of said Town, Book _____, Page _____ and of the certificate of notice of hearing thereon required by Section 22 of Chapter 166 of the General Laws (Ter.Ed.) and any additions thereto or amendments thereof, as the same appear of record.

Attest: _____
Clerk of the Town of **NEEDHAM**, Massachusetts

N:\SHARED-mm\as-v02\CL\IMAGE\BASELINE\ENGINEE-FOREST\TAB.dwg



BY YOUR USE OF THE INFORMATION CONTAINED IN THIS MAP, YOU AGREE THAT NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS GIVEN WITH RESPECT TO THE INFORMATION. NEITHER NSTAR ELECTRIC COMPANY, NSTAR GAS COMPANY NOR ITS PARENTS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS (COLLECTIVELY THE "NSTAR ENTITIES") SHALL BE LIABLE FOR ANY LOSS OR INJURY CAUSED IN WHOLE OR IN PART BY USE OF THIS INFORMATION OR IN RELIANCE UPON IT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, YOU AGREE BY YOUR ACCEPTANCE OF THE INFORMATION TO RELEASE, INDEMNIFY AND HOLD THE NSTAR ENTITIES HARMLESS FROM ANY SUCH LOSS OR INJURY.

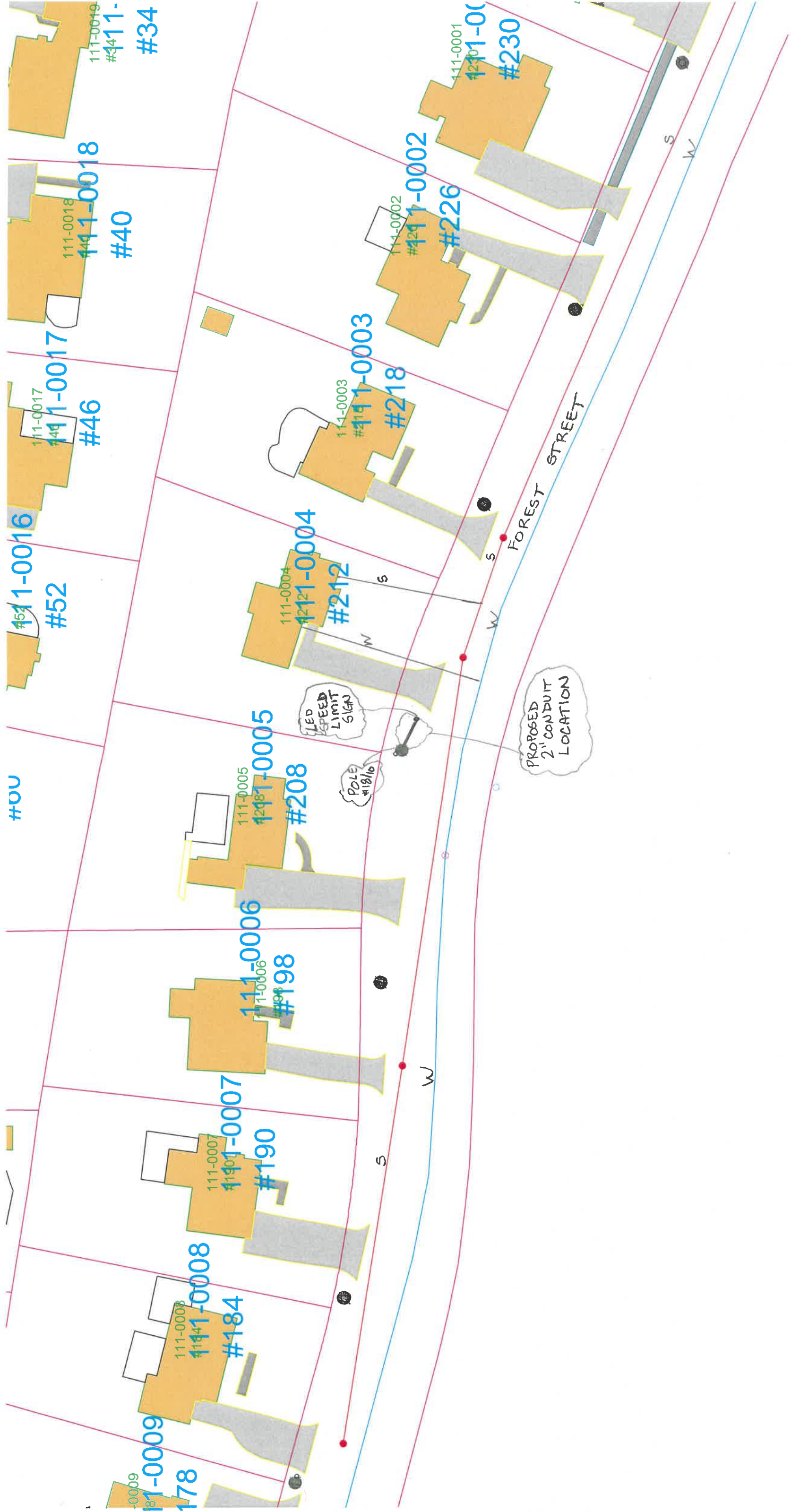
THE INFORMATION MAY NOT REPRESENT A SURVEY, MAY NOT BE THE MOST COMPLETE AND IS SUBJECT TO CHANGE WITHOUT NOTICE. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION EITHER EXPRESSED OR IMPLIED. UNAUTHORIZED ATTEMPTS TO MODIFY THE INFORMATION OR USE THE INFORMATION FOR OTHER THAN ITS INTENDED PURPOSES ARE PROHIBITED.

MASS. LAW

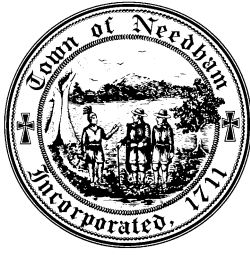
REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

C#	Ward #	Work Order #	Surveyed by:	Research by:	Plotted by:	Proposed Structures:	Approved:	P#
	-	11833876	N/A	GR	JC	JC	T THIBAUT	
Plan of FOREST STREET			NEEDHAM		Showing PROPOSED CUSTOMER CONDUIT LOCATION			
1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125			NEEDHAM		Scale 1"=20'			
					Date 3/8/23			
					SHEET 1 of 1			

2
1"=40'







NOTICE

To the Record

You are hereby notified that a public hearing will be held **at 6:00 p.m. on April 12 , 2023 via Zoom and in person at Town Hall, 1471 Highland Avenue, Needham, MA 02492** upon petition of Eversource Energy dated **March 20, 2023** to install approximately 15 feet of conduit in Forest Street. The reason for this work is to provide electric service to traffic signal at 212 Forest Street.

A public hearing is required, and abutters are notified.

If you have any questions regarding this petition, please contact Joanne Callender, Eversource Energy representative at (781) 314-5054.

Marianne B. Cooley
Marcus A. Nelson
Kevin Keane
Matthew D. Borrelli
Heidi Frail

SELECT BOARD

You are invited to a Zoom webinar;
<https://us02web.zoom.us/j/83195693588?pwd=azkzYmNMT2FMMk5oWEZkVklqYlhiUT09>

Passcode: 961563

Webinar ID: 831 9569 3588

Dated: March 31,2023

212 FOREST STREET

PARCEL ID	OWNER NAME 1	OWNER NAME 2	MAILING ADDRESS	CITY	ST	ZIP
199/111.0-0017-0000.0	LASIC, IGOR &	LASIC, HELEN MARIE	46 ROLLING LN	NEEDHAM	MA	02492
199/111.0-0005-0000.0	DOYLE, WILLAIM G. &	DOYLE, CYNTHIA J	208 FOREST ST	NEEDHAM	MA	02492
199/309.0-0025-0000.0	BABSON COLLEGE		865 CENTRAL AVE	NEEDHAM	MA	02492
199/111.0-0016-0000.0	JOHNSON, WILLIAM THORN TR	WILLIAM THORN JOHNSON REVOCABLE TR	52 ROLLING LN	NEEDHAM	MA	02492
199/111.0-0002-0000.0	WELLS, EVAN D. &	DULBERGER, DIAN E	226 FOREST ST	NEEDHAM	MA	02492
199/111.0-0004-0000.0	MULAY, HARSHAL &	NAIK, NEETA R	212 FOREST ST	NEEDHAM	MA	02492
199/111.0-0015-0000.0	MCEVOY, JAMES H. & PAULA J. TRS	MCEVOY FAMILY TRUST	60 ROLLING LN	NEEDHAM	MA	02492
199/111.0-0018-0000.0	SPROTT, KEVIN T., TR &	SPROTT, KAM M., TR	40 ROLLING LN	NEEDHAM	MA	02492
199/111.0-0006-0000.0	WALKER, ROSS &	WALKER, RUTH D	198 FOREST ST	NEEDHAM	MA	02492
199/111.0-0003-0000.0	KOUTSOPOULOS, ANNETTE DEMCHUR &	KOUTSOPOULOS, HARILAOS N	218 FOREST ST	NEEDHAM	MA	02492



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 04/12/2023

Agenda Item	Public Hearing: Outdoor Dining License – French Press LLC, d/b/a French Press
Presenter(s)	Raji Spencer, Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
French Press LLC, d/b/a French Press located at 74 Chapel Street, is seeking to establish an outdoor dining space in a parklet located on three spaces located on Chapel Street adjacent to the restaurant. The applicant has used the parklet area since 2020 in an arrangement similar to the proposed set-up in accordance with state emergency orders and local rules in the context of the COVID-19 pandemic. The applicant is requesting seasonal use of the space during the designated Outdoor Dining season of April 1st through November 30th. The applicant has also applied to the Select Board for an Alteration of Premises for their liquor license. A legal notice was advertised in the Hometown Weekly on March 23, 2023 and abutters were notified. All supporting documentation appears to be in order.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion: That the Board vote to approve an Outdoor Dining License for French Press LLC, d/b/a French Press.</i>	
3.	BACK UP INFORMATION ATTACHED
a. Outdoor Dining Application b. Floorplan c. Legal Notice d. Select Board Policy e. Zoning By-law	

**TOWN OF NEEDHAM
MASSACHUSETTS**



500 Dedham Avenue
Needham, MA 02492
781-455-7550

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one) Major Project Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 74 Chapel Street, Needham, MA 02492
Name of Applicant French Press LLC dba French Press Bakery & Cafe
Applicant's Address 74 Chapel Street, Needham, MA 02492
Phone Number 508 656 0492

Applicant is: Owner _____ Tenant ✓
 Agent/Attorney _____ Purchaser _____

Property Owner's Name 1451 Highland Ave LLC
Property Owner's Address 800 Boylston St, Suite 1390, Boston, MA 02199
Telephone Number 617 262 4646

Characteristics of Property: Lot Area _____ Present Use _____
 Map # 51 Parcel # 2 Zoning District _____

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

Select Board and ABCC approved sidewalk outdoor seating for 10 seats in March 2019. This application seeks to expand the existing area to include 20 seats with 2 covered pergolas to cover the new area and for the outdoor patio to be used continuously through the year. Existing awning/signage will be removed and replaced with one sign on top of the pergola. Electric heating will be installed and lighting to create ambience. Banner in similar style of existing will be used for alcohol service purposes.

Signature of Applicant (or representative) _____

Address if not applicant _____

Telephone # 508 656 0492

Owner's permission if other than applicant Alejandro Miranda

Digitally signed by Alejandro Miranda
DN: cn=Alejandro Miranda, o=Boylston Properties, ou=Director of Project Development, cn=Alejandro Miranda
Reason: I am approving this document
Date: 2023.01.31 17:23:23 -0500

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issued within 35 days of filing date.



**TOWN of NEEDHAM
MASSACHUSETTS
APPLICATION FOR OUTDOOR SEATING
UNDER SECTION 6.9 OF THE ZONING BY-LAW**

LOCATION:

Property Address: 74 Chapel St
Name of Establishment: French Press Bakery & Cafe

APPLICANT:

Name (must be business owner, manager, or lessee): Raji (Jay) D Spencer
Address: 74 Chapel St
Needham, MA 02442
Telephone Number: 508 656 0448
Email Address: jay@frenchpressbakery.com

Do you own or rent property?

PROPERTY OWNER:

Complete this section if applicant is not the property owner

Name (must be owner): 1451 Highland Ave LLC
Address: 800 Boylston St, Suite 1390
Boston, MA 02119
Telephone Number: 617 262 4646
Email Address: oliver@boyprop.com

APPLICATION REQUEST:

Are you requesting to have outdoor dining on PRIVATE parking spaces? Yes ___ No ☒

If yes, how many private parking spaces?

Are you requesting to have outdoor dining on PUBLIC parking spaces (on-street or in a public parking lot)? Yes ☒ No ___

If yes, how many public parking spaces do you intend to use in each category? *Note: there is a maximum of 3 parking spaces allowed per applicant.*

3 # on-street public parking spots. Please note, required concrete barriers will take up 1 parking spot and should be added to the total number of spots you are applying to use.

___ # of off-street public parking spots (in a public parking lot)

Are any of the spaces you are requesting to use designated for handicap parking? NO

Are you requesting to have outdoor dining on a sidewalk? YES, ADDING TO PREVIOUSLY APPROVED ALTERATION OF LICENSED PREMISES. APPROVAL BY SELECT BOARD AND ABCI IN MARCH 2014, 10 SEATS PERMITTED.

*Form 6.9 - Application for Outdoor Seating under Section 6.9 of the Zoning By-Law
Rev. 10/1*

SEATING: FACILITIES/EQUIPMENT:

Total number of seats approved under existing Special Permit 28
Total number of seats existing inside 6 (may be same as above or fewer)
Number of restrooms provided 2
Total number of seats proposed outside 22 Size of Grease Trap 50 lb
Number of chairs 22 Air Curtains (if opening is off kitchen) _____
Number of tables 6 Screens (if opening is off kitchen) _____
Outdoor Seating Area dimensions 18'6" x 6'8"
Type of Barrier or Enclosure to Define Seating Area
(mandatory if alcohol is proposed to be served):
Iron rails, plantings

DATES AND HOURS OF OPERATION

The standard outdoor dining season in the Town of Needham is April 1 - November 30. The Town will consider applications that extend beyond that timeframe on an individual basis.

Are you requesting to serve food & beverage outdoors earlier than April 1 or later than November 30? (Yes) no

If yes, what are your proposed opening and closing dates? Year round

What days of the week and hours do you plan to serve food & beverage outdoors?

Current operating hours
M/F 630a - 5p
WTH/F 630a - 7p
Sat 700a - 7p
Sun 800a - 3p

BRIEF DESCRIPTION OF:

Seating Arrangement, Type of Furniture, Type of Barrier or Enclosure to Define Seating Area (mandatory if alcohol is proposed to be served), Ingress/Egress from the Inside to the Outside, Location of Outdoor Exit Area in the case of an emergency, Written Description of Colors and Materials Used

Furniture - Metal Tables and chairs / Red Color

Barrier - Metal Post, Plankers / Black

Enclosure - Metal Louvered Pergola / Black

PLAN REQUIREMENTS

Submit a Plan of the Outside Seating Area, showing precise dimensions and locations of:

- (1) Seating arrangement, including the arrangement of the furniture
 - (2) Enclosure of dining area (this is required if service of alcohol is proposed)
 - (3) Location of ingress/egress from inside to outside
 - (4) Location of outside emergency exit(s)
 - (5) Separation distances to building, curbing, sidewalks, streets, trees, planters, rubbish containers, equipment, and any other obstacles in pedestrian walkway or access aisles
- Said Plan must be certified by a Registered Architect or Engineer with certifications that the restaurant with the outdoor seating complies with egress and access requirements, that the seating configuration complies with safety requirements, and that the restaurant has adequate restroom facilities for the number of seats. (If the total indoor and outdoor seating exceeds the number allowed for the existing restroom facilities, you may reduce the number of indoor seats being used, so that the total number of restaurant seats does not trigger additional restroom facilities.)
- (6) For parking spaces located on a parking lot (public or private), provide a site plan showing parking areas to be utilized for outdoor seating. Said plan can be an existing approved Site Plan, in which applicant delineates proposed seating location.

FURNITURE SPECIFICATIONS SHEET

A detailed specifications sheet illustrating the appearance, materials, colors, and size of selected outdoor seating furniture and equipment including chairs, benches, tables, umbrellas, fences, and other items. Photographs of furniture and equipment may be substituted for specification sheets as long as a sheet listing the dimensions of the furniture and equipment accompanies the photographs.

Are you proposing to have: (please check all that apply)?

- A tent or canopy? A permit from the Building Department may be required (link). *Lowered Pergola*
- Outdoor lighting? An electrical permit is required (link). *Yes, LED strip in pergola*
- Outdoor Heating? A permit from the Fire Department is required (link). *Yes, electric wall heaters*

PHOTOGRAPHS

Submit photographs of the proposed outdoor dining location (front and side views) if available. *Rendering attached with application*

ALCOHOL SERVICE

☐ NO
☒ YES

If you are seeking permission to serve alcohol outside (i.e., to extend your existing license to a patio or other outdoor seating areas), you must get approval from the Select Board by filing an Alteration of Licensed Premises, which is available on the Alcoholic Beverages Control Commission (ABCC) website at <https://www.mass.gov/how-to/amend-your-alcoholic-beverages-retail-license-alteration-of-premises-or-location-change-abcc>.

Please select one. Expansion area must be either:

1. ☒ Contiguous to the licensee's premise with a clear view of the area from inside the premises; or
2. The Licensee may commit to providing management personnel dedicated to the area.

FEES AND TERM

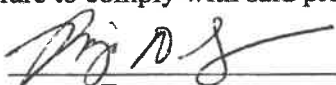
Outdoor seating licenses are issued for a term of one year, unless stated otherwise, and can be renewed annually. The annual application fee is \$25, which will be credited toward the annual licensing fee if the application is approved.

For outdoor dining approved on public property, there is an annual licensing fee for the sole use of public space for outdoor dining at the rate of \$250 per public parking space and \$100 for the use of the sidewalk. If an applicant is approved for the use of public parking space(s) and the sidewalk, the \$100 sidewalk licensing fee will be waived.

CERTIFICATION

I/we the undersigned certify that I am the owner of record of the named property or that the owner of record authorizes the proposed work and that the above information which I/we provided is correct.

I/we have read and fully understand the procedures as established by the Town of Needham and further understand that failure to comply with said procedures may result in revocation of this permit.

Signature of Applicant(s):  Date: 11 Nov 22
Date: _____

THIS SECTION BELOW IS FOR OFFICIAL USE ONLY

Major Project Site Plan Review Special Permit (Planning Board) **yes** _____ no _____

Zoning Board of Appeals Special Permit **yes** _____ no _____

Select Board Licensing Approval _____

Certificate of Insurance covering outdoor area: _____

Departmental Approval (**Health** _____ **Building** _____ **Fire** _____ **Police** _____ **Public Works** _____)

License Agreement (if seating is on sidewalk or other public property): _____

Alteration of Licensed Premises (for alcohol service in outdoor area): _____

Comments: _____

Schematic
Design

Project Expansion
FRENCH PRESS
Permit Package
78 Chapel Street
Needham, MA 02492

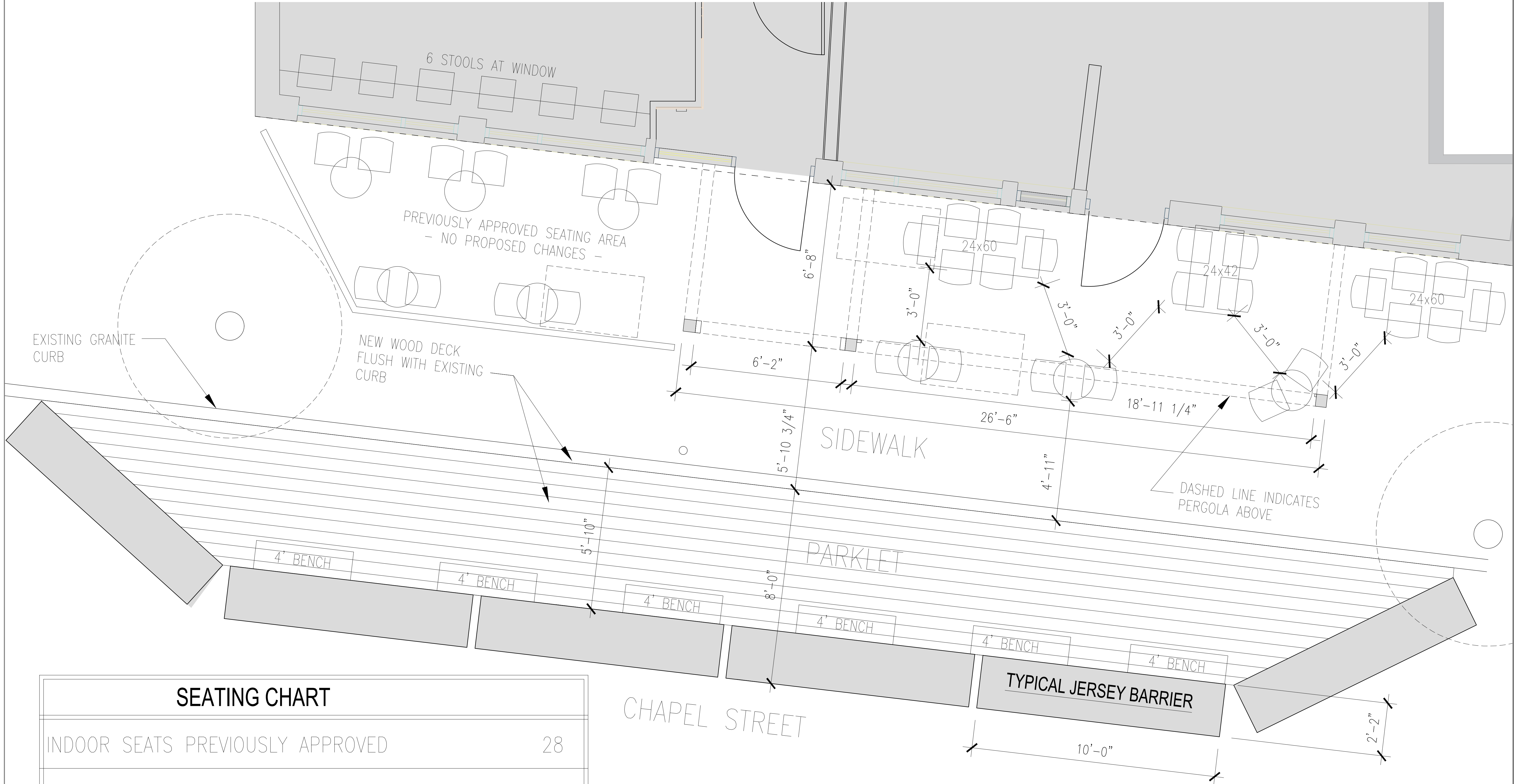


Project No: 21029
Drawn By: JR
Checked By: JR
Issue Date: 19 Jan 2023

Revisions		
No	Date	Description

Drawing Title:
SEATING PLAN

Drawing Number
A-2.01



SEATING CHART

INDOOR SEATS PREVIOUSLY APPROVED	28
OUTDOOR PREVIOUSLY APPROVED	10
OUTDOOR NEW PROPOSED ON PRIVATE PROPERTY	22
PARKLET NEW PROPOSED – WILL BE REQUESTED SEPARATELY THROUGH THE SELECT BOARD	18
TOTAL PROPOSED SEATS	78

1 OUTDOOR SEATING PLAN
SCALE: 1/2"=1'-0"

LEGAL NOTICE



TOWN OF NEEDHAM SELECT BOARD

Application for Outdoor Dining License

Notice is hereby given pursuant to Town of Needham Zoning By-Law, Section 6.9, that The French Press, LLC d/b/a French Press, Raji Spencer Manager, has applied for an outdoor dining license to: utilize a seasonal parklet on three parking spaces adjacent to 74 Chapel Street as allowed by Town of Needham Zoning By-Law, Section 6.9.

IT IS ORDERED that a public hearing be held for said application on April 12, 2023 at 6:00 p.m. The Select Board invites all residents and interested parties to provide input at this meeting that will be held in person, Select Board Chambers, Town Hall and via Zoom.

Zoom Information: <https://us02web.zoom.us/j/83195693588?pwd=azkzYmNMT2FMMk5oWEZkVklqYlhlUT09> Passcode: 961563 Webinar ID: 831 9569 3588

This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at <http://masspublicnotices.org/>

Select Board

Licensing Board for the Town of Needham

Town of Needham Select Board

Policy Number:	SB-LIC-016
Policy:	Outdoor Dining Licenses
Date Approved:	10/12/2021
Date Revised:	
Approved:	 _____ Chair, Select Board

Section 1. Purpose

The purpose of this policy is to establish a process and application criteria for licensing local businesses to use public rights-of-way, public parking lots, on-street parking spaces, sidewalks and/or other Town-owned property for outdoor dining. The Select Board will consider these guiding principles for outdoor dining:

- Create quality public spaces that contribute to people's health, happiness, and sense of connection to Needham and with each other.
- Support small businesses through added vibrancy and engagement in our business districts.
- Maintain safe and accessible sidewalk access for all users.
- Balance the needs of other street activities, including adequate parking infrastructure.

Section 2. Policy

- 2.1 No outdoor restaurant seating shall be permitted within the public right-of-way, public sidewalks and/or on public property unless the Select Board authorizes the placement of temporary outdoor seating.
- 2.2 Under Zoning Bylaw Section 6.9, the Select Board may authorize the placement of seasonal, temporary outdoor seating including but not limited to tables, chairs, serving equipment, planters, and umbrellas, within the public way and on public property, for eat-in restaurants during normal hours of operation, provided that:
 - 2.2.1 The Select Board holds a public hearing and deems that pedestrian and vehicular circulation, the safety of restaurant patrons and the public, and parking for patrons

of restaurants, retail establishments and service establishments in the vicinity of the outdoor seating, is adequately provided for;

- 2.2.2 The seating is within the public sidewalk abutting the front, rear, or side of the restaurant's owned or leased property or on a public way or on other public property abutting the front, rear, or side of the restaurant's owned or leased property;
- 2.2.3 Such use is clearly related to the restaurant conducted inside the principal building;
- 2.2.4 Unless otherwise permitted by law, a minimum sidewalk width of forty-eight inches (48") and a minimum width of thirty-six inches (36") of unobstructed pedestrian paths , shall be continuously maintained, as shown on the plan provided to the Select Board;
- 2.2.5 Such use does not obstruct or otherwise interfere with visibility at intersections;
- 2.2.6 During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash; and
- 2.2.7 The application and proposed plans adhere to all health, safety, access, and operational requirements established by the Town, as outlined in Appendix A: Outdoor Dining Requirements. The Town Manager is authorized to update these requirements, as needed, and will ensure the application form reflects any changes.
- 2.3 Items 2.2.1, 2.2.2 and 2.2.3 shall not apply during special town-wide festivals or events during the year as designated by the Select Board.
- 2.4 A restaurant applying for outdoor seating must possess a Common Victuallers License.
- 2.5 Operation of outdoor restaurant seating areas is only permitted when the main place of business is open.
- 2.6 Two or more restaurants may apply jointly for a shared outdoor seating area, subject to all requirements that apply to individual applicants.
- 2.7 The Board may not approve more than 3 public parking spaces for any single applicant. The three spaces include any area taken by concrete safety barriers.

- 2.8 If an applicant is requesting the use of a designated handicap parking space for outdoor dining, the Board may not approve unless a suitable alternative location for handicap parking is identified.
- 2.9 The outdoor dining season shall be April 1 - November 30. The Select Board may authorize seasonal temporary outdoor seating under Zoning Bylaw Section 6.9.2 (b) earlier than April 1 and later than November 30 of each year. Applicants should specify the requested start and end date for their outdoor seating area. Board consideration shall be given to snow removal operations, roadway and sidewalk construction schedules, and other needs of the Town.
- 2.10 Outdoor dining licenses must be renewed annually. For those applications seeking a renewal from the prior year, the Town Manager will determine whether a public hearing is required, taking into consideration any compliance issues, resident or abutter complaints, and safety concerns in the prior year. Renewals will be reviewed subject to the criteria above and to the operational needs of the Town, including but not limited to anticipated roadway or sidewalk construction, potential changes in use of the public property, and changes in the Town's overall parking infrastructure.
- 2.11 An application for outdoor seating on public property that increases the restaurant's overall seating capacity by more than thirty percent (30%) must receive approval by the Special Permit Granting Authority that granted the special permit allowing the use of the premises as a restaurant (either the Planning Board or the Zoning Board of Appeals), before the Select Board will review the outdoor dining application.
- 2.12 If an applicant currently has a liquor license that allows consumption on premises and intends to extend that service to the Outdoor Seating area, the applicant must file an Alcoholic Beverages Control Commission's Alteration of Premises form with the Select Board.
- 2.13 Applicants must provide a certificate of liability insurance covering the approved outdoor dining area and naming the Town of Needham as an additionally insured party in the amount of \$500,000/\$1 million.
- 2.14 Permission to use Town land does not modify or amend any applicable state or local rules, requirements, permits, licenses, or approvals. To the extent that modifications of any existing permits, licenses or approvals may be necessary, they should be separately applied for by the applicant.
- 2.15 Permission to use Town land may be modified or terminated by the Town, in its sole discretion, at any time. Upon termination, the restaurant shall be responsible for removing all its property from the designated area.

Section 3. Procedures

- 3.1 The applicant shall file an application for outdoor dining on the form prescribed by the Town of Needham and submit requisite plans, photographs, and information.
- 3.2 The application and related plans that are submitted must adhere to all health, safety, and access requirements established by the Town, as outlined in this policy and in Appendix A: Outdoor Dining Requirements.
- 3.3 Applicants must provide a certificate of liability insurance covering the approved outdoor dining area and naming the Town of Needham as an additionally insured party in the amount of \$500,000/\$1 million.
- 3.4 Upon receipt of an application, the Town Manager or their designee, will review the application for completeness, request any missing documentation, and circulate the completed application to relevant Town departments for review and comments.
 - 3.4.1 An application for outdoor seating on public property that increases the restaurant's overall seating capacity by more than thirty percent (30%) must receive approval by the Special Permit Granting Authority that granted the special permit allowing the use of the premises as a restaurant (either the Planning Board or the Zoning Board of Appeals), before the Select Board will review the outdoor dining application.
 - 3.4.2 If an applicant currently has a liquor license that allows consumption on premises and intends to extend that service to the outdoor seating area, the applicant must file an Alcoholic Beverages Control Commission's Alteration of Premises form with the Select Board.
 - 3.4.3 Applicants are encouraged to apply in late fall/early winter prior to the next outdoor dining season. Applicants may need approval from multiple local boards including the Select Board, Planning Board, and/or Zoning Board of Appeals depending on the specifics of the application. Applicants with liquor licenses will also require approval from the Alcoholic Beverages Control Commission, after local approval is received. While the Town will work diligently to process applications, applicants are not guaranteed a decision by April 1.
- 3.5 The Office of the Town Manager will notify the applicant and all owners of property within a 300-foot radius of the premises to be licensed of any public hearing via certified mail, at least seven (7) days prior to the scheduled hearing date.
- 3.6 Applicants that are approved by the Board will be required to sign a license agreement with the Town of Needham for the use of the public right of way.
- 3.7 Approved applicants may be required to obtain additional permits, subject to the specific furniture and accessories proposed for outdoor dining. Tents and outdoor structures with roofs require a permit from the Building Department. Outdoor

electrical wiring and lighting require an electrical permit from the Building Department. Outdoor heaters require a permit from the Fire Department.

- 3.8 Applicants with outdoor seating approved in on-street parking spaces or in a parking lot must coordinate with the Department of Public Works for the placement of concrete jersey barriers, before outdoor dining furniture can be installed or used.
- 3.9 Outdoor dining licenses must be renewed annually. The Select Board will determine whether a public hearing is required for renewal, taking into consideration any compliance issues, resident or abutter complaints, and safety concerns in the prior year. Renewals will be reviewed subject to the criteria above and to the operational needs of the Town, including but not limited to anticipated roadway or sidewalk construction, potential changes in use of the public property, and changes in the Town's overall parking infrastructure.

Section 4. Fees

- 4.1 There shall be an annual application fee of \$25, which will be credited toward the annual licensing fee, as defined in Section 4.2, when the application is approved.
- 4.2 For all approved applications, there shall be an additional annual licensing fee for the sole use of public space for outdoor dining at the rate of \$250 per public parking space and \$100 for the use of the sidewalk. If an applicant is approved for the use of public parking space(s) and the sidewalk, the \$100 sidewalk licensing fee will be waived.

Section 5. Exceptions

The Select Board reserves the right to make exceptions to this policy if it determines that it is in the best interest of the Town to do so.

Appendix A. Outdoor Dining Requirements

All outdoor dining applications will be reviewed by the relevant Town Department(s) to ensure compliance with the following requirements:

Public Safety & Accessibility

1. The plan submitted must show a minimum sidewalk width of 48” and a minimum width of 36” (or as otherwise prescribed by law) is maintained and unobstructed from the sidewalk or entrances into the building or any other designated walkways or pedestrian paths. The table and chairs must be placed within the outdoor seating area in such a manner as to allow free and safe passage of pedestrian traffic.
2. The outdoor seating arrangement may not obstruct or interfere with visibility at any street intersection and must not impede Police or Fire access.
3. The outdoor seating arrangement may not obstruct any fire exit, fire escape or other required ingress or egress.
4. The outdoor seating area must be accessible to people with disabilities and the applicant must at all times comply with all applicable laws, ordinances and regulations concerning accessibility and non-discrimination in the providing of services.
5. Outdoor seating placed on sidewalks or in outdoor areas should maintain a 36” clear path between and around all tables and chairs.
6. Seating placed near or adjacent to public ways or parking lots that vehicles can pull up to or travel by must have crash protection, such as concrete barriers.

Public Health

7. All entrances and exit doors through the kitchen used by food service personnel and customers must be screened and provided with air curtains meeting National Sanitation Foundation standards. All windows or openings through the kitchen used for the transfer of food must also be screened and provided with air curtains. (If your entrance and exit or service opening to the outdoor seating area is through the kitchen, you must get Health Department approval.)
8. All food must be prepared inside the facility’s kitchen and kept inside until served. No food may be prepared outside.
9. A system for washing down the outside seating area must be provided.
10. Food service personnel may not serve patrons beyond the outdoor seating area as shown on the plan approved by the licensing authority.
11. Food service personnel must constantly police the outdoor seating area for wastepaper, garbage, and other trash. Covered trash receptacles should be provided and must be emptied as needed to prevent overflowing. They must also be emptied at the end of each evening’s service.
12. If dumpsters are located near these proposed seating areas, need to ensure that areas around dumpsters are clean and sanitary, and no public health nuisance issues with odors or attraction of pests exist.
13. During the operating hours and thereafter, strict clean-up practices must be adhered to. Food service personnel must clear up after each patron and remove all trash and dirty dishes.

14. Outside food handlers must have easy access to handwash sinks and cleaning cloths. Facilities for preparation and disposal of sanitizing solutions must be accessible.
15. Outdoor seating areas shall be considered as part of the restaurant and shall comply with Board of Health regulations, including a prohibition of smoking in seasonal outdoor dining areas and only service animals being allowed in those same areas.
16. Pets not allowed in outdoor seating areas. Only service animals are permitted.

Furniture, Fixtures, Lighting & Heating

17. Tents and outdoor structures with roofs will require a permit from the Building Department.
18. Electrical wiring and lighting for outdoor seating will require an electrical permit from the Building Department.
19. Outdoor heaters require a permit from the Fire Department.
20. The applicant shall be responsible for the maintenance and upkeep of the public right-of-way used for the outdoor seating area and the replacement of damaged public property, including brick pavers. No furniture or furnishings may be permanently attached by any means to the public sidewalk or any other public property.
21. Planters may be used to provide added visual interest and create a more attractive and welcoming atmosphere. Planters may not be used to define the area of outdoor seating where the service of alcohol is involved.
22. If a patio is constructed, the patio or other ground surface must be constructed of material readily cleanable and not susceptible to dust, mud, or debris. (Brick, bluestone, tile, and concrete are examples of acceptable materials.)
23. Outdoor dining furniture and fixtures must be maintained in good visual appearance and in clean condition. Tabletops must be easily cleanable and durable and maintained in a clean and sanitary condition.
24. Umbrellas may be used but must be, when extended, at least 7 feet above the sidewalk or patio level and contained within the outdoor seating area. Umbrellas should be closed when the restaurant is not open for business.
25. Furniture and fixtures must be removed or safely secured when inclement weather is forecasted.
26. At the end of each outdoor dining season, all furniture, umbrellas, and trash receptacles must be removed.
27. All outdoor seating, furnishings and obstructions must be removed from December 1 through and including March 31, unless you have received written approval from the Town of Needham extending your outdoor dining license beyond April 1 - November 30.
28. Electrical or lighting used in or around outdoor seating needs to be UL listed for outdoor continuous use, such as power outlets, lighting and cords or cables. Exterior feeds for lighting or power should not be laid on the ground and installed overhead without code compliant cable and supporting hardware. Electrical wiring for lighting and power shall require a permit and inspection, this work shall be installed by a licensed electrician.
29. Tents, membrane structures and their accessories such as sidewalls, drops, tarpaulins, floor coverings, bunting and combustible decorations shall be certified by an approved testing laboratory meeting the design criteria of NFPA 701. Each Membrane structure or tent shall have a permanently affixed label bearing the size, fabric, and material type, testing agency and standard that fabric was tested under.

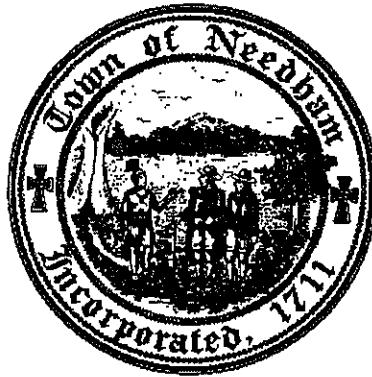
30. Portable fire extinguishers are required for each tent or membrane structure.
31. Open or exposed flame or other devices emitting flame, fire or heat or any other flammable or combustible liquids, gas, charcoal, or other cooking device or any other unapproved devices shall not be permitted inside or located within 20 feet of the tent or membrane structure while open to the public unless approved by the Fire Code Official.
32. LP Gas containers shall be located on the outside. Containers of 500 gallons or less shall have a minimum separation distance of 10 feet between the container and the structure. Storage of over 500 gallons shall have a minimum distance of 25 feet between the container and the structure.
33. Portable LP Gas containers, piping, valves, and fittings located outside and are being used to fuel equipment inside the tent or membrane structure shall be adequately protected to prevent tampering, damage by vehicles or other hazards and shall be in an approved location. Portable LP Gas containers shall be securely fastened in place to prevent unauthorized movement.

Licensing Authority

34. A restaurant requesting outdoor seating must possess a Common Victuallers License.
35. The outdoor seating area must be clearly related to the restaurant conducted in the principal building.
36. Operation of outdoor restaurant seating areas is permitted only when the main place of business is open.
37. If an applicant currently has an alcoholic license and intends to extend that service to the Outdoor Seating area, it must file an Alteration of Premises ABCC form with the Select Board.

TOWN OF NEEDHAM

Office of the Town Clerk

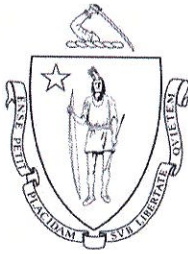


BY-LAWS

Approved By the Attorney General

**Special Town Meeting
October 25, 2021**

February 15, 2022



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

February 15, 2022

Theodora K. Eaton, Town Clerk
Town of Needham
1471 Highland Avenue
Needham, MA 02492

**Re: Needham Special Town Meeting of October 25, 2021 -- Case # 10411
Warrant Articles # 4 and 5 (Zoning)**

Dear Ms. Eaton:

Articles 4 and 5 - We approve Articles 4 and 5 from the October 25, 2021 Needham Special Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418

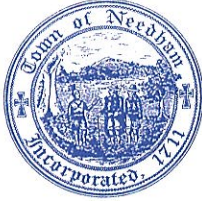
cc: Town Counsel Christopher H. Heep

Received
2022

TOWN CLERK
February 15, 2022

NEEDHAM
5:06 PM

2022 FEB 15 PM 5:06
RECEIVED
TOWN CLERK
NEEDHAM



Theodora K. Eaton, MMC
Town Clerk

TOWN OF NEEDHAM

Office of the Town Clerk

1471 Highland Avenue, Needham, MA 02492-0909

Telephone (781) 455-7500 x216

Fax (781) 449-1246

Email: Teaton@needhamma.gov

AT THE SPECIAL TOWN MEETING

HELD ON MONDAY, OCTOBER 25, 2021

UNDER ARTICLE 4

It was

VOTED: That the Town will vote to amend the Needham Zoning By-Law, as follows:

- a) Amend Section 6.9. Outdoor Seating, Subsection 6.9.1, Applicability, by (i) adding the word “eat-in” before the word “restaurants”; (ii) deleting the words “serving meals for consumption on the premises and at tables with service provided by waitress or waiter is” before the words “permitted under”; and (iii) adding the word “are” before the words “permitted under”; so that it reads as follows:

“Section 6.9.2 shall apply in any business district in which eat-in restaurants are permitted under Section 3.2.2 of this By-Law.”

- b) Amend the first sentence of Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, by (i) adding the word “eat-in” before the word “restaurants”; (ii) deleting the words “serving meals for consumption on the premises and at tables with service provided by waitress or waiter” before the words “is permitted during”; (iii) replacing the words “Section 7.4.4 and 7.4.6” with the words “Sections 7.4.4 and 7.4.6”; and (iv) replacing the words “Board of Selectmen” with the words “Select Board”; so that it reads as follows:

“Seasonal temporary (i.e. April through October) outdoor seating, including but not limited to tables, chairs, serving equipment, planters, and umbrellas, for eat-in restaurants is permitted during normal hours of operation, subject to minor project site plan review with

waiver of all requirements of Sections 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board in the case of (a) below and the Select Board in the case of (b) below, provided that:"

- c) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (a) by deleting the words ", licensed," so that it reads as follows:

"(a) It is within the front yard, rear yard, or side yard of the restaurant's owned or leased property, but only if said yard abuts a public right-of-way, public property, or other public uses, provided that:"

- d) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (b) by (i) deleting the words "so long as there remains no less than forty-eight inches (48")", or as otherwise permitted by law, of unencumbered sidewalk width remaining"; (ii) deleting the word "alternatively" before the words "on a public way"; and (iii) adding the word "on" before the words "other public property"; so that it reads as follows:

"(b) It is within the public sidewalk abutting the front, rear, or side yard of the restaurant's owned or leased property or on a public way or on other public property abutting the front, rear, or side yard of the restaurant's owned or leased property, provided that:"

- e) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (b)(i) by replacing the words "Board of Selectmen" with the words "Select Board", so that it reads as follows:

"(i) No temporary outdoor restaurant seating shall be permitted, unless the Select Board authorizes the placement of temporary outdoor seating within the public right-of-way, public sidewalks and/or on public property;"

- f) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (b)(iii) by replacing the words "Board of Selectmen" with the words "Select Board", so that it reads as follows:

"(iii) A minimum width of forty-eight inches (48")", or as otherwise permitted by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the Select Board;"

- g) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (b)(iv) by (i) adding the words "shall not be authorized" after the words "Outdoor seating"; (ii) deleting the words "is prohibited" before the words

“in designated or required landscape areas”; and (iii) by adding the words “, or in parking spaces located within a public way, except for good cause, and where the Select Board finds, after holding a public hearing, that pedestrian and vehicular circulation, the safety of restaurant patrons and the public, and parking for patrons of restaurants, retail establishments and service establishments in the vicinity of the outdoor seating, shall be adequately provided for;” at the end of the subparagraph so that it reads as follows:

“(iv) Outdoor seating shall not be authorized in designated or required landscaped areas, parking lots or drive aisles, or in parking spaces located within a public way, except for good cause, and where the Select Board finds, after holding a public hearing, that pedestrian and vehicular circulation, the safety of restaurant patrons and the public, and parking for patrons of restaurants, retail establishments and service establishments in the vicinity of the outdoor seating, shall be adequately provided for;”

- h) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, Subparagraph (b) by adding the following sentence at the end of the section:

“The Select Board may authorize seasonal temporary outdoor seating under this Section 6.9.2 (b) earlier than April 1 and later than October 31 of each year.”

- i) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, by replacing the words “Board of Selectmen” with the words “Select Board”, in the second paragraph of the section so that it reads as follows:

“Items (a)(i), (a)(iii), (a)(v) and (b)(ii), (b)(iv), and (b)(vi) shall not apply during special town-wide festivals or events during the year as designated by the Select Board.”

- j) Amend Section 6.9. Outdoor Seating, Subsection 6.9.2, Basic Requirements Seasonal Outdoor Seating, by deleting the last paragraph of the section and replacing it with the following paragraph to read as follows:

“Where there is authorization for the placement of seasonal temporary outdoor restaurant seating and where such seating could be interpreted to be an increase in the number of seats serving a restaurant, such seating shall not be counted toward the off-street parking or loading requirements, provided that (1) such seating remains seasonal and temporary; and (2) such seating does not increase capacity by more than thirty percent (30%) unless such increase is authorized by the Special Permit Granting Authority that granted the special permit allowing the use of the premises as a restaurant, with or without a hearing, as said Special Permit Granting Authority shall determine.”

- k) Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial 1

Districts, by revising Accessory Uses to replace the term “Seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter” with the term “Seasonal temporary outdoor seating for eat-in restaurants”.

- l) Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by revising Accessory Uses to replace the term “Seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter” with the term “Seasonal temporary outdoor seating for eat-in restaurants”.
- m) Amend the second sentence of Section 3.2.4 Uses in the New England Business Center District, Subsection 3.2.4.1 Permitted Uses, paragraph (k) by (i) adding the word “eat-in” before the word “restaurants”; (ii) deleting the words “serving meals for consumption on the premises and at tables with service provided by waitress or waiter” before the words “shall be allowed”; and (iii) replacing the words “Board of Selectmen” with the words “Select Board”; so that it reads as follows:

“Further provided, accessory uses for seasonal temporary outdoor seating for eat-in restaurants shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Select Board in accordance with Section 6.9.”

- n) Amend the second sentence of Section 3.2.5 Uses in the Highland Commercial-128 District, Subsection 3.2.5.1 Permitted Uses, paragraph (i) by (i) adding the word “eat-in” before the word “restaurants”; (ii) deleting the words “serving meals for consumption on the premises and at tables with service provided by waitress or waiter” before the words “shall be allowed”; and (iii) replacing the words “Board of Selectmen” with the words “Select Board”; so that it reads as follows:

“Further provided, accessory uses for seasonal temporary outdoor seating for eat-in restaurants shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Select Board in accordance with Section 6.9.”

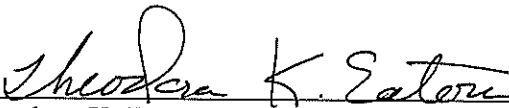
- o) Amend the second sentence of Section 3.2.6 Uses in the Mixed Use-128 District, Subsection 3.2.6.1 Permitted Uses, paragraph (m) by adding (i) the word “eat-in” before the word “restaurants”; (ii) deleting the words “serving meals for consumption on the premises and at tables with service provided by waitress or waiter” before the words “shall be allowed”; and (iii) replacing the words “Board of Selectmen” with the words “Select Board”; so that it reads as follows:

"Further provided, accessory uses for seasonal temporary outdoor seating for eat-in restaurants shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Select Board in accordance with Section 6.9."

UNANIMOUS CONSENT

A true copy

ATTEST:


Theodora K. Eaton, MMC, Town Clerk



Theodora K. Eaton, MMC
Town Clerk

TOWN OF NEEDHAM

Office of the Town Clerk

1471 Highland Avenue, Needham, MA 02492-0909

Telephone (781) 455-7500 x216

Fax (781) 449-1246

Email: Teaton@needhamma.gov

AT THE SPECIAL TOWN MEETING

HELD ON MONDAY, OCTOBER 25, 2021

UNDER ARTICLE 5

It was

VOTED: That the Town will vote to amend the Needham Zoning By-Law as follows:

- 1) Amend Section 4.4.4, Front Setback, by replacing in the first sentence of the first paragraph the word "a" with the word "the" and by capitalizing the term "business district" to read as follows (new language underlined):

"In the Business District, there shall be a minimum front setback of ten (10) feet for all lots zoned in the Business District prior to April 14, 1952 and of twenty (20) feet for all lots changed to the Business District thereafter. The setback area shall be kept open and landscaped with grass or other plant materials; such area shall be unpaved except for walks and driveways, as defined in Section 4.4.5. Regulations relative to parking setbacks are governed by Section 5.1."

- 2) Amend Section 4.4.4, Front Setback, by revising the second paragraph to read as follows (new language underlined):

"In the Chestnut Street Business District, there shall be a minimum front setback of ten (10) feet for all buildings except along both sides of Chestnut Street where there shall be a front setback of twenty (20) feet for all buildings. The landscaping treatment for the setback area shall be consistent with the Chestnut Street Landscape Design Recommendations (April 1988) on file in the office of the Planning Board. No parking shall be allowed in this setback area. Parking shall be on the side or in the back of the building."

UNANIMOUS CONSENT

A true copy

ATTEST:


Theodora K. Eaton, MMC, Town Clerk



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 04/12/2023

Agenda Item	Public Hearing – Alteration of Premises for a Wine and Malts License in a Restaurant – French Press LLC, d/b/a French Press
Presenter(s)	Raji Spencer, Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	French Press LLC, d/b/a French Press located at 74 Chapel Street, currently holds an All-Alcohol liquor license. The current licensed premises is: 1508 square feet that is used to accommodate 25 patrons. There is one main entrance located on the front of the building and an entrance/emergency exit from the kitchen which exits to the rear of the building. The applicant has submitted an amendment to expand the licensed premises to include: adding 22 outdoor seats under a pergola to be used year-round and 18 outdoor seats in a parklet to be used seasonally. The applicant has used the parklet area since 2020 in an arrangement similar to the proposed set-up in accordance with state emergency orders and local rules in the context of the COVID-19 pandemic. The applicant has also received a special permit from the Planning Board to allow for construction and use of the pergola as proposed. The applicant has also applied to the Select Board for an Outdoor Dining License since the parklet portion of the proposed premises is located on street parking spaces. A legal notice was advertised in the Hometown Weekly on March 23, 2023 and abutters were notified. All supporting documentation appears to be in order.
2.	VOTE REQUIRED BY SELECT BOARD
	<i>Suggested Motion: That the Board vote to approve the Amendment for Alteration of Premises application received from French Press LLC d/b/a French Press and vote to forward the Amendment application to the ABCC for review and final approval.</i>



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

3.	BACK UP INFORMATION ATTACHED
a. Amendment Application and Corporate Vote b. Lease and Floorplans c. Legal Notice d. Abutter Listing	



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

AMENDMENT-Change or Alteration of Premises Information

☐ **Change of Location**

- Payment Receipt
- Monetary Transmittal Form
- Chg of Location/Alteration of Premises Application
- Financial Statement
- Vote of the Entity
- Supporting financial records
- Legal Right to Occupy
- Floor Plan
- Abutter's Notification
- Advertisement

☒ **Alteration of Premises**

- Payment Receipt
- Monetary Transmittal Form
- Chg of Location/Alteration of Premises Application
- Financial Statement
- Vote of the Entity
- Supporting financial records
- Legal Right to Occupy
- Floor Plan
- Abutter's Notification
- Advertisement

1. BUSINESS ENTITY INFORMATION

Entity Name

Municipality

ABCC License Number

French Press Bakery & Cafe

Needham

04106-RS-0770

Please provide a narrative overview of the transaction(s) being applied for. Attach additional pages, if necessary.

- Add 22 outdoor seats under a pergola to be used year-round
- Add 18 outdoor seats in a parklet to be used seasonally

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
Raji (Jay) Spencer	Owner		

2. ALTERATION OF PREMISES

2A. DESCRIPTION OF ALTERATIONS

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

Install a louvered pergola with 22 additional seats, a parklet with 18 additional seats, and update the alcohol barrier

2B. PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

78 seats for on-site food and alcohol consumption with seating distributed as follows: 28 indoor seats, 22 year-round outdoor seats under the pergola, 10 previously approved seasonal outdoor seats, and, 18 parklet seats

Total Sq. Footage	1,675	Seating Capacity	78	Occupancy Number	78
Number of Entrances	3	Number of Exits	3	Number of Floors	1

AMENDMENT-Change or Alteration of Premises Information

3. CHANGE OF LOCATION

3A. PREMISES LOCATION

Last-Approved Street Address

Proposed Street Address

3B. DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage

Seating Capacity

Occupancy Number

Number of Entrances

Number of Exits

Number of Floors

3C. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales?

☐ Yes ☐ No

4. FINANCIAL DISCLOSURE

Associated Cost(s): (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):

Associated Cost(s):

\$78,020 - Aluminum Louvered Pergola
\$13,687 - LED Lighting
\$ 4,100 - New Signage
\$ 3,812 - Planters

\$99,619 Total

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
French Press LLC	\$100,000
Total:	\$100,000

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
			☐ Yes ☐ No
			☐ Yes ☐ No
			☐ Yes ☐ No
			☐ Yes ☐ No

APPLICANT'S STATEMENT

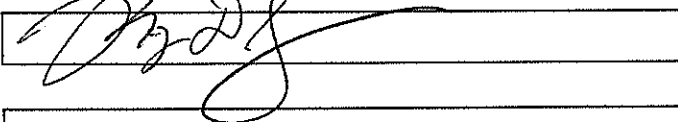
I, Raji D. Spencer the: ☐ sole proprietor; ☐ partner; ☐ corporate principal; ☒ LLC/LLP manager
Authorized Signatory
of French Press LLC
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date: 09 Mar 23

Title:

Owner

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

See Attached

ENTITY VOTE

The Board of Directors or LLC Managers of

French Press LLC

Entity Name

duly voted to apply to the Licensing Authority of

Needham

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

28 Oct 22

Date of Meeting

For the following transactions (Check all that apply):

☒ Alteration of Licensed Premises

☐ Change of Location

☐ Other

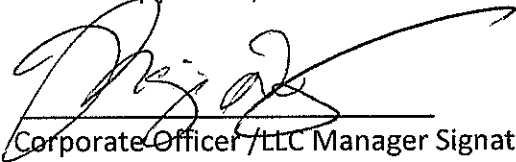
"VOTED: To authorize

Raji D. Spencer

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,



Corporate Officer / LLC Manager Signature

Raji D. Spencer

(Print Name)

For Corporations ONLY

A true copy attest,

Corporation Clerk's Signature

(Print Name)

AMENDMENT TO LEASE

This Amendment to Lease (this "Amendment") is entered into as of the 13 day of July 2021 (the "Effective Date") by and between 1451 HIGHLAND AVE, LLC, a Massachusetts limited liability company, having an address of c/o Boylston Properties, 800 Boylston Street, Suite 1390, Boston, MA 02199 (the "Lessor") and FRENCH PRESS LLC, a Massachusetts limited liability company having an address of 74 Chapel Street, Needham, MA 02492 (the "Lessee") (collectively, the "Parties" and individually, a "Party"). Capitalized terms not defined herein shall have the meaning ascribed to them in the Lease (as defined below).

WHEREAS, Lessor and Lessee entered into a Lease dated November __, 2014 for the lease of premises at 74 Chapel Street in Needham, Massachusetts (the "Original Lease") as more particularly described in the Original Lease (such Original Lease, as amended hereby, referred to herein as the "Lease");

WHEREAS, Lessor and Lessee wish to amend the Lease to add the former Elite Aesthetics premises to the Premises (the "Expansion Premises"), amend the Rent for the Premises, extend the Term of the Lease, provide Lessee with an option to extend the term of the Lease, and as further set forth in and pursuant to the provisions of this Amendment, all as more particularly set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee hereby agree that the foregoing recitals are made a part of this Amendment and the Lease is amended as follows:

1. Premises. Section 1(c) of the Lease is hereby deleted in its entirety and replaced with the following:

"c) Premises. The approximately 2,453 square feet of space located on the first floor of the Building shown on the plan attached hereto as Exhibit A together with all improvements, fixtures and appurtenances located thereon. The portion of the Premises leased by the Lessee before the addition of the Expansion Premises is sometimes referred to herein as the "Original Lease Premises"."

2. Term. The parties acknowledge and agree that pursuant to the Original Lease, the Term of the Lease expires on June 30, 2025. The parties hereby amend Section 1(g) of the Lease by deleting it in its entirety and replacing such section with the following:

"g) Initial Term. The period commencing on the Commencement Date (as hereinafter defined) and ending on July 31, 2031."

3. Net Minimum Rent. On August 1, 2021, Section 1(k) of the Lease shall be deleted in its entirety and replaced with the following:

“Net Minimum Rent:

Year	\$/SF	Annually	Monthly
August 1, 2021 – July 31, 2022	\$31.68	\$77,711.00	\$6,476.00
August 1, 2022 – July 31, 2023	\$32.47	\$79,654.00	\$6,638.00
August 1, 2023 – July 31, 2024	\$33.28	\$81,645.00	\$6,804.00
August 1, 2024 – July 31, 2025	\$34.12	\$83,686.00	\$6,974.00
August 1, 2025 – July 31, 2026	\$34.97	\$85,778.00	\$7,148.00
August 1, 2026 – July 31, 2027	\$35.84	\$87,923.00	\$7,327.00
August 1, 2027 – July 31, 2028	\$36.74	\$90,121.00	\$7,510.00
August 1, 2028 – July 31, 2029	\$37.66	\$92,374.00	\$7,698.00
August 1, 2029 – July 31, 2030	\$38.60	\$94,683.00	\$7,890.00
August 1, 2030 – July 31, 2031	\$39.56	\$97,050.00	\$8,088.00

For the avoidance of doubt, Lessee shall pay Net Minimum Rent pursuant to Section 1(k) in the Original Lease up to and through July 31, 2021. Provided Lessee is not in default under the Lease at any time during the Rent Credit Period (as defined below) beyond any applicable notice and cure periods, Lessor shall provide a rent credit to Lessee in the amount of Fourteen Thousand One Hundred Seventy-Five Dollars (\$14,175.00), which credit shall be applied to Rent due hereunder in equal monthly installments (\$2,362.50 per month) over six months commencing on August 1, 2021.”

4. Additional Rent. With respect to Lessee’s obligation to pay Additional Rent, the Lease is hereby amended as follows:

(a) On August 1, 2021, Section 1(r) of the Lease shall be deleted in its entirety and replaced with the following:

“r) Lessee’s Original Premises Fraction: A fraction, the numerator of which is the number of square feet of floor space in the Original Lease Premises and the denominator of which is the number of square feet of floor space in

the Building, expressed as a percentage, which for the Original Lease Premises is 1,508/9128 or 16.52%.”

- (b) On August 1, 2021, the following provision shall be added as Section 1(w) of the Lease:

“w) Lessee’s Expansion Premises Fraction: A fraction, the numerator of which is the number of square feet of floor space in the Expansion Premises and the denominator of which is the number of square feet of floor space in the Building, expressed as a percentage, which for the Expansion Premises is 945/9128 or 10.35%.”

- (c) On August 1, 2021, all references to “Lessee’s Fraction” in Section 7 of the Lease shall be deleted in their entirety and replaced with “Lessee’s Original Premises Fraction and Lessee’s Expansion Premises Fraction.”

- (d) Section 6 of the Lease is hereby deleted in its entirety and replaced with the following:

“Section 6. Operating Costs and Expenses. Commencing on August 1, 2021, Lessee hereby agrees to pay Lessor, as Additional Rent, Lessee’s Expansion Premises Fraction of the Operating Costs (as defined below) (“Lessee’s Operating Cost Liability”) paid or incurred by Lessor.

Lessee shall pay to Lessor, as Additional Rent on the first day of each calendar month during the term but otherwise in the manner provided for the payment of Net Minimum Rent, one twelfth (1/12th) of the amount from time to time estimated by Lessor to reflect Lessee’s Expansion Premises Fraction of Lessee’s Operating Cost Liability for each year during the Lease. If, at the end of any such year, the total of such monthly remittances for such year is greater than the Lessee’s Operating Cost Liability for such year, Lessor shall credit such overpayment against Lessee’s subsequent obligations on account of Operating Costs (or promptly refund such overpayment if the term of this Lease has ended and Lessee has no further obligations to Lessor); if the total of such remittances is less than the Lessee’s Operating Cost Liability for such year, Lessee shall pay the difference to Lessor within thirty (30) days after being so notified by Lessor.

The term “Operating Costs” shall include, without limitation, all costs and expenses incurred by the Lessor for or in connection with the operation, cleaning, management, pest control, maintenance, repair, upkeep and security of the Lot, including, without limitation, the Building, any common areas or facilities, the Premises, and any parking areas, including, without limitation:

- a) all salaries, wages, fringe benefits, payroll taxes and worker’s compensation insurance premiums related thereto with respect to any employees of Lessor engaged in maintenance, repair, upkeep and security of the Premises, Building and/or Lot;
- b) all utilities and other costs related to provision of heating (including oil, steam and/or gas), electricity, air conditioning, and water (including sewer

charges) and other utilities to the Building (exclusive of any charges paid by Lessee directly to utility companies);

c) all costs, deductibles and premiums for fire, flood, casualty, rental income, liability, worker's compensation and such other insurance as may be maintained from time to time by Lessor relating to the Premises, Building and/or Lot;

d) all costs of maintaining, repairing, operating, administering, and protecting the Premises, Building and/or Lot (including, without limitation, lighting, snow removal, security operation, maintenance, replacement and repair of heating, ventilating and air conditioning equipment, fire protection systems, elevators, and any other common Building equipment or systems) and all structural repairs necessary to keep the Premises and/or Building in good working order, repair, appearance and condition;

e) attorneys' fees and disbursements and auditing and other professional fees and expenses.

In addition to the foregoing, if, during the term of this Lease, Lessor shall determine, in Lessor's sole discretion, that a capital improvement is necessary (i) to replace a portion of the Premises for which Lessor has the obligation to maintain, (ii) to comply with law or (iii) improve operating efficiency of the Building (each such portion, an "Existing Improvement") (in lieu of repairing such Existing Improvement) Lessor may, but shall not be required to, make such capital improvement. In the event Lessor does elect to make such a capital improvement (the "Replacement Improvement"), and the total cost of the Replacement Improvement is not properly includable in Operating Costs for the year in which it was made, there shall be included in Operating Costs the year in which the Replacement Improvement was made and for each succeeding lease year for the useful life of the Replacement Improvement an annual charge-off of such capital expenditure. The annual charge-off shall be determined by dividing (x) the original capital expenditure plus the amortized cost of the funds required for such capital expenditure (whether or not borrowed), which shall be calculated at a rate of interest equal to two and one half percentage points in excess of the yield as of the completion of such Replacement Improvement of U.S. Treasury Securities having a maturity closest to the date of the end of such useful life by (y) the number of years of useful life of the Replacement Improvement. Lessee's liability for such capital expenditure shall cease at the earlier of (a) the end of the Term or (b) the end of the useful life of such Replacement Improvement."

For the avoidance of doubt, notwithstanding anything to the contrary set forth in the Lease, Tenant's obligation to pay Additional Rent in connection with the Expansion Premises commences on August 1, 2021.

5. Extension Option. Section 1(h) of the Lease is hereby amended by deleting "None" and replacing it with "As set forth in the last paragraph of Section 3 hereof". The following paragraph is added to the end of Section 3 of the Lease:

“Lessee shall have the option to extend the term of this Lease for one (1) period of five (5) years (the “Option Period”), provided that the following conditions are satisfied: (i) Lessee (but not an assignee or sublessee of Lessee) shall be in occupancy of the Premises at the time Lessee exercises its option to renew the term hereof; (ii) written notice (the “Option Election Notice”) of the election of such option shall be sent by Lessee to Lessor not less than fifteen months (15) months prior to the expiration of the Initial Term hereof, time being of the essence thereof; and (iii) this Lease shall be in full force and effect and Lessee shall not be in default of any of its obligations under this Lease beyond the expiration of applicable periods of notice and grace, both at the time Lessee sends the Option Election Notice and on the last day of the Initial Term hereof (collectively, the “Conditions Precedent”). If the Conditions Precedent have been satisfied, then the term of this Lease shall be extended for the Option Period without the requirement of any further instrument, upon all of the same terms, provisions and conditions set forth in this Lease, except that Net Minimum Rent shall be payable at the rate set forth in the table below. Lessee shall have no right to extend the term of this Lease beyond the Option Period.

Year	\$/SF	Annually	Monthly
August 1, 2031 – July 31, 2032	\$40.55	\$99,477.00	\$8,290.00
August 1, 2032 – July 31, 2033	\$41.57	\$101,964.00	\$8,497.00
August 1, 2033 – July 31, 2034	\$42.61	\$104,513.00	\$8,709.00
August 1, 2034 – July 31, 2035	\$43.67	\$107,126.00	\$8,927.00
August 1, 2035 – July 31, 2036	\$44.76	\$109,804.00	\$9,150.00”

6. Delivery of Possession. Lessee shall take possession of the Expansion Premises upon execution of this Amendment. Lessee hereby acknowledges that the Expansion Premises shall be delivered in their “As-Is” condition, without any representation or warranty, whatsoever, and the Lessee agrees to accept the Premises in such condition. For the avoidance of doubt, Lessor is not obligated to perform any tenant improvements to the Expansion Premises or provide a tenant improvement allowance to Lessee.

The Lessee is to make improvement to the Expansion Premises as depicted on the plan attached hereto and the Lessor approves of said improvements.

7. Time of the Essence. Time is of the essence of the Lease (including, without limitation, this Amendment) with respect to the performance by Lessee and/or Lessor of all of their obligations hereunder.

8. Lease in Effect. As amended hereby, the Lease is hereby affirmed and shall remain in full force and effect. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

9. Counterparts. This Amendment and any other document executed pursuant to the provisions hereof or in connection herewith may be executed in any number of counterpart copies, each such copy shall be deemed to be an original document, and all such copies taken together shall constitute one instrument. Facsimile or electronic signatures shall have the same effect as original signatures and each party consents to the admission in evidence of a facsimile, electronic copy, or photocopy of this Agreement in any court or arbitration proceedings between the parties.

10. Severability. A determination by a court of competent jurisdiction that any provision of this Amendment, or any part thereof, is illegal or unenforceable shall not cancel or invalidate the remainder of such provision or this Amendment, which shall remain in full force and effect.

11. Applicable Law; Construction This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. There are no oral or written agreements between Lessor and Lessee affecting this Amendment. Lessor has made no representation or warranty regarding the Premises, or the subject matter of this Amendment. This Lease may be amended, and the provisions hereof may be waived or modified, only by instruments in writing executed by Lessor and Lessee.

[signatures continue on following pages]

EXECUTED, as a sealed instrument, effective as of the date first above written.

LESSOR

1451 HIGHLAND AVENUE, LLC

By: 
William P. McQuillan, its Manager

[Signatures continue on following page]

LESSEE

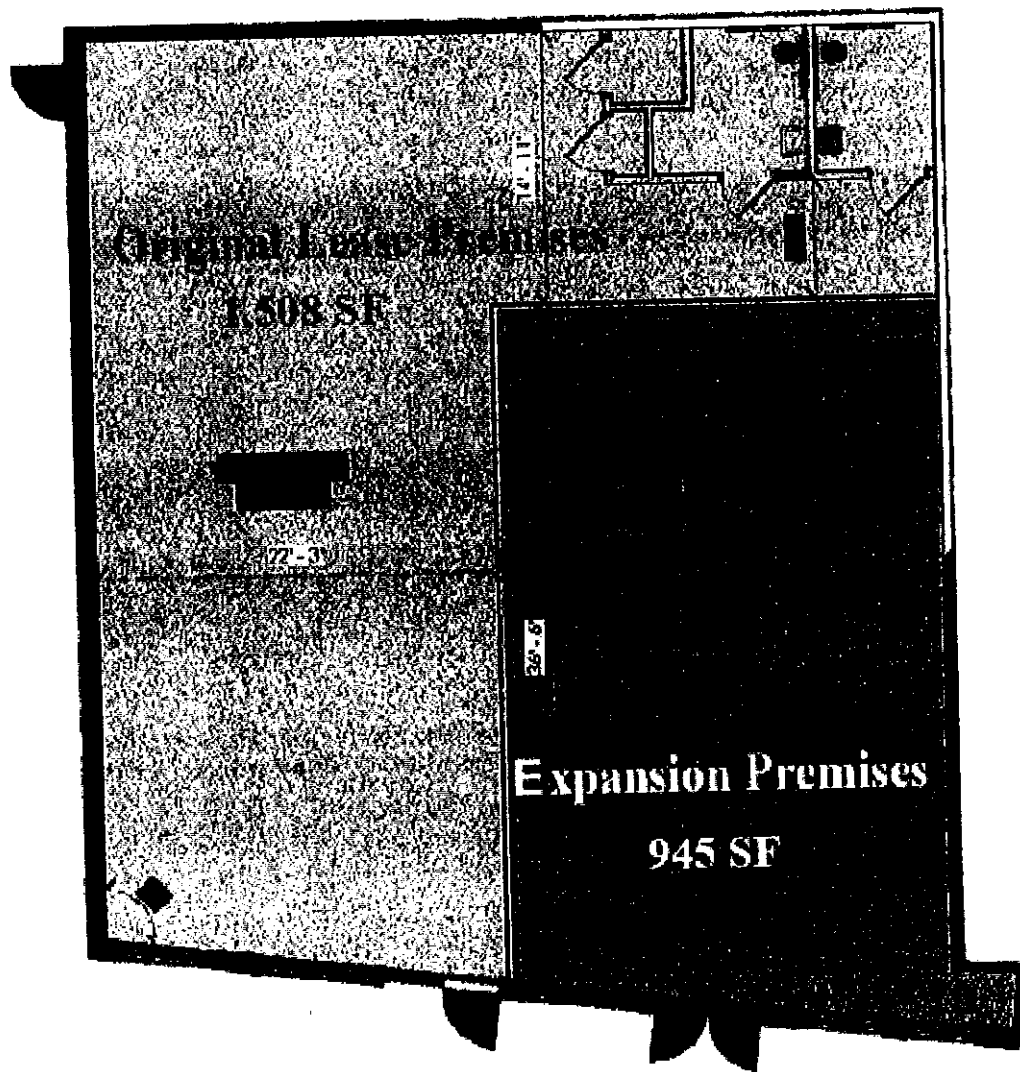
FRENCH PRESS LLC

By: _____

Raji D. Spencer, its Manager

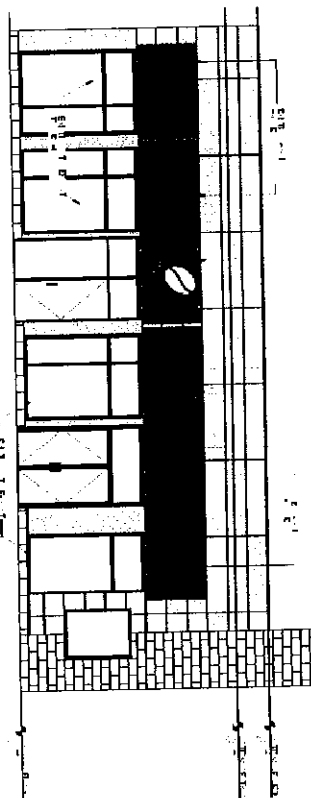
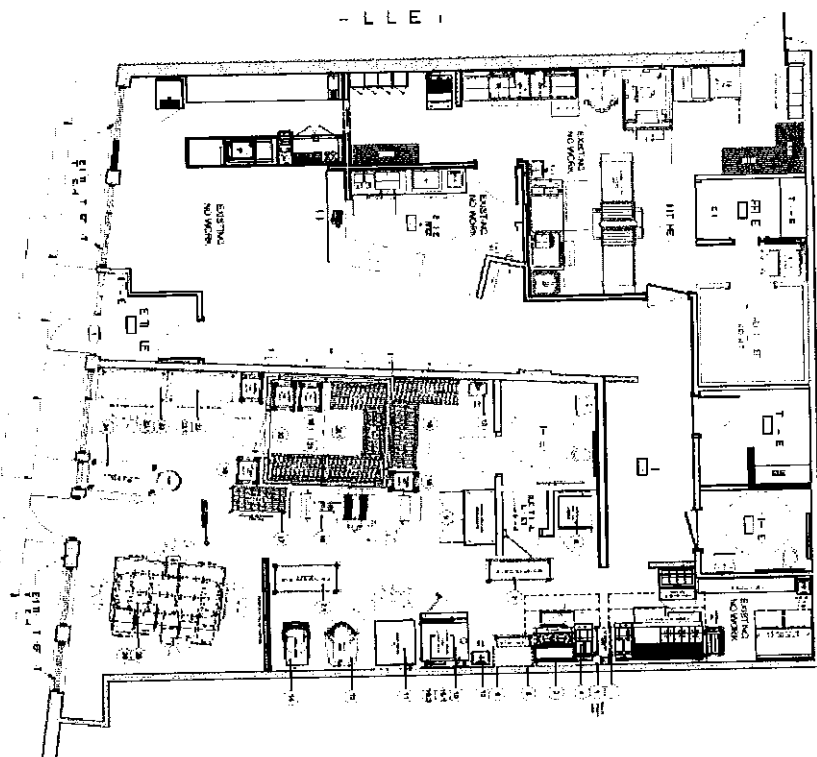
[Exhibit A on following pages]

Exhibit A
Plan Showing Premises
(see following page)



EMBARC
ARCHITECTURE DESIGN STUDIO

1.8" = 1'-0"
AREA DIAGRAMS
74 CHAPEL STREET
NEEDHAM MA 02462
11.02.14 AY

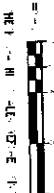
[illegible]

DESIGN DEVELOPMENT

Not for Construction

INSTITUTE FOR ALTERNATIVE
LIFE-STYLE RESEARCH

GRAPHICS SOLUTIONS



FURNITURE EQUIPMENT
1400 T & A HENLE

[illegible]

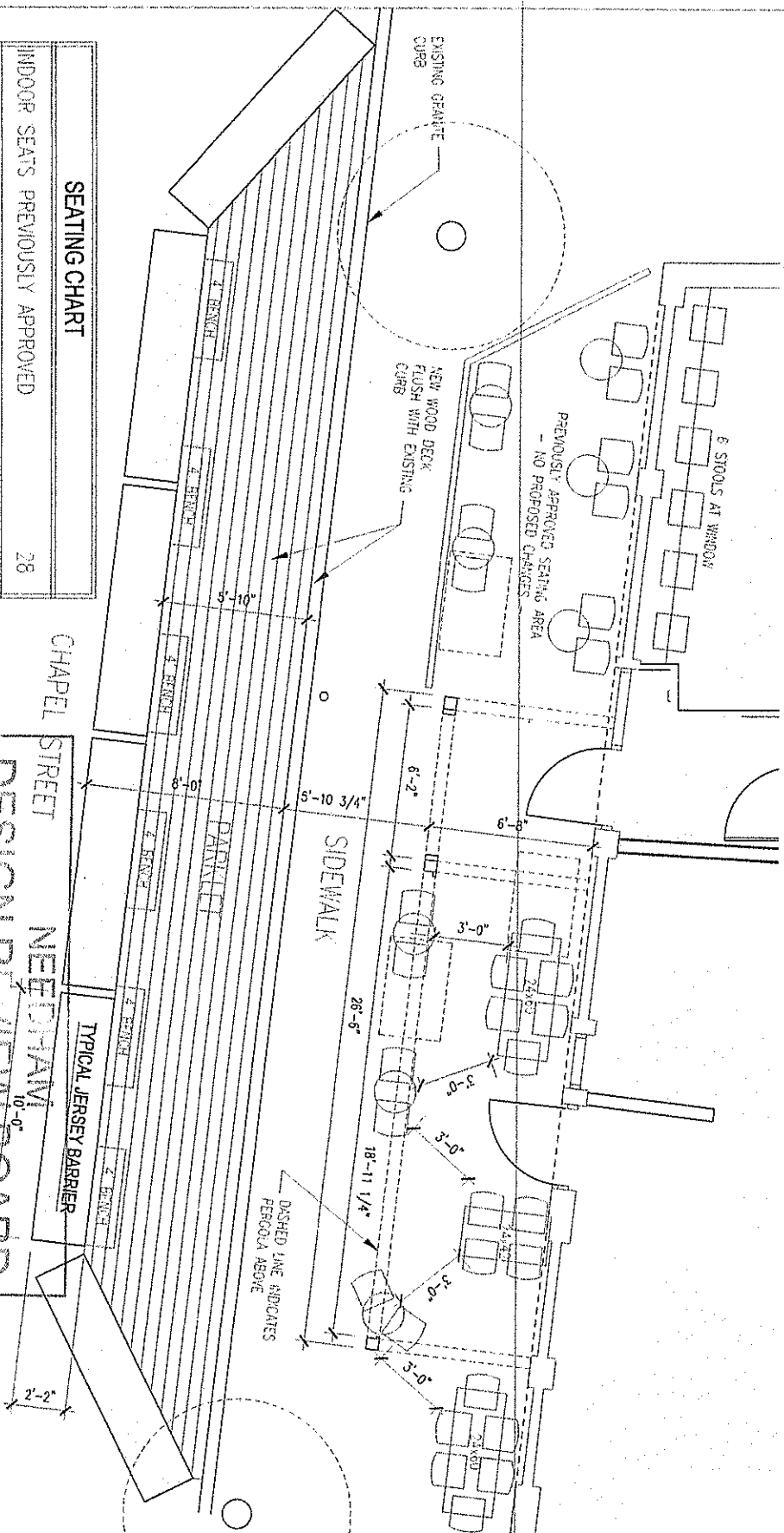
BOSTON SHOWCASE COMPANY
 10 WINDYBLOT STREET, NEWTON, MASSACHUSETTS 02459
 TEL: (617) 552-1100 FAX: (617) 552-1101
 INFO: (617) 552-1102 WWW: WWW.BOSTONSHOWCASE.COM

FRENCH PRESS
-Expansion-
78 CHAPEL STREET, NEEDHAM,
MA 02492



Project No.	21629
Client	French Press
Design No.	00
Date	18 Apr 2023
Drawn By	
Checked By	
Approved By	
Project Title	Seating Plan

A-2.01



SEATING CHART	
INDOOR SEATS PREVIOUSLY APPROVED	28
OUTDOOR PREVIOUSLY APPROVED	10
OUTDOOR NEW PROPOSED ON PRIVATE PROPERTY	22
PARKLET NEW PROPOSED - WILL BE REQUESTED SEPARATELY THROUGH THE SELECT BOARD	18
TOTAL PROPOSED SEATS	78

CHAPEL STREET

NEEDHAM

DESIGN REVIEW BOARD

RECOMMENDED ACTION

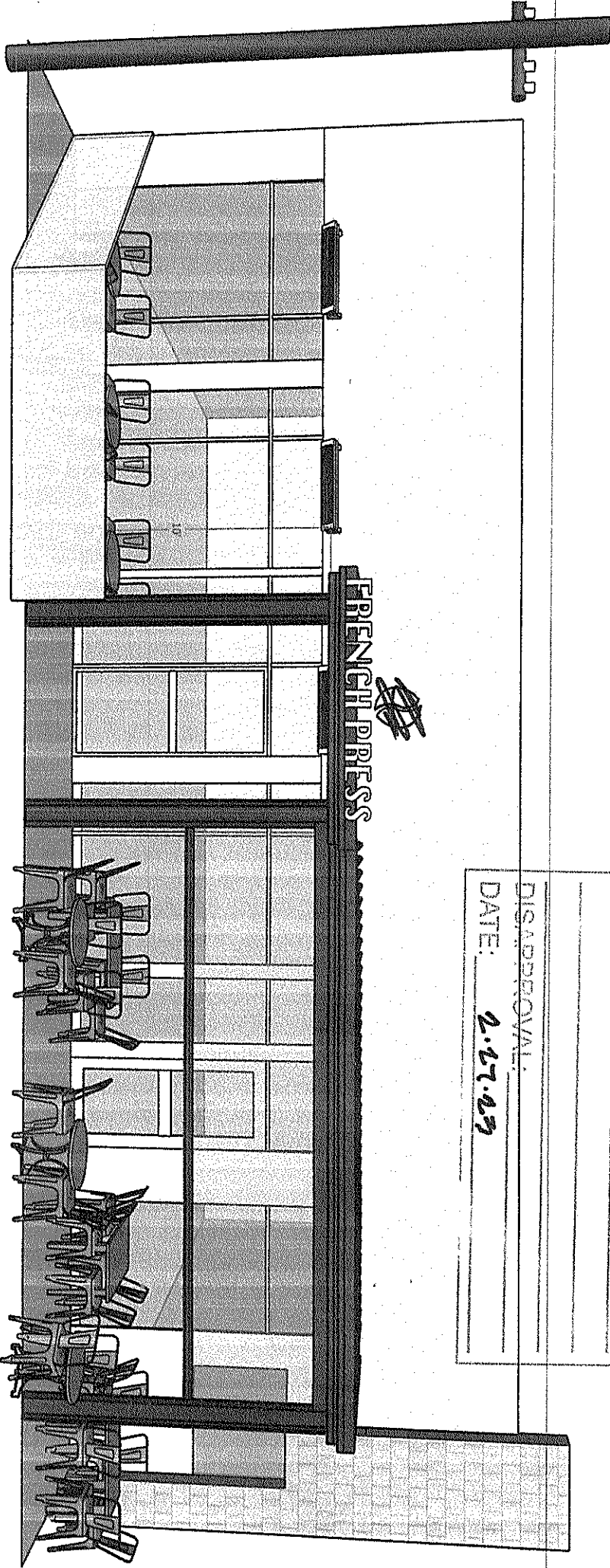
AT APPROVAL: *McGraw*

APPROVED WITH CONDITIONS:

OUTDOOR SEATING PLAN

DISAPPROVAL:

DATE: *2.21.23*



NEEDHAM
DESIGN REVIEW BOARD
RECOMMENDED ACTION:
APPROVAL: McGowan
APPROVAL WITH CONDITIONS: _____
DISAPPROVAL: _____
DATE: 2.27.22

FRENCH PRESS



CHANGE LETTERS BY OTHERS

NEED I AM

DESIGN REVIEW BOARD

RECOMMENDED ACTION

APPROVAL: *Shaw*

APPROVAL WITH CONDITIONS:

DISAPPROVAL:

DATE: 2.27.23

STRUXTURE

BOSTON PERGOLAS



DESIGN REVIEW BOARD

RECOMMENDED ACTION:

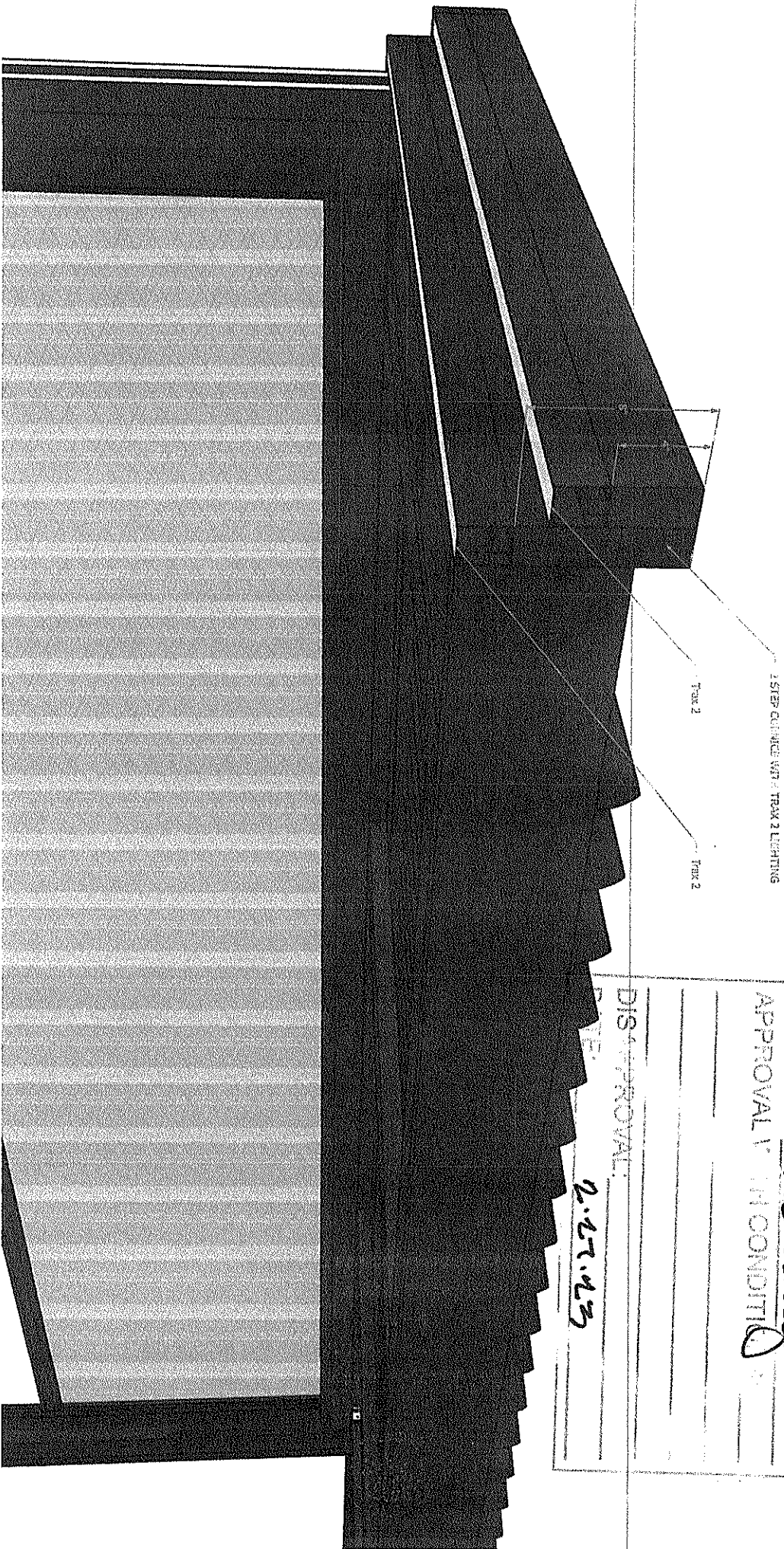
M. Stewart

APPROVED UNDER CONDITIONS:

DISAPPROVAL:

DATE: *2.22.23*

STRUXURE[®] BOSTON PERGOLAS



2 STEP GUTTER WITH TRAX 2 LIGHTING

TRAX 2

TRAX 2

NEELP' M

DESIGN REVIEW BOARD

RECOMMENDATION

APPROVAL: M. Sharma

APPROVAL: IN CONDITION

DISAPPROVAL:

2-27-23

LEGAL NOTICE



TOWN OF NEEDHAM SELECT BOARD

Application for Alteration of Premises for an All-Alcohol License

Notice is hereby given pursuant to Massachusetts General Laws, Chapter 138 that The French Press, LLC d/b/a French Press, Raji Spencer Manager, has applied for an alteration of licensed premises of the following kind: to expand licensed premises to include a year-round covered pergola in front of the storefront and a seasonal parklet on three parking spaces adjacent to 74 Chapel Street as allowed by Town of Needham Zoning By-Law, Section 6.9.

IT IS ORDERED that a public hearing be held for said application on April 12, 2023 at 6:00 p.m. The Select Board invites all residents and interested parties to provide input at this meeting that will be held in person, Select Board Chambers, Town Hall and via Zoom.

Zoom Information: <https://us02web.zoom.us/j/83195693588?pwd=azkzYmNMT2FMbk5oWEZkVklqYlhlUT09> Passcode: 961563 Webinar ID: 831 9569 3588

This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at <http://masspublicnotices.org/>

Select Board
Licensing Board for the Town of Needham

**74 CHAPEL STREET
300 FEET**

PARCEL ID	OWNER NAME 1	OWNER NAME 2	MAILING ADDRESS	CITY	ST	ZIP
199/050.0-0016-0000.0	15 HIGHLAND, LLC		800 BOYLSTON ST SUITE 1390	BOSTON	MA	02199-
199/050.0-0026-0000.0	S-BNK NEEDHAM CENTRE, LLC		961 GREAT PLAIN AVE	NEEDHAM	MA	02492-
199/051.0-0004-0000.0	1401/1417 HIGHLAND AVE., LLC		43 CHARLES ST	NEEDHAM	MA	02494-
199/051.0-0017-0000.0	TOWN OF NEEDHAM	PARKING LOT	1471 HIGHLAND AVE	NEEDHAM	MA	02492-
199/050.0-0008-0000.0	BARTEN, T. PETER JR. &	BARTEN, DEBORAH J	13 PICKERING PL	NEEDHAM	MA	02492-
199/050.0-0014-0000.0	GEORGACOPOULOS, TASOS, TR	ARGYRIOS & SONS REALTY TRUST	165 PALMER ST	ARLINGTON	MA	02474-
199/050.0-0018-0000.0	NEW ENGLAND TELEPHONE & TELEG		P O BOX 2749	ADDISON	TX	75001-
199/051.0-0003-0000.0	ANTON, CHARLES A. TR	HIGHLAND 1433 REALTY TRUST	500 CLARK ROAD	TEWKSBURY	MA	01876-
199/051.0-0083-0000.0	TOWN OF NEEDHAM		1471 HIGHLAND AVE	NEEDHAM	MA	02492-
199/051.0-0005-0000.0	PETRINI CORPORATION		187 ROSEMARY ST	NEEDHAM	MA	02492-
199/051.0-0009-0000.0	PESIRIDIS, NICHOLAS, TRS	ROMA REALTY TRUST	PO BOX 850551	BRAINTREE	MA	02185-
199/051.0-0020-0000.0	EATON SQUARE REALTY LLC		1063 GREAT PLAIN AVE	NEEDHAM	MA	02492-
199/050.0-0005-0000.0	GIANNACOPOULOS, PETER +	TZOUROS, NESTOR, TRUSTEES	11 EDGEWATER DR	NEEDHAM	MA	02492-
199/051.0-0008-0000.0	TOWN OF NEEDHAM	PARKING LOT	1471 HIGHLAND AVE	NEEDHAM	MA	02492-
199/051.0-0011-0000.0	THOMAS, DINA &	THOMAS, TRIANTOS	198 CURVE ST	DEDHAM	MA	02026-
199/050.0-0004-0000.0	ROMAN CATHOLIC ARCHDIOCES OF BOSTON		1382 HIGHLAND AVE	NEEDHAM	MA	02492-
199/050.0-0022-0000.0	1478 HIGHLAND AVENUE CO., LLC	REAL ESTATE TAX DEPARTMENT	PO BOX 1159	DEERFIELD	IL	60015-
199/050.0-0025-0000.0	SULLIVAN, JAMES M, TRUSTEE		78 HANCOCK ST	BRAINTREE	MA	02184-
199/051.0-0006-0000.0	53 CHAPEL STREET LLC		80 NEPONSET AVE	DORCHESTER	MA	02122-
199/051.0-0084-0000.0	MBTA		10 PARK PLAZA	BOSTON	MA	02116-
199/051.0-0007-0000.0	THE GATTO FAMILY LIMITED PARTNERSHIP		85 CHAPEL ST	NEEDHAM	MA	02492-
199/050.0-0015-0000.0	TOPLIFF STREET ASSOCIATES LIMITED PARTN		800 BOYLSTON ST SUITE 1390	BOSTON	MA	02199-
199/051.0-0002-0000.0	1451 HIGHLAND AVE LLC		800 BOYLSTON ST STE 1390	BOSTON	MA	02199-
199/051.0-0010-0000.0	HEFFERNAN, MICHAEL A. &	HEFFERNAN, ELIZABETH A., TRS	18 GANNETT RD	NATICK	MA	01760-
199/050.0-0013-0000.0	NATHAN, JOSHUA &	ENGEL, AMY	14 PICKERING PL	NEEDHAM	MA	02492-
199/051.0-0001-0000.0	TOWN OF NEEDHAM		1471 HIGHLAND AVE	NEEDHAM	MA	02492-
199/051.0-0022-0000.0	THE NEEDHAM BANK	ATTN: ACCOUNTING DEPARTMENT	1063 GREAT PLAIN AVE	NEEDHAM	MA	02492-
199/047.0-0042-0000.0	FIRST PARISH IN NEEDHAM - UNITARIAN		23 DEDHAM AVE	NEEDHAM	MA	02492-
199/050.0-0004-0000.0	ROMAN CATHOLIC ARCHDIOCES OF BOSTON		1382 HIGHLAND AVE	NEEDHAM	MA	02492-
199/053.0-0003-0000.0	ROMAN CATHOLIC ARCHDIO OF BOSTON		1382 HIGHLAND AVE	NEEDHAM	MA	02492-



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Citizens Petition – Single Use Plastic Bags
Presenter(s)	Robert Fernandez, Lead Petitioner Kathy Riaz, Petitioner

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Mr. Fernandez and Ms. Riaz will discuss the citizens petition filed to prohibit single use plastic check out bags in Needham.	
2.	VOTE REQUIRED BY SELECT BOARD
N/A - Discussion only	
3.	BACK UP INFORMATION ATTACHED
a. Final Annual Town Meeting Warrant provided under separate cover	



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Discussion of Zoning Articles on the Annual Town Meeting Warrant
Presenter(s)	Lee Newman, Director of Planning & Community Development Adam Block, Planning Board Jeanne McKnight, Planning Board

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	Ms. Newman, Mr. Block, and Ms. McKnight will provide the Board with the Planning Board's position on the zoning articles contained in the Annual Town Meeting Warrant.
2.	VOTE REQUIRED BY SELECT BOARD
	N/A - Discussion only
3.	BACK UP INFORMATION ATTACHED
	a. Final Annual Town Meeting Warrant provided under separate cover



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Public Hearing: Relative to Suspended Alcohol License – Poet King, LLC d/b/a Hungry Coyote (Continued)
Presenter(s)	Michael Magerer, Applicant Counsel Nezahualcoyotl Leon, LLC Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Poet King, LLC d/b/a Hungry Coyote, 1185 Highland Ave, wishes to discuss with the Select Board proposed action to seek relief from the indefinite suspension of its Section 12 All Alcohol liquor license, as order by the Board in its Suspension Decision dated January 14, 2022. This hearing is continued from February 14th, 2023. Since the last hearing, the applicant has informed staff that they intend to submit a Change of Manager application to appoint a new Manager of Record to replace Leona Leon in the near future.	
2.	VOTE REQUIRED BY THE SELECT BOARD
<i>Suggested Motion: That the Board take the following action_____.</i>	
3.	BACK UP INFORMATION ATTACHED
1. Hearing Notice 2. Suspension Decision, dated January 14, 2022	



TOWN OF NEEDHAM
Town Hall
1471 Highland Avenue
Needham, MA 02492-2669

**Office of the
Town Manager**

Telephone: (781) 455-7500
Email: OTM@NeedhamMA.gov

February 7, 2023

Via email and USPS Registered Mail

7021 0950 0000 5162 2266

Poet King Restaurant Group, LLC
c/o Nezahualcoyotl Leon, Owner
1185 Highland Avenue
Needham, MA 02492

Poet King Restaurant Group, LLC
c/o Leona Leon, Manager
1185 Highland Avenue
Needham, MA 02492

Re: Notice of Hearing

Dear Nezahualcoyotl Leon,

Pursuant to G.L. c. 138, §§23 and 64, on February 14 at 6 pm, at the Select Board Chambers, Town Hall, 1471 Highland Avenue, Needham, MA, the Select Board will hold a public hearing to consider whether Poet King Restaurant Group, LLC, d/b/a Hungry Coyote, has submitted sufficient documentation supporting Leona Leon's ability to hold the position of License Manager for the Section 12 all alcohol liquor license located at 1185 Highland Avenue, Needham, MA, in accordance with the Select Board's decision (attached) to indefinitely suspend Hungry Coyote's liquor license dated January 14, 2022, and to consider lifting said indefinite suspension.

You are permitted to attend the hearing and you, or your attorney, may speak on your behalf. It is highly recommended that Ms. Leona attend this hearing as well. If you have any questions, please do not hesitate to contact the Town Manager's office.

Sincerely,


Myles Tucker
Support Services Manager



TOWN OF NEEDHAM
Town Hall
1471 Highland Avenue
Needham, MA 02492-2669

**Office of the
Select Board**

Telephone: (781) 455-7500
Email: SelectBoard@NeedhamMA.gov

January 14, 2022

Leona Leon, Manager
Poet King Restaurant Group, LLC d/b/a Hungry Coyote
1185 Highland Avenue
Needham, MA 02492

Matthew A. Saiia, Owner
Leona Leon, Manager
Poet King Restaurant Group, LLC d/b/a Hungry Coyote
838 Great Plain Avenue
Needham, MA 02492

Re: Notice of Decision - Poet King Restaurant Group, LLC d/b/a
Hungry Coyote
1185 Highland Avenue, Needham MA

Dear Ms. Leon and Mr. Saiia,

On January 11, 2022, after providing you with written notice, the Town of Needham Select Board held a hearing pursuant to M.G.L. c.138, §§23 and 64 on whether to modify, suspend or revoke the All Alcohol License issued to Poet King Restaurant Group, LLC d/b/a Hungry Coyote, 1185 Highland Avenue. The Select Board held this hearing for the purpose of considering whether the Licensee had violated:

- 205 CMR 2.05(2): Permitting an illegality to occur on the premises, to wit, failure to comply with the Summary Suspension Order of the Town of Needham Public Health Division dated December 31, 2021;
- 205 CMR 2.05(8): Maintaining the premises in an unsanitary manner, as detailed in the Summary Suspension Order of the Town of Needham Public Health Division dated December 31, 2021; and
- M.G.L. c.138, §12: Operating without a licensed manager or appointing a new licensed manager without the approval of the Select Board.

At the conclusion of the hearing, the Select Board voted to **SUSPEND** the license. The Findings and the Decision of the Select Board are set forth below.

FINDINGS

Based upon the evidence presented at the hearing held on January 11, 2022, the Select Board makes the following findings of fact:

1. On April 10, 2019, the Select Board voted to approve the application for a new liquor license for the sale of all alcoholic beverages in restaurants pursuant to M.G.L. c.138, §12 to Poet King Restaurant Group, LLC d/b/a Hungry Coyote, 1185 Highland Avenue, Needham. The application listed Leona Leon as the Licensed Manager. See 2019 Application, attached as **Exhibit A**. The Board's vote approving the application expressly stated that Ms. Leon would serve as the Licensed Manager. See April 10, 2019 Select Board Minutes, attached as **Exhibit B**.
2. On April 10, 2019, the Select Board issued a Common Victualler's license to the Licensee.
3. The Licensee renewed its liquor license for calendar years 2020, 2021, and 2022. At no point did the Licensee file a change of manager application with the Select Board.
4. On August 8, 2019, the Needham Public Health Division issued Hungry Coyote its Food Establishment Permit. See 2019 Food Establishment Permit, attached as **Exhibit C**.
5. The Board of Health renewed Hungry Coyote's Food Establishment Permit for calendar years 2020 and 2021.

Unsanitary Condition

6. Timothy McDonald, the Director of Public Health, testified that between January 16, 2021 and November 24, 2021, the Public Health Division's Health Agents conducted numerous inspections of the establishment, discovering multiple violations of applicable sanitary requirements. The record of the Select Board hearing also included a complete copy of the inspection timeline, the Public Health Division's inspection reports, and correspondence between the Public Health Division and the establishment, which are incorporated herein by reference.
7. On December 3, 2021, the Licensee agreed pursuant to a Memorandum of Understanding (the "MOU") with the Public Health Division to take certain actions to bring the establishment into compliance with applicable sanitary requirements. See Memorandum of Understanding, attached as **Exhibit D**.
8. The MOU required a deep cleaning of the restaurant. The Licensee also agreed to implement weekly cleaning logs and hire a pest control company to provide services every other week, with copies of the pest reports to be submitted to the Board of Health for review.

9. On December 9, 2021, the Health Agent reinspected the establishment. Despite the prior agreement, the Licensee was still in violation of numerous code provisions.
10. On December 27, 2021, the Health Agent conducted yet another inspection of the establishment, again discovering multiple violations. In addition, the Health Agent observed that the Licensee had failed to take the actions agreed to in the MOU.
11. Pursuant to M.G.L. c.111, §30 and 105 CMR 590.014(A), Tara E. Gurge, R.S., C.E.H.T., M.S., the Town's Assistant Public Health Director, determined that an imminent health hazard existed at Hungry Coyote and issued a Summary Suspension Order, to take effect on January 1, 2022 (the "Summary Suspension Order"). See Summary Suspension Order, attached as **Exhibit E**.
12. The Summary Suspension Order suspended the Licensee's Food Establishment Permit and ordered the Licensee to "immediately cease and desist" all operations. **Exhibit E**.
13. The Summary Suspension Order identified the following violations of the 2013 Federal Food Code and 105 CMR 590 - State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments:
 - FC 2-103.11(I) Duties of Person in Charge: The person in charge failed to ensure that employee as properly maintaining the temperatures of TCS foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures.
 - FC 2-103.11(N) Duties of Person in Charge: The person in charge failed to ensure that employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties.
 - FC 3-302.11(A)(1) Raw Animal Food Separate from RTE: Food failed to be protected from cross contamination by (1) separating raw animal foods during storage preparation, holding and display from: (a) Raw RTE food including other raw animal food such as fish for sushi or molluscan shellfish or other raw RTE food such as fruits and vegetables; and (b) cooked RTE food.
 - FC 3-305.11 Food Storage: Food failed to be protected from contamination by storing: in a clean dry location; where it is not exposed to splash, dust, or other contamination; and at least 6 inches off the floor.
 - FC 3-501.16(A)(2)(B) Proper Cold Holding Temps.: Failing to maintain TCS foods at 41 degrees Fahrenheit or less, when required. Failing to store eggs that have not been treated to destroy all viable Salmonellae in a refrigerated equipment that maintains an ambient air temperature of 45 degrees Fahrenheit or less.

- FC 4-501.11 Good Repair and Proper Adjustment: Failing to maintain equipment in a state of repair and condition that meets FDA requirements. Failing to keep equipment components such as doors, seals, hinges, fasteners, and kick plates intact, tight, and adjusted in accordance with manufacturers specifications. Failing to keep cutting or piercing parts of can openers sharp to minimize the creation of metal fragments that can contaminate food when the container is open.
- 105 CMR 590.011(A) Anti-chocking procedures in food service establishments: Failing to comply with M.G.L. c.94, §305D, which requires restaurants with a certain seating capacity to have one or more employees trained in a manual choke-saving procedure in accordance with 105 CMR 605.000.

14. The Summary Suspension Order provided that the Licensee must remain closed until such time as the Board of Health's authorized agent confirmed that all violations noted in the Order have been corrected.

15. The Summary Suspension Order also required the Licensee to take the following actions:

- Meet all requirements contained in the MOU, including but not limited to, the items noted below:
 - The establishment must be deep-cleaned and cleaning logs must be implemented and submitted weekly.
 - Temperature logs must be implemented and submitted weekly.
 - Pest control must be contracted for services to be conducted every other week. Copies of these pest control reports must be submitted for review. (Copy of signed contract must be submitted.)
- Must start taking sanitizer concentration/pH testing paper logs to ensure proper sanitizer concentration is set up at 3-bay sink. Logs will need to be submitted weekly.
- Choke Saver training must be conducted, and a valid training certificate must be submitted.
- Complete various staff training requirements.
- Ensure all food is stored properly, protected, and in the correct order.
- A new plan review of the establishment must be submitted Any new equipment spec sheets will need to be submitted for approval, OR if insufficient cold-holding equipment observed or if additional equipment cannot be accommodated on site, Menu items will need to be cut back in order to ensure that sufficient refrigeration is provided on site to accommodate all Menu items listed. Newly revised Menu will need to be submitted for our review/approval.
- All previously observed violations need to be corrected as soon as possible, i.e. all refrigeration gaskets replaced, sanitizer set up correctly, proper thawing practices need to be conducted, proper datemarking, proper calibration of thermometers, proper storage of

raw food items (not mixing with ready-to-eat food items or storing raw above ready-to-eat foods), demonstrate food safety knowledge, need to ensure dumpsters on an increased pick-up schedule and areas around dumpsters are put on a more frequent cleaning schedule (need to be added to cleaning log), Bar area needs to be put on a more frequent cleaning schedule and noted on cleaning log, floor drains must be added to cleaning log and must be put on a routine cleaning schedule, need to verify proper cooling ice wands on site, etc.

**Failure to Comply with Summary Suspension Order /
Illegal Operation of Licensed Premises**

16. On December 30, 2021, Ms. Gurge emailed the Summary Suspension Order to Francisco Mendez, the holder of the Food Establishment Permit. The email stated that Hungry Coyote would “not be allowed to open up for business **on Saturday, January 1, 2022**, due to these on-going food safety concerns.” See Email from Ms. Gurge to Mr. Mendez re: Emergency Order Suspension Letter For Hungry Coyote – Starts Jan. 1, 2022 (Dec. 30, 2021), attached as **Exhibit F** (emphasis original).
17. Mr. Mendez confirmed receipt of the Summary Suspension Order on December 31, 2021. See Email from Mr. Mendez to Ms. Gurge re: Emergency Order Suspension Letter For Hungry Coyote – Starts Jan. 1, 2022 (Dec. 31, 2021), attached as **Exhibit G**.
18. Ms. Gurge posted the Summary Suspension Order on the door of the Hungry Coyote restaurant shortly before 9:00 a.m. on January 1, 2022.
19. Pursuant to 105 CMR 590.014(A)(3), the Summary Suspension Order was immediately effective once posted at the public entrance of the restaurant.
20. Notwithstanding the clear terms of the Summary Suspension Order, Hungry Coyote did not close and remained open to the public. The Licensee continued to operate without a Food Establishment Permit and in direct violation of the Summary Suspension Order.
21. On January 5, 2022, after a hearing requested by Francisco Mendez (holder of the Food Permit), the Board of Health sustained the Summary Suspension Order and, in particular, its command that the Licensee close to the public until all issues had been resolved and confirmed by the Public Health Division.
22. Ms. Leon was present during the Board of Health hearing, and admitted that the Licensee had remained open since January 1, 2022 despite the Summary Suspension Order and the Licensee’s lack of a Food Establishment Permit.
23. Ms. Leon stated during the Select Board’s hearing on January 11, 2022, that the Licensee remained open until the close of business on January 8,

2022, in direct violation of the Summary Suspension Order and the Board of Health's decision.

24. At all times between January 1 and close of business on January 8, 2022, Hungry Coyote served food in violation of the Summary Suspension Order, the State Sanitary Code and without a valid Food Permit.

Licensed Manager

25. Ms. Leon is listed as the licensed manager of record for the Section 12 All Alcohol license.
26. On January 5, 2022, Ms. Leon emailed Ms. Gurge, in which she stated: "You called me and I told you that I was out of work for a while but that I gave you my word that I would help [Hungry Coyote] with my service..." See Email from Leon to Gurge, (Jan. 5, 2022), attached as **Exhibit H**.
27. During the Board of Health hearing on January 5, 2022, Ms. Leon stated that she had been absent from the establishment for a period of time. In particular, Ms. Leon stated that she had started January 1st and was "back now."
28. Ms. Leon stated during the Select Board's January 11, 2022 hearing that she had not been compensated by the Licensee since March of 2020.
29. As the Licensed Manager, Ms. Leon admitted that she permitted the restaurant to remain open after the posting of the Summary Suspension Order, despite having knowledge of that Order on January 1, 2022.
30. The Licensee never informed the Select Board that it intended to change its licensed manager or that Ms. Leon would be taking a leave of absence. Nor has it submitted a Change of Manager application with the Select Board.

Corporate Documents

31. According to the Corporations Division of the Secretary of the Commonwealth's Office, Matthew Saiia is the sole listed officer of Poet King Restaurant Group, LLC.
32. Mr. Saiia was notified of the Select Board's January 11, 2022 hearing on the modification, suspension or revocation of the All Alcohol License.
33. Mr. Saiia did not attend the Select Board hearing on January 11, 2022.
34. According to the Corporations Division of the Secretary of the Commonwealth's Office, the Licensee has failed to file annual reports for 2020 and 2021. See Corporations Division information, attached as **Exhibit I**.

DECISION

After the hearing on January 11, 2022, the Needham Select Board, acting as the licensing authority, found Poet King Restaurant Group, LLC d/b/a Hungry Coyote, 1185 Highland Avenue, Needham, MA ("Hungry Coyote" or Licensee), and its licensed manager, Leona Leon, violated:

1. 205 CMR 2.05(2): Permitting an illegality to occur on the premises, to wit, failure to comply with the Summary Suspension Order of the Town of Needham Public Health Division dated December 31, 2021. This violation was continuous and ongoing beginning upon the opening of the licensed premises on Saturday January 1, 2022 and the closing of the licensed premises on Saturday January 8, 2022.
2. 205 CMR 2.05(8): Maintaining the premises in an unsanitary manner, as detailed in the Summary Suspension Order.
3. M.G.L. c.138, s.12: Operating without a licensed manager.

Pursuant to M.G.L. c.138, §§23 and 64, the Board voted to suspend the refenced license as follows:

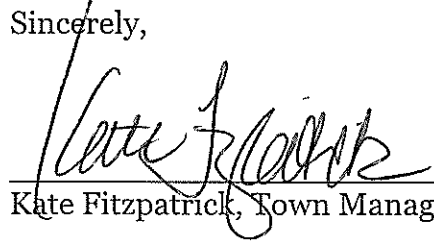
1. Suspend the license forthwith, with the term of the suspension to run for thirty (30) days commencing when the Needham Board of Health reinstates the Licensee's Food Establishment Permit, for violating 205 CMR 2.05(2): Permitting an illegality to occur on the premises, to wit, failure to comply with the Summary Suspension Order of the Town of Needham Public Health Division dated December 31, 2021 and 205 CMR 2.05(8): Maintaining the premises in an unsanitary manner, as detailed in the Summary Suspension Order; and
2. Indefinitely suspend the license until such time as (a) the Licensee submits documentation supporting Leona Leon's ability to hold the position of License Manager, or the Licensee submits an application for a Change of Manager, and the Select Board approves the designated licensed manager in either event, and (b) the Licensee submits all required corporate filings to the Secretary of State's Corporations Division.

Provided, however, that in no case, shall the license be suspended for a period shorter than thirty (30) days from when the Needham Board of Health reinstates the Licensee's Food Establishment Permit.

The Licensee is directed to return its license to the Select Board's Office at 1471 Highland Avenue prior the resuming operations under its Food Establishment Permit. The Licensee shall post at its public entrance a notice of the suspension,

as outlined in **Exhibit J**. The liquor license will be returned at the end of the suspension period.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kate Fitzpatrick", is written over a horizontal line.

Kate Fitzpatrick, Town Manager

Encl.

cc: Alcoholic Beverages Control Commission
Town Counsel



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Public Hearing: ABCC Amendment Application for Change of Officers and Change of Stock Interest – Poet King, LLC d/b/a Hungry Coyote (Continued)
Presenter(s)	Michael Magerer, Applicant Counsel Nezahualcoyotl Leon, LLC Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Poet King, LLC d/b/a Hungry Coyote, 1185 Highland Ave, has applied for a Change of Officers and Change of Stock Interest. This hearing is continued from February 14, 2023.	
2.	VOTE REQUIRED BY THE SELECT BOARD
<i>Suggested Motion: That the Board take the following action_____.</i>	
3.	BACK UP INFORMATION ATTACHED
1. Amendment Application 2. Corporate Vote 3. Departments of Revenue and Unemployment Certificates 4. Corporate Documents 5. Legal Advertisement 6. Copy of Current Lease Agreement All other documents related to these transactions are on file in the Office of the Town Manager.	



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR AMENDMENT

-Change of Officers, Stock or Ownership Interest

☒ **Change of Officers/ Directors/LLC Managers** ☒ **Change of Stock Interest**

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Officer/Directors Application
- Vote of the Entity
- CORI Authorization
- Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

(e.g. New Stockholders or Transfer or Issuance of Stock)

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Stock Application
- Financial Statement
- Vote of the Entity
- CORI Authorization
- Purchase & Sale Agreement
- Supporting Financial Records
- Advertisement
- Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☒ **Change of Ownership Interest**

(e.g. LLC Members, LLP Partners, Trustees etc.)

- Payment Receipt
- Monetary Transmittal
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Stock Application
- Financial Statement
- Vote of the Entity
- CORI Authorization
- Business Structure Documents
- Purchase & Sale Agreement
- Supporting Financial Records
- Advertisement
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth

☐ **Non-Profit Club Change of Officers/ Directors**

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Officer/Directors Application
- Vote of the club signed by an approved officer
- Business Structure Documents - **Articles of Organization** from the Secretary of the Commonwealth

☐ **Management Agreement**

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Vote of Entity
- Management Agreement

**If abutter notification and advertisement are required for transaction, please see the local licensing authority.*

1. BUSINESS ENTITY INFORMATION

Entity Name

Municipality

ABCC License Number

Poet King Restaurant Group, LLC

Needham

04859-RS-0770

Please provide a narrative overview of the transaction(s) being applied for. Attach additional pages, if necessary.

(1) Change of entity/LLC ownership; (2) Issuance and return of entity/LLC Units/Stock; (3) Change of entity/LLC Manager.

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name Title Email Phone

Michael Magerer, Esq. (#550703)

Attorney/Counsel

APPLICATION FOR AMENDMENT-Change of Officers, Stock or Ownership Interest

2. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Nezahualcoyotl Leon	47 Marsh Road, Needham, MA 02492		
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Manager	100.00	☒ Yes ☐ No	☒ Yes ☐ No
MA Resident		☒ Yes ☐ No	
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
MA Resident		☐ Yes ☐ No	
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
MA Resident		☐ Yes ☐ No	
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
MA Resident		☐ Yes ☐ No	
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
MA Resident		☐ Yes ☐ No	
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
MA Resident		☐ Yes ☐ No	

Additional pages attached? ☐ Yes ☒ No

CRIMINAL HISTORY

Has any individual listed in question 2, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?
Please provide a copy of the management agreement.

☐ Yes ☒ No

APPLICATION FOR AMENDMENT-Change of Officers, Stock or Ownership Interest

3. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
Matthew A. Saiia	Manager	100.00
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership

4. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 2, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

5. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 2, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 4 or 5 ever been suspended, revoked or cancelled?

Yes ☒ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation
1/11/2022	Poet King Restaurant Group, LLC	Needham	Alleged Mgr. present for insufficient periods

7. FINANCIAL DISCLOSURE

Associated Cost(s): (E.g. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):"

Associated Cost(s):

NONE; Transfer of LLC Units.

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
N/A	N/A
Total	N/A

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
N/A	N/A	N/A	☐ Yes ☒ No
			☐ Yes ☐ No
			☐ Yes ☐ No
			☐ Yes ☐ No

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

N/A

ADDITIONAL INFORMATION

Please utilize this space to provide any additional information that will support your application or to clarify any answers provided above.

PART 6: On January 14, 2022, a Notice of Suspension (M.G.L. c. 138, s.23 and 64) was issued to the applicant. The stated grounds for suspension were: (1) 205 CMR 2.05(2): Permitting an illegality to occur on the premises, to wit, failure to comply with the Summary Suspension Order of the Town of Needham Public Health Division dated December 31, 2021. This violation was continuous and ongoing beginning upon the opening of the licensed premises on Saturday January 1, 2022 and the closing of the licensed premises on Saturday January 8, 2022; (2) 205 CMR 2.05(8): Maintaining the premises in an unsanitary manner, as detailed in the Summary Suspension Order; and (3) M.G.L. c.138, s.12: Operating without a licensed manager.

On January 14, 2022, the Town of Needham, Select Board, took certain actions related to the applicant/restaurant, as noted above. Regarding (1) and (2) above, the restaurant's food permit had not been renewed by the Town on January 1, 2022. The restaurant continued to operate. This was in error and all issues have been resolved/rectified and there have been no further issues since this time. The restaurant permit was renewed and remains in good standing.

With regard to (3), there were questions raised about the amount of time that Leona Leon was spending at the restaurant and an absence from the restaurant. These issues have also been resolved and Ms. Leon is now regularly at the Restaurant and will continue to be to oversee the bar business. Plans have been made to further segregate the bar area from the remainder of the Restaurant to better control the distribution and consumption of alcohol, dedicated food service, and improved customer service and experience.

The Town also expressed concern about the structure of the entity/LLC and its filings. Based on the change in ownership of the entity/LLC, as described herein, any Town concerns regarding ownership and the presence of persons looked to in order to direct the day to day operations of the Restaurant have been rectified and are reflected in this Application. All entity filings have been made to reflect the changes to the entity/LLC and all filings with the MA Sec. of State's Office, Corp. Division, are up to date and will remain so. The changes made and steps taken will allow the applicant/Restaurant to be compliant and successful.

APPLICANT'S STATEMENT

I, Nezahualcoyotl Leon the: ☐ sole proprietor; ☐ partner; ☐ corporate principal; ☒ LLC/LLP manager
Authorized Signatory

of Poet King Restaurant Group, LLC
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: NEZA LEON Manager

Date: 12-12-2022

Title: Manager; Duly Authorized

ENTITY VOTE

The Board of Directors or LLC Managers of

Poet King Restaurant Group, LLC

Entity Name

duly voted to apply to the Licensing Authority of

Needham

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

Dec 14, 2022

Date of Meeting

For the following transactions (Check all that apply):

- ☒ Change of Officers/Directors/LLC Manager
- ☒ Change of Ownership Interest (LLC Members, LLP Partners, Trustees)
- ☒ Issuance/Transfer of Stock/New Stockholder
- ☐ Management/Operating Agreement
- ☐ Other

"VOTED: To authorize

Nezahualcoyotl Leon, Manager

Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,

For Corporations ONLY

A true copy attest,

NEZAHUALCOYOTL LEON

Corporate Officer /LLC Manager Signature

Corporation Clerk's Signature

NEZAHUALCOYOTL LEON

(Print Name)

(Print Name)



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Charles D. Baker
GOVERNOR

Karyn E. Polito
LT. GOVERNOR



407915166

Rosalin Acosta
SECRETARY

Connie C. Carter
INTERIM DIRECTOR

Poet King Restaurant Group, LLC
838 GREAT PLAIN AVE
NEEDHAM, MA 02492-3057

EAN: 22136082
November 25, 2022

Certificate Id:64732

The Department of Unemployment Assistance certifies that as of 11/25/2022 ,Poet King Restaurant Group, LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c.149,§189.

This certificate expires in 30 days from the date of issuance.

Connie C. Carter, Interim Director

Department of Unemployment Assistance



Commonwealth of Massachusetts
Department of Revenue
Geoffrey E. Snyder, Commissioner

mass.gov/dor

Letter ID: L0985248288
Notice Date: January 5, 2023
Case ID: 0-001-821-632



CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



POET KING RESTAURANT GROUP, LLC
838 GREAT PLAIN AVE
NEEDHAM MA 02492-3057

Why did I receive this notice?

The Commissioner of Revenue certifies that, as of the date of this certificate, POET KING RESTAURANT GROUP, LLC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

This certificate doesn't certify that the taxpayer is compliant in taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law.

This is not a waiver of lien issued under Chapter 62C, section 52 of the Massachusetts General Laws.

What if I have questions?

If you have questions, call us at (617) 887-6400 or toll-free in Massachusetts at (800) 392-6089, Monday through Friday, 9:00 a.m. to 4:00 p.m..

Visit us online!

Visit mass.gov/dor to learn more about Massachusetts tax laws and DOR policies and procedures, including your Taxpayer Bill of Rights, and MassTaxConnect for easy access to your account:

- Review or update your account
- Contact us using e-message
- Sign up for e-billing to save paper
- Make payments or set up autopay

Edward W. Coyle, Jr., Chief
Collections Bureau

UNIT PURCHASE AND SALE AGREEMENT

THIS AGREEMENT made this 19th day of June, 2022 by and between Nezahualcoyotl Leon, f/k/a Francisco Mendez-Miranda ("Leon"), an adult individual with an address of 24 Yurick Road, Needham, Norfolk County, Massachusetts 02492, or his Nominee (referred to herein as the "Buyer" or "Leon," which references shall also apply to his Nominee); and Matthew Saiia, an adult individual with an address of 838 Great Plain Avenue, Needham, Norfolk County, Massachusetts 02492 (referred to herein as the "Seller" or "Saiia"). Solely as to any representations and warranties made thereby, waving any restrictions on transfer, and to the extent otherwise required by the Operating Agreement, as same is identified below, Poet King Restaurant Group, LLC ("Poet King"), a duly authorized and existing Massachusetts Limited Liability Company, with an address of 1185 Highland Avenue, Needham, Norfolk County, Massachusetts 02492, also joins this Agreement as a party hereto. Leon, Saiia, and Poet King are sometimes referred to herein as a "Party" or collectively as the "Parties."

WHEREAS, Seller own units in an entity known as Poet King Restaurant Group, LLC (Poet King), a duly organized and existing Massachusetts Limited Liability Company with a principal place of business located at 1185 Highland Avenue, Needham, Norfolk County, Massachusetts 02492 (Poet King may also be referred to herein as the "Company"); and

WHEREAS, Saiia is the sole, Member and Manager of the Company (respectively the "Member" and the "Manager"); and

WHEREAS, the Company, Seller, and the Members are subject to an Operating Agreement, dated _____ (the "Operating Agreement"), which governs the operation of the Company and the transfer of Units thereof; which has not been modified, altered, or amended; and which remains in full force and effect; and

WHEREAS, Buyer desires to purchase and Seller desires to sell the units of Seller in the Company, in the amount of and for the consideration stated herein and upon the terms and conditions hereinafter set forth; and

WHEREAS, the Company and the Member and Manager desire to assist in and to expedite the consummation of this Agreement, by reconciling certain Company accounts that relate to the parties hereto and by affirming the non existence of any encumbrance or proceeding by or against the Company that might hinder or preclude the consummation of this Agreement;

NOW THEREFORE, in consideration of the said premises, the receipt, value, and sufficiency of which is hereby acknowledged, the respective representations and warranties hereinafter set forth and of the covenants and agreements herein contained, and the recitals set forth above, which are hereby incorporated by reference herein, agreed to, and acknowledged by the Parties hereto, Buyer and Seller represent, warrant and agree as follows:

1. Units to be Purchased. On the date of execution of this Agreement, the Buyer shall purchase, assume, and acquire from Seller and the Seller shall sell, transfer, and assign to Buyer, at the price and under the terms and conditions set forth in this Agreement, One Hundred percent (100%) of the Seller Units in the Company (the "Units" or the "Purchased Units"), which represents all of units of the Company held by Seller and that are issued and outstanding as of the date of execution of this Agreement. Upon the sale and transfer of the Purchased Units, Schedule A of the Operating Agreement shall be amended and shall state as follows:

<u>MEMBER</u>	<u>MEMBERSHIP INTEREST</u>
Leon	100.00%

Seller warrants that the Purchased Units, as stated above and/or as represented by the certificates so listed and/or attached hereto as Exhibit A, as appears on books and records of the Company, constitutes all of the issued and outstanding units of the Company on the date of execution of this Agreement owned by Seller and that there are no other classes of units owned by Seller or provided for in the Operating Agreement.

2. Purchase Price; Terms of Payment and Transfer. (a) Upon the execution of this Agreement, Seller will receive all of the Advisory Board Shares ("ABS") to be created pursuant to the Operating Agreement for the Company to be executed contemporaneously with this Agreement (the "Purchase Price").

(b) As part of the Purchase Price and consideration therefor, Buyer and the Company also agree not to sell, assign, transfer, and/or otherwise alienate any tangible assets of the Company or the Buyer, such as, without limitation, recipes, ingredients, and/or instructions, with regard to food products served and/or offered by the Company and/or reasonably anticipated or likely to be offered in the future, and all intangible assets of the Company or the Buyer, such as, without limitation, how the Company acquires, obtains, and/or provides goods and/or services with respect to the cooking, processing, storage, sale, shipment, and/or delivery of all food products served and/or offered by the Company and/or reasonably anticipated or likely to be offered in the future.

(c) In the event of the sale, assignment, or other transfer or disposition or change (including a transfer by gift, inheritance or otherwise), in the aggregate in one or more transactions or events, of (i) substantially all of the assets of the Company, or (ii) more than twenty five percent (25%) of the ownership of the Company, Buyer shall so notify the Seller and thereupon Buyer shall pay to Seller (iii) twenty five percent (25%) of the gross sales price of the assets and/or the Units in the Company, if the sale occurs within five (5) years of the date hereof, or (iv) fifteen percent (15%) of the gross sales price of the assets and/or the Units in the Company, if the sale occurs thereafter. Payment by Buyer to Seller shall occur contemporaneously with any such sale or transfer. Notwithstanding the foregoing, transactions with an entity (v) into or with which the Company is merged or consolidated or (vi) which controls or is controlled by the Buyer or is under common control with Buyer, shall not be deemed to be a sale or transfer pursuant to this paragraph.

3. Delivery of Purchased Units and ABS. The certificates, if any, for the Purchased Units of the Company sold under this Agreement and for the ABS shall be delivered to the Buyer and Seller, respectively, on the date of this Agreement. All units and ABS delivered will be duly endorsed for transfer with signatures guaranteed.

4. Seller's Representations and Warranties. Seller hereby represents and warrants as follows:

- (a) That the Purchased Units sold hereunder and the ABS to be created and transferred pursuant to this Agreement are free and clear of all liens, encumbrances, charges and assessments, except as disclosed herein, and that Seller is the record owner thereof.
- (b) That at the time of execution of this Agreement there will not be pending, entered or completed any proceeding at law or in equity which may in any way affect, prohibit or impede the transfer of the Purchased Units sold hereunder and the ABS to be created and transferred pursuant to this Agreement, including within the scope of this sub-paragraph administrative as well as judicial proceedings, which the parties will cooperate to amend the said litigation accordingly to allow the sale contemplated hereunder.
- (c) That the execution, delivery and performance of this Agreement by Seller will, on the Closing Date, be enforceable according to its terms, and the obligations of Seller hereunder will be legal and binding.
- (d) That the Company is duly organized and existing under the laws of the Commonwealth of Massachusetts.
- (e) That the Purchased Units sold hereunder and the ABS to be created and transferred pursuant to this Agreement are, according to the books and records of the Company, fully paid and non-assessable; that the Seller is the record owner thereof; that all Purchased Units transfer restrictions affecting the transfer of said Units of capital stock to Buyer hereunder have been duly complied with or effectively waived, and that upon the closing hereunder, Buyer will have full and absolute title to said Units free and clear of all liens, charges, or encumbrances.
- (f) (i) That the present Member and Manager of the Company are as follows:

Member: Matthew Saiia (100%)

Manager: Matthew Saiia

(ii) That after consummation of this Agreement, the Member and Manager of the Company are as follows:

Member: Nezahualcoyotl Leon,
f/k/a Francisco Mendez-Miranda

Manager: Nezahualcoyotl Leon,
f/k/a Francisco Mendez-Miranda

- (g) That all negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by Seller directly with the Buyer and any third party identified herein, without the intervention of any person as a result of any act of Seller in such manner as to give rise to any valid claim for a brokerage commission or other like payment.

The above warranties and representations shall survive the delivery by Seller and the receipt by Buyer of the Purchased Units to be sold hereunder.

It is specifically agreed that Buyer shall not be liable for the payment of any federal, state, or local income, sales, use, or other taxes determined to be due and owing by the Seller and/or the Company, its predecessor entity, the Member(s), and Manager(s) (whether in said capacity or individually), for transactions occurring and/or amounts incurred before the execution of this Agreement.

5. Indemnification of Parties. (i) Buyer and Seller shall and will save one another free and harmless of and from all valid demands, claims, actions or causes of action, assessments, losses and damages, by reason of any claims, obligations, debts, demands or liabilities existing as against one another and the Company prior to and including the date of the closing of this transaction, or thereafter coming into being by reason of any state of facts existing prior to and including the date of the closing of this transaction or arising or growing out of this Agreement, including but not limited to any and all federal, state, and local taxes, except those claims, obligations, debts, demands or liabilities arising from the operation of the business of the Company in the ordinary course of the Company's business and in accordance with the terms of

this Agreement, and except those arising from contracts and agreements executed by the Company and which the Company is permitted to execute by the terms of this Agreement; provided, however, that the provisions of this clause shall not be binding on either party unless the party seeking indemnification gives the other party written notice as herein provided of any such claim within twenty (20) days of the first presentation of such claim or when the party seeking indemnification knows or should have known of the existence of said claim and grants the other party full opportunity to defend, compromise, adjust and/or settle any such claim.

(ii) Notwithstanding anything to the contrary stated herein, Buyer and Company hereby indemnify and save the Seller free and harmless from any amounts incurred by Seller related to Seller's guaranty of the Company Lease for the premises in which it operates.

6. Waiver of Unit Transfer Restrictions. Seller and Buyer hereby waive all preemptive rights and restrictions on the sale and transfer of the Units sold under this Agreement and agree to hold Buyer harmless from and against all liabilities, loss, damages, or claims arising directly or indirectly from Buyer's failure to obtain absolute, entire, and unconditional ownership of the Purchased Units of the Company, free and clear of all restrictions, liens, charges, and encumbrances of which the Seller has knowledge, actual or constructive.

7. Broker's Fee. (a) The Buyer represents and warrants to the Seller that the Buyer has not contacted any broker in connection with this transaction and that the Buyer was not directed to the Seller as a result of any services or facilities of any broker. The Buyer agrees to indemnify and to hold harmless the Seller from and against any claim, loss, damage, cost or liability for any brokerage commission or fee which may be asserted against the Seller in connection with this transaction. The provisions of this paragraph shall survive delivery of the deed.

(b) The Seller represents and warrants to the Buyer that the Seller has not contacted any broker in connection with this transaction and that the Seller was not directed to the Buyer as a result of any services or facilities of any broker. The Seller agrees to indemnify and to hold harmless the Buyer from and against any claim, loss, damage, cost or liability for any brokerage commission or fee which may be asserted against the

Buyer in connection with this transaction. The provisions of this paragraph shall survive delivery of the deed.

8. Default; Attorneys Fees. In addition to all rights provided the Parties under the Uniform Commercial Code and subject to the provisions of this Agreement, the parties hereto shall have the right to specific performance of this Agreement, as to delivery of the Purchased Units, in any court of competent jurisdiction. In the event it is necessary for any one of the Parties to bring any action to enforce any of the terms and covenants of this Agreement, it is agreed that the prevailing party shall be entitled to a reasonable attorney fee to be set by the court, in addition to other reasonable costs and expenses of any such action.

9. Buyer's Warranties and Representations. The Buyer makes the following warranties and representations to the Seller, each of which is true and correct and is being relied upon by the Seller, notwithstanding any investigation made by or on behalf of the Seller:

- (a) That the execution, delivery and performance of this Agreement by the Buyer and all other documents required to be executed by Buyer hereunder will on the Closing Date, be enforceable according to its terms, and the obligations of the Buyer hereunder will be legal and binding.
- (b) That all negotiations relative to this Agreement and the transactions contemplated hereby have been carried on by Buyer directly with Seller without the intervention of any person as the result of any act of Buyer in such manner as to give rise to any valid claim for a brokerage commission or other like payment.
- (c) That the Company is duly organized and existing under the laws of the Commonwealth of Massachusetts.

10. Company's Warranties and Representations. The Company makes the following warranties and representations to the Buyer and Seller, each of which is true and correct and is being relied upon by the said parties, notwithstanding any investigation made by or on behalf of the said parties:

- (a) That the Company is duly organized and existing under the laws of the Commonwealth of Massachusetts.

- (b) That the Purchased Units sold hereunder are free and clear of all liens, encumbrances, charges and assessments by the Company and that Seller is the record owner thereof.
- (c) That at the time of execution of this Agreement there will not be pending, entered, or completed any proceedings at law or in equity by or against the Company which may in any way affect, prohibit or impede the transfer of the Purchased Units sold hereunder.
- (d) That immediately prior to the execution of this Agreement the authorized and issued units of the Company consist of 100.0 units, of which all are validly issued and outstanding as follows:

<u>UNITHOLDER</u>	<u>UNITS</u>
Matthew Saiia	100.0

- (e) That as of the date of this Agreement, the Company has no claims, real, contingent, or otherwise, against the Seller.

11. Modification. No modification or amendment of this Agreement shall be effective, unless in a writing signed by each of the parties hereto, which specifically refers to this Agreement and states that such writing is intended to be a modification or amendment hereof.

12. Indemnities, Representations, Etc. The indemnities, representations, warranties, and agreements of the Seller and Buyer shall survive the Closing.

13. Further Instruments. At or after the execution of this Agreement, Seller and Buyer shall execute and deliver, or cause to be executed and delivered, to the other party all such other documents and instruments, and will do and perform all such other acts, as may reasonably be required to perfect the full and proper performance of this Agreement as contemplated herein.

14. Construction. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Massachusetts applicable to contracts entered into herein.

15. Separate Representations. Each of the parties hereto covenants and warrants that prior to the execution of this Agreement, the parties separately considered and negotiated the contents hereof.

16. Exhibits. All of the exhibits referred to herein are annexed to this Agreement, expressly made a part hereof, and incorporated herein by reference to the same extent as if the contents thereof were set forth herein at length. In the event that the content of any exhibit is contrary to the body of this Agreement, the contents of the exhibit shall control.

17. Contents of Agreement, Parties in Interest, Etc. (a) This Agreement is comprised of this document and the exhibits hereto. This Agreement sets forth the entire understanding of the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, executors, successors, and assigns of the parties hereto.

(b) If the Seller or Buyer executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented thereby shall be bound and neither the Seller or Buyer so executing, nor any Member, Manager, or Unit Holder of a Limited Liability Company, Director or Officer of a Corporation, nor any trustee or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This Agreement shall become effective at such time as counterparts thereof have been executed by each of the parties and it shall not be a condition to its effectiveness that each of the parties has executed the same counterpart.

19. Signatures. Signatures to this Agreement, as well as any other document pursuant hereto and/or in connection herewith, transmitted by facsimile or by e-mail transmittal of portable document format (PDF) files or similar electronic means shall be valid and effective to bind the party so signing. Each party agrees to promptly deliver an execution original to this Agreement with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this

instrument, it being expressly agreed that each party to this instrument shall be bound by its own facsimile or e-mailed signature and shall accept the facsimile or e-mailed signature of the other party to this instrument.

20. Buyer's Obligation to Close Subject to Transfer of Licenses/Permits. (a) The Buyer's obligation to close is specifically contingent upon Buyer obtaining at his sole cost and expense the necessary approval(s) for the transfer of the license to expose, keep for sale, and to sell all alcoholic beverages to be drunk on the premises, license number 04859-RS-0770 (the "Liquor License") from the Town of Needham licensing authority and the Alcoholic Beverages Control Commission, if necessary, and the approval for the transfer of any and all other necessary and/or related licenses currently used in or held by the Company, in connection with the Poet King operations.

(b) Promptly after the execution hereof, the Buyer and the Company shall apply for said necessary approvals at its sole cost and expense and thereafter diligently prosecute its application(s) therefor, using its best and diligent efforts to obtain same. The Seller shall cooperate fully with the Buyer and the Company in connection with its efforts to obtain said necessary approvals, including, but not limited to, causing the Company to make any payments to third parties which outstanding debt is preventing the transfer of the Liquor License, furnishing such information and materials as the Buyer and Company may reasonably request, and executing documentation as the Buyer and Company may reasonably request. Buyer shall pay any and all fees required by the applicable licensing boards for the transfer of all licenses.

(c) Notwithstanding anything to the contrary stated herein, Buyer shall not terminate or amend this Agreement for any reason related to any attempt to obtain or reinstate a Liquor License that the Buyer may seek to obtain. Buyer hereby agrees to accept and purchase the Units and to fully perform under this Agreement, regardless of whether or not the Buyer obtains a Liquor License, whether same is new or reinstated and regardless of any requirements, limitations, and/or decisions, if any, imposed by any issuing authority upon the Buyer.

21. Nominee; Assignment. Notwithstanding anything to the contrary set forth herein, Buyer shall not be entitled to assign this Agreement or to nominate any other person or entity to take title to the Purchased Units, except that Buyer may nominate a newly formed limited liability company or other entity to take title to the Purchased Units, provided such entity is owned and controlled by Buyer or Buyer's current principals (i.e. officers and directors, members and managers, trustees and beneficiaries). Assignment of this Agreement to any other person or entity or nomination of any other person or entity to take title to the Purchased Units shall be void, ab initio, unless Seller's written authorization has been previously granted.

22. Confidentiality. Seller and Buyer agree not to disclose any information relating to the terms and conditions of this transaction, other than to Seller's and Buyer's respective principals, agents and consultants engaged to implement this transaction, and transaction participants and to counsel involved in the transaction. Buyer shall not permit any release of information to any third party or regulatory agency or authority, except as required by law and with notice to Seller. Buyer and any third party consultant shall agree to be bound by these confidentiality provisions. As to contacting municipal authorities, Buyer acknowledges and agrees that as of the signing of the Agreement it is his intention to only cause the transfer of the Liquor License; to the extent Buyer desires to contact any municipal authorities directly with regard to anything other than the transfer of the Liquor License, Buyer shall first seek Seller's approval and so long as within the scope of transaction contemplated under this Agreement, Seller's approval shall not be unreasonably withheld. Buyer acknowledges that the confidentiality provisions will likely be beneficial to it, the Seller, and the Company to avoid any potential adverse results upon Buyer's ability to operate the Company and the Restaurant after the Closing Date or upon the Company's continued ability to operate the Restaurant to the extent Buyer fails to perform. Buyer shall not advertise or permit the advertising of the fact or terms of the sale contemplated herein prior to Closing. To the extent Buyer is required, pursuant to the requirements of any legal proceeding or the Liquor License transfer, to disclose any information whatsoever relating to the transaction, the Company, or such other information which is otherwise provided in this Agreement to be confidential, Buyer shall notify Seller of such legal requirement and the specific scope and nature of such request within one business day after Buyer first obtains knowledge of such legally required

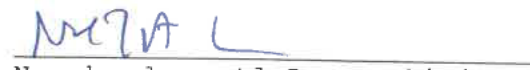
disclosures, so that Seller may seek an appropriate protective order or waive Buyer's compliance with this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed and delivered as an instrument under seal on the day and year first above written.

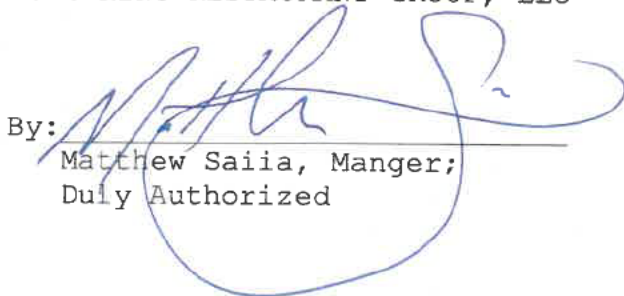
SELLER:


Matthew Saiia

BUYER:


Nezahualcoyotl Leon, f/k/a
Francisco Mendez-Miranda

POET KING RESTAURANT GROUP, LLC

By: 
Matthew Saiia, Manger;
Duly Authorized



William Francis Galvin
Secretary of the
Commonwealth

The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

October 31, 2022

TO WHOM IT MAY CONCERN:

I hereby certify that a certificate of organization of a Limited Liability Company was filed in this office by

POET KING RESTAURANT GROUP, LLC

in accordance with the provisions of Massachusetts General Laws Chapter 156C on **October 9, 2018.**

I further certify that said Limited Liability Company has filed all annual reports due and paid all fees with respect to such reports; that said Limited Liability Company has not filed a certificate of cancellation; that there are no proceedings presently pending under the Massachusetts General Laws Chapter 156C, § 70 for said Limited Liability Company's dissolution; and that said Limited Liability Company is in good standing with this office.

I also certify that the names of all managers listed in the most recent filing are:
NEZAHUALCOYOTL LEON

I further certify, the names of all persons authorized to execute documents filed with this office and listed in the most recent filing are: **NEZAHUALCOYOTL LEON**

The names of all persons authorized to act with respect to real property listed in the most recent filing are: **NEZAHUALCOYOTL LEON**



In testimony of which,

I have hereunto affixed the

Great Seal of the Commonwealth

on the date first above written.

William Francis Galvin

Secretary of the Commonwealth



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Certificate of Organization

(General Laws, Chapter)

Identification Number: 001349508

1. The exact name of the limited liability company is: POET KING RESTAURANT GROUP, LLC

2a. Location of its principal office:

No. and Street: 838 GREAT PLAIN AVENUE
City or Town: NEEDHAM State: MA Zip: 02492 Country: USA

2b. Street address of the office in the Commonwealth at which the records will be maintained:

No. and Street: 838 GREAT PLAIN AVENUE
City or Town: NEEDHAM State: MA Zip: 02492 Country: USA

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:

THE GENERAL CHARACTER OF THE BUSINESS OF THE LLC IS (A) TO ENGAGE IN THE BUSINESS OF DIRECTLY OR INDIRECTLY OWNING, OPERATING, MANAGING AND OTHERWISE DEALING WITH ONE OR MORE RESTAURANTS; (B) SUCH ACTIVITIES AS ARE RELATED OR INCIDENTAL TO THE ABOVE; AND (C) SUCH OTHER BUSINESSES, TRADES AND ACTIVITIES AS ARE PERMITTED FOR AN LLC UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS.

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: MATTHEW SAILA
No. and Street: 838 GREAT PLAIN AVENUE
City or Town: NEEDHAM State: MA Zip: 02792 Country: USA

I, MATTHEW SAILA resident agent of the above limited liability company, consent to my appointment as the resident agent of the above limited liability company pursuant to G. L. Chapter 156C Section 12.

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
SOC SIGNATORY	MATTHEW SALLA	838 GREAT PLAIN AVENUE NEEDHAM, MA 02492 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
REAL PROPERTY	MATTHEW SALLA	838 GREAT PLAIN AVENUE NEEDHAM, MA 02492 USA

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 9 Day of October, 2018,
MATTHEW SALLA

(The certificate must be signed by the person forming the LLC.)

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

October 09, 2018 11:04 AM

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in dark ink and is positioned above the printed name of the signatory.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



The Commonwealth of Massachusetts
William Francis Galvin

No Fee

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Statement of Change of Resident Agent/Resident Office

(General Laws, Chapter 156C, Section 5A and Section 51)

Exact name of limited liability company: POET KING RESTAURANT GROUP, LLC

Current resident agent name: MATTHEW SAILA

Current resident agent office address: 838 GREAT PLAIN AVENUE , NEEDHAM , MA 02792

New resident agent office address in the commonwealth and the name of the appointed resident agent at that office:

(The company may not appoint itself resident agent. Resident agent may be an individual or a different business entity.)

Name: NEZAHUALCOYOTL LEON

No. and Street: 1185 HIGHLAND AVENUE

City or Town: NEEDHAM

State: MA

Zip: 04292

Country: USA

The street address of the resident office of the limited liability company and the business address of the resident agent are identical as required by General Laws, Chapter 156C, Section 51 and GL. Chapter 156D Section 15.08.

Consent of resident agent:

I, NEZAHUALCOYOTL LEON , consent to my appointment as the resident agent of the above limited liability company pursuant to G. L. Chapter 156C Section 5A and Section 51.

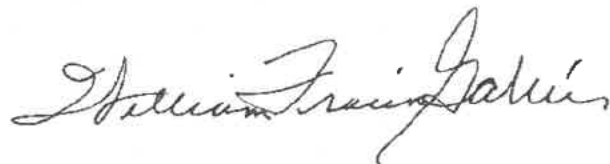
This statement is effective at the time and on the date approved by the Division.

SIGNED UNDER THE PENALTIES OF PERJURY, this 1 Day of July, 2022,
MATHEW SAILA , Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

July 01, 2022 02:05 PM

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in dark ink and is centered on the page.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$100.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Certificate of Amendment
(General Laws, Chapter)

Identification Number: 001349508

The date of filing of the original certificate of organization: 10/9/2018

1.a. Exact name of the limited liability company: POET KING RESTAURANT GROUP, LLC

1.b. The exact name of the limited liability company as amended, is: POET KING RESTAURANT GROUP, LLC

2a. Location of its principal office:

No. and Street: 1185 HIGHLAND AVENUE
City or Town: NEEDHAM State: MA Zip: 02492 Country: USA

3. As amended, the general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: NEZAHUALCOYOTL LEON
No. and Street: 1185 HIGHLAND AVENUE
City or Town: NEEDHAM State: MA Zip: 04292 Country: USA

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
MANAGER	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
REAL PROPERTY	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

9. Additional matters:

10. State the amendments to the certificate:

1. TO CHANGE THE PRINCIPAL OFFICE LOCATION. 2. TO CHANGE THE MANAGER (SEC. 6 AND 8).

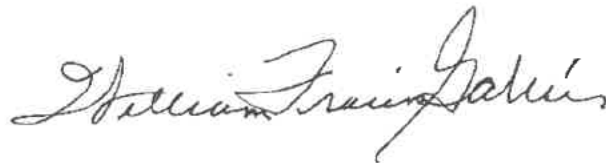
11. The amendment certificate shall be effective when filed unless a later effective date is specified:

SIGNED UNDER THE PENALTIES OF PERJURY, this 1 Day of July, 2022,
MATTHEW SAILA , Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

July 01, 2022 02:44 PM

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in dark ink and is centered on the page.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$500.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Annual Report

(General Laws, Chapter)

Identification Number: 001349508

Annual Report Filing Year: 2022

1.a. Exact name of the limited liability company: POET KING RESTAURANT GROUP, LLC

1.b. The exact name of the limited liability company as amended, is: POET KING RESTAURANT GROUP, LLC

2a. Location of its principal office:

No. and Street: 1185 HIGHLAND AVENUE
City or Town: NEEDHAM State: MA Zip: 02492 Country: USA

2b. Street address of the office in the Commonwealth at which the records will be maintained:

No. and Street: 838 GREAT PLAIN AVENUE
City or Town: NEEDHAM State: MA Zip: 02492 Country: USA

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:
RESTAURANT.

4. The latest date of dissolution, if specified:

5. Name and address of the Resident Agent:

Name: NEZAHUALCOYOTL LEON
No. and Street: 1185 HIGHLAND AVENUE
City or Town: NEEDHAM State: MA Zip: 04292 Country: USA

6. The name and business address of each manager, if any:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
MANAGER	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
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8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
REAL PROPERTY	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 11 Day of October, 2022,
NEZAHUALCOYOTL LEON , Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

October 11, 2022 06:06 PM

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in dark ink and is centered on the page.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

Corporations Division

Business Entity Summary

ID Number: 001349508

[Request certificate](#)

[New search](#)

Summary for: POET KING RESTAURANT GROUP, LLC

The exact name of the Domestic Limited Liability Company (LLC): POET KING RESTAURANT GROUP, LLC

Entity type: Domestic Limited Liability Company (LLC)

Identification Number: 001349508

Date of Organization in Massachusetts:
10-09-2018

Last date certain:

The location or address where the records are maintained (A PO box is not a valid location or address):

Address: 838 GREAT PLAIN AVENUE

City or town, State, Zip code, NEEDHAM, MA 02492 USA
Country:

The name and address of the Resident Agent:

Name: NEZAHUALCOYOTL LEON

Address: 1185 HIGHLAND AVENUE

City or town, State, Zip code, NEEDHAM, MA 04292 USA
Country:

The name and business address of each Manager:

Title	Individual name	Address
MANAGER	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

In addition to the manager(s), the name and business address of the person(s) authorized to execute documents to be filed with the Corporations Division:

Title	Individual name	Address

The name and business address of the person(s) authorized to execute, acknowledge, deliver, and record any recordable instrument purporting to affect an interest in real property:

Title	Individual name	Address
REAL PROPERTY	NEZAHUALCOYOTL LEON	1185 HIGHLAND AVENUE NEEDHAM, MA 02492 USA

Consent

Confidential Data

Merger Allowed

Manufacturing

View filings for this business entity:

ALL FILINGS
Annual Report
Annual Report - Professional
Articles of Entity Conversion
Certificate of Amendment
Certificate of Consolidation

[View filings](#)

Comments or notes associated with this business entity:

[New search](#)

Corporations Division

Business Entity

Name: POET KING RESTAURANT GROUP, LLC

Order certified copies ☐ check all	Name of filing	Year filed	Date filed	Filing No.	View PDF
☐	Annual Report	2022	10/11/2022 06:06 PM	202247607530	202247607530_1.pdf, 3 pgs
☐	Certificate of Amendment		07/01/2022 02:44 PM	202233054160	202233054160_1.pdf, 3 pgs
☐	Statement of Change of Resident Agent/Resident Office		07/01/2022 02:05 PM	202233029870	202233029870_1.pdf, 2 pgs
☐	Annual Report	2021	07/01/2022 12:19 PM	202233027010	202233027010_1.pdf, 3 pgs
☐	Annual Report	2020	07/01/2022 12:14 PM	202233026310	202233026310_1.pdf, 3 pgs
☐	Annual Report	2019	10/01/2019 12:01 PM	201929600540	201929600540_1.pdf, 3 pgs
☐	Certificate of Organization		10/09/2018 11:04 AM	201837869190	201837869190_1.pdf, 3 pgs

[Return to entity summary](#)

[Order filings](#)

LEGAL NOTICE



Town of Needham

Application for Change of Officers and Change in Stock Interest for an All-Alcohol License

Notice is hereby given pursuant to Massachusetts General Laws, Chapter 138, that Poet King LLC d/b/a Hungry Coyote, Leona Leon, Manager, has applied for a Change of Corporate Officers and Change in Stock Interest.

IT IS ORDERED that a public hearing be held for said application on February 14, 2023 at 6:00 p.m. The Select Board invites all residents and interested parties to provide input at this meeting that will be held in person, Select Board Chambers, Town Hall and via Zoom.

Zoom Information: <https://us02web.zoom.us/j/82637253545?pwd=YXhheDZndDE5a2FCTDNqMEt0T2d4QT09>

Passcode: 557200 Webinar ID: 826 3725 3545

This legal notice is also posted on the Massachusetts Newspaper Publishers Association's (MNPA) website at <http://masspublicnotices.org/>

**Select Board
Licensing Board for the Town of Needham**

2x4 Town of Needham - Hungry Coyote 1-26-23

(1-26-23 HTW)

INDENTURE OF LEASE

1. PARTIES

Philnorstan Realty LLC, a Massachusetts limited liability company, **Landlord**, which expression shall include its heirs, successors, and assigns where the context so admits, does hereby lease to Poet King Restaurant Group LLC, a Massachusetts limited liability company, 838 Great Plain Avenue, Needham, MA, 02492, **Tenant**, which expression shall include its heirs, successors, executors, administrators and assigns where the context so admits.

2. PREMISES

The **Landlord** demises and the **Tenant** hereby leases the following described premises which is deemed to be approximately 2,500 square feet of space, known as and numbered 1185 Highland Avenue, Needham, MA 02492 as more particularly shown on the plans attached hereto (hereinafter referred to as the "premises"), together with the right to use in common with others, the parking area situated behind the property known as and numbered 1183-1189 Highland Avenue, Needham, MA, and as shown on the plan marked Exhibit A & B attached hereto (hereinafter referred to as the "Building"). There is specifically reserved unto **Landlord** those utility lines, including sprinkler lines, if any, located in the premises and for these purposes there is also reserved unto **Landlord** the right of access in and through such portions of the premises in order to repair, replace and maintain such utility facilities. THE PREMISES ARE LEASED "AS IS" AND "WHERE IS" AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTY WHATSOEVER, EXCEPT AS EXPRESSLY SET FORTH HEREIN, AND IN PARAGRAPH 51.

3. COMMENCEMENT DATE AND TERM

The Lease and all its terms and conditions herein, shall commence on the day that the **Tenant** and **Landlord** have signed the Lease (the "Execution Date"). The **Tenant** shall have a period of time, one hundred eighty-one (181) days, beginning with the Execution Date, in which to obtain all necessary permits required to operate from the Premises (the "Initial Application Period"). Once the **Tenant** receives the aforementioned approvals and the Initial Application Period or the Extended Application Period (as hereinafter defined, and together with the Initial Application Period, the "**Application Period**") as applicable, have expired, then the term of the Lease shall run from the Execution Date of the Lease up to the expiration date of the Application Period, and any remaining days of the within month (the "Lease Commencement Date"), plus five (5) years. The parties agree, by separate letter, to memorialize the commencement and expiration dates of the Lease.

Upon Execution of the Lease the **Tenant** shall be entitled to an abatement of Base Rent (as hereinafter defined) during the Application Period, as applicable.

To ensure payment of **Tenant's** rental obligation in the event that the **Tenant** does not receive its permits during the Initial Application Period, the **Tenant** shall be required to prepay to the **Landlord** Base Rent for the Initial Application Period in the amount of Thirty-Three Thousand Nine Hundred Ninety-Nine and 96/100's (\$33,999.96) Dollars (the "**Base Rent Deposit**").

In the event Tenant procures its permits within the Initial Application Period, then any and all unused per diem charges with respect to the Base Rent Deposit shall be applied to Tenant's rental obligations.

In the event **Tenant** does not receive its approvals as aforesaid within the Initial Application Period, then the Lease shall be declared null and void and neither party shall have any further recourse to the other. Save that the **Tenant** shall be required to pay to the **Landlord** a per diem charge based on the year 1 Base Rent (as hereinafter defined) for each day of the period between the Execution Date and termination of the Initial Application Period. Any unused portion of the Base Rent Deposit shall be returned to Tenant within ten (10) days of such termination.

The Security Deposit which will be deposited with the **Landlord** upon Lease execution will be returned, to **Tenant** within ten (10) days of such termination provided the premises has been left in a similar condition to that which existed on the Execution Date, reasonable wear and tear expected.

If **Tenant** has not obtained its required permits within the Initial Application Period, the **Tenant** shall have the right to extend the Initial Application Period by (30) thirty days (the "Extended Application Period"), by notifying the **Landlord** in writing, prior to the expiration of the Initial Application Period. The extension shall require a non-refundable deposit of one month's rent in the amount of Five Thousand Six Hundred Sixty-Six and 66/100's (\$5,666.66) Dollars. Should **Tenant** procure its additional permits before the expiration of the Extended Application Period, any and all unused per diem charges shall be applied to **Tenant's** rental obligations. In the event **Tenant** does not obtain the additional permits as hereinabove set forth, then the Lease shall be declared null and void and neither party shall have further recourse to the other and the prepaid Security Deposit shall be forthwith refunded to **Tenant** within ten (10) days of such Termination.

4. BASE RENT AND RENT COMMENCEMENT DATE

The **Tenant** shall pay to the **Landlord** Base Rent at the rate of Sixty-Eight Thousand (\$68,000.00) Dollars per year, ("Base Rent") payable in advance in monthly installments of Five Thousand Six Hundred Sixty-Six and 66/100's (\$5,666.66) Dollars, for the first year of the term. During the remainder of the Term, Base Rent shall be due and payable according to the following schedule:

YEAR	ANNUALLY	MONTHLY
2	\$73,000.00	\$6,083.33
3	\$76,500.00	\$6,375.00
4	\$79,590.60	\$6,632.55
5	\$81,182.40	\$6,765.20

Tenant's obligation to pay rent begins upon expiration of the Initial Application Period or Extended Application Period, as applicable (the "Rent Commencement Date").

Tenant's obligation to pay the monthly rent arises on the first day of each month as provided above. The **Tenant** shall be required to pay a late fee equal to five percent (5%) of the monthly rent for any payment postmarked after the fifth day of the month in which it is due. All rent and the proportionate share of any increase in real estate taxes and operating expenses, and all other charges relating to **Tenant's** obligations under the Lease (including but not limited to, reasonable attorney's fees, other costs of collection, or costs incurred by the **Landlord** arising from a default of the **Tenant's** obligations under this Lease) shall constitute rent due and payable under this Lease. Fixed and additional rent shall be paid by **Tenant** to **Landlord** without offset or deduction, except as otherwise herein expressly provided. Rent as defined in this paragraph may be recovered in any legal action brought by the **Landlord**, including, without limitation, an action to evict the **Tenant** under Massachusetts General Laws.

5. SECURITY DEPOSIT

Upon the execution of this Lease, the **Tenant** shall pay to the **Landlord** the amount of Eleven Thousand Three Hundred Thirty-Three and 32/100's (\$11,333.32) Dollars, which shall be held as security for the **Tenant's** performance as herein provided and refunded to the **Tenant** at the end of this lease or any extensions thereto, subject to the **Tenant's** satisfactory compliance with the conditions hereof. The **Landlord** may use, apply, or retain the whole or any part of the Security Deposit to the extent required for the payment of any rent or other payment due **Landlord** hereunder or other sum which the **Landlord** may expend or incur by reason of the **Tenant's** default in any of the terms of this lease, including, but not limited to, any damages or deficiency in the re-letting of the Premises, whether such damages or deficiencies accrued before or after summary proceedings or other re-entry by the **Landlord**. If all or any part of the Security Deposit is applied to an obligation of **Tenant** hereunder, **Tenant** shall immediately upon the written request by **Landlord** restore the Security Deposit to its original amount.

6. REAL ESTATE TAX ADJUSTMENT AND INSURANCE ADJUSTMENT

A. The **Tenant** shall pay to the **Landlord** as additional rent 26%, Pro-Rata Share, of the real estate taxes, including municipal betterments levied against the land and building, of which the premises are a part and which notice shall contain a copy of the then current real estate tax bill. This adjustment shall be prorated should this Lease terminate before the end of any fiscal year. The **Tenant** shall make payment of such tax adjustment amount as follows. Beginning with the **Rent Commencement Date**, and on the first day of each month thereafter, the **Tenant** shall pay, monthly, one twelfth (1/12th) of the total tax adjustment payment attributable to these premises for the then current tax fiscal year. Until notice from **Landlord** of the then real estate tax liability (and which notice shall contain a copy of the current real estate tax bill), each such monthly payment shall be based upon the monthly tax adjustment payment for the previous

twelve (12) month period, with an appropriate adjustment in each case after the actual tax bill for such tax fiscal year is received by **Landlord**.

B. The **Tenant** shall pay to the **Landlord** as additional rent 26%, Pro-Rata Share, of the premium charged to **Landlord** for fire, extended coverages, boiler and machinery, public liability, and other physical damage coverages carried by **Landlord** for the Building, of which the premises are a part and which notice shall contain a copy of the then current insurance premium bill. This adjustment shall be prorated should this Lease terminate before the end of any lease year. Beginning with the **Rent Commencement Date**, and on the first day of each month thereafter, the **Tenant** shall pay, monthly, one twelfth (1/12th) of the total insurance adjustment attributable to these premises for the then current year. Until notice from **Landlord** of the then insurance premium each such monthly payment shall be based upon the monthly insurance payment installment for the previous twelve (12) month period, with an appropriate adjustment in each case after the actual insurance bill for the current year is received by **Landlord**.

7. PEST CONTROL

During the term of this Lease or any extensions thereto, the **Tenant** shall be required to contract with A-1 Exterminator at competitive market rates, or other certified pest control company that **Landlord** from time to time may reasonably select, to service the premises and rubbish storage area on a bi-monthly basis, or more frequently if needed.

8. UTILITIES AND OTHER BUILDING SERVICES

During the entire term of the Lease and any extensions thereto, the **Tenant** shall provide and shall pay for all of its utilities, including but not limited to gas, electricity, hot and cold water and sewer charges. **Tenant** shall maintain sufficient heat in the premises to prevent the pipes therein from freezing.

The **Landlord** shall maintain the roof, structural elements and common systems of the Building in good, operable condition, except for reasonable wear and tear, damage by the **Tenant**, and damage by fire and other casualty or taking by eminent domain shall be controlled by other provisions of this Lease.

Landlord reserves the right from time to time, without unreasonable interference with **Tenant's** permitted use of the premises and upon, at least 24 hours prior written notice: (a) to install, use, maintain, repair, replace and relocate for service to the premises and other parts of the Building, or either, pipes, ducts, conduits, wires and appurtenant fixtures, wherever located in the premises or Building, and (b) to alter or relocate any other common facility, provided such repair and maintenance is promptly commenced and pursued to completion.

In the event the Landlord or **Tenant** fails to so maintain the applicable elements of the premises and the Building after twenty one (21) days prior written notice from the other party, or such other period of time as may be reasonable to perform such repair or maintenance, provided such party promptly commences and diligently pursues same to completion, the other party may

perform such maintenance or repair, and the other party that failed to so maintain the applicable elements of the premises and/or Building shall pay the costs incurred by the other party within ten (10) business days upon receipt of invoice.

9. RUBBISH REMOVAL

The **Tenant** shall provide and pay for its own rubbish storage and removal. In connection herewith the **Tenant** shall be allowed to store a dumpster outside the premises, in an area designated by the **Landlord** and as more particularly shown on the attached Exhibit B. The **Tenant** shall maintain the area around the dumpster, keeping it free and clear of debris. Notwithstanding anything to the contrary, the **Landlord** may, for economic as well as sanitary reasons, handle the trash removal for the Building of which the premises are a part. In such event the **Tenant** would pay, monthly, its share of the cost of this service to be provided by the **Landlord**. In connection herewith, the **Tenant** shall conform with the reasonable rules and regulations established by the **Landlord** relating to the rubbish removal. **Tenant** shall defend, indemnify, and hold harmless the **Landlord** from any and all liability and claims arising from the **Tenants** mishandling of its rubbish.

10. USE OF THE PREMISES

Tenant shall have the right to use the Premises for purposes of an eat-in/take-out restaurant selling and preparing Mexican food and related fare.

11. FIRE INSURANCE

The **Tenant** shall not permit any use of the premises which would suspend or void any insurance or create an additional risk on the property of which the premises are a part or on the contents of said property or which shall be contrary to any law or regulation from time to time established by any state, municipal, government, or insurance industry rule making authority. **Tenant** shall pay any increased insurance costs incurred by **Landlord** by reason of **Tenant's** breach of any of the covenants set forth in the foregoing sentence. Further the **Tenant**, at its expense, shall take all measures necessary to comply with the requirements of **Landlord's** insurance carrier.

12. TENANT'S MAINTENANCE OF PREMISES

The **Tenant** shall keep the premises in a neat, clean, sanitary condition and shall keep in reasonably good repair, subject to normal wear and tear, the following portions of the premises: the entire interior of the premises including non-structural walls and ceilings; all plumbing, drains, hot water tanks, door locks, electrical, alarm systems, lighting fixtures and light bulbs, water, air conditioning*, ventilating, heating, and the wiring, pipes, motors and fixtures exclusively used in connection therewith; replacement of all glass; the exterior and interior portions of all doors and windows, moldings and frames and floor coverings. For purposes herein repair shall be deemed to include replacement where necessary. **Tenant** shall pay at its own expense all repairs, maintenance and alterations of **Tenant's** installed fixtures or improvements and utilities. With respect to **Tenant's** obligations to maintain the HVAC system see Section 46.

13. ALTERATIONS-ADDITIONS

Tenant shall not make any structural alteration or addition to the premises or alterations, which would affect any Building system or materially change the appearance or quality of the premises without **Landlord's** prior written consent. The **Tenant** shall not make any non-structural alterations or additions to the premises without the **Landlord's** prior consent thereto in writing, which consent shall not be unreasonably withheld or delayed. **Tenant** may make non-structural alterations up to \$10,000 in each instance without **Landlord's** consent but with prior notice to **Landlord**. All such allowed alterations shall be performed in a good and workmanlike manner at **Tenant's** expense and shall be in quality at least equal to the present construction.

14. ASSIGNMENT-SUBLEASING

Tenant shall not assign, sublet, mortgage, pledge, encumber or otherwise transfer (collectively referred to as "Transfer") this Lease or its rights hereunder without **Landlord's** prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, subject to the other terms and provisions of this Section 14. **Landlord** shall not unreasonably withhold or delay its consent to an assignment to an entity purchasing all of **Tenant's** business, assets and liabilities or merging or consolidating with **Tenant**, so long as such surviving entity has a net worth equal to the greater of (i) the net worth of **Tenant** on the date of this Lease or (ii) the net worth of **Tenant** on the date of such transfer. Notwithstanding such Transfer, **Tenant** and Guarantors under the Lease shall remain liable to **Landlord** for the payment of all rent and for the full performance of the covenants and conditions of this Lease. Without limiting the foregoing, **Landlord** and **Tenant** agree that **Landlord** may withhold its consent to any proposed Transfer to a transferee ("Transferee") who, or is not deemed by **Landlord** in its reasonable business judgment, to be an acceptable credit risk. In addition, if required in the **Landlord's** reasonable judgment, any Transferee shall, by valid written instrument, expressly assume for itself and its successors and assigns, and for the benefit of **Landlord**, all of the obligations of **Tenant** under this Lease.

Any request by **Tenant** for **Landlord's** consent to a Transfer shall include (i) the name of the proposed Transferee; (ii) the nature of its business and proposed use of the Premises; (iii) complete information as to the financial condition and standing of the proposed Transferee; and (iv) the terms and conditions of the proposed transfer. **Tenant** shall promptly supply such additional information about the proposed Transfer and Transferee as the **Landlord** reasonably requests. **Landlord** shall also have the right to meet and interview the proposed Transferee.

In the event the **Landlord** consents to such Transfer any rent to be paid by the Transferee which is in excess of the rent set forth in the Lease, shall be shared equally between the **Tenant** and the **Landlord**, after deduction of reasonable expenses of subletting such as brokerage commissions. For purposes of this grammatical paragraph, the term "rent" shall mean all fixed rent, additional rent or other payment and/or consideration payable hereunder or in connection with such assignment or sublease, as applicable.

Landlord shall advise **Tenant** in writing whether or not it consents to a proposed Transfer within ten (10) days of receiving **Tenant's** request for such consent and such accompanying information. In the event such consent is withheld, **Landlord** shall specify in writing the reasons therefore in detail.

Any transfer consented to herein shall not release the **Tenant** or Guarantor from its obligations of the Lease.

Consent by **Landlord**, whether express or implied, to any Transfer shall not constitute a waiver of **Landlord's** right to prohibit any subsequent Transfer.

As used herein, the term "assign" or "assignment" shall be deemed to include, without limitation, any transfer of the **Tenant's** interest in the Lease by operation of law.

Tenant shall reimburse **Landlord** for its reasonable, out-of-pocket legal and other expenses in connection with any request for consent under this Section 14.

15. SUBORDINATION; NOTICE TO MORTGAGEE

This Lease shall be subject and subordinate to any and all mortgages and other instruments in the nature of a mortgage, now or at any time hereafter, a lien or liens on the property of which the premises are a part and the **Tenant** shall, when reasonably requested, promptly execute and deliver such commercially reasonable written instruments as shall be necessary to show the subordination of this Lease to said mortgages, or other such instruments in the nature of a mortgage, and **Landlord** shall use reasonable efforts to simultaneously obtain from the holder of any such instrument an agreement, in such holder's customary form, running to the **Tenant** whereby such holder has agreed, in the event of a foreclosure of said lien not to disturb the **Tenant** hereunder so long as the **Tenant** is not in default of the Lease. Notwithstanding the foregoing to the contrary, in no event shall **Tenant** be required to submit **Tenant's** financial statement(s).

No act or failure to act on the part of **Landlord** which would entitle **Tenant** under the terms of this Lease, or by law, to be relieved of **Tenant's** obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) **Tenant** shall have first given written notice of **Landlord's** act or failure to act to **Landlord's** mortgagees of record, if any, of whom **Tenant** has received written notice specifying the act or failure to act on the part of **Landlord** which could or would give basis to **Tenant's** rights; and (ii) such mortgagees, after receipt of such notice, have failed or refused to correct or cure the condition complained of within a reasonable time thereafter (including a reasonable time to obtain possession of the mortgaged premises if the mortgagee elects to do so); but nothing contained in this Section 15 shall be deemed to impose any obligation on any such mortgagees to correct or cure any condition.

16. LANDLORD'S ACCESS

Except in cases of an emergency (in which case no prior notice shall be necessary), the **Landlord** or agents of the **Landlord** may, at reasonable times and upon at least 24 hours prior notice, and only when accompanied by a representative of **Tenant** enter to view the premises and make repairs and alterations as **Landlord** should elect to do and may show the premises to others, and at any time within six (6) months before the expiration of the term, may affix to any suitable part of the premises a notice for letting or selling the premises or property of which the premises are a part and keep the same so affixed without hindrance or molestation.

17. INDEMNIFICATION AND LIABILITY

Tenant shall defend, indemnify, and hold harmless the **Landlord** and its employees from and against any and all liability, claims, damages, losses, or expenses, arising out of (i) the **Tenant's** or its employee's, agent's, contractor's, or invitee's operations, actions, conduct or omissions except to the extent caused by the negligence or willful misconduct of **Landlord**, its agents, employees or contractors or (ii) **Tenant's** breach of this Lease. All of the **Tenant's** goods, effects and property shall be upon the premises at the sole risk and expense of **Tenant** and in no case shall **Tenant** make any claim against **Landlord** for any loss or damage thereto however caused. **Landlord** acknowledges mutual indemnification pursuant to this section.

18. INSURANCE

Tenant agrees to maintain in full force from the **Lease Commencement Date** throughout the Lease term and thereafter so long as **Tenant** is in occupancy of any part of the Premises, a policy of Commercial General Liability Insurance with the broad form coverage. The minimum limits of such insurance shall be \$1,000,000 per occurrence and \$2,000,000 aggregate for Bodily Injury Liability (including death) and Property Damage Liability.

The policy shall also include but shall not be limited to the following extensions of coverage:

- (i) Contractual Liability, covering **Tenant's** liability assumed under this Lease; and
- (ii) Personal Injury Liability in the amount of \$1 million annual aggregate, expressly deleting the exclusion relating to contractual assumptions of liability.

Tenant further agrees to maintain a Workers' Compensation and Employers' Liability Insurance policy. The limits of liability as respects Employers' Liability coverage shall be no less than \$100,000 per accident.

Except for Workers' Compensation and Employers' Liability coverage, the **Tenant** agrees that the **Landlord** (and other such persons as are in privity of the estate with **Landlord** as may be set out in notice from time to time) is named as additional insureds. Further, all policies shall be non-cancelable and non-amendable with respect to **Landlord** and **Landlord's** said designees without thirty (30) days' prior notice to **Landlord**. A duplicate original or a Certificate of Insurance evidencing the above agreements shall be attached hereto and delivered herewith to **Landlord**. Additional insureds presently shall be Philnorstan Realty LLC and Copley Investments Companies as managing agent for Philnorstan Realty LLC.

Landlord reserves the right to reasonably require additional coverage or to increase limits as industry standards change, so long as such additional coverage is then customarily required by **Landlords** in the Greater Boston area.

Tenant shall maintain during the term and thereafter so long as **Tenant** is in occupancy of any part of the premises, all risk property insurance including theft and sprinkler leakage coverage on all of **Tenant's** trade fixtures, furniture, inventory and other personal property in the premises, and on any alterations, additions, or improvements made by **Tenant** upon the premises all for the full replacement costs thereof. **Tenant** shall use the proceeds from such insurance for the replacement of trade fixtures, furniture, inventory and other personal property and for the restoration of **Tenant's** improvements, alterations, and additions to the premises.

Tenant shall pay before delinquent all taxes, which may be imposed upon personal property (including without limitation, trade fixtures and equipment) in the premises to whomever assessed if failure to pay would result in a lien on the Property.

19. FIRE, CASUALTY-EMINENT DOMAIN

Should a substantial portion (greater than 35%) of the premises, or a substantial portion (greater than 35%) of the Building of which they are a part, be substantially damaged by fire or other casualty, or be taken by eminent domain, the **Landlord** may elect to terminate this Lease. The **Tenant** may elect to terminate this Lease if:

- (a) The **Landlord** fails to give written notice within forty-five (45) days of its intention to restore the premises, or
- (b) The **Landlord** fails to restore the premises to a condition substantially suitable for their intended use within four (4) months of the date that **Landlord** notified **Tenant** of its intention to restore the premises.
- (c) If a substantial portion (greater than 35%) of the premises is taken by eminent domain.

When such fire, casualty, or taking renders the premises substantially unsuitable for **Tenant's** intended use, a just and proportionate abatement of rent shall be made. The **Landlord** reserves, and the **Tenant** grants to the **Landlord**, all rights which the **Tenant** may have for damages or injury to this premises for any taking by eminent domain, except for damage to the **Tenant's** fixtures, property, or equipment and relocation costs and business loss.

20. DEFAULT AND BANKRUPTCY

In the event that:

- (a) The **Tenant** shall default in the payment of any installment of rent or any other sum herein specified if such default shall continue for ten (10) days after receipt of written notice from **Landlord** that said payment is due; or

(b) The **Tenant** shall default in the observance or performance of any other of the **Tenant's** covenants, agreements, or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof, or in the event such default shall require more than thirty (30) days to be cured, if the **Tenant** shall not within such period commence to cure such default, and thereafter, with due diligence, prosecute the curing of such default to completion, but in no event shall such default continue for more than one hundred twenty (120) days in the aggregate; or

(c) **Tenant** or any guarantor of any of **Tenant's** obligations under this Lease admits in writing that it is not paying its debts as such debts become due, becomes insolvent, files or has filed against it (and in the case of an involuntary petition such is not dismissed within sixty (60) days after the filing) a petition under any chapter of the U.S. Bankruptcy Code (or any similar petition under any insolvency law of any jurisdiction), proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment or trust mortgage for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of **Tenant** or such guarantor which appointment remains unvacated or unstayed for a period of thirty (30) days, then the **Landlord** shall have the right thereafter, to reenter and take complete possession of the premises, to declare the term of this Lease ended, and remove the **Tenant's** effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. The **Tenant** shall indemnify the **Landlord** against all loss of rent and other payments, which the **Landlord** may incur, by reason of such termination during the residue of the term. All rent, utility charges, taxes, and all other charges (including, but not limited to, reasonable attorneys fees, other costs of collection, or costs incurred by the **Landlord** arising from a default of the **Tenant's** obligations under this Lease) shall constitute rent due and payable under this Lease. **Landlord** agrees to use reasonable efforts to re-let the premises. If the **Tenant** shall default, after reasonable notice thereof (except in the event of an emergency or when necessary to prevent damage to property or injury to persons, in which case no notice shall be necessary), in the observance or performance of any condition or covenants on **Tenant's** part to be observed or performed under or by virtue of any of the provisions in any article of this Lease, the **Landlord**, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the **Tenant**. In the event of a **Tenant** default, if the **Landlord** makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred shall be paid to the **Landlord** by the **Tenant** as additional rent.

In no event shall **Landlord** seek to accelerate rent upon **Tenant's** default.

21. NOTICE AND SERVICE OF PROCESS

Any and all notices from the **Landlord** to the **Tenant** relating to the premises or to the occupancy thereof, shall be in writing and effective upon receipt. All notices shall be sent by (i) registered or certified mail, return receipt requested, postage prepaid, or (ii) a reputable national overnight courier service with receipt therefore, or (iii) hand. Any notice from the **Tenant** to the

Landlord relating to the premises or to the occupancy thereof shall be addressed to the **Landlord** at 10 Newbury Street, Boston, MA 02116. Any notice from **Landlord** to **Tenant** shall be addressed to **Tenant** at the Premises.

All rent and notices shall be paid and sent to the **Landlord** at 10 Newbury Street, Boston, MA 02116.

22. SURRENDER

The **Tenant** shall at the expiration or other termination of this Lease remove all **Tenant's** goods and effects from the premises, (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by the **Tenant**, either inside or outside the premises). **Tenant** shall deliver to the **Landlord** the premises and all keys, locks thereto. At the request of the **Landlord**, the **Tenant** shall remove all alterations, improvements and additions made to or upon the premises. In the event of the **Tenant's** failure to remove any of the **Tenant's** property (including trade fixtures such as sinks and shelving) from the premises, **Landlord** is hereby authorized, without liability to **Tenant** for loss or damage thereto, and at the sole risk of **Tenant**, to remove and store any of the property at **Tenant's** expense, or to retain same under **Landlord's** control or to sell at public or private sale, without notice any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property.

23. HOLDOVER

If the **Landlord** and **Tenant** have not reached a prior agreement, and the **Tenant** remains in the premises beyond the expiration of this Lease, such holding over shall not be deemed to create any tenancy, but the **Tenant** shall be a **Tenant** at Sufferance only, at a daily rate equal to one and one half (1 - ½) times the rent and other charges under this Lease. However, all conditions of this Lease to be performed by **Tenant** shall continue in force.

24. MUTUAL WAIVER OF SUBROGATION

So long as their insurers so permit, **Landlord** and **Tenant** hereby release each other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss or damage to property caused by fire or any casualty to the extent such loss or damage is covered by insurance actually carried or would have been covered by insurance required to be carried hereunder (whether or not such required insurance is actually carried), even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible.

25. TRADE FIXTURES AND EQUIPMENT

Any trade fixtures or equipment (as opposed to real estate fixtures) installed in or attached to the premises by and at the expense of **Tenant** and all other property of **Tenant** which was personal property prior to its installation, shall remain the property of **Tenant** and **Tenant** shall have the right, at any time, to remove same. However, the **Tenant** shall promptly repair in a workmanlike

manner any damage resulting from such removal, shall plug or close in an approved manner any connection to sources of gas, air, water, electricity or heat or to cooling ducts and shall do whatever is reasonably necessary so as to leave the premises in a reasonable condition as a result of such removal.

26. OPTION TO EXTEND

Provided there is no existing uncured default on the date of exercise and on the first day of the extension term, the **Tenant** shall have the option to extend the term hereof without the need of a new instrument for two (2) five (5) year terms, by automatic renewal. Tenant must notify the **Landlord** in writing, twelve (12) months prior to the expiration of the current term, of its election to terminate the Lease.

The annual rent for the extended term, reserved in this Lease, and payable hereunder, shall be at fair market value:

- i. The **Landlord** and **Tenant** shall arrive at a market rent for the extended term.
- ii. In the event the parties shall be unable to agree upon a market rent within thirty (30) days following the date when **Tenant** shall have exercised such option, then the market rent shall be determined by arbitration for the fair market value of the premises by three (3) arbitrators, one chosen by the **Landlord**, one chosen by the **Tenant** and a third chosen by the two so chosen, and in accordance with rules and procedures set forth by the American Arbitration Association, or its successor/ substitute body. Each of the arbitrators shall be members of the American Institute of Real Estate Appraisers. The expense of arbitration shall be shared equally by **Landlord** and **Tenant** and the decision of the arbitrators shall be final and binding upon the parties.
- iii. In no event shall the annual rent for any year of the extended term, be less than the annual rent for the preceding year.

27. ACTS OF GOD

With the exception of payments of fixed or additional rent, in any case where either party hereto is required to do any act, delays caused by or resulting from Acts of God, war, civil commotion, fire, flood or other casualty, labor difficulties, shortages of labor, materials or equipment, government regulations, unusually severe weather, or other causes beyond such parties reasonable control shall not be counted in determining the time during which work shall be completed, whether such time be designated by a fixed date, a fixed time, or a "reasonable time", and such time shall be deemed to be extended by the period of such delay.

28. SELF HELP

If **Tenant** shall default in the performance or observance of any agreement, condition or other provision in this Lease contained on its part to be performed or observed, and shall not cure such

default within the applicable cure and notice period herein specified, **Landlord** may, at its option, without waiving any claim for breach of agreement, at any time thereafter cure such default for the account of the **Tenant** and the **Tenant** shall reimburse **Landlord** for any reasonable amount paid and any expense or contractual liability so incurred. **Landlord** may cure the default of the **Tenant** prior to the expiration of such waiting period if **Landlord** deems it is necessary to protect the real estate or interest of **Landlord** and other **Tenants** of **Landlord** thereon or to prevent injury or damage to persons or property. Any amount payable by **Tenant** to **Landlord** pursuant to the provisions of this provision shall be paid as part of and at the time for payment of the next installment of minimum rent thereafter coming due.

29. ESTOPPEL CERTIFICATES

(a) Within 30 days after each request by **Landlord**, **Tenant** shall deliver an estoppel certificate to **Landlord**. Estoppel certificates shall be in writing, shall be acknowledged, and shall be in proper form for recording. Each estoppel certificate shall be certified to **Landlord**, any Mortgagee, any assignee of any Mortgagee, any purchaser, or any other person specified by **Landlord**.

(b) Each estoppel certificate shall contain the following factual certifications and representations certified by the person or persons executing it on behalf of **Tenant**: (i) whether or not **Tenant** is in possession of the premises, (ii) whether or not this Lease is unmodified and in full force and effect (If there has been a modification of this Lease the certificate shall state that this Lease is in full force and effect as modified, and shall set for the modification), (iii) whether or not **Tenant** contends that **Landlord** is in default under this Lease in any respect, (iv) whether or not there are then existing set-offs or defenses against the enforcement of any right or remedy of **Landlord**, or any duty or obligation of **Tenant** (and if so, specify the same), (v) the dates, if any, to which any rent or charges have been paid in advance and (vi) such other matters as may be reasonably requested by **Landlord**. Notwithstanding the foregoing to the contrary, in no event shall **Tenant** be required to submit **Tenant's** financial statement(s).

30. RULES AND REGULATIONS

Tenant shall comply with the rules and regulations of the **Landlord** with respect to the Building and any rules and regulations as the **Landlord** may make from time to time, being in its reasonable judgment needful for the reputation, safety, care or cleanliness of the Building and premises, or the operation, maintenance or protection of the building and its equipment, or the comfort of tenants. **Landlord** shall have the right to change said rules and to waive in writing, or otherwise, any or all of said rules in respect of any one or more tenants, and **Landlord** shall not be responsible to **Tenant** for the non-observance or violation of any of said rules and regulations by any other **Tenant** or other person. The provision of the rules and regulations shall not be deemed to limit any covenant or provision of this Lease to be performed or fulfilled by **Tenant**. Such rules and regulations shall be uniformly enforced in a non-discriminatory manner against all ground floor **Tenants**. In the event of a conflict between the rules and regulation and the provisions of this Lease, the terms of this Lease shall control.

31. MECHANIC'S LIEN

Tenant shall not permit any mechanics' liens, or similar liens, to remain upon the premises for labor and material furnished to **Tenant** in connection with work of any character performed or claimed to have been performed at the direction of **Tenant**. **Tenant** agrees promptly to discharge (either by payment or by filing of the necessary bond, or otherwise) and without cost to **Landlord** any mechanic's, material men's, or other lien against the premises and/or **Landlord's** interest therein, which lien may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies, or equipment alleged to have been furnished to or for the **Tenant**, in upon or about the premises.

32. QUIET ENJOYMENT

Landlord covenants and agrees with **Tenant** that **Tenant** on paying the fixed rent and additional rent and performing obligations of **Tenant** in this Lease, so long as no default beyond applicable cure periods shall exist, shall and may peaceably and quietly have, hold and enjoy the premises hereby demised for the intended purpose as herein before provided, subject to the terms and provisions hereof.

33. PERSONS AND PROPERTY BOUND

The word "**Landlord**" wherever used herein shall comprehend and bind the **Landlord**, their successors and assigns and the word "**Tenant**" wherever used herein, shall comprehend and bind the **Tenant**, its successors and assigns or those in any manner claiming through or under said **Tenant**, in each and every case where the context so allows or admits and whether so expressed or not. **Tenant** hereby agrees for itself and each succeeding holder of **Tenant's** interest, or any portion thereof, hereunder, that any judgment, decree or award obtained against the **Landlord** or any succeeding owner of **Landlord's** interest, which is in any manner related to this Lease, the premises, or **Tenant's** use or occupancy of the premises or the common areas of the premises owned by the **Landlord**, whether at law or in equity shall be satisfied out of the **Landlord's** equity in the land and building to the extent then owned by the **Landlord** or such succeeding owner, and further agrees to look only to such assets and to no other assets of the **Landlord**, or such succeeding owner for satisfaction. The obligations of **Landlord** under this Lease do not constitute personal obligations of the members, trustees, individual partners, directors, officers or shareholders of **Landlord** or any constituent entity of **Landlord**, and **Tenant** shall not seek recourse against the members, trustees, partners, directors, officers or shareholders of **Landlord** or any constituent entity of **Landlord**, or any of their personal assets for satisfaction of any liability with respect to this Lease.

34. ENTIRE AGREEMENT

This Lease contains the entire agreement between the parties regarding the subject matter hereof, supersedes all oral statements and prior writing relating thereto and shall not be modified in any manner except by an instrument in writing executed by the parties.

35. COST AND EXPENSE

Wherever in this Lease provision is made for the doing of any act by any person, it is understood and agreed that said act shall be done by such person at its own cost and expense, unless a contrary intent is expressed.

36. WHEN LEASE BECOMES BINDING

Employees or agents of **Landlord** have no authority to make or agree to make a Lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to Lease, or a reservation of, or option for, the premises, and this document shall become effective and binding only upon the execution and delivery hereof by both **Landlord** and **Tenant**. All negotiations, considerations, representations and understandings between **Landlord** and **Tenant** are incorporated herein and may be modified or altered only by agreement in writing between **Landlord** and **Tenant**, and no act or omission of any employee or agent of **Landlord** shall alter, change or modify any of the provisions hereof.

37. ASSIGNMENT OF RENTS

With reference to any assignment by **Landlord** of **Landlord's** interest in this Lease, or the rents payable hereunder, conditioned in nature or otherwise, which assignment is made to the holder of the first mortgage on the premises, **Tenant** agrees that:

- (a) the execution thereof by **Landlord**, and the acceptance thereof by the holder of such mortgage, shall never be deemed an assumption by such holder of any of the obligations of **Landlord** hereunder, unless such holder shall, by written notice sent to **Tenant**, specifically elect; and
- (b) except as aforesaid, such holder shall be treated as having assumed **Landlord's** obligations hereunder only upon the foreclosure of such holder's mortgage or the taking of possession of the premises and its specific agreement to do so.

38. WAIVER

Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be deemed to be a waiver by said party or any of its rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof shall be construed as a waiver of any of the other provisions hereof and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval by either party to or of any action by the other requiring said party's consent or approval shall not be deemed to waive or render unnecessary said party's consent or approval to or of any subsequent similar act by the other.

No payment by **Tenant**, or acceptance by **Landlord**, of a lesser amount than shall be due from **Tenant** to **Landlord** shall be treated otherwise than as a payment on account. The acceptance by **Landlord** of a check for a lesser amount, with an endorsement or statement thereon, or upon

any letter accompanying such check, that such lesser amount is payment in full, shall be given no effect, and **Landlord** may accept such check without prejudice to any rights or remedies which **Landlord** may have against **Tenant**.

39. PARAGRAPH HEADINGS

The paragraph headings throughout this instrument are for the convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

40. GOVERNING LAW, VENUE, AND SERVICE OF PROCESS

This Lease, including the validity hereof and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts. Each of the parties hereto agrees that any action or proceeding brought to enforce the rights or obligations of any party hereto under this Lease may be commenced and maintained only in any court of competent jurisdiction located in the Commonwealth of Massachusetts. Each of the parties hereto further agrees that process may be served upon it by certified mail, return receipt requested, addressed as more generally provided in section 21 hereof, and consents to the exercise of jurisdiction over it and its properties with respect to any action suit or proceeding arising out of or in connection with this Lease or transactions contemplated hereby or the enforcement of any rights under this Lease.

41. PARTIAL INVALIDITY

If any provision of this Lease or portion of such provision of the application thereof to any person or circumstance is for any reason held invalid or unenforceable, the remainder of the Lease (including the remainder of such provisions) and the applications thereof to the persons or circumstances shall not be affected thereby.

42. TENANT AUTHORITY

Each person executing this Lease on behalf of **Tenant** does hereby covenant and warrant that (i) **Tenant** is duly incorporated and validly existing in the laws of its state of incorporation, organization or formation, (ii) **Tenant** has and is qualified to do business in Massachusetts, (iii) **Tenant** has full right and authority to enter into this Lease and to perform all **Tenant's** obligations hereunder, and (iv) each person signing this Lease on behalf of the **Tenant** is duly and validly authorized to do so.

43. WAIVER OF JURY TRIAL

Landlord and **Tenant** each hereby waives all right to trial by jury in any claim, action, proceeding or counterclaim by either party against the other on any matters arising out of or in any way connected with this Lease, the relationship of **Landlord** and **Tenant** and/or **Tenant's** use or occupancy of the premises.

44. BROKER

Landlord and **Tenant** each warrants and represents that it has not dealt with any broker in connection with the execution of this Lease. Each shall indemnify the other against the claims and demands of any broker arising out of this lease, including without limitation all costs and expenses in defending such claim, including reasonable attorney's fees if representation proves untrue.

45. SIGNAGE

Tenant shall have the right to erect and maintain throughout the term of this Lease and any extensions thereto, an exterior sign on the front of the Building, on the "sign band identifying **Tenant**, provided, (a) **Tenant** conforms with all ordinances of the Town of Needham or the appropriate local authority and, (b) the **Tenant** conforms with the **Landlord's** specifications. At the end of the term, the **Tenant** shall remove its sign and repair, in a workmanlike manner, any damage to the facade caused by the removal of its sign. **Tenant** may also add additional signage mounted on the inside of the glass within the premises.

46. HVAC EQUIPMENT

The HVAC system is currently in proper working order. Prior to occupancy, the **Landlord** shall have the HVAC unit serviced with a copy of the service report issued with the Lease. During the term of this Lease and any extensions thereto, **Tenant** shall be responsible for the maintenance, repair, and replacement of the HVAC equipment. **Tenant** shall be required to provide for at least semiannual inspections of the equipment and send copies of those invoices to the **Landlord**.

47. TENANT'S RENOVATIONS

In the event the **Tenant** shall renovate the premises it shall do so in accordance with plans and specifications first approved by the **Landlord**, which approval shall not be unreasonably withheld or delayed. **Tenant** represents and warrants that such plans are in conformity with all applicable building, fire, health and zoning laws or ordinances of the Town of Needham. After the plans have been completed by the **Tenant's** architect, **Tenant** shall obtain its permits and approvals required for construction of the renovations. After obtaining such permits and approvals, the **Tenant** agrees to commence renovations promptly and to proceed continuously with all due diligence so far as same is within **Tenant's** control, using new and first quality materials and done in a good and workmanlike manner. **Tenant** shall construct the renovations for the premises in accordance with the plans set forth above and, subject to the foregoing, shall complete the renovations as soon as possible. Before commencing construction, the **Tenant** shall furnish to **Landlord** satisfactory proof that the contractor doing the renovations has workmen's compensation insurance. Further, **Tenant** will not create or permit to be created on account of its acts, or of any mechanics', laborers', or material men's lien or otherwise which might be or become a lien, encumbrance, or a charge upon the premises because of the renovations. If any mechanics', laborers', or material men's liens shall at any time be filed against the premises, **Tenant**, within thirty (30) days after notice of the filing thereof, shall cause the same to be

discharged of record by payments, deposits, bond, order of a court of competent jurisdiction, or otherwise. Failure to discharge said liens shall constitute a default under the Lease.

48. LEGAL FEES

If either **Landlord** or **Tenant** shall commence any legal proceedings against the other with respect to any of the terms and conditions of this Lease, the non-prevailing party shall pay to the other all reasonable expenses of the litigation, including reasonable attorney fees as may be fixed by the court having jurisdiction over the matter.

49. SNOW / ICE REMOVAL

Tenant agrees to comply with all ordinances of the Town of Needham relative to the removal of ice and snow from the front and rear sidewalks appurtenant to the premises. This area in front is defined as the sidewalk extending along the frontage of the premises to the street curb. **Landlord** shall be responsible for the removal of snow and ice from the parking lot.

50. COMMON AREA MAINTENANCE

Tenant shall pay 26%, Pro-Rata Share, of the common area annual maintenance charges of every kind and nature paid or incurred by **Landlord** in operating, managing, equipping, policing, repairing, and maintaining the common areas (which includes the parking area and alley way). It is understood and agreed that capital expenditures in the nature of total repaving of the parking lot shall not constitute charges for which the **Tenant** is responsible hereunder, nor shall the **Tenant** pay any other capital charges. Beginning with the **Rent Commencement Date** of the Lease and each year thereafter, **Tenant** shall pay monthly, one twelfth of the yearly amount attributable to these premises for the previous year. At the end of each calendar year, the **Landlord** shall bill the **Tenant** for the actual charges incurred for the then current year and the **Tenant** shall either pay the extra amount owing or receive a refund for any excess amount paid. At the request of **Tenant**, **Landlord** shall substantiate the charges incurred referred to in this paragraph, as a condition of **Tenant's** obligation to pay same.

51. LANDLORD'S RENOVATIONS

Prior to the occupancy of the **Tenant**, the **Landlord**, at its cost, shall install a new 10-ton gas/electric HVAC unit servicing the Premises. No duct work will be installed, existing duct work will be left in place. The maintenance, repair, and or replacement of the HVAC unit will be the sole responsibility of the **Tenant**.

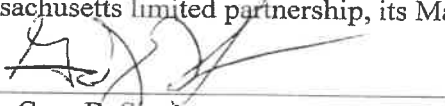
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the **Landlord** and **Tenant** have hereunto set their hands and common seals on November 12, 2018.

LANDLORD:

Philnorstan Realty LLC,
a Massachusetts limited liability company

By: Philnorstan Realty Limited Partnership,
a Massachusetts limited partnership, its Manager

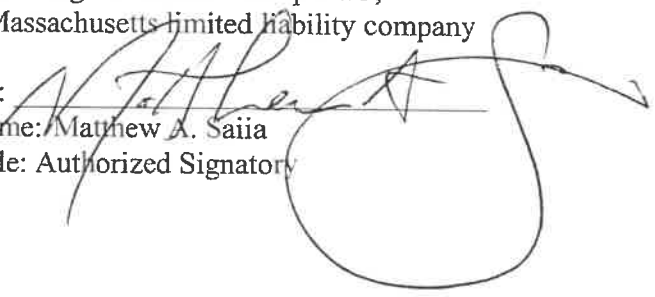
By: 

Name: Gary B. Simon

Title: General Partner

TENANT:

Poet King Restaurant Group LLC,
a Massachusetts limited liability company

By: 

Name: Matthew A. Saiia

Title: Authorized Signatory

GUARANTY

FOR VALUE RECEIVED, and in consideration of the execution and delivery of the within Lease, dated November 12, 2018, by and between Philnorstan Realty LLC, as **Landlord**, and Poet King Restaurant Group LLC, as **Tenant**, ("the Lease"), Matthew A. Saiia (the "Guarantor") hereby unconditionally guarantees to **Landlord** the full performance and observance of all the covenants, conditions, rent charges, and agreements therein provided to be performed and observed by the **Tenant** during any current one (1) year period of the Lease only (the "Guaranty"). The Guaranty shall run from the date of any uncured event of default through the following twelve (12) month lease period only, provided, however, the Guarantor's obligations with respect to the Guaranty shall in no event exceed twelve (12) months in the aggregate.

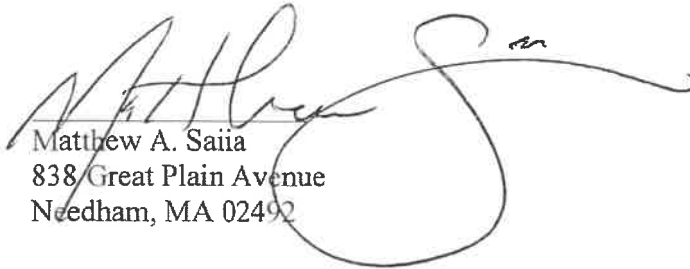
The Tenant, its successors and assigns, expressly agrees that the validity of this agreement and the obligations of the Guarantor hereunder shall in no way be terminated, affected or impaired by reason of the granting by the **Landlord** of any indulgences to **Tenant** or by reason of the assertion by **Landlord** against **Tenant** of any of the rights or remedies reserved to **Landlord** pursuant to the provisions of the within Lease or by relief of the **Tenant** from any of **Tenant's** obligations under said Lease by operation of law or otherwise (including, but without limitation, the rejection of the said Lease in connection with proceedings under the bankruptcy laws now or hereafter enacted); the undersigned hereby waive all suretyship defenses.

The Guarantor covenants and agrees that this guaranty shall remain and continue in full force and effect, only as to the initial five (5) year period of this Lease as and from the Rent Commencement Date and not as to any renewal, modification or extension of this Lease provided Tenant is not in default at the time of such, modification or extension and has not been in any prior default during the initial term that has not been cured or remedied within any applicable grace or cure period. The Guarantor further agrees that his liability under this Guaranty shall be primary, and that in any right of action which shall accrue to the **Landlord** under said Lease, the **Landlord** may, at its option, proceed against the Guarantor and the **Tenant**, jointly and severally, and may proceed against the Guarantor without having commenced any action against or having obtained any judgment against the **Tenant**.

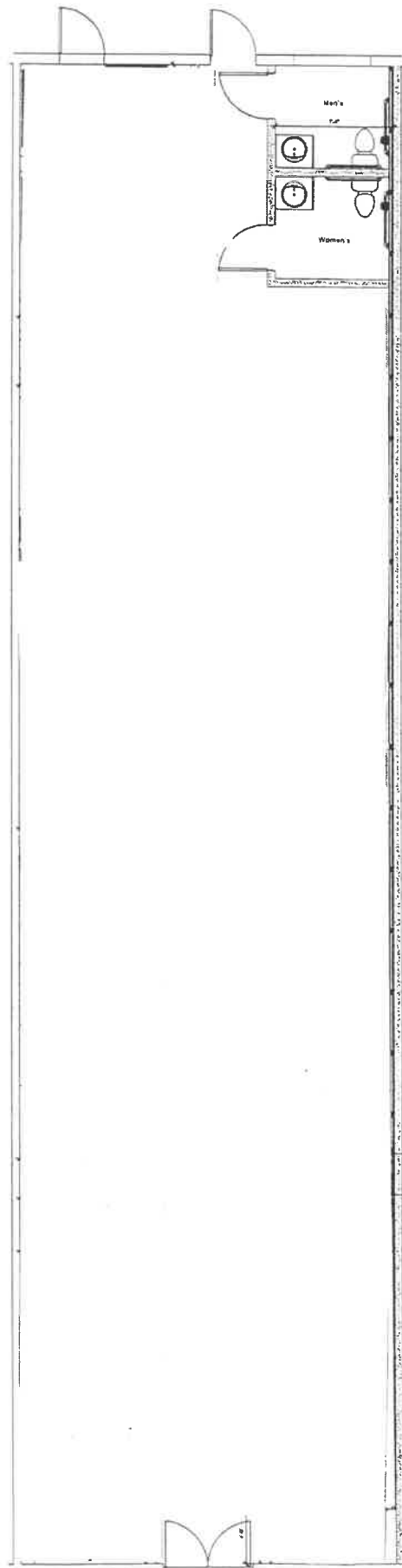
It is agreed that the failure of the **Landlord** to insist in any one or more instances upon a strict performance or observance of any of the terms, provisions or covenants of the foregoing Lease or to exercise any right therein contained shall not be construed or deemed to be a waiver or relinquishment for the future of such term, provision, covenant or right; but the same shall continue and remain in full force and effect. Receipt of the rent by the **Landlord** with knowledge of the breach of any provisions of the foregoing Lease shall not be deemed a waiver of such breach.

It is further agreed that all of the terms and provisions hereof shall inure to the benefit of the respective heirs, executors, administrators, successors and assigns of the **Landlord**, and shall be binding upon the respective heirs, executors, administrators and assigns of the undersigned.

IN WITNESS THEREOF, the undersigned has caused this Guaranty to be executed on the
12 day of November 2018.



Matthew A. Saiia
838 Great Plain Avenue
Needham, MA 02492



1185 HIGHLAND AVENUE
EXHIBIT A



- 010-12

HIGHLAND AVENUE

1185 HIGHLAND AVENUE
EXHIBIT B



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Outdoor Space Use Permit Policy
Presenter(s)	Myles Tucker, Support Services Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Staff will present to the Board a proposal for Select Board Policy SB-LIC-002: Outdoor Space Use Permits. This proposal incorporates input from the Board on a draft proposal of this policy discussed at its meeting on March 28, 2023.	
2.	VOTE REQUIRED BY BOARD OF SELECT BOARD
<i>Proposed Motion:</i> That the Board vote to adopt Select Board Policy SB-LIC-002: Outdoor Space Use Permits.	
3.	BACK UP INFORMATION ATTACHED
1. Proposed SB-LIC-002: Outdoor Space Use Permits – Clean Copy 2. Draft SB-LIC-002: Outdoor Space Use Permits – Mark-Up	

Town of Needham Select Board

Policy Number:	SB-LIC-002
Policy:	Outdoor Space Use Permits
Date Approved:	4/12/2023
Date Revised:	
Approved:	 _____ Chair, Select Board

Section 1. Purpose and Scope

The purpose of this policy is to establish a process and application criteria for permitting use of outdoor spaces under the jurisdiction of the Select Board. The current list of outdoor spaces governed by this policy are below, and this list may be expanded if additional spaces come under the jurisdiction of the Select Board:

- Town Common
- Needham Heights Common (Avery Square)
- Amity Path (Needham Accessible Reservoir Trail)
- Eaton Plaza

The Select Board will consider these guiding principles for permitting use of outdoor space:

- Foster quality, accessible, and welcoming public spaces that facilitate civic engagement for residents and visitors to include use for community events
- Provide equitable opportunities for residents and non-profit groups in Needham to host community events
- Maintain safety and comfort of residents and visitors attending community events or enjoying the outdoor space while an event is occurring
- Balance the use of space for community events with municipal programming and maintenance operations

Section 2. Policy

Space Use Permits (“Permits”) shall only be granted for community events that are free and open to the public. Applicants may not sell goods or services at permitted events.

Permits shall only be required for planned events where the anticipated number of attendees is greater than 30. Permits shall not be required for vigils, small events (e.g. a birthday party), or other impromptu gatherings.

The Town Manager (or designee) shall be the approval authority for Permits.

Section 3. Procedures

Applicants for Permits shall:

- Apply no later than 30 (thirty) calendar days prior to the date of the requested event
- Provide a certificate of liability insurance naming the Town of Needham as an additionally insured party in the amount of \$1 million/\$2 million
- Provide a proposed layout for the community event (this may be hand drawn)
- Inform the Town of any electrical requirements for the event (availability will be based on the requested space, layout of the community event, staff availability, and status of infrastructure)
- Provide all equipment for community event (e.g. tables, chairs, tents, etc.), to include relevant and required permitting/licensing
- Attend to all displays during the permitted event and ensure removal of any display which may otherwise be unattended in accordance with Select Board Policy [SB-DIS-001 \(Displays on Town Property\)](#)
- Provide for the removal of all equipment and refuse (i.e., “carry-in, carry-out”) used or created during the event
- Coordinate with the Department of Health and Human Services and receive appropriate approval should the applicant wish to provide food or beverage

The Office of the Town Manager shall:

- Develop, publish, and maintain a Permit application
- Coordinate with and receive sign-off from the Needham Police and Fire Departments to coordinate safety details
- Coordinate with and receive sign-off from the Needham Department of Public Works to ensure that the request (to include equipment brought by the applicant) is consistent with the maintenance and use requirements of the requested space, does not conflict with projected maintenance activities, and for facilitation of any requests for electricity
- Provide the Needham Police, Fire, and Public Works Departments notice of approved Permits
- Should the Permit be approved, provide the applicant the Permit prior to the event

Section 4. Fees

There shall be no fees associated with the application for or issuance of Permits.

However, applicants may be charged fees associated with any necessary safety details or other required services related to the nature of the event (e.g. health permits for food service).

Section 5. Exceptions

The Town Manager may make exceptions to this policy when determined that it is in the best interest of the Town to do so.

This policy shall not apply to municipal events.

DRAFT - 4/12/2023

Town of Needham Select Board

Policy Number:	SB-LIC-002
Policy:	Outdoor Space Use Permits
Date Approved:	
Date Revised:	
Approved:	 _____ Chair, Select Board

Section 1. Purpose and Scope

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Section 3. Procedures

Applicants for Permits shall:

- Apply no later than 30 (thirty) calendar days prior to the date of the requested event
- Provide a certificate of liability insurance naming the Town of Needham as an additionally insured party in the amount of \$1 million/\$~~2~~4 million.
- Provide a proposed layout for the community event (this may be hand drawn)
- Inform the Town of any electrical requirements for the event (availability will be based on the requested space, layout of the community event, staff availability, and status of infrastructure)
- Provide all equipment for community event (e.g. tables, chairs, tents, etc.), to include relevant and required permitting/licensing
- Attend to all displays during the permitted event and ensure removal of any display which may otherwise be unattended in accordance with Select Board Policy [SB-DIS-001 \(Displays on Town Property\)](#)
- Provide for the removal of all equipment and refuse (i.e., “carry-in, carry-out”) used or created during the event
- Coordinate with the Department of Health and Human Services and receive appropriate approval should the applicant wish to ~~serve or~~ provide food or beverage
- ~~Coordinate with the Office of the Town Manager to apply for a One Day Special License should the applicant wish to provide alcohol, which per Town Alcohol Regulations requires Select Board approval~~

The Office of the Town Manager shall:

- Develop, publish, and maintain a Permit application
- Coordinate with and receive sign-off from the Needham Police and Fire Departments to coordinate safety details
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DRAFT - 4.12.2023

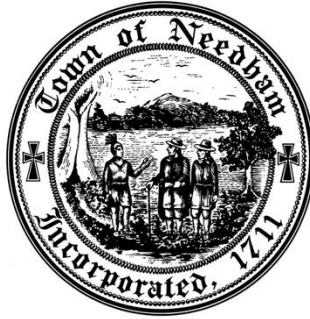


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Town Alcohol Regulations – Proposed Revisions
Presenter(s)	Myles Tucker, Support Services Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	The Board will discuss proposed revisions to the Town Alcohol Regulations, following Board input at its March 28 th meeting and a proposed change relative to farm stands.
2.	VOTE REQUIRED BY SELECT BOARD
	N/A – Discussion Only
3.	BACK UP INFORMATION ATTACHED
	1. Draft of Proposed Regulations for the Sale of Alcoholic Beverages 4/7/2023 – Clean 2. Draft of Proposed Regulations for the Sale of Alcoholic Beverages 4/7/2023 – Mark-Up from draft dated 3/14/2023



TOWN OF NEEDHAM

REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES

- I. Types of Licenses to be Granted in Needham**
- II. Compliance**
- III. General Rules and Regulations Applicable to Holders of Licenses to Sell Alcoholic Beverages within the Town**
- IV. Rules and Regulations for the Sale of Alcoholic Beverages by Innholders Only**
- V. Rules and Regulations Applicable to the Sale of Alcoholic Beverages in Restaurants**
- VI. Rules and Regulations Applicable to Clubs and Veterans Organizations**
- VII. Rules and Regulations Applicable to Special Event Licenses**
- VIII. Rules and Regulations Applicable to Package Stores**
- IX. Rules and Regulations Applicable to Farmer Series Pouring Permittees**
- X. Violations**

The Needham Select Board, acting as local licensing authority pursuant to the provisions of Massachusetts General Laws Chapters 138 and 140 and other relevant legal authority, promulgates these regulations applicable to the sale and distribution of alcoholic beverages in the Town of Needham. These regulations are in addition and supplemental to all other legal requirements, including but not limited to applicable State and Federal law and regulations.

I. TYPES OF LICENSES TO BE GRANTED IN NEEDHAM

The Town of Needham issues the types of alcoholic beverages licenses listed below. All licenses shall comply with Chapter 138 of the Massachusetts General Laws, and Chapter 204 of the Code of Massachusetts Regulations, as they relate to the specific type of license.

- 1.1 Innholders All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a hotel dining area with a seating capacity of not less than ninety-nine (99) persons and a living capacity of not less than fifty (50) rooms, under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. The Service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board. (M.G.L. c.138, s.11, D; 11/7/72 election)
- 1.2 Restaurant All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.11, E; 11/4/80 election; M.G.L. c.138, s.12; Chapter 32 of the Acts of 2014; 4/8/2014 election)
- 1.3 Restaurant Wine and Malt Beverages: issued to qualified applicants to sell only wine and malt beverages in a restaurant under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; Chapter 169 of the Acts of 2001; 11/8/01 election)
- 1.4 Club and Veterans' Organization All Alcoholic Beverages: issued to qualified applicant Clubs existing under Chapter 180 of Massachusetts General Laws and Veterans' Organizations duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts to sell all alcoholic beverages under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; 11/8/88 election)
- 1.5 Special Event: issued to qualified applicants of non-profit status to sell all alcoholic beverages; or to sell wine and malt beverages only; or to qualified applicants of for-profit status to sell wine and malt beverages only under the applicable regulations of

Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.14)

- 1.6 Package Store All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)
- 1.7 Package Store Wine and Malt Beverages: issued to qualified applicants to sell wine and malt beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)
- 1.8 Farmer Series Pouring Permit: issued to qualified applicants to sell malt beverages, for consumption on the grounds of a licensed farmer-brewery pursuant to M.G.L. c.138, §19C, as well as on the grounds of the farm operated as appurtenant and contiguous to, and in conjunction with, such farm, and in accordance with the applicable regulations of the Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for in the specific license. For purposes of this policy, the word “license”, “Licensee”, and “licensed premises” shall include a “Farmer Series Pouring Permit”, “Farmer Series Pouring Permittee”, and “premises subject to a Farmer Series Pouring Permit”, respectively, unless otherwise noted.

II. COMPLIANCE

- 2.1 The issuance of a license by the Select Board for the sale of alcoholic beverages under M.G.L. c. 138 applies only to said sales and does not release the Licensee from compliance, nor does it assume compliance with the rules, regulations, requirements and procedures of other government boards, agencies or bodies having jurisdiction.
- 2.2 Failure to comply with these regulations, the laws of the Commonwealth of Massachusetts, the Regulations of the Alcoholic Beverages Control Commission (ABCC) or the Town’s bylaws may result in the revocation, suspension or cancellation of the license.

III. GENERAL RULES AND REGULATIONS APPLICABLE TO HOLDERS OF LICENSES TO SELL ALCOHOLIC BEVERAGES WITHIN THE TOWN

This section shall apply to any and all alcoholic beverages licenses issued by the Select Board.

3.1 Hours of Operation

3.1.1 No patron shall be served or sold alcoholic beverages before or after the hours stated in the license.

3.1.2 On-Premises Consumption

3.1.2.1 The hours during which the sale of all alcoholic beverages to be consumed on the premises may be made by any Licensee shall be from 11:00 a.m. to 11 p.m. Monday through Saturday and from 10:00 a.m. to 11 p.m. on Sundays, unless otherwise determined by the Select Board or further limited by statute or regulation.

3.1.2.2 Except for alcohol sold by a Farmer Series Pouring Permittee, the hours during which the sale of all alcoholic beverages may be made in a dining room are further limited to the time when the dining room is open and food service is available to the public. No alcoholic beverages shall be sold or served in a dining room before the dining room is open and food service is available, or after the dining room has been closed and food service has been suspended to the public.

3.1.2.3 No alcoholic beverages shall be served within the licensed premises during the fifteen (15) minutes preceding the hours stated on the license at which service of alcoholic beverages must cease.

3.1.2.4 All bottles, glasses, containers, etc., shall be cleared from all tables and bars within thirty (30) minutes of the established closing hour and all patrons will be off the licensed premises within forty-five (45) minutes of the established closing hour.

3.1.3 Off-Premises Consumption

The hours during which the sale of all alcoholic beverages to be consumed off the premises may be made by any Licensee shall be from 8:00 a.m. to 11:00 p.m. or 8:00 a.m. to 11:30 p.m. on days preceding a legal holiday, unless otherwise determined by the Select Board or further limited by statute or regulation.

3.1.4 Adjustments

The Board may adjust hours for individual and/or classifications of Licensees upon receipt of their request(s) for consideration of special circumstances and/or occasions.

3.1.5 Employees and Staff

With the exception of the Licensee and the manager, all employees shall vacate the licensed premises no later than sixty (60) minutes after the official closing hour designated on the alcohol license. Bona fide employees of the licensed

establishment may remain upon or enter upon the licensed premises outside of the regular hours of operation while actually engaged in cleaning, staff meetings or trainings, opening, closing or preparing for the current or next day's business, but they may not dispense or consume any alcoholic beverage during such non-public hours. In any instance wherein a Licensee will have employees working on the licensed premises in excess of sixty (60) minutes before or after the serving times, the Licensee shall cause notification of the fact to be given by telephone to the Needham Police Department along with the estimate as to how long the work party will be on the premises. This provision shall not limit employees from being on the premises to produce malt beverages in accordance with a license issued pursuant to G.L. c.138, §19C or §19D.

3.2 Payment of Charges and Taxes

Applicants and Licensees must pay, in full, all taxes and charges owed to the Town on a current basis prior to the issuance of a new license, the transfer of an existing license and/or the annual renewal of a license.

3.3 Filing and Application Requirements (excludes Special Event Licenses)

3.3.1 Application for New and Transfer of License.

In addition to the ABCC Application package, Applicants shall provide:

- a. Proof of insurance;
- b. All fees;
- c. Completed and unexpired alcohol awareness training certificate for proposed managers of record;
- d. Copies of any other license issued by the Town of Needham and the ABCC to them for use at the proposed licensed premises, including, but not limited to G.L. c.138, §19C, §19D, §22; and
- e. Any additional information the Select Board shall request.

3.3.2 Application for Renewed License

In addition to the ABCC Renewal Application Form, Applicants shall provide:

- a. Proof of insurance;
- b. Completed and unexpired alcohol awareness training certificates for all employees, including manager of record;
- c. Certificate of inspections, where required; and
- d. Any additional information the Select Board shall request (see Section 5.4 and Section 5.6).

3.3.3 Abutter Notification

When conducting a public hearing to consider the issuance of a license to sell or serve wine, malt and/or alcoholic beverages, the Board shall require the Applicant to notify all owners of property within a 300-foot radius of the premises to be licensed.

3.3.4 Insurance

No license shall be issued for the sale of alcoholic beverages (Special Event licenses excluded) in the Town until such time as the Applicant shall present to the Select Board a certificate of insurance showing that the Applicant carries the following policies of insurance from an insurance company licensed by the Department of Insurance of the Commonwealth of Massachusetts as follows: workers' compensation insurance as required by M.G.L. Chapter 152; and liquor liability insurance in the minimum amount of \$100,000 per person/\$1,000,000 aggregate for personal injury and \$100,000 per occurrence for property damage. Licensees shall notify the Board no later than ten (10) days prior to the cancellation or material change of said coverage. The Board may, pursuant to M.G.L. c.138, §§64A, 64B, 67 increase the minimum amount of required insurance coverage. Failure to maintain such coverage during the license period shall be grounds for revocation.

3.3.5 Fees

All license fees of the Board are incorporated in these rules and regulations as Attachment I, Schedule of Town of Needham Liquor License Fees. These fees shall be non-refundable.

3.3.5.1 Filing Fees All required filing fees shall be paid in full at such time as the application is filed. Filing fees shall not be pro-rated for any reason.

3.3.5.2 License Fees All license fees for the initial issuance of a new license, or for the transfer of an existing license, for a change in the structural composition of a licensed premises, and/or for the annual renewal of a license shall be paid in full prior to the issuance of the license. The initial license fee will be pro-rated based on the number of months remaining in the calendar year at the time of occupancy.

3.3.6 Floorplans and Signage

3.3.6.1 When a submittal of a floorplan is required by the ABCC, Applicants for a new or amended license shall submit an architectural floor plan, drawn to scale, that includes the following information, which will be clearly marked:

- a) the net floor area (net floor area shall be the area of the rooms measured between the interior walls exclusive of stairways, service bars, hallways, etc.) and dimensions of the existing room or rooms and exterior premises requested to be licensed including dining rooms, function rooms, exterior premises and rooms in which alcoholic beverages are to be stored;

- b) the location of any proposed Bar Service Areas, cocktail lounge, or other area where patrons may stand while consuming alcohol;
- c) areas in which seats or benches are to be securely fastened to the floor and areas in which the seats and tables are moveable;
- d) entrances and exits;
- e) kitchens and/or food preparation areas;
- f) take out areas;
- g) storage areas;
- h) restrooms;
- i) cash register areas;
- j) all rooms not being requested to be licensed shall be labeled as to their function, such as, kitchen, coatroom, lobby, etc.;
- k) total occupant load;
- l) areas where food trucks or other mobile food vendors may be parked for the purposes of serving patrons;
- m) outdoor service areas, showing location of seats, tables, trash cans, and physical barriers to segregate the licensed premises from non-licensed areas; and
- n) any other licensed spaces not covered by the above.

3.3.6.2 The number and location of all seats, chairs, and stools upon or within the licensed premises must be approved in writing by the Board. In no event shall the total number of seats, chairs, and stools upon the licensed premises exceed the maximum seating capacity nor the maximum occupancy capacity of the licensed premises.

3.3.6.3 Where outdoor service is proposed, the Applicant shall provide draft signage that will be posted around the licensed premises to aid in restricting the transportation or possession of any alcohol, wine, or malt beverage beyond the limitation of the barrier.

3.3.6.4 No physical alteration, the effect of which would be to constitute a change in the description of the licensed premises as shown on the license, shall be made without prior written approval of the Board.

3.4 Management and Trainings (excludes Special Event Licenses)

3.4.1 Management.

At all times that the licensed premises are open for the sale or service of alcoholic beverages, the Licensee shall have on the premises a manager or assistant manager who has successfully completed an in-person alcoholic beverages server training program satisfactory to the Select Board. The onsite manager/assistant manager shall be responsible for compliance with all applicable laws of the Commonwealth of Massachusetts concerning the sale of alcoholic beverages and the Town's rules and regulations for the provision and consumption of alcoholic beverages. The designated manager/assistant

manager shall have full authority to make decisions concerning the operation of the establishment.

3.4.2 Employee Roster

A current employee roster shall be available upon request to the Town for all licensed establishments. An updated employee roster shall be provided to the Town within 45 days of the hiring of a new employee subject to the training requirements of 3.4.3.

3.4.3 Trainings

3.4.3.1 All managers, assistant managers, and bartenders shall attend an in-person alcoholic beverage server training program satisfactory to the Select Board within 30 days of employment and once every two years thereafter. There shall be an un-expired certificate of program completion on file with the Select Board at all times; provided that for new employees, the certificate may be provided concurrently with the employee roster required under Section 3.4.2.

3.4.3.2 All employees not covered by Section 3.4.3.1 shall complete a Town-approved training program within 30 days of employment, or provide proof of training certification at a Town-approved course within the last three years. All such employees must complete an approved program once every three years. There shall be an un-expired certificate of program completion on file with the Select Board at all times; provided that for new employees, the certificate may be provided concurrently with the employee roster required under Section 3.4.2.

3.4.3.3 It is the obligation of the license manager to inform all employees about the rules and regulations of the Select Board, the ABCC, and any and all applicable Massachusetts laws.

3.5 General and Miscellaneous Provisions

3.5.1 There shall be no alcoholic beverages taken from the premises of an establishment licensed under M.G.L. c.138, §12, except for deliveries for the operation of the business as controlled by G.L. c.138, and with the exception of partially consumed bottles of wine that are purchased with a meal and resealed in accordance with 204 CMR 2.18 or sales conducted pursuant to G.L. c.138, §19C or §19D.

3.5.2 No Licensee shall sell alcoholic beverages in any part of the premises not specified on its license or such other license issued by the ABCC. No change of such area or location shall be made without prior written approval of the

Select Board. The licensed premises shall meet and fully comply with all health standards and regulations applicable to the sale of alcoholic beverages.

- 3.5.3 The licensed premises must be well lighted at all times.
- 3.5.4 There shall be no indecent or immoral entertainment on the licensed premises.
- 3.5.5 Gambling, lotteries, or other illegal machines or games are prohibited except as otherwise permitted by law.
- 3.5.6 The licensed premises shall be subject, at all times, to inspection by members of the Select Board, the Town Manager, Inspector of Buildings, Board of Health or its representatives, Police Department, Fire Department, or any other department or official of the town so directed by the Select Board.
- 3.5.7 No licensed restaurant, Farmer Series Pouring Permittee, or package store may permit the use of any amusement service such as electronic games on the premises.
- 3.5.8 Service of alcoholic beverages shall be by a bartender/server/wait person (applicable to on premise Licensees only, including Farmer Series Pouring Permittees).
- 3.5.9 Licensees shall make all reasonable and diligent efforts to ensure that loitering, disorder, disturbances or illegality of any kind does not occur at the licensed premises. The Licensee shall ensure that business in the licensed premises is conducted in a responsible manner so that no activity shall detract from the quality of life in the Town generally, or in the neighborhood in which the licensed premises are located. The Licensee may be held responsible for such activity, whether present or not. Licensees shall at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.
- 3.5.10 The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.
- 3.5.11 Licensees shall at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.
- 3.5.12 The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.
- 3.5.13 The Licensee shall request proof of identification from any patron appearing to be under the age of 40 prior to any alcohol sale and confirm the authenticity of the identification card through the use of a digital card scanner.

IV. RULES AND REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES BY INNHOLDERS ONLY

- 4.1 Cocktail lounges are permitted with the approval of the Select Board but limited to approved areas by the Select Board with appropriate identification of the specific location documented by the Inspector of Buildings.
- 4.2 The service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board.
- 4.3 Section 5.3 of these policies shall apply to the restaurant and dining areas of the licensed establishment.
- 4.4 With the approval of the Select Board, an Innholder may sell sealed wine and malt beverages at a concession stand in the lobby of the hotel. Such sales shall be to individuals renting rooms at the establishment only and must be consumed within the rented rooms. Any wine and malt beverage purchased at the concession stand must remain sealed until the purchaser has returned to their room.

V. RULES AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS

- 5.1 Purpose
It is the policy and purpose of the Select Board acting as the Licensing Board of the Town of Needham to limit the issuance of alcoholic licenses as an accommodating and incidental part of a Common Victualler's primary and principal business endeavor of preparing and serving food to the public in a restaurant and function room.

The issuance of alcoholic licenses will be utilized so as to both enhance the dining experience of individuals patronizing Needham restaurants and to foster the economic development of business areas in the Town by encouraging and promoting foot traffic in those areas where restaurants are located. The Board will consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Board including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, appropriateness of menu and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to establishments whose principal business activity is fast food, take-out, or which has any "drive-through" component.
- 5.2 Common Victualler's License
No alcohol license will be issued to any Applicant unless such Applicant is the Licensee named in a common victualler's license and has operated a restaurant for the twelve-month period immediately preceding the filing of an application.

5.3 Food Service

Service of food must be available in all areas in which alcoholic beverages are to be served. Meals must be served on solid dinnerware with silverware accompanying the same. No paper plates or plastic cutlery is permitted.

5.4 Fire Safety Inspections

Chapter 304 of the Acts of 2004, An Act Relative to Fire Safety in the Commonwealth, requires that every license holder under M.G.L. Chapter 138 Section 12 must submit as a precondition of renewal of the license “a valid certificate of inspection issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located.” No license shall be issued for the sale of alcoholic beverages in the Town until such time as a copy of the valid certificate of inspection has been filed with application.

5.5 Bar Service

The sale or service of alcoholic beverages for consumption at any unapproved Bar Service Area is prohibited. For the purposes of these regulations, Bar Service Area is defined as service across a counter at which alcoholic drinks are prepared to patrons who may or may not be waiting to dine. For those establishments with no table service, the Bar Service Area shall include the entire area where patrons may consume alcohol. Bar Service Areas are permitted only in locations expressly approved and authorized by the Select Board. Such authorization may be granted under the following conditions:

- a) The Board makes a finding that it is in the best interest of the Town to allow the service of alcoholic beverages in the Bar Service areas
- b) No more than a total of fifteen (15) seats or twenty percent (20%) of the total seats in the premises, whichever is less, shall be allowed in the Bar Service area(s), except that the Board may authorize a greater number where such seats are intended for food service customers as part of the Licensee’s business plan;
- c) The seats in the Bar Service areas are included when calculating the number of seats in the premises;
- d) All food and beverages on the menu served in the public dining room shall be available for service to the patrons in the Bar Service areas.

5.6 Reporting

Licensees shall provide the Select Board with a statement certified by a Certified Public Accountant as to the percentage the annual sales for the previous period of October 1-September 30 of alcoholic beverages compared to the total annual sales of food and alcoholic beverages. If the percentage exceeds fifty percent (50%), the Select Board may investigate to determine whether the service of alcoholic beverages has become more than incidental to the service of food on the premises. If the Board determines that the sale of alcoholic beverages has become more than incidental to the sale of food on the premises, it may after hearing require the Licensee to reduce its alcohol sales or take any other action permitted by law, including suspension or revocation of the license.

VI. RULES AND REGULATIONS APPLICABLE TO CLUBS AND VETERANS ORGANIZATIONS

- 6.1 Every club Applicant to be eligible to be licensed to sell any or all alcoholic beverages within the Town of Needham must be a corporation duly organized and existing under Chapter 180 of the General Laws of the Commonwealth of Massachusetts and has maintained club facilities for not less than three (3) years prior to the filing of an application. The within provisions may be waived by the Select Board.
- 6.2 Every Veterans organization to be eligible to be licensed to sell any and all alcoholic beverages within the Town of Needham must be duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts.
- 6.3 Each Applicant shall furnish a copy of its Charter or other legal evidence of its eligibility as herein specified when requested by the Select Board.
- 6.4 Each eligible club and veteran's organization must have the exclusive legal right to the possession and enjoyment of indoor facilities of not less than 2,000 square feet of floor space on one or more floors and which may consist of one or more rooms.
- 6.5 Each Licensee hereunder acting by and through its Board of Directors or other governing body shall appoint a manager or bartender who is of good moral character and a responsible person. The manager or bartender will be in charge during open hours acting for and on behalf of the Board of Directors or other governing Board. Acting for and on behalf of the Board of Directors the manager or bartender shall be responsible for the conduct of the members and guests, accountable for keeping order and the prevention of undue noise and disturbances on the licensed premises and the neighborhood.
- 6.6 Section 5.3 of these policies shall apply to all clubs and veterans' organizations.

VII. RULES AND REGULATIONS APPLICABLE TO SPECIAL EVENT LICENSES

- 7.1 Hours of Sale
Request for the sale of alcohol under a Special Event License is limited to between the hours of 11:00 a.m. and 12:00 a.m. on Monday through Saturday, and 12:00 p.m. and 12:00 a.m. on Sundays.
- 7.2 Notice
Special Event Licenses are exempt from the legal notice and publication requirements.
- 7.3 Eligibility
 - 7.3.1 No Special Event License shall be granted to any person while their application for an On-Premises license is pending before the Select Board.

7.3.2 No person shall be granted a Special Event License for more than 30 days in a calendar year.

7.5 Application

The Applicant shall provide the following information and documents to the Select Board:

- a) Town of Needham Select Board Event Information Sheet
- b) Descriptive information about the event (invitation, flyer, letter of explanation, etc.)
- c) Written indication of the manner by which service, sale, delivery, and/or dispensing of alcoholic beverages are to be controlled.
- d) Written evidence of the owner's permission to use the proposed licensed premises.
- e) Proof of Non-profit Status (if request is for all alcoholic beverages).
- f) Sketch/floorplan of the proposed licensed premises detailing where alcohol will be served, sold, delivered, and/or dispensed.
- g) Designation and identification in writing of all individuals who will serve, sell, deliver, and/or dispense alcoholic beverages and evidence of whether or not said individuals have completed in the past three years an appropriate Massachusetts alcoholic beverages server training program.
- h) Acknowledgement that the person holding the special license has purchased the alcoholic beverages from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. A person holding a section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04)

7.6 Conditions

The Special Event Manager shall provide for the orderly and safe conduct of the event, shall be responsible for the proper sale, service, delivery, dispensing and consumption of alcoholic beverages, shall be physically present during the duration of the entire event and shall sign the Event Information Sheet. The Special Event Manager shall display such Special Event License where sale of alcoholic beverages is taking place.

7.7 Alcohol Training

The Select Board may require the Special Event Manager or individuals serving or handling alcohol at the event to complete a training program to prevent service to underage or intoxicated persons.

VIII. RULES AND REGULATIONS APPLICABLE TO PACKAGE STORES

8.1 General Provisions

- 8.1.1 Employees at the licensed premises on which a Section 15 license is exercised must be 21 years of age except that such Licensees may employ

a person under the age of 21 who does not directly handle, sell, store, or prepare for display any alcoholic beverages. Notwithstanding the foregoing, food store employees 18 years of age or older may handle, store, or prepare any alcoholic beverages for display.

- 8.1.2 No seating, chairs, stools, or tables for use by customers or patrons shall be placed or permitted by a retail package store Licensee upon or within the licensed premises, or upon any area under the direction and control of the Licensee without the Select Board's consent.
- 8.1.3 Where the liquor licenses are granted to serve the public, Licensees shall be open to the public and, except in exigent circumstances, operate on all days and hours in accordance with the terms of the issued liquor license. The closing of the licensed premises to the public, for a period of five (5) consecutive days or more, or for any period totaling ten (10) days during the calendar year without the prior approval of the Select Board may be deemed to be an abandonment of the Liquor License and sufficient grounds for revocation of the Liquor License.
- 8.1.4 Package Store Licenses may be granted to food stores as defined in these regulations, but will not be granted to convenience stores.
- 8.1.5 Alcohol-related signage displayed so that it is visible to the public will be limited. As a condition of the license, the Licensee will comply with the Town of Needham Sign By-law, as from time to time amended.
- 8.1.6 Advertisement at local sporting events or school events and sponsorships of sporting teams where participant's uniforms carry the name, logo or advertisement for any business which derives more than 25% of its gross revenues from the sale of alcoholic beverages is prohibited.
- 8.1.7 "Nips" or bottles of spirits containing fewer than eight (8) fluid ounces shall not be located in an area directly accessible by customers, and shall be offered for sale upon the request of a customer from a location within the premises to which customers do not have direct access, such as behind a counter.

8.2 Deliveries

- 8.2.1 For all deliveries conducted off the licensed premises, the Licensee shall keep written records including the date of sale, quantities and sizes of items purchased, method of payment transaction, and name and address of purchaser. In addition to the preceding requirements, the amount of the beverages that were delivered, the date and time of delivery, the signature of the person receiving the delivery and the type of identification card used to confirm age. Such written records shall be maintained by the

Licensee within or upon the license premises for a period of not less than one year and must be readily available for inspection by the Town.

- a) Deliveries must be made during the operating hours of the store.
- b) Deliveries shall be made by persons no less than 21 years of age.
- c) A copy of Off-Premises Transportation Permit, license to deliver issued by the ABCC, shall accompany application at time of submittal.

8.2.2 Hours for product deliveries to establishment and/or pick-up of bottle returns should be arranged so that activity does not interfere with the quiet enjoyment of the neighborhood.

8.3 Sample Tastings

Consumption of alcoholic beverages within or upon the retail package store licensed premises, or upon any area under the direction and control of the Licensee, by any person is strictly prohibited except for sample tasting.

8.4 Food Store Alcohol License Requirements

8.4.1 A food store is defined as a grocery store or supermarket, which sells at retail, food for consumption on or off the gross premises, whether alone, or in combination with grocery items or other non-durable items typically found in a grocery store and sold to individuals for personal, family or household use. Such food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store for the purposes of these regulations shall not be a convenience store, any business that sells gasoline, or a business which derives more than 25% of its gross revenues from the sale of alcoholic beverages. The retail space used to display alcoholic beverages shall not exceed twenty-five percent (25%) of the total retail space on the premises. The Select Board shall determine whether an Applicant is a food store as set out herein and in compliance with any and all requirements.

8.4.1 A convenience store is defined as an establishment that sells at retail food and other non-durable items to individuals more on a daily basis, such as but not limited to small quantities of food, candy, newspapers, and tobacco products. Convenience stores are frequently open with only one staff member on duty at a time, are usually open later than 10:00 p.m. and may or may not sell gasoline. The Select Board reserves the right to consider each of these factors when determining if an Applicant will be considered a convenience store.

8.4.2 Regular sales and operation of the food store must continue during all times when the sales of wine and malt beverages are permitted.

8.4.3 Package store licenses issued to food stores shall be limited to wine and malt beverages only.

8.4.5 Section 8.4 shall not apply to farm stands, as defined by 330 CMR 22.02.

IX. RULES AND REGULATIONS APPLICABLE TO FARMER SERIES POURING PERMITTEES

9.1 Applicants

Applicants for a Farmer Series Pouring Permit shall hold a Farmer-Brewery License (M.G.L. c.138, §19C) from the ABCC at all times. If an Applicant for a Permit does not have a valid ABCC Farmer-Brewery License at the time of Application, issuance of the Permit shall be conditioned on receipt of such ABCC license.

9.2 Purpose

The issuance of Farmer Series Pouring Permits shall be utilized so as to foster the economic development of the Town by encouraging and promoting patronage in those areas where Farmer Series Pouring Permittees are located. The Select Board shall consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Board including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, community engagement, and other aesthetic considerations including the physical layout of the interior of the establishment.

9.3 Water Station

At all times, there shall be a free, self-service water station for patrons and customers to use without staff assistance. This provision may be waived by the Select Board upon a showing of good cause and only if a sign is posted by the bar stating that tap water is available upon request and free of charge.

9.4 Occupancy

Where required by the Select Board, the Licensee shall delegate a staff member to keep and maintain an accurate count of all individuals occupying the premises to ensure compliance with building code occupancy limits.

9.5 Food Service

The Permittee shall ensure that food service is available to its patrons at all times that alcohol is served for on-premises consumption. The Permittee may satisfy this provision by (i) holding a Common Victualler's license and operating a full-service kitchen; (ii) arranging for food to be brought onto the premises by mobile food truck vendors; (iii) contracting with nearby restaurants; (iv) allowing patrons to have food delivered for consumption on the premises; or (v) such other arrangement as the Select Board deems appropriate. The Permittee shall submit a plan for food service with its application.

X. VIOLATIONS

10.1 Violations

Any violation of the License terms and conditions, these Regulations, the Regulations of the Alcoholic Beverages Control Commission, the laws of the Commonwealth, including General Laws Chapter 138, or the Town's General Bylaws may be grounds for action by the Select Board, including the modification, suspension, revocation, nonrenewal or cancellation of a license.

10.2 Suggested Orders

Except as provided in Section 10.3, the suggested orders listed below shall be a guide for the Select Board. The Board, in its discretion, may impose an order that is more lenient or more severe than suggested by the guidelines when the facts surrounding a violation so warrant. In determining the appropriate action in any given case, the Select Board shall consider the violation, the facts of the case, other relevant factors including the Licensee's prior record, and aggravating or mitigating circumstances. Dates of suspension will be determined by the Select Board and suspensions of more than one-day will be served consecutively.

Offense	Suggested Order
1 st Offense	One to five day suspension
2 nd Offense	Six to ten day suspension
3 rd Offense	Ten to thirty day suspension
4 th Offense	Revocation

10.3 Compliance Checks

The Town conducts, and expects to continue to conduct, routine compliance checks of Licensees, including, but not limited to, service to underage persons checks using agents of the Needham Police Department. The following schedule of recommended discipline is a guideline intended to illustrate the range of disciplinary action that the Select Board may impose for service to underage violations identified in compliance checks, which are intended to be educational by design. The Select Board is not limited by these guidelines and may impose greater or lesser discipline based on consideration of the violation alleged, the facts of the case, other relevant factors including the Licensee's prior record, and aggravating or mitigating circumstances. Dates of suspension will be determined by the Select Board and suspensions of more than one-day will be served consecutively.

Offense	Suggested Order
1 st Offense	One to two day suspension.
2 nd Offense	Up to five-day suspension.
3 rd Offense	Up to ten-day suspension. Licensee shall be required as a condition of the license to provide the Board with a satisfactory written plan, under signature of the manager of record and any person or entity holding more than a 10% ownership interest in the license, to assure that a further offence will not occur.
4 th Offense	Minimum ten-day suspension. Based on relevant circumstances as determined by the Board, the Board may order a longer suspension of any length, imposition of conditions on or other modifications of the license, disqualification of the manager of record, or compulsory initiation by the Licensee of transfer of ownership to a responsible party to be approved by the Board.

10.4. Training

All employees involved in the improper sale of alcohol and the in-store manager at the time of the violation (as determined by the license Manager of Record) shall not serve alcohol until they complete another training course (either virtually or in-person) in accordance with Section 3.4.3, notwithstanding when the course was last completed and provide proof of said training to the Select Board. In addition, these employees must complete in-person training in accordance with Section 3.4.3 no later than the next such training offered by the Town of Needham and provide proof of said training to the Select Board.

10.5 Prior Violations

In calculating the number of prior offenses under this guideline, the Select Board will consider determined violations occurring within the five (5) years preceding the date of current violation.

10.6 Hearings

- 10.6.1 A Licensee shall have a right to notice and public hearing before modification, suspension, revocation, nonrenewal or cancellation of a license by the Board, except that the Board may under emergency

circumstances as allowed by Law suspend the license pending hearing.

10.6.2 A Licensee may waive its right to hearing, and the Board in such cases may make findings and act without hearing on recommendation of the Town Manager. The Board may, however, require that a hearing be held notwithstanding such a waiver, in which case the Licensee shall have notice of hearing and an opportunity to be heard before action is taken on modification, suspension, revocation, nonrenewal or cancellation of a license, except that Select Board may under emergency circumstances as allowed by Law suspend the license pending hearing.

10.7 Notice of Suspension

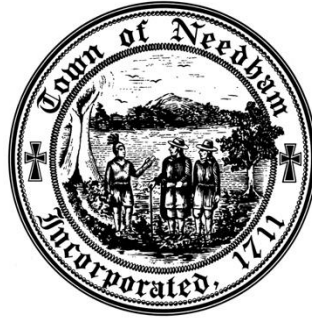
On the days when Suspension of License is being served, the Licensee will publicly post at its public entrance(s) a notice of the Suspension in a form as the Board or Town Manager may direct. The Board may also post notice of violation hearings, findings, decisions, and orders to the Town's website and Town's social media.

APPROVED: 6/14/77
Amended and revised: 11/18/97
Amended and revised: 2/9/99
Revised fee schedule: 12/7/99
Revised fee schedule: 12/5/00
Revised and approved: 8/20/02
Fee changes 12/21/04
Addition of Liquor
Liability Insurance: 1/25/05
Addition of One-Day License: 1/25/05
Amended and revised: 11/14/06
Amended and revised: 6/22/10
Amended and revised: 12/18/12
Amended and revised: 5/13/14
Amended and revised: 9/10/2014
Amended and revised: 11/9/2016
Amended and revised: 7/25/2017
Amended and revised: 8/18/2020
Amended and revised: 7/26/2022

SELECT BOARD

ACTING AS

NEEDHAM LICENSING BOARD



TOWN OF NEEDHAM

REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES

I. Types of Licenses to be Granted in Needham

II. Compliance

III. General Rules and Regulations Applicable to Holders of Licenses to Sell Alcoholic Beverages within the Town

IV. Rules and Regulations for the Sale of Alcoholic Beverages by Innholders Only

V. Rules and Regulations Applicable to the Sale of Alcoholic Beverages in Restaurants

VI. Rules and Regulations Applicable to Clubs and Veterans Organizations

VII. Rules and Regulations Applicable to Special Event Licenses

VIII. Rules and Regulations Applicable to Package Stores

IX. Rules and Regulations Applicable to Farmer Series Pouring Permittees

X. Violations

{insert table of contents}

The Needham Select Board, acting as local licensing authority pursuant to the provisions of Massachusetts General Laws Chapters 138 and 140 and other relevant legal authority, promulgates these regulations applicable to the sale and distribution of alcoholic beverages in the Town of Needham. These regulations are in addition and supplemental to all other legal requirements, including but not limited to applicable State and Federal law and regulations.

I. TYPES OF LICENSES TO BE GRANTED IN NEEDHAM

The Town of Needham issues the types of alcoholic beverages licenses listed below. All licenses shall comply with Chapter 138 of the Massachusetts General Laws, and Chapter 204 of the Code of Massachusetts Regulations, as they relate to the specific type of license.

- 1.1 Innholders All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a hotel dining area with a seating capacity of not less than ninety-nine (99) persons and a living capacity of not less than fifty (50) rooms, under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. The Service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board. (M.G.L. c.138, s.11, D; 11/7/72 election)
- 1.2 Restaurant All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.11, E; 11/4/80 election; M.G.L. c.138, s.12; Chapter 32 of the Acts of 2014; 4/8/2014 election)
- 1.3 Restaurant Wine and Malt Beverages: issued to qualified applicants to sell only wine and malt beverages in a restaurant under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; Chapter 169 of the Acts of 2001; 11/8/01 election)
- 1.4 Club and Veterans' Organization All Alcoholic Beverages: issued to qualified applicant Clubs existing under Chapter 180 of Massachusetts General Laws and Veterans' Organizations duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts to sell all alcoholic beverages under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; 11/8/88 election)
- 1.5 Special Event: issued to qualified applicants of non-profit status to sell all alcoholic beverages; or to sell wine and malt beverages only; or to qualified applicants of for-profit status to sell wine and malt beverages only under the applicable regulations of

Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.14)

- 1.6 Package Store All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)
- 1.7 Package Store Wine and Malt Beverages: issued to qualified applicants to sell wine and malt beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)
- 1.8 Farmer Series Pouring Permit: issued to qualified applicants to sell malt beverages, for consumption on the grounds of a licensed farmer-brewery pursuant to M.G.L. c.138, §19C, as well as on the grounds of the farm operated as appurtenant and contiguous to, and in conjunction with, such farm, and in accordance with the applicable regulations of the Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for in the specific license. For purposes of this policy, the word “license”, “Licensee”, and “licensed premises” shall include a “Farmer Series Pouring Permit”, “Farmer Series Pouring Permittee”, and “premises subject to a Farmer Series Pouring Permit”, respectively, unless otherwise noted.

II. COMPLIANCE

- 2.1 The issuance of a license by the Select Board for the sale of alcoholic beverages under M.G.L. c. 138 applies only to said sales and does not release the Licensee from compliance, nor does it assume compliance with the rules, regulations, requirements and procedures of other government boards, agencies or bodies having jurisdiction.
- 2.2 Failure to comply with these regulations, the laws of the Commonwealth of Massachusetts, the Regulations of the Alcoholic Beverages Control Commission (ABCC) or the Town’s bylaws may result in the revocation, suspension or cancellation of the license.

III. GENERAL RULES AND REGULATIONS APPLICABLE TO HOLDERS OF LICENSES TO SELL ALCOHOLIC BEVERAGES WITHIN THE TOWN

This section shall apply to any and all alcoholic beverages licenses issued by the Select Board.

3.1 Hours of Operation

3.1.1 No patron shall be served or sold alcoholic beverages before or after the hours stated in the license.

3.1.2 On-Premises Consumption

3.1.2.1 The hours during which the sale of all alcoholic beverages to be consumed on the premises may be made by any Licensee shall be from 11:00 a.m. to 11 p.m. Monday through Saturday and from 10:00 a.m. to 11 p.m. on Sundays, unless otherwise determined by the Select Board or further limited by statute or regulation.

3.1.2.2 Except for alcohol sold by a Farmer Series Pouring Permittee, the hours during which the sale of all alcoholic beverages may be made in a dining room are further limited to the time when the dining room is open and food service is available to the public. No alcoholic beverages shall be sold or served in a dining room before the dining room is open and food service is available, or after the dining room has been closed and food service has been suspended to the public.

3.1.2.3 No alcoholic beverages shall be served within the licensed premises during the fifteen (15) minutes preceding the hours stated on the license at which service of alcoholic beverages must cease.

3.1.2.4 All bottles, glasses, containers, etc., shall be cleared from all tables and bars within thirty (30) minutes of the established closing hour and all patrons will be off the licensed premises within forty-five (45) minutes of the established closing hour.

3.1.3 Off-Premises Consumption

The hours during which the sale of all alcoholic beverages to be consumed off the premises may be made by any Licensee shall be from 8:00 a.m. to 11:00 p.m. or 8:00 a.m. to 11:30 p.m. on days preceding a legal holiday, unless otherwise determined by the Select Board or further limited by statute or regulation.

3.1.4 Adjustments

The Board may adjust hours for individual and/or classifications of Licensees upon receipt of their request(s) for consideration of special circumstances and/or occasions.

3.1.5 Employees and Staff

With the exception of the Licensee and the manager, all employees shall vacate the licensed premises no later than sixty (60) minutes after the official closing hour designated on the alcohol license. Bona fide employees of the licensed

establishment may remain upon or enter upon the licensed premises outside of the regular hours of operation while actually engaged in cleaning, staff meetings or trainings, opening, closing or preparing for the current or next day's business, but they may not dispense or consume any alcoholic beverage during such non-public hours. In any instance wherein a Licensee will have employees working on the licensed premises in excess of sixty (60) minutes before or after the serving times, the Licensee shall cause notification of the fact to be given by telephone to the Needham Police Department along with the estimate as to how long the work party will be on the premises. This provision shall not limit employees from being on the premises to produce malt beverages in accordance with a license issued pursuant to G.L. c.138, §19C or §19D.

3.2 Payment of Charges and Taxes

Applicants and Licensees must pay, in full, all taxes and charges owed to the Town on a current basis prior to the issuance of a new license, the transfer of an existing license and/or the annual renewal of a license.

3.3 Filing and Application Requirements (excludes Special Event Licenses)

3.3.1 Application for New and Transfer of License.

In addition to the ABCC Application package, Applicants shall provide:

- a. Proof of insurance;
- b. All fees;
- c. Completed and unexpired alcohol awareness training certificate for proposed managers of record;
- d. Copies of any other license issued by the Town of Needham and the ABCC to them for use at the proposed licensed premises, including, but not limited to G.L. c.138, §19C, §19D, §22; and
- e. Any additional information the Select Board shall request.

3.3.2 Application for Renewed License

In addition to the ABCC Renewal Application Form, Applicants shall provide:

- a. Proof of insurance;
- b. Completed and unexpired alcohol awareness training certificates for all employees, including manager of record;
- c. Certificate of inspections, where required; and
- d. Any additional information the Select Board shall request (see Section 5.4 and Section 5.6).

3.3.3 Abutter Notification

When conducting a public hearing to consider the issuance of a license to sell or serve wine, malt and/or alcoholic beverages, the Board shall require the Applicant to notify all owners of property within a 300-foot radius of the premises to be licensed.

3.3.4 Insurance

No license shall be issued for the sale of alcoholic beverages (Special Event licenses excluded) in the Town until such time as the Applicant shall present to the Select Board a certificate of insurance showing that the Applicant carries the following policies of insurance from an insurance company licensed by the Department of Insurance of the Commonwealth of Massachusetts as follows: workers' compensation insurance as required by M.G.L. Chapter 152; and liquor liability insurance in the minimum amount of \$100,000 per person/\$1,000,000 aggregate for personal injury and \$100,000 per occurrence for property damage. Licensees shall notify the Board no later than ten (10) days prior to the cancellation or material change of said coverage. The Board may, pursuant to M.G.L. c.138, §§64A, 64B, 67 increase the minimum amount of required insurance coverage. Failure to maintain such coverage during the license period shall be grounds for revocation.

3.3.5 Fees

All license fees of the Board are incorporated in these rules and regulations as Attachment I, Schedule of Town of Needham Liquor License Fees. These fees shall be non-refundable.

3.3.5.1 Filing Fees All required filing fees shall be paid in full at such time as the application is filed. Filing fees shall not be pro-rated for any reason.

3.3.5.2 License Fees All license fees for the initial issuance of a new license, or for the transfer of an existing license, for a change in the structural composition of a licensed premises, and/or for the annual renewal of a license shall be paid in full prior to the issuance of the license. The initial license fee will be pro-rated based on the number of months remaining in the calendar year at the time of occupancy.

3.3.6 Floorplans and Signage

3.3.6.1 When a submittal of a floorplan is required by the ABCC, Applicants for a new or amended license shall submit an architectural floor plan, drawn to scale, that includes the following information, which will be clearly marked:

- a) the net floor area (net floor area shall be the area of the rooms measured between the interior walls exclusive of stairways, service bars, hallways, etc.) and dimensions of the existing room or rooms and exterior premises requested to be licensed including dining rooms, function rooms, exterior premises and rooms in which alcoholic beverages are to be stored;

- b) the location of any proposed Bar Service Areas, cocktail lounge, or other area where patrons may stand while consuming alcohol;
- c) areas in which seats or benches are to be securely fastened to the floor and areas in which the seats and tables are moveable;
- d) entrances and exits;
- e) kitchens and/or food preparation areas;
- f) take out areas;
- g) storage areas;
- h) restrooms;
- i) cash register areas;
- j) all rooms not being requested to be licensed shall be labeled as to their function, such as, kitchen, coatroom, lobby, etc.;
- k) total occupant load;
- l) areas where food trucks or other mobile food vendors may be parked for the purposes of serving patrons;
- m) outdoor service areas, showing location of seats, tables, trash cans, and physical barriers to segregate the licensed premises from non-licensed areas; and
- n) any other licensed spaces not covered by the above.

3.3.6.2 The number and location of all seats, chairs, and stools upon or within the licensed premises must be approved in writing by the Board. In no event shall the total number of seats, chairs, and stools upon the licensed premises exceed the maximum seating capacity nor the maximum occupancy capacity of the licensed premises.

3.3.6.3 Where outdoor service is proposed, the Applicant shall provide draft signage that will be posted around the licensed premises to aid in restricting the transportation or possession of any alcohol, wine, or malt beverage beyond the limitation of the barrier.

3.3.6.4 No physical alteration, the effect of which would be to constitute a change in the description of the licensed premises as shown on the license, shall be made without prior written approval of the Board.

3.4 Management and Trainings (excludes Special Event Licenses)

3.4.1 Management.

At all times that the licensed premises are open for the sale or service of alcoholic beverages, the Licensee shall have on the premises a manager or assistant manager who has successfully completed an in-person alcoholic beverages server training program satisfactory to the Select Board. The onsite manager/assistant manager shall be responsible for compliance with all applicable laws of the Commonwealth of Massachusetts concerning the sale of alcoholic beverages and the Town's rules and regulations for the provision and consumption of alcoholic beverages. The designated manager/assistant

manager shall have full authority to make decisions concerning the operation of the establishment.

3.4.2 Employee Roster

A current employee roster shall be available upon request to the Town for all licensed establishments. An updated employee roster shall be provided to the Town within 45 days of the hiring of a new employee subject to the training requirements of 3.4.3.

3.4.3 Trainings

3.4.3.1 All managers, assistant managers, and bartenders shall attend an in-person alcoholic beverage server training program satisfactory to the Select Board within 30 days of employment and once every two years thereafter. There shall be an un-expired certificate of program completion on file with the Select Board at all times; provided that for new employees, the certificate may be provided concurrently with the employee roster required under Section 3.4.2.

3.4.3.2 All employees not covered by Section 3.4.3.1 shall complete a Town-approved training program within 30 days of employment, or provide proof of training certification at a Town-approved course within the last three years. All such employees must complete an approved program once every three years. There shall be an un-expired certificate of program completion on file with the Select Board at all times; provided that for new employees, the certificate may be provided concurrently with the employee roster required under Section 3.4.2.

3.4.3.3 It is the obligation of the license manager to inform all employees about the rules and regulations of the Select Board, the ABCC, and any and all applicable Massachusetts laws.

3.5 General and Miscellaneous Provisions

3.5.1 There shall be no alcoholic beverages taken from the premises of an establishment licensed under M.G.L. c.138, §12, except for deliveries for the operation of the business as controlled by G.L. c.138, and with the exception of partially consumed bottles of wine that are purchased with a meal and resealed in accordance with 204 CMR 2.18 or sales conducted pursuant to G.L. c.138, §19C or §19D.

3.5.2 No Licensee shall sell alcoholic beverages in any part of the premises not specified on its license or such other license issued by the ABCC. No change of such area or location shall be made without prior written approval of the

Select Board. The licensed premises shall meet and fully comply with all health standards and regulations applicable to the sale of alcoholic beverages.

- 3.5.3 The licensed premises must be well lighted at all times.
- 3.5.4 There shall be no indecent or immoral entertainment on the licensed premises.
- 3.5.5 Gambling, lotteries, or other illegal machines or games are prohibited except as otherwise permitted by law.
- 3.5.6 The licensed premises shall be subject, at all times, to inspection by members of the Select Board, the Town Manager, Inspector of Buildings, Board of Health or its representatives, Police Department, Fire Department, or any other department or official of the town so directed by the Select Board.
- 3.5.7 No licensed restaurant, Farmer Series Pouring Permittee, or package store may permit the use of any amusement service such as electronic games on the premises.
- 3.5.8 Service of alcoholic beverages shall be by a bartender/server/wait person (applicable to on premise Licensees only, including Farmer Series Pouring Permittees).
- 3.5.9 Licensees shall make all reasonable and diligent efforts to ensure that loitering, disorder, disturbances or illegality of any kind does not occur at the licensed premises. The Licensee shall ensure that business in the licensed premises is conducted in a responsible manner so that no activity shall detract from the quality of life in the Town generally, or in the neighborhood in which the licensed premises are located. The Licensee may be held responsible for such activity, whether present or not. Licensees shall at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.
- 3.5.10 The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.
- 3.5.11 Licensees shall at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.
- 3.5.12 The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.
- 3.5.13 The Licensee shall request proof of identification from any patron appearing to be under the age of 40 prior to any alcohol sale and confirm the authenticity of the identification card through the use of a digital card scanner.

IV. RULES AND REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES BY INNHOLDERS ONLY

- 4.1 Cocktail lounges are permitted with the approval of the Select Board but limited to approved areas by the Select Board with appropriate identification of the specific location documented by the Inspector of Buildings.
- 4.2 The service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board.
- 4.3 Section 5.3 of these policies shall apply to the restaurant and dining areas of the licensed establishment.
- 4.4 With the approval of the Select Board, an Innholder may sell sealed wine and malt beverages at a concession stand in the lobby of the hotel. Such sales shall be to individuals renting rooms at the establishment only and must be consumed within the rented rooms. Any wine and malt beverage purchased at the concession stand must remain sealed until the purchaser has returned to their room.

V. RULES AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS

- 5.1 Purpose
It is the policy and purpose of the Select Board acting as the Licensing Board of the Town of Needham to limit the issuance of alcoholic licenses as an accommodating and incidental part of a Common Victualler's primary and principal business endeavor of preparing and serving food to the public in a restaurant and function room.

The issuance of alcoholic licenses will be utilized so as to both enhance the dining experience of individuals patronizing Needham restaurants and to foster the economic development of business areas in the Town by encouraging and promoting foot traffic in those areas where restaurants are located. The Board will consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Board including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, appropriateness of menu and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to establishments whose principal business activity is fast food, take-out, or which has any "drive-through" component.
- 5.2 Common Victualler's License
No alcohol license will be issued to any Applicant unless such Applicant is the Licensee named in a common victualler's license and has operated a restaurant for the twelve-month period immediately preceding the filing of an application.

5.3 Food Service

Service of food must be available in all areas in which alcoholic beverages are to be served. Meals must be served on solid dinnerware with silverware accompanying the same. No paper plates or plastic cutlery is permitted.

5.4 Fire Safety Inspections

Chapter 304 of the Acts of 2004, An Act Relative to Fire Safety in the Commonwealth, requires that every license holder under M.G.L. Chapter 138 Section 12 must submit as a precondition of renewal of the license “a valid certificate of inspection issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located.” No license shall be issued for the sale of alcoholic beverages in the Town until such time as a copy of the valid certificate of inspection has been filed with application.

5.5 Bar Service

The sale or service of alcoholic beverages for consumption at any unapproved Bar Service Area is prohibited. For the purposes of these regulations, Bar Service Area is defined as service across a counter at which alcoholic drinks are prepared to patrons who may or may not be waiting to dine. For those establishments with no table service, the Bar Service Area shall include the entire area where patrons may consume alcohol. Bar Service Areas are permitted only in locations expressly approved and authorized by the Select Board. Such authorization may be granted under the following conditions:

- a) The Board makes a finding that it is in the best interest of the Town to allow the service of alcoholic beverages in the Bar Service areas
- b) No more than a total of fifteen (15) seats or twenty percent (20%) of the total seats in the premises, whichever is less, shall be allowed in the Bar Service area(s), except that the Board may authorize a greater number where such seats are intended for food service customers as part of the Licensee’s business plan;
- c) The seats in the Bar Service areas are included when calculating the number of seats in the premises;
- d) All food and beverages on the menu served in the public dining room shall be available for service to the patrons in the Bar Service areas.

5.6 Reporting

Licensees shall provide the Select Board with a statement certified by a Certified Public Accountant as to the percentage the annual sales for the previous period of October 1-September 30 of alcoholic beverages compared to the total annual sales of food and alcoholic beverages. If the percentage exceeds fifty percent (50%), the Select Board may investigate to determine whether the service of alcoholic beverages has become more than incidental to the service of food on the premises. If the Board determines that the sale of alcoholic beverages has become more than incidental to the sale of food on the premises, it may after hearing require the Licensee to reduce its alcohol sales or take any other action permitted by law, including suspension or revocation of the license.

VI. RULES AND REGULATIONS APPLICABLE TO CLUBS AND VETERANS ORGANIZATIONS

- 6.1 Every club Applicant to be eligible to be licensed to sell any or all alcoholic beverages within the Town of Needham must be a corporation duly organized and existing under Chapter 180 of the General Laws of the Commonwealth of Massachusetts and has maintained club facilities for not less than three (3) years prior to the filing of an application. The within provisions may be waived by the Select Board.
- 6.2 Every Veterans organization to be eligible to be licensed to sell any and all alcoholic beverages within the Town of Needham must be duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts.
- 6.3 Each Applicant shall furnish a copy of its Charter or other legal evidence of its eligibility as herein specified when requested by the Select Board.
- 6.4 Each eligible club and veteran's organization must have the exclusive legal right to the possession and enjoyment of indoor facilities of not less than 2,000 square feet of floor space on one or more floors and which may consist of one or more rooms.
- 6.5 Each Licensee hereunder acting by and through its Board of Directors or other governing body shall appoint a manager or bartender who is of good moral character and a responsible person. The manager or bartender will be in charge during open hours acting for and on behalf of the Board of Directors or other governing Board. Acting for and on behalf of the Board of Directors the manager or bartender shall be responsible for the conduct of the members and guests, accountable for keeping order and the prevention of undue noise and disturbances on the licensed premises and the neighborhood.
- 6.6 Section 5.3 of these policies shall apply to all clubs and veterans' organizations.

VII. RULES AND REGULATIONS APPLICABLE TO SPECIAL EVENT LICENSES

- 7.1 Hours of Sale
Request for the sale of alcohol under a Special Event License is limited to between the hours of 11:00 a.m. and 12:00 a.m. on Monday through Saturday, and 12:00 p.m. and 12:00 a.m. on Sundays.
- 7.2 Notice
Special Event Licenses are exempt from the legal notice and publication requirements.
- 7.3 Eligibility
 - 7.3.1 No Special Event License shall be granted to any person while their application for an On-Premises license is pending before the Select Board.

7.3.2 No person shall be granted a Special Event License for more than 30 days in a calendar year.

7.5 Application

The Applicant shall provide the following information and documents to the Select Board:

- a) Town of Needham Select Board Event Information Sheet
- b) Descriptive information about the event (invitation, flyer, letter of explanation, etc.)
- c) Written indication of the manner by which service, sale, delivery, and/or dispensing of alcoholic beverages are to be controlled.
- d) Written evidence of the owner's permission to use the proposed licensed premises.
- e) Proof of Non-profit Status (if request is for all alcoholic beverages).
- f) Sketch/floorplan of the proposed licensed premises detailing where alcohol will be served, sold, delivered, and/or dispensed.
- g) Designation and identification in writing of all individuals who will serve, sell, deliver, and/or dispense alcoholic beverages and evidence of whether or not said individuals have completed in the past three years an appropriate Massachusetts alcoholic beverages server training program.
- h) Acknowledgement that the person holding the special license has purchased the alcoholic beverages from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. A person holding a section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04)

7.6 Conditions

The Special Event Manager shall provide for the orderly and safe conduct of the event, shall be responsible for the proper sale, service, delivery, dispensing and consumption of alcoholic beverages, shall be physically present during the duration of the entire event and shall sign the Event Information Sheet. The Special Event Manager shall display such Special Event License where sale of alcoholic beverages is taking place.

7.7 Alcohol Training

The Select Board may require the Special Event Manager or individuals serving or handling alcohol at the event to complete a training program to prevent service to underage or intoxicated persons.

VIII. RULES AND REGULATIONS APPLICABLE TO PACKAGE STORES

8.1 General Provisions

- 8.1.1 Employees at the licensed premises on which a Section 15 license is exercised must be 21 years of age except that such Licensees may employ

a person under the age of 21 who does not directly handle, sell, store, or prepare for display any alcoholic beverages. Notwithstanding the foregoing, food store employees 18 years of age or older may handle, store, or prepare any alcoholic beverages for display.

- 8.1.2 No seating, chairs, stools, or tables for use by customers or patrons shall be placed or permitted by a retail package store Licensee upon or within the licensed premises, or upon any area under the direction and control of the Licensee without the Select Board's consent.
- 8.1.3 Where the liquor licenses are granted to serve the public, Licensees shall be open to the public and, except in exigent circumstances, operate on all days and hours in accordance with the terms of the issued liquor license. The closing of the licensed premises to the public, for a period of five (5) consecutive days or more, or for any period totaling ten (10) days during the calendar year without the prior approval of the Select Board may be deemed to be an abandonment of the Liquor License and sufficient grounds for revocation of the Liquor License.
- 8.1.4 Package Store Licenses may be granted to food stores as defined in these regulations, but will not be granted to convenience stores.
- 8.1.5 Alcohol-related signage displayed so that it is visible to the public will be limited. As a condition of the license, the Licensee will comply with the Town of Needham Sign By-law, as from time to time amended.
- 8.1.6 Advertisement at local sporting events or school events and sponsorships of sporting teams where participant's uniforms carry the name, logo or advertisement for any business which derives more than 25% of its gross revenues from the sale of alcoholic beverages is prohibited.
- 8.1.7 "Nips" or bottles of spirits containing fewer than eight (8) fluid ounces shall not be located in an area directly accessible by customers, and shall be offered for sale upon the request of a customer from a location within the premises to which customers do not have direct access, such as behind a counter.

8.2 Deliveries

- 8.2.1 For all deliveries conducted off the licensed premises, the Licensee shall keep written records including the date of sale, quantities and sizes of items purchased, method of payment transaction, and name and address of purchaser. In addition to the preceding requirements, the amount of the beverages that were delivered, the date and time of delivery, the signature of the person receiving the delivery and the type of identification card used to confirm age. Such written records shall be maintained by the

Licensee within or upon the license premises for a period of not less than one year and must be readily available for inspection by the Town.

- a) Deliveries must be made during the operating hours of the store.
- b) Deliveries shall be made by persons no less than 21 years of age.
- c) A copy of Off-Premises Transportation Permit, license to deliver issued by the ABCC, shall accompany application at time of submittal.

8.2.2 Hours for product deliveries to establishment and/or pick-up of bottle returns should be arranged so that activity does not interfere with the quiet enjoyment of the neighborhood.

8.3 Sample Tastings

Consumption of alcoholic beverages within or upon the retail package store licensed premises, or upon any area under the direction and control of the Licensee, by any person is strictly prohibited except for sample tasting.

8.4 Food Store Alcohol License Requirements

8.4.1 A food store is defined as a grocery store or supermarket, which sells at retail, food for consumption on or off the gross premises, whether alone, or in combination with grocery items or other non-durable items typically found in a grocery store and sold to individuals for personal, family or household use. Such food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store for the purposes of these regulations shall not be a convenience store, any business that sells gasoline, or a business which derives more than 25% of its gross revenues from the sale of alcoholic beverages. The retail space used to display alcoholic beverages shall not exceed twenty-five percent (25%) of the total retail space on the premises. The Select Board shall determine whether an Applicant is a food store as set out herein and in compliance with any and all requirements.

8.4.1 A convenience store is defined as an establishment that sells at retail food and other non-durable items to individuals more on a daily basis, such as but not limited to small quantities of food, candy, newspapers, and tobacco products. Convenience stores are frequently open with only one staff member on duty at a time, are usually open later than 10:00 p.m. and may or may not sell gasoline. The Select Board reserves the right to consider each of these factors when determining if an Applicant will be considered a convenience store.

8.4.2 Regular sales and operation of the food store must continue during all times when the sales of wine and malt beverages are permitted.

8.4.3 Package store licenses issued to food stores shall be limited to wine and malt beverages only.

8.4.5 Section 8.4 shall not apply to farm stands, as defined by 330 CMR 22.02.

IX. RULES AND REGULATIONS APPLICABLE TO FARMER SERIES POURING PERMITTEES

9.1 Applicants

Applicants for a Farmer Series Pouring Permit shall hold a Farmer-Brewery License (M.G.L. c.138, §19C) from the ABCC at all times. If an Applicant for a Permit does not have a valid ABCC Farmer-Brewery License at the time of Application, issuance of the Permit shall be conditioned on receipt of such ABCC license.

9.2 Purpose

The issuance of Farmer Series Pouring Permits shall be utilized so as to foster the economic development of the Town by encouraging and promoting patronage in those areas where Farmer Series Pouring Permittees are located. The Select Board shall consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Board including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, community engagement, and other aesthetic considerations including the physical layout of the interior of the establishment.

9.3 Water Station

At all times, there shall be a free, self-service water station for patrons and customers to use without staff assistance. This provision may be waived by the Select Board upon a showing of good cause and only if a sign is posted by the bar stating that tap water is available upon request and free of charge.

9.4 Occupancy

Where required by the Select Board, the Licensee shall delegate a staff member to keep and maintain an accurate count of all individuals occupying the premises to ensure compliance with building code occupancy limits.

9.5 Food Service

The Permittee shall ensure that food service is available to its patrons at all times that alcohol is served for on-premises consumption. The Permittee may satisfy this provision by (i) holding a Common Victualler's license and operating a full-service kitchen; (ii) arranging for food to be brought onto the premises by mobile food truck vendors; (iii) contracting with nearby restaurants; (iv) allowing patrons to have food delivered for consumption on the premises; or (v) such other arrangement as the Select Board deems appropriate. The Permittee shall submit a plan for food service with its application.

X. VIOLATIONS

10.1 Violations

Any violation of the License terms and conditions, these Regulations, the Regulations of the Alcoholic Beverages Control Commission, the laws of the Commonwealth, including General Laws Chapter -138, or the Town's General Bylaws may be grounds for action by the Select Board, including the modification, suspension, revocation, nonrenewal or cancellation of a license.

10.2 Suggested Orders

Except as provided in Section 10.3, the suggested orders listed below shall be a guide for the Select Board. The Board, in its discretion, may impose an order that is more lenient or more severe than suggested by the guidelines when the facts surrounding a violation so warrant. In determining the appropriate action in any given case, the Select Board shall consider the violation, the facts of the case, other relevant factors including the Licensee's prior record, and aggravating or mitigating circumstances. Dates of suspension will be determined by the Select Board and suspensions of more than one-day will be served consecutively.

~~The suggested order shall not be construed as to limit the Select Board's ability to consider alternative dispositions, further conditions on a license, or alternative sanctions (e.g., rolling back service hours or non-punitive written warnings).~~

Offense	Suggested Order
1 st Offense	One to five day suspension
2 nd Offense	Six to ten day suspension
3 rd Offense	Ten days to <u>30-thirty</u> day suspension
4 th Offense	Revocation

~~In determining the appropriate action in any given case, the Select Board shall consider the violation, the facts of the case, other relevant factors including the Licensee's prior record, and aggravating or mitigating circumstances.~~

10.3 Compliance Checks

The Town conducts, and expects to continue to conduct, routine compliance checks of Licensees, including, but not limited to, service to underage persons checks using agents of the Needham Police Department. The following schedule of recommended discipline is a guideline intended to illustrate the range of disciplinary action that the Select Board may impose for service to underage violations identified in compliance checks, which are intended to be educational by design. The Select Board is not limited by these guidelines and may impose greater or lesser discipline based on consideration of the violation alleged, the facts of the case, other relevant factors including the Licensee's prior record, and aggravating or mitigating circumstances.

Dates of suspension will be determined by the Select Board and suspensions of more than one-day will be served consecutively.

Offense	Suggested Order
1 st Offense	<u>One to two day suspension. Suspension of one day to be held in abeyance.</u>
2 nd Offense	<u>One to two day suspension. Up to five-day suspension.</u>
3 rd Offense	<u>Three to five days. Up to ten-day suspension. Licensee shall be required as a condition of the license to provide the Board with a satisfactory written plan, under signature of the manager of record and any person or entity holding more than a 10% ownership interest in the license, to assure that a further offence will not occur.</u>
4 th Offense	<u>Five to ten days. Licensee shall be required as a condition of the license to provide the Board with a satisfactory written plan, under signature of the manager of record and any person or entity holding more than a 10% ownership interest in the license, to assure that a further offence will not occur. Minimum ten-day suspension. Based on relevant circumstances as determined by the Board, the Board may order a longer suspension of any length, imposition of conditions on or other modifications of the license, disqualification of the manager of record, or compulsory initiation by the Licensee of transfer of ownership to a responsible party to be approved by the Board.</u>
5 th Offense	<u>Minimum ten (10) day suspension. Based on relevant circumstances as determined by the Board, the Board may order a longer suspension of any length, imposition of conditions on or other modifications of the license, disqualification of the manager of record, or compulsory initiation by the</u>

	Licensee of transfer of ownership to a responsible party to be approved by the Board.
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10.4. Training

All employees involved in the improper sale of alcohol ~~and the in-store manager at the time of the violation (as determined by the license Manager of Record)~~ shall ~~not serve alcohol until they~~ complete another training course ~~(either virtually or in-person)~~ in accordance with Section 3.4.3, notwithstanding when the course was last completed ~~and provide proof of said training to the Select Board.~~ ~~In addition, these employees must complete in-person training in accordance with Section 3.4.3 no later than the next such training offered by the Town of Needham and provide proof of said training to the Select Board.~~ ~~The new training shall be completed within 30 days of the issuance of the Select Board's decision and proof of completion shall be provided to the Select Board.~~

10.5. Prior Violations

In calculating the number of prior offenses under this guideline, the Select Board will consider determined violations occurring within the five (5) years preceding the date of current violation.

10.6. Hearings

10.6.1 A Licensee shall have a right to notice and public hearing before modification, suspension, revocation, nonrenewal or cancellation of a license by the Board, except that the Board may under emergency circumstances as allowed by Law suspend the license pending hearing.

10.6.2 A Licensee may waive its right to hearing, and the Board in such cases may make findings and act without hearing on recommendation of the Town Manager. The Board may, however, require that a hearing be held notwithstanding such a waiver, in which case the Licensee shall have notice of hearing and an opportunity to be heard before action is taken on modification, suspension, revocation, nonrenewal or cancellation of a license, except that Select Board may under emergency circumstances as allowed by Law suspend the license pending hearing.

10.7. Notice of Suspension

On the days when Suspension of License is being served, the Licensee will publicly post at its public entrance(s) a notice of the Suspension in a form as the Board or Town Manager may direct. The Board may also post notice of violation hearings, findings, decisions, and orders to the Town's website and Town's social media.

APPROVED: 6/14/77
Amended and revised: 11/18/97
Amended and revised: 2/9/99
Revised fee schedule: 12/7/99
Revised fee schedule: 12/5/00
Revised and approved: 8/20/02
Fee changes 12/21/04
Addition of Liquor
Liability Insurance: 1/25/05
Addition of One-Day License: 1/25/05
Amended and revised: 11/14/06
Amended and revised: 6/22/10
Amended and revised: 12/18/12
Amended and revised: 5/13/14
Amended and revised: 9/10/2014
Amended and revised: 11/9/2016
Amended and revised: 7/25/2017
Amended and revised: 8/18/2020
Amended and revised: 7/26/2022

SELECT BOARD

ACTING AS

NEEDHAM LICENSING BOARD



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 04/12/2023

Agenda Item	Establish the Community Stormwater Mitigation Assessment Schedule of Rates																																																																		
Presenter(s)	David Davison, Assistant Town Manager/Finance																																																																		
1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED																																																																		
A presentation was made to the Board at its March 10, 2023 meeting regarding the recommendations to adopt a fee schedule for the purpose of funding future capital improvements to manage stormwater runoff. The Board held a Public Hearing regarding the proposal and the rate structure at its March 28, 2023 meeting. The proposed schedule has been modified based on public input so that a property which has 200 square feet or less of impervious cover will not be subject to the fee.																																																																			
2.	VOTE REQUIRED BY SELECT BOARD																																																																		
Suggested Motion: Move that the Board adopt the revised schedule for community stormwater mitigation assessments identified on schedule below and that they be effective January 1, 2024; further that the Town Manager is authorized to abate and/or adjust the fee upon the recommendation of the Director of Public Works, with supporting documents, if 1) there was an error in the billing amount; 2) there was an error in calculating the impervious area; 3) the identification of the property owner was invoiced in error; or 4) other similar circumstances.																																																																			
Community Stormwater Mitigation Assessment Impervious Surface Square Footage <table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th>Tier</th><th>Sq Ft Low</th><th>Sq Ft High</th><th>Annual Fee</th><th>Quarterly</th><th>Monthly</th></tr></thead><tbody><tr><td>1</td><td>0</td><td>200</td><td>\$0.00</td><td>\$0.00</td><td>\$0.00</td></tr><tr><td>2</td><td>201</td><td>4,000</td><td>\$38.20</td><td>\$9.55</td><td>\$3.18</td></tr><tr><td>3</td><td>4,001</td><td>8,000</td><td>\$80.00</td><td>\$20.00</td><td>\$6.67</td></tr><tr><td>4</td><td>8,001</td><td>20,000</td><td>\$200.00</td><td>\$50.00</td><td>\$16.67</td></tr><tr><td>5</td><td>20,001</td><td>45,000</td><td>\$400.00</td><td>\$100.00</td><td>\$33.33</td></tr><tr><td>6</td><td>45,001</td><td>90,000</td><td>\$600.00</td><td>\$150.00</td><td>\$50.00</td></tr><tr><td>7</td><td>90,001</td><td>175,000</td><td>\$800.00</td><td>\$200.00</td><td>\$66.67</td></tr><tr><td>8</td><td>175,001</td><td>345,000</td><td>\$1,000.00</td><td>\$250.00</td><td>\$83.33</td></tr><tr><td>9</td><td>345,001</td><td>685,000</td><td>\$1,200.00</td><td>\$300.00</td><td>\$100.00</td></tr><tr><td>10</td><td>685,001</td><td>and above</td><td>\$1,500.00</td><td>\$375.00</td><td>\$125.00</td></tr></tbody></table>		Tier	Sq Ft Low	Sq Ft High	Annual Fee	Quarterly	Monthly	1	0	200	\$0.00	\$0.00	\$0.00	2	201	4,000	\$38.20	\$9.55	\$3.18	3	4,001	8,000	\$80.00	\$20.00	\$6.67	4	8,001	20,000	\$200.00	\$50.00	\$16.67	5	20,001	45,000	\$400.00	\$100.00	\$33.33	6	45,001	90,000	\$600.00	\$150.00	\$50.00	7	90,001	175,000	\$800.00	\$200.00	\$66.67	8	175,001	345,000	\$1,000.00	\$250.00	\$83.33	9	345,001	685,000	\$1,200.00	\$300.00	\$100.00	10	685,001	and above	\$1,500.00	\$375.00	\$125.00
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Annual assessment is billed on a quarterly or monthly schedule based on the utility account type.																																																																			
3.	BACK UP INFORMATION ATTACHED																																																																		
a. None																																																																			



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Positions on Warrant Articles
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Board will review articles on the Annual Town Meeting Warrant and the Special Town Meeting Warrant.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion:</i> That the Board vote to support (not to support) article _____ in the Annual Town Meeting Warrant and vote to support (not to support) article _____ in the Special Town Meeting Warrant.	
3.	BACK UP INFORMATION ATTACHED
a. Final Annual Town Meeting Warrant (under separate cover) b. Draft Special Town Meeting Warrant – April 7, 2023 c. Status of Articles as of April 5, 2023	

TOWN OF NEEDHAM



SPECIAL TOWN MEETING WARRANT

MONDAY, MAY 8, 2023

7:30 P.M.

JAMES HUGH POWERS HALL, NEEDHAM TOWN HALL

1471 HIGHLAND AVENUE

DRAFT 4.7.2023

Additional information on particular warrant articles will be made available from time to time at www.needhamma.gov/townmeeting during the weeks leading up to the Special Town Meeting.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To either of the constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the qualified Town Meeting Members of the Town of Needham to meet in the Needham Town Hall on:

MONDAY, THE EIGHTH DAY OF MAY 2023

At 7:30 in the afternoon, then and there to act upon the following articles:

HUMAN RESOURCE ARTICLES

ARTICLE 1: FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM FIRE UNION

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Fire Union by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the fiscal year 2023 Classification, Performance, and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2023 and fiscal year 2024; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

PERSONNEL BOARD RECOMMENDS THAT:

Article Information: The Town and the Needham Fire Union have agreed on two contracts – one for fiscal year 2023 and one for fiscal year 2024 through fiscal year 2026. The agreements implement critical priorities of the Select Board including increasing pay for paramedics to ensure that the Town is able to recruit and retain the highest quality staff, and agreement to replace the Civil Service system with an alternative, locally based system. Specifics on the Agreement with the Union are available on the Town's May 8, 2023 Special Town Meeting webpage.

ARTICLE 2: HOME RULE PETITION TO EXEMPT FIRE DEPARTMENT FROM CIVIL SERVICE

To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation to exempt the Fire Department from chapter 31 of the General Laws, the Massachusetts Civil Service Law; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Town Manager approves amendments to the bill before

enactment by the General Court; and provided further that the Town Manager is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT EXEMPTING ALL POSITIONS IN THE FIRE DEPARTMENT OF THE TOWN OF NEEDHAM FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, all positions in the fire department of the town of Needham, shall be exempt from chapter 31 of the General Laws.

SECTION 2. This act shall not impair the civil service status of a person holding a position described in section 1 on the effective date of this act.

SECTION 3. Notwithstanding section 2, no appointment or promotion made after the effective date of this act shall be subject to chapter 31 of the General Laws.

SECTION 4. This act shall take effect upon its passage.

Or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Civil Service system is outdated and problematic. It was adopted in the early 20th century primarily to protect hiring and discipline from patronage. Those goals are better addressed now by other laws and regulations, and by public employee collective bargaining rights. Removing the Town from Civil Service will strengthen necessary management rights and accountability and allow greater flexibility in hiring and promotions. A locally-based system of recruitment and promotion – rather than one controlled at the State level – will allow the Town to recruit qualified candidates for increasingly difficult to fill firefighter positions.

The Town will attempt to remove the Department from Civil Service through a special act of the legislature. If that is not possible, the Town may place a question on an upcoming election ballot, as was done with the Police Department. Information about the process developed to replace the Civil Service promotion system is included in the Memorandum of Agreement between the Town and the Needham Fire Union located on the May 9, 2022 Special Town Meeting webpage. A draft policy on recruitment of firefighters at initial hire is available on that webpage as well.

FINANCE ARTICLES

ARTICLE 3: AMEND THE FY2023 OPERATING BUDGET

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2023 Operating Budget adopted under Article 10 of the 2022 Annual Town Meeting and Amended under Article 3 of the October 24, 2022 Special Town meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
9	Classification, Performance, Settlements	\$1,332,466	\$1,422,466
10	Reserve Fund	\$2,077,091	\$1,987,091

or take any other action relative thereto.

INSERTED BY: Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Information:

RESERVE ARTICLES

ARTICLE 4: APPROPRIATE TO CAPITAL IMPROVEMENT FUND

To see if the Town will vote to raise, and/or transfer and appropriate a sum to the Capital Improvement Fund, as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Information: *Massachusetts General Law Chapter 40, Section 5B, allows the Town to create one or more stabilization funds for different purposes. A stabilization fund is a special reserve fund into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry forward from one fiscal year to another. Interest earned from the investment of monies in the stabilization fund remains with that fund. The 2004 Annual Town Meeting under Article 58 approved the creation of Capital Improvement Stabilization Fund for the purpose of setting aside funds for time-sensitive and critical capital items at times when ordinary funding sources are limited or not available. Over time, as the fund grows and is supported, it will be one of the tools in the overall financial plan of the Town. Maintaining and supporting such funds is looked upon favorably by the credit rating industry. The balance in the fund as of March 1, 2023 was \$1,465,136.*

ARTICLE 5: APPROPRIATE TO CAPITAL FACILITY FUND

To see if the Town will vote to raise, and/or transfer and appropriate a sum to the Capital Facility Fund, as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Information: Massachusetts General Law Chapter 40, Section 5B, allows the Town to create one or more stabilization funds for different purposes. A stabilization fund is a special reserve fund into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry forward from one fiscal year to another. Interest earned from the investment of monies in the stabilization fund remains with that fund. Town Meeting by majority vote may appropriate into the fund and by a two-thirds vote appropriate from the fund. The 2007 Annual Town Meeting under Article 10 approved the creation of the Capital Facility Fund, as part of the Town's planning strategy for addressing capital facility maintenance needs by providing a reserve to address extraordinary building repairs and related expenses at times when other resources are unavailable. The purpose of this fund is to allow the Town, from time to time, by appropriation, to reserve funds for design, maintenance, renovation, or reconstruction relating to the structural integrity, building envelope, or MEP (mechanical, electrical, plumbing) systems of then-existing capital facilities. The balance in the fund as of March 1, 2023 was \$1,927,855.

ARTICLE 6: APPROPRIATE TO ATHLETIC FACILITY IMPROVEMENT FUND

To see if the Town will vote to raise, and/or transfer and appropriate a sum to the Athletic Facility Improvement Fund, as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Information: Massachusetts General Law Chapter 40, Section 5B, allows the Town to create one or more stabilization funds for different purposes. A stabilization fund is a special reserve fund into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry forward from one fiscal year to another. Interest earned from the investment of monies in the stabilization fund remains with that fund. Town Meeting by majority vote may appropriate into the fund and by a two-thirds vote appropriate from the fund. The 2012 Annual Town Meeting approved the creation of the Athletic Facility Improvement Fund to set aside capital funds for renovation and reconstruction of the Town's athletic facilities and associated structures, particularly at Memorial Park and DeFazio Park. The balance in the fund as of March 1, 2023 was \$1,075,722.

ARTICLE 7: APPROPRIATE TO DEBT SERVICE STABILIZATION FUND

To see if the Town will vote to raise and/or transfer and appropriate a sum to the Debt Service Stabilization Fund as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that a sum be transferred from Free Cash and that said sum be raised from the tax levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

Article Information: Massachusetts General Law Chapter 40, Section 5B, allows the Town to create one or more stabilization funds for different purposes. A stabilization fund is a special reserve fund into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry forward from one fiscal year to another. Interest earned from the investment of monies in the stabilization fund remains with that fund. Town Meeting by majority vote may appropriate into the fund and by a two-thirds vote appropriate from the fund. The Debt Service Stabilization Fund (DSSF) was approved under Article 14 of the November 2, 2015 Special Town Meeting. The intent of this fund is to set aside funds to be available, when necessary, to pay certain debt obligations. This fund is intended to be part of the Town's overall planning strategy for addressing capital facility needs, particularly over the next five years. The fund provides added flexibility to maintain the Town's capital investment strategy by smoothing out the impact of debt payments in years when the debt level is higher than is typically recommended. The fund may also be beneficial at times when interest rates are higher than expected. The plan for the fund is designed to ensure that the monies are not depleted in a single year, and that the amount available for appropriation is known before the budget year begins. The recommended appropriation to the Fund for FY2024 is \$XX. The amount appropriated into the Fund will stay with the fund and will be used to manage the Town's reliance on debt. The balance in the fund as of March 1, 2023 was \$2,186,295.

GENERAL ARTICLES

ARTICLE 8: AMEND TOWN CHARTER – PERSONNEL BOARD

To see if the Town will vote to authorize the Select Board to petition the General Court, in compliance with Clause (1), Section 8 of Article LXXXIX of the Amendments of the Constitution, to the end that legislation be adopted precisely as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Town Manager approves amendments to the bill before enactment by the General Court; and provided further that the Town Manager is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 20B of chapter 403 of the acts of 1971, as most recently amended by chapter 277 of the acts of 2022, is hereby further amended by striking out clause (v) and inserting in place thereof the following:

“(v) shall adopt rules and regulations establishing a human resources system, subject to the approval of the select board and in consultation with the human resources advisory committee, as necessary; provided however, that such human resources system shall make use of modern concepts of human resources management and shall include, but not be limited to: (a) a method of administration; (b) human resources policies indicating the rights, obligations and benefits of employees; (c) a classification plan; (d) a compensation plan; (e) a method of recruiting and selecting employees based on merit principles; (f) a centralized record keeping system; (g) disciplinary and grievance procedures; (h) a professional development and training program; and (i) such other elements as deemed necessary; provided further, that all town agencies and positions shall be subject to the rules and regulations adopted under this clause, excluding employees of the school department and as otherwise provided in chapter 150E of the General Laws.”

SECTION 2: Section 21 of said chapter 403, as so amended, is hereby further amended by striking out the words “personnel board” in clause (ii) and inserting in place thereof the words “human resources advisory committee.”

SECTION 3. This act shall take effect upon passage.

Or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: This article seeks approval of the Legislature and the Governor to amend the Town Charter to eliminate the role of the Personnel Board in the daily operation of the Town's human resources function. The Board's current operational role is contained in Section 20B of the Town Charter as “oversight” and includes mandatory review and approval of any changes to personnel policies before they are submitted to the Select Board; and a requirement that classification plans, compensation plans and any proposed changes to those plans are submitted to the Personnel Board for review and comment prior to submitting those actions the Select Board. This provision requires that the Town Manager respond in writing to the Personnel Board if comments are received from the Personnel Board within 15 days after submission.

Under this proposal, the advisory and review roles described in section 1.11 of the Needham General By-Laws will continue. The Personnel Board is appointed by the Moderator and serves as an independent advisory committee and as a sounding board for the executive branch on HR matters. The Personnel Board also evaluates articles relating to HR issues that are proposed for

an Annual or Special Town Meeting Warrant, and advises Town Meeting about collective bargaining agreements and appropriations to fund collective bargaining agreements.

ARTICLE 9: AMEND GENERAL BY-LAW/PERSONNEL BOARD

To see if the Town will vote to amend its General By-laws by deleting wherever they appear the words “Personnel Board” and replacing them with the words “Human Resources Advisory Committee”; provided, however, that this amendment of the General By-laws shall not become effective before the effective date of the special legislation referred to in Article 8, approving the related changes to the Town Charter; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: This article would take effect after the Charter change is approved by the Legislature and the Governor. The effect would be to change the name of the Personnel Board to the Human Resources Advisory Committee. No other change to the role of the Personnel Board, as set forth under Section 1.11 of the General By-laws of the Town, is proposed.

ARTICLE 10: PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) ACCESS AND CABLE RELATED FUND ACCEPTANCE

To see if the Town will accept General Laws Chapter 44, Section 53F¾, which establishes a special revenue fund known as the Public, Educational, and Governmental (PEG) Access and Cable Related Fund, to reserve cable franchise fees and other cable-related revenues for appropriation to support PEG access services and oversight and renewal of the cable franchise agreement, the fund to begin operation for FY2024, which begins on July 1, 2023 or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The Town needs to amend the process by which the Needham Channel receives revenues from the cable companies. Currently the cable companies make payment directly to the Needham Channel. The State requires the Town to receive the monies directly and then make payment to the Needham Channel. Those monies include fees collected from customers by the cable companies in connection with the franchise and in support of public, educational and government (PEG) programming; the Needham Channel provides these services. In addition to those monies, there are other payments required under the cable licensing agreements to provide services, facilities, and equipment for the Needham Channel, to deliver cable television programming to Town buildings. Under state law, cable companies also pay the Town an annual license fee, which is based on the number of cable customers. Massachusetts General Law Chapter 44, Section 53F¾, allows the Town to create a separate revenue account to be known

as the “PEG Access and Cable Related Fund”, into which may be deposited funds received in connection with a franchise agreement between the cable companies and the Town. Creation of such a fund would align the Town with the practices prescribed by the Massachusetts Department of Revenue.

ARTICLE 11: APPROPRIATE FOR PUBLIC, EDUCATIONAL, AND GOVERNMENT (PEG) PROGRAMMING

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$671,850 for the purpose of funding and supporting public, educational and government (PEG) programming provided by the Needham Channel, said sum to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The purpose of this article is to appropriate funds to make payments to the Needham Channel during FY2024. Because of the timing with the receipt of the funds, the Town must identify an alternative funding source for the year and the Town will effectively be reimbursed by the payments received from the cable companies. The cable companies make payment quarterly based on their collections. The Town would pay out no more than what is received from the cable companies. The payments to the Needham Channel would not occur until after the payments are received from the cable companies each quarter.

ARTICLE 12: ESTABLISH OPIOID SETTLEMENT STABILIZATION FUND

To see if the Town will vote to establish an Opioid Settlement Stabilization Fund in accordance with the fourth paragraph of M.G.L. Chapter 40, Section 5 which allows the dedication, without further appropriation, of 100% of the monies received by the Town related to the opioid settlement and credited to the fund for opioid recovery and mitigation programs, effective for fiscal year 2024 beginning on July 1, 2023; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: As a result of a nationwide settlement with opioid distributors that will result in funds being distributed to the Commonwealth, the Town of Needham will receive annual funding for the next 30 or so years. These funds must be used on programming for prevention, harm reduction, treatment, and recovery. The Opioid Stabilization Fund is a mechanism for setting aside the funds for future appropriation by Town Meeting.

ARTICLE 13: APPROPRIATE TO OPIOID SETTLEMENT STABILIZATION FUND

To see if the Town will vote to raise, and/or transfer and appropriate the sum of \$217,288 to the Opioid Settlement Stabilization Fund, as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

Article Information: The appropriation amount is equal to that which the Town has received during FY2023 which would be before the creation of the special stabilization fund (previous article) and therefore must be appropriated by Town Meeting specifically to the fund to ensure the monies are reserved for the intended purposes.

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given into our hands at Needham aforesaid this 28th day of March 2023.

Marianne B. Cooley, Chair
Marcus A. Nelson, Vice Chair
Kevin Keane, Clerk
Matthew D. Borrelli, Member
Heidi Frail, Member

Select Board of Needham

A TRUE COPY

Attest:

Constable:

TOWN MEETING
Status of Articles 4.5.2023

#	Article	Status	SB Position	FC Position	SB	FC	CPC	Planning
	ANNUAL TOWN MEETING							
1	Annual Town Election							
2	Committee and Officer Reports							
3	Establish Elected Officials' Salaries			Adopt				
4	Appropriate for Needham Property Tax Assistance Program			Adopt				
5	Appropriate for Public Facilities Maintenance Program			Adopt				
6	Appropriate for Small Repair Grant Program			Adopt				
7	Appropriate for Compensated Absences Fund			Adopt				
8	Appropriate for Outside Recruitment Services			Adopt				
9	Appropriate for Temporary Staffing Services			Adopt				
10	Appropriate for Town-Owned Land Surveys			Adopt				
11	Appropriate for Fleet Refurbishment			Adopt				
12	Appropriate the FY2024 Operating Budget			Adopt				
13	Appropriate the FY2024 Sewer Enterprise Fund Budget			Adopt				
14	Appropriate the FY2024 Water Enterprise Fund Budget			Adopt				
15	Authorization To Expend State Funds for Public Ways			Adopt				
16	Set the Annual Department Revolving Fund Spending Limits			Adopt				

TOWN MEETING
Status of Articles 4.5.2023

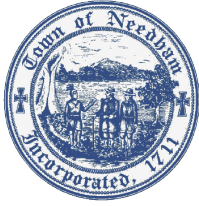
#	Article	Status	SB Position	FC Position	SB	FC	CPC	Planning
17	Amend Zoning By-Law – Accessory 3-Car Garage Use in Single Residence B, General Residence, Business, and Industrial Districts			No Position Taken				
18	Amend Zoning By-Law – Accessory Dwelling Units (ADUs)			Article Not be Adopted				
19	Amend Zoning By-Law – Corrective Zoning Amendments			No Position Taken				
20	Amend Zoning By-Law – Single Residence B And General Residence Side Setback			No Position Taken				
21	Appropriate to Community Preservation Fund			Adopt				
22	Appropriate to Community Preservation Fund Supplement			Adopt				
23	Appropriate for Needham Housing Authority Seabeds Cook Preservation			Adopt				
24	Appropriate for DeFazio Playground Design			Adopt				
25	Appropriate for General Fund Cash Capital			Adopt				
26	Appropriate for Fire Ladder Truck			Adopt				
27	Appropriate for Rooftop Unit Replacement			Adopt				
28	Appropriate for Quiet Zone			RATM				
29	Appropriate for Public Works Infrastructure			Adopt				
30	Appropriate for Sewer Enterprise Fund Cash Capital			Adopt				
31	Appropriate for Water Enterprise Fund Cash Capital			Adopt				

TOWN MEETING
Status of Articles 4.5.2023

#	Article	Status	SB Position	FC Position	SB	FC	CPC	Planning
32	Appropriate for Water System Distribution Improvements – South Street			Adopt				
33	Rescind Debt Authorization			Adopt				
34	Appropriate to Athletic Facility Improvement Fund			Adopt				
35	Stormwater Stabilization Fund			RATM				
36	Town Hall Saturday Hours			RATM				
37	Amend General By-Laws – Non-Criminal Dispositions			No Position Taken				
38	Amend General By-Laws – Transportation Committee			No Position Taken				
39	Citizens Petition			No Position Taken				
40	Omnibus			RATM				
	SPECIAL TOWN MEETING							
1	Fund Collective Bargaining Agreement – Needham Fire Union			Adopt				
2	Home Rule Petition to Exempt Fire Department From Civil Service			Adopt				
3	Amend the FY2023 Operating Budget			RATM				
4	Appropriate to Capital Improvement Fund			RATM				
5	Appropriate to Capital Facility Fund			RATM				
6	Appropriate to Athletic Facility Improvement Fund			RATM				
7	Appropriate to Debt Service Stabilization Fund			RATM				
8	Amend Town Charter – Personnel Board			RATM				

TOWN MEETING
Status of Articles 4.5.2023

#	Article	Status	SB Position	FC Position	SB	FC	CPC	Planning
9	Amend General By-Law/Personnel Board			RATM				
10	Public, Educational, and Government (PEG) Access and Cable Related Fund Acceptance			Adopt				
11	Appropriate For Public, Educational, and Government (PEG) Programming			Adopt				
12	Establish Opioid Settlement Stabilization Fund			Adopt				
13	Appropriate to Opioid Settlement Stabilization Fund			Adopt				

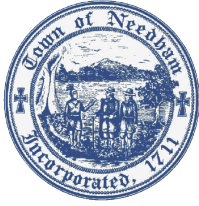


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Town Manager's Report
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	The Town Manager will update the Board on issues not covered on the agenda.
2.	VOTE REQUIRED BY SELECT BOARD
	N/A – Discussion Only
3.	BACK UP INFORMATION ATTACHED
	None



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Open Meeting Law Complaint
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Board was notified about a complaint filed with the Office of the Attorney General by Joseph Abruzese alleging that the Board deliberated outside of a public meeting. In accordance with M.G.L. c. 30A, the Board is required to make a decision and issue a response to the complaint within 14 business days.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion:</i> That the Board authorize Town Counsel to prepare and submit a response to the Open Meeting Law complaint.	
3.	BACK UP INFORMATION ATTACHED
a. Open Meeting Law Complaint filed by Joseph Abruzese	



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Joseph Last Name: Abruzese

Address: 30 Bridle Trail Road

City: Needham State: MA Zip Code: 02492

Phone Number: +1 (617) 871-9150 Ext.

Email: jabruzese02492@gmail.com

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Needham Select Board, Needham MA

Specific person(s), if any, you allege committed the violation: Marianne Cooley, Marcus Nelson, Kevin Keane, Heidi Frail, Matthew Borrelli

Date of alleged violation: Mar 6, 2023

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

See attached letter.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

See attached letter.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: _____

4/3/23

Joseph Abruzese
30 Bridle Trail Road
Needham, MA 02492
jabruzese02492@gmail.com
(617) 429-3964

April 3, 2023

The Division of Open Government
Office of the Attorney General
One Ashburton Place – 20th Floor
Boston, MA 02108
openmeeting@state.ma.us

To the Office of the Attorney General:

I am filing an open meeting complaint against the Needham Select Board for deliberating outside a public meeting regarding a Development Agreement with Northland Residential and a letter from Attorney Dan Hill. This took place in March 2023.

Background

The Development Agreement pertains to a controversial and complex transaction between the Town of Needham and Northland Residential for a 40B LIP¹ project in a Rural Residence-Conservation District. The Select Board published a draft of the 126-page Development Agreement on February 27, 2023 with the intent of voting on it the next day at its meeting.

Attorney Dan Hill representing a group of 30 neighbors of the project sent the Select Board a detailed letter shortly before its meeting on February 28 regarding the numerous ways in which the Development Agreement unnecessarily left Needham exposed to significant risks. During the February 28, 2023 Select Board meeting, the Board conversed with a representative of Northland regarding the project but, acknowledging that the five Select Board members all just got the 126-page Development Agreement and the Attorney Hill letter raising questions about provisions of that agreement, they reserved deliberation and a vote about the Development Agreement for a meeting they set up a few days later.

On March 6, 2023 at the Select Board meeting, in the space of 9 minutes, without any substantive discussion taking place in public, the Chair indicated that the Select Board was going to ignore the concerns raised in the letter from Attorney Hill because Attorney Hill had not identified his clients (who were noticeably in attendance at the meeting) by name and because the fact that the clients are neighbors to the project suggests that their intentions are suspect. The Board then unanimously voted to authorize the Town Manager to sign the 126-page Development Agreement.

It is impossible to imagine that there was no deliberation about what to do regarding the letter from Attorney Hill or about the substance of a Development Agreement binding the Town in such a significant manner that led to the unanimous vote. That deliberation did not take place in public in violation of Open Meeting laws.

¹ Local Initiative Program, a state program that encourages the creation of affordable housing within the intent of M.G.L. Ch. 40B

Supporting Facts

1. Outside of a public meeting, the Select Board decided that it was in the Town's best interests to enter into an agreement with Northland Residential wherein the town is sponsoring a LIP project for a 70-unit luxury condominium complex with just 5% affordable housing in a Rural Residence-Conservation District. The Town of Needham is paying Northland Residential \$2.5 million and providing its support and concessions in exchange for two 3-acre lots and a larger meadowland to be used for conservation and recreation.
2. The Select Board created and negotiated this concept over the course of 12 months utilizing executive sessions under Purpose 6 to shield even that the Town was interested in finding a way to purchase the property and that the Select Board had decided to enter into an arrangement with Northland for a LIP project in order to accomplish the Select Board's goal.
3. The Public was first informed of this proposed transaction via a press release on September 9, 2022.
4. On October 24, 2022 at 3:17pm, the Select Board published an 11-page draft Development Agreement to the public, less than 3 hours before a Special Town Meeting on the matter.
5. On October 24, 2022 at 6:00pm, a Special Town Meeting was held where the Select Board asked Town Meeting members to authorize the use of \$2.5 million for the Development Agreement, without supporting details or a P&S from the developer. The Finance Committee and many Town Meeting members and residents expressed significant concerns with the lack of supporting documentation. Many meeting members and residents were upset that the Select Board had fashioned this entire transaction outside of a public meeting and gave no notice to the neighbors of the property. Regardless, the warrant passed Town Meeting.
6. On February 27, 2023, the Select Board published a revised 126-page draft Development Agreement to the public, 1 day before a Select Board meeting on the matter.
7. On February 28, 2023, the Select Board received a letter from Dan Hill, of Hill Law, representing over thirty abutters and neighbors. The letter enumerates 17 concerns with specific provisions in the Development Agreement which unnecessarily exposed the Town of Needham to risks and/or were more favorable to Northland than they needed to be. Attorney Hill recommended that the Development Agreement be modified to better protect the Town of Needham.
8. On February 28, 2023 at 6:00pm, the Select Board held a meeting and received updates from Northland on its development plan. There was no deliberation of the terms of the Development Agreement. The Board agreed to meet again in 6 days.
9. On March 6, 2023, the Select Board held a meeting to vote on the Development Agreement.
 - a. In that meeting, the Board acknowledged that the Agreement in hand was not the final copy and that other changes were pending. The changes were not discussed in the public meeting.
 - b. The Board acknowledged receipt of the letter from Attorney Hill but did not discuss or reference any points or recommendations in the letter. Furthermore, Attorney Hill's letter was omitted from the meeting packet that was published to the public.

- c. Prior to taking a vote, the Select Board Chair asked for comments from Board members. The statements from the Board members were:

"It's a wonderful deal for the Town"

"It's the culmination of a year and a half... it's going to be something special... it took a while to get done"

"It's a good deal... I had been sympathetic to arguments that the town could get stuck with the short end of the stick... I did some homework and talked to family members who are attorneys and I think this is a good deal"

"Yeah I agree"

- d. The Board unanimously voted 5-0 to approve the Development Agreement. The entire meeting and process took 9 minutes.

It is unacceptable that such a complex Development Agreement, especially for the development of a LIP in a Rural Residence Conservation Zone, was not discussed in open meeting. Additionally, it is inexplicable that they voted quickly and unanimously to accept the Agreement in a draft form without any questions from Board members, and without discussing any constructive recommendations that were provided to them by Attorney Hill or others. One can only conclude that Board members must have deliberated about this matter outside of an open public meeting.

Furthermore, the Chair of the Select Board has stated her opinion that all Board votes should be unanimous in an effort to present unity to the public. Accordingly it appears discussions were had outside of public meetings in order to align Board members' March 6 votes on the Development Agreement.

Conducting deliberations outside of public meeting and publishing critical documents at the last minute is a pattern with regard to this LIP project. The entire transaction - not just monetary negotiations or other matters that required confidentiality - was created under the cover of Purpose 6 over the period of at least a year. It appears the Select Board is intentionally violating Open Meeting law to avoid opposition or input from residents.

I request that the Select Board take the following actions:

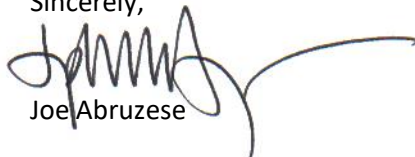
1. Publicly acknowledge the Select Board violated Open Meeting Law.
2. Disclose all discussions between Select Board members regarding this transaction, including serial discussions related to support and opposition on the Development Agreement, and discussions on voting on the Development Agreement. Include all communications that took place using a 3rd-party intermediary or a collector of information (such as the Town Manager).
3. Disclose all discussions between any Select Board member and Northland Residential regarding the negotiation of the Development Agreement terms and conditions.
4. Disclose Select Board's correspondence with Attorney Dan Hill regarding his February 28, 2023 letter.

5. Publish Attorney Dan Hill's letter on the Town website alongside the other existing documentation for this transaction. The website is <https://www.needhamma.gov/5317/Castle-Farm-Property-Acquisition>
6. Release executive session minutes on the matter per Massachusetts General Laws, Chapter 30A, Section 22 which states, *"...When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed..."* and *"...if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed..."* The executive sessions include those held on the following dates:

October 6, 2021	February 22, 2022	April 26, 2022
November 20, 2021	March 8, 2022	May 24, 2022
December 14, 2021	March 22, 2022	July 26, 2022
January 25, 2022	April 13, 2022	
7. Discontinue discussing and/or deliberating matters such as the Development Agreement in private sessions away from open meetings and public view.
8. Commit to disclosing documents to the public at least 2 weeks in advance of a potential vote.

Thank you for your attention to this matter and for your support of the Open Meeting Law.

Sincerely,



Joe Abruzese

cc: Marianne Cooley, Chair Needham Select Board
Theodora K. Eaton, Town Clerk

mcooley@needhamma.gov
teaton@needhamma.gov

Enclosures:

- Letter from Attorney Dan Hill to the Needham Select Board, dated February 28, 2023
- Draft Development Agreement between the Town of Needham and Northland Residential, dated February 27, 2023



February 28, 2023

**BY ELECTRONIC MAIL: KFitzpatrick@needhamma.gov
AND FIRST-CLASS MAIL**

Needham Select Board
Needham Town Hall
1471 Highland Avenue
Needham, MA 02492

Re: Castle Farm Development Agreement with Northland Residential

Dear Members of the Select Board:

This firm represents over thirty abutters and neighbors to the so-called "Castle Farm" property identified as Assessors' Parcel 199-304-2, and the two undeveloped lots identified as Assessors' Parcels 304-4 and 304-5 (collectively, the "Castle Farm Land"). We understand that at the Board's meeting tomorrow's night, the Board will be discussing a draft Development Agreement with Northland Residential, LLC concerning the acquisition and development of the Castle Farm Land.

We have reviewed the draft Development Agreement that was made publicly available earlier today, and wish to share our concerns, both generally with the proposed layout of the "residential cluster development," and with the specific terms of the Agreement that are disadvantageous to the Town.

A. Overall Concerns with the Proposed Cluster Development.

Based on our review of the Development Agreement and our recent discussions with Northland's principal, Jack Dawley, we understand that Northland is proposing to develop roughly half of the Land for a 70-unit "age targeted" residential condominium, and would sell the remaining land to the Town for open space preservation and recreation. While we appreciate those public benefits, the neighbors are justifiably concerned with the impacts of such a dense residential development that is out of scale with the surrounding land use density, as well as predictable impacts on pedestrian and vehicular safety on Charles River Street.

The current development proposal calls for proposed roads and buildings to be concentrated on the western side of the Castle Farm Land, closest to the Whitman Road neighbors, with a "wall" of condominium buildings set back just 100 feet from those neighbors. There is more land to work with on the eastern side of the Land, closer to the existing driveway that serves the house at 478 Charles River Street. Shifting the buildings and infrastructure farther east could be accomplished without compromising a buffer around the existing house at #478.

We met with Mr. Dawley last week, and encouraged him to sharpen his site design pencil and provide a **200-foot open space (“no touch”) buffer** along Whitman Road to the maximum extent possible. We also seek binding assurances that Whitman Road will never become an access point for a 70-unit condominium development, whether it is restricted as “emergency” access or not. Disruption of the easement area between 100 and 120 Whitman Road for utility installation should be minimized to the greatest extent practicable.

Further, the neighbors can attest to the peril that bicyclists, runners and hikers face every day travelling on the shoulder of Charles River Street. The Board should consider using the Development Agreement as an opportunity to negotiate a mitigation package with Northland, to share in the costs of making Charles River Street safe for the new residents, which could include provisions for sidewalks and a crosswalk to access the Ridge Hill properties and the future riverfront recreation area.

B. Concerns with Specific Development Agreement Provisions.

Our overall impression of the draft Development Agreement is that it is more advantageous to Northland than it should or needs to be given the Town’s bargaining position. Northland’s 70-unit residential project is entirely dependent on the Town’s discretionary cooperation; it needs zoning relief that can only be provided through a Chapter 40B comprehensive permit. Northland needs the Town’s cooperation on the comprehensive permit because of two factors – the Town has already met its statutory obligation under Chapter 40B and therefore can deny comprehensive permit applications with impunity, and Northland’s prerogative to provide only 5% of the 70 units as affordable could only be accommodated through a “local initiative program” project under which municipal assent is required. In short, Northland needs the Town’s cooperation, and therefore the Town need not, and should not, settle on inferior contractual language.

The following draft contractual provisions are concerning, and should be modified:

§2. This section implies that Northland has “sole discretion” to proceed with its 70-unit housing development, but the Town’s acquisition of the 28-acres of open space is contingent on Northland pursuing and obtaining permits for that project. Further, the Select Board is agreeing to provide support in the form of an endorsement of the LIP project eligibility application with only a 5% affordability component – the Select Board should in exchange have assurances that Northland will proceed, or at least have some form of recourse if Northland abandons the project, such as a right of assignment of the p&s agreement with the Foster parties.

§2(c). The obligation to file the LIP application to DHCD within 60 days should be on Northland, not on the Select Board, where most of the substance of the application must be provided by Northland.

§4. There does not need to be a deadline or any time pressure for the Town to request EOEEA approval of the conservation restriction on the ANR Lots, nor for the recording of the restriction. The Town should not impose such a burden on itself, especially before knowing whether Northland will live up to all of its obligations under this Agreement, which extend well

beyond when the restriction would be recorded under this language. Once a conservation restriction is imposed, it is nearly impossible to unwind.

§5. The Development Agreement contemplates that the conceptual plan for the 70-unit project would be developed at a later date. We respectfully suggest that the conceptual layout should be agreed upon now, not later. The locations of the buildings, roads and other infrastructure are of utmost importance to the neighbors, and should be to the Board as well. This section should require Northland to design and develop the project consist with a concept plan that is agreed to now. As discussed above, the plan shown in Exhibit F should be modified to provide a greater buffer on the west side of the site.

§5(d). This section requires Northland to implement traffic mitigation measures recommended in the traffic study that Northland commissions. Instead, this section should require Northland to implement mitigation that the *Town's* traffic engineers and consultants recommend, and that mitigation should be identified now, not be left open-ended. There is no reason why the Board cannot not retain a traffic engineer now to evaluate the impacts of a 70-unit project on the existing road network, and on pedestrian safety.

§5(e). The "buffer" provisions in the Agreement are woefully inadequate and contain so many exceptions to make them meaningless. First, the Kettyle lot has a very long, narrow strip of land running from Charles River Street to the house. It is unnecessary for the 70-unit project to have a 120-foot buffer along this strip of land, which is far removed from the Kettyle house. Instead, the project should be shifted east, closer to the eastern property boundary where there are no homes, and farther from the multiple homes on Whitman Road. Second, for all the exceptions from what is prohibited in the "buffer" areas, the buffer requirement is effectively a setback, not a buffer. Instead, the Board should insist on a real buffer, one in which no activity or encroachment is allowed.

§7. The Agreement should not have a definite term, with an expiration date, especially one that ends before Northland's obligations will be completed. The Agreement should remain open until all obligations have been satisfied, and there is simply no reason to cut this short. A term only provides Northland with a possible defense for not performing on its obligations.

§8. The termination provisions allow Northland to walk away after it obtains the benefits of this contract from the Town, but before it incurs its obligations. For example, under the draft language Northland could obtain development approvals, but then decide unilaterally to terminate the agreement if an appeal is brought by a third party. At the very least, this section should provide that if Northland terminates the agreement, it must also relinquish all the benefits it received under the contract, including any and all development permits issued by the Town. Under the current language, Northland is not precluded from continuing to build the 70-unit project after terminating and releasing itself from having to transfer the open space to the Town.

§9. This section contains a "severability" clause that provides that if one part of the contract is deemed invalid for whatever reason, it does not infect the rest of the contract, and that the rest of the contract is still enforceable. This could be materially detrimental to the Town if for

whatever reason the provision declared invalid is the requirement for Northland to convey the open space and ANR Lots to the Town. Under that scenario, the Town would lose all of the benefits but Northland would retain all of its benefits. Instead, this section should provide that if any part of the Agreement is determined invalid, the contract must be re-written so that the remaining provisions are fair to both parties.

§10. The assignment provisions are problematic for several reasons. First, Northland should not be permitted to assign its rights and obligations under this Agreement prior to its purchase of the Land to a “nominee” without the nominee executing an amendment of this Agreement under which it agrees to be bound by all of its terms. Otherwise, the Town would be left with having to enforce a contract with a party with whom it has no privity. Second, and relatedly, an assignment after Northland’s purchase of the Land should only be permitted under the same condition, and notice of the Agreement should be recorded at the Registry of Deeds so that all subsequent owners are on constructive notice of its obligations. Under Section 21, such notice is only recorded with the Seller’s consent, which is not within the Town’s control. Saying that the contract “shall run with the title” is meaningless unless the contract is actually in the chain of title to the property.

§14. This “force majeure” clause confers no benefit on the Town, and only provides Northland with another potential means of avoiding its contractual obligation with such vague language as “other events beyond the party’s reasonable control.” There is no conceivable event that would prevent Northland from performing its obligations, and therefore this should be deleted.

§16. This provision attempts to significantly limit Northland’s liability by narrowing the Town’s recourse in the event that Northland breaches this Agreement (“heads I win, tails you lose”). The Town should not accept this – if Northland breaches, the Town’s hands should not be tied.

* * *

The Development Agreement is an opportunity to craft a master plan with binding obligations for the development of this special tract of land on the Charles River. There are many interests at stake, and the neighbors fully recognize the benefits of a partnership with a responsible real estate developer to achieve the Town’s land preservation objectives, which we share. However, the master plan should also ensure minimal disruption to the existing neighborhood, and protect against unintended public safety threats. We look forward to working with the Board and Northland to achieve this master plan and to ensure a responsible development.

Very truly yours,



Daniel C. Hill

cc: Chris Heep, Town Counsel
Jack Dawley, Northland
Clients

DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”), dated as of [REDACTED], 2023 (the “Effective Date”) is made by Northland Residential Corporation, a Massachusetts corporation and/or its designee (“Northland”) and the Town of Needham, a municipal corporation of the Commonwealth of Massachusetts (the “Town”), acting by and through its Select Board. The Town and Northland are hereinafter collectively referred to as the “Parties.”

Reference is made to the following facts:

- A. Northland entered into a Purchase and Sale Agreement with an effective date of December 1, 2022 (as may be amended, the “Northland PSA”), a copy of which is attached hereto as Exhibit A, to purchase a property known as Castle Farm and located at 0 and 484 Charles River Street in Needham, Massachusetts (the “Property”);
- B. The Property consists of three separate parcels of land: (i) 484 Charles River Street (Assessors’ Parcel 199-304-2), containing approximately 55.8 acres (the “House Lot”); (ii) 0 Charles River Street (Assessors’ Parcel 199-304-4), containing approximately 3.02 acres; and (iii) 0 Charles River Street (Assessors’ Parcel 199-304-5), containing approximately 3.05 acres (Assessors’ Parcels 199-304-4 and 199-304-5 are hereinafter collectively referred to as the “ANR Lots”) each as more particularly described on Exhibit B-1 and Exhibit B-2 attached hereto and with each such description having been confirmed by the Town and Seller (defined below) pursuant to the Agreement entered into on _____, 2023 (the “Property Line Agreement”), a copy of which is attached hereto as Exhibit C.
- C. Northland intends to acquire the Property, subject to the Northland PSA, in order to implement a clustered land use development plan upon the Property involving (i) the development of a residential project consisting of seventy (70) townhome condominium units as further described herein (the “Cluster Development Plan”) on an approximately twenty-eight and eight-tenths (28.8) acre portion of the House Lot (the “Northland Parcel”) shown as “Lot 1” on Exhibit D and (ii) the conveyance to the Town of Needham of approximately thirty-three (33) acres of land, consisting of the ANR Lots and the remaining approximately twenty-seven (27) acres of the House Lot shown as “Parcel A” on Exhibit D (the “Town Parcel”), as authorized by a vote of Needham Town Meeting on October 24, 2022 (the “Town Meeting Authorization”);
- D. Under the terms of the Northland PSA, Northland intends to acquire the Property in two installments. On the date of the first installment closing, Northland will purchase the ANR Lots pursuant to the terms of the Northland PSA. On the date of the second installment closing, Northland will purchase the House Lot pursuant to the terms of the Northland PSA. The Northland PSA was structured in this manner to provide the seller (“Seller”) with a portion of the purchase price set forth in the Northland PSA (the amount attributable to ANR Lots) before Northland obtains all permits and approvals needed to construct the Cluster Development Plan, which is a condition of Northland’s closing on the remainder of the Property (the House Lot);
- E. To facilitate Northland’s capitalization and acquisition of the ANR Lots, prior to purchasing the ANR Lots, Northland intends to record a so-called “Approval Not Required” plan pursuant to M.G.L. c.41, §81P with the Norfolk County Registry of Deeds (the “Registry”), dividing the two ANR Lots into a total of five (5) legal lots (the

“Northland ANR Lots Plan”) as depicted on the plan titled “A.N.R. Plan of Land” prepared by Merrill Engineers and Surveyors, dated February 9, 2023, a copy of which is attached as Exhibit E. Northland intends to hold the ANR Lots in their current undeveloped state, and convey them to the Town in that form, upon its acquisition of the House Lot. With the exception of recording the Northland ANR Lots Plan, provided Northland purchases the House Lot pursuant to the Northland PSA, Northland does not intend to develop the ANR Lots;

- F. Prior to and as a condition of purchasing the House Lot, Northland intends to obtain all necessary final and effective permits and approvals as further detailed in Section 2 of this Agreement (collectively, the “Development Approvals”), in order to demolish the existing buildings and improvements presently located on the Property and to develop the Cluster Development Plan as conceptually shown on a plan titled Castle Farm Parcels, Open Space Concept Plan, dated December, 1 2022 attached hereto as Exhibit F (the “Concept Plan”);
- G. Upon purchasing the House Lot, Northland intends to convey the Town Parcel and the ANR Lots to the Town for Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00) (the “Purchase Price”) pursuant to the Town Meeting Authorization and in accordance with the terms of the Town PSA (defined below); and
- H. The Town and Northland mutually agree to enter into this Agreement to formalize the agreement between the Parties.

NOW THEREFORE, in consideration of the mutual commitments of the Parties contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, on behalf of themselves, their successors and assigns, hereby covenant and agree as follows:

1. Purchase and Sale Agreement for the Town Parcel and ANR Lots. Upon execution of this Development Agreement, Northland and the Town shall simultaneously execute the purchase and sale agreement attached hereto as Exhibit G for the sale by Northland to the Town of the Town Parcel and ANR Lots for the Purchase Price, contingent on Northland’s purchase of the Property and in accordance with the Town Meeting Authorization (the “Town PSA”).
2. Development Approvals. Pursuant to the Northland PSA, Northland’s obligation to purchase the House Lot (and to sell the ANR Lots and the Town Parcel to the Town) is contingent upon Northland having obtained all of the Development Approvals necessary to actually obtain a building permit to finance and construct the Cluster Development Plan on the Northland Parcel. For purposes of this Agreement, the Development Approvals consist of all final and effective governmental approvals, variances, entitlements and the like including, without limitation and to the extent required, the Northland ANR Lots Plan and Town Parcel Plan (defined herein) endorsed by the Needham Planning Board, a Site Eligibility Letter from Massachusetts Department of Housing and Community Development (“DHCD”) or other applicable state subsidized housing agency, a Local Initiative Program (“LIP”) application to DHCD or other applicable state subsidized housing agency, an Order of Conditions from the Needham Conservation Commission, review and certification(s) pursuant to the Massachusetts Environmental Policy Act and regulations (“MEPA”), a sewer connection permit from the Town of Needham or MWRA, and a Comprehensive

Permit pursuant to M.G.L. c.40B, §§20-23 from the Needham Zoning Board of Appeals, such that Northland may elect in its sole discretion to proceed with the development of the Cluster Development Plan.

- a. The Northland ANR Lots Plan. Northland may record the Northland ANR Lots Plan with the Registry in order to capitalize its acquisition of the ANR Lots. Accordingly, within sixty (60) days of the Effective Date, Northland shall submit the Northland ANR Lots Plan dividing the two (2) ANR Lots into up to five (5) lots of sufficient size to satisfy the Town of Needham Zoning By-law's current minimum lot size and frontage requirements to the Planning and Community Development Department for endorsement of the Planning Board, which, following endorsement, Northland may cause to have recorded with the Registry.

Upon acquisition of the ANR Lots, Northland shall maintain the ANR Lots in their current undeveloped state pending their sale to the Town. During this time, with the exception only of recording the Northland ANR Lots Plan with the Registry, Northland shall not take any affirmative steps to develop the ANR Lots for residential purposes or otherwise (e.g., filing for any permits or approvals authorizing development of, or construction on, the ANR Lots) until it conveys the ANR Lots to the Town, or the Agreement is terminated per Section 8 of this Agreement.

In the event either of the Parties terminates this Agreement pursuant to the terms hereof following Northland's acquisition of the ANR Lots, the Town shall have the exclusive option to purchase the ANR Lots from Northland for Five Million Dollars (\$5,000,0000), which is the same price paid by Northland to the Sellers, during the Exclusive Option Period (defined below). This option may be exercised by the Town within ninety (90) of the date of termination of this Agreement (the "Exclusive Option Period"). The Parties acknowledge that this option to purchase is a failsafe provision to allow for protection of the ANR Lots in their current undeveloped state in the event the Parties, despite best efforts, are not able to complete the acquisition of the entire Property on the terms otherwise set forth in this Agreement. Notwithstanding the foregoing, during the Exclusive Option Period, Northland may prepare plans and submit applications to the Town or other government authority for a building permit or any other approval required to construct a single-family residential home on each of the five (5) lots following the final date of the Exclusive Option Period.

Nothing contained in this section is intended to affect the terms of the Town's acquisition of the Town Parcel and ANR Lots as detailed in Section 3, below. The provisions of this Section 2(a) shall survive any termination of this Agreement for the duration of the Exclusive Option Period.

Upon the expiration of the Exclusive Option Period or delivery of written notice that the Town does not intend to exercise its option to purchase the ANR Lots, whichever occurs sooner, Northland shall, at its discretion, be entitled to develop any and all of the lots as depicted on the endorsed Northland ANR Lots Plan.

- b. The Town Parcel Plan. Northland has prepared a draft of a so-called "Approval Not Required" plan dividing the House Lot into two lots as shown on Exhibit D

(the “Town Parcel Plan”) as the “Town Parcel” (comprised of approximately twenty-seven (27) acres of land) and the “Northland Parcel” (comprised of approximately twenty-eight and eight-tenths (28.8) acres of land). Given that the Town Parcel does not have frontage on a way, it is shown on the Town Parcel Plan as “not a buildable lot” in order to make the plan eligible for endorsement pursuant to M.G.L. c.41, §81P.

Upon execution of this Agreement, Northland shall finalize, file and obtain the endorsement of the Town Parcel Plan by the Needham Planning Board.

To the extent revisions to the Town Parcel Plan are necessary to obtain endorsement pursuant to M.G.L. c.41, §81P, the Parties shall cooperate on such revisions subject to the principle that the Town and Northland shall each be entitled to approximately 50% of the area of the House Lot. The Parties shall therefore cooperate on the placement of any new property line dividing these two lots to ensure that the area of each is, to the greatest extent practicable, equal.

- c. Project Eligibility Letter Application. Upon entering into this Agreement, the Select Board and Town Manager shall cooperate with Northland in the preparation, review and completion of a LIP Project Eligibility Letter application for the Cluster Development Plan which the Town Manager shall, within sixty (60) days of the Effective Date, submit to the DHCD for review and approval. Cooperation by the Town shall include, without limitation, signing the DHCD LIP application for the seventy (70) townhome condominium units Cluster Development Plan, providing a letter of support for the application, and timely responding to any questions and comments from DHCD in the course of its review. To the extent the DHCD review process presents unanticipated issues relative to issuance of a Project Eligibility Letter, the Parties agree to work collaboratively, within the limits of their respective resources and abilities, to resolve such issues in furtherance of the development of the Cluster Development Plan.
 - d. Status Updates: Within five (5) business days of the date on which Northland receives written notice from the Town, which may come in the form of electronic mail, requesting a list of all outstanding Development Approvals and the current status for each, Northland shall provide the Town with a such a list and status update.
3. Conveyance of the ANR Lots and Town Parcel. Upon Northland acquiring the entire Property, Northland shall convey the Town Parcel and ANR Lots to the Town for the Purchase Price pursuant to the Town PSA.
 4. Conservation Restriction on ANR Lots. As soon as practically feasible following the conveyance by Northland of the ANR Lots and the Town Parcel to the Town, the Town shall prepare, review with the Massachusetts Executive Office of Energy and Environmental Affairs (“EEA”) and ultimately record a conservation restriction on the ANR Lots (a “Conservation Restriction”) for the benefit of an entity qualified under Massachusetts law to enforce the Conservation Restriction providing that the ANR Lots shall be maintained in their current, natural, scenic and open condition, on the same terms as detailed in the Declaration of Restrictions attached to the Town PSA. Notwithstanding the foregoing, the Town shall cause the Conservation Restriction to

be recorded with the Registry on or before the date that is twelve (12) months following the date on which Northland conveys the ANR Lots and the Town Parcel to the Town. This date to record the Conservation Restriction may be extended by Northland only if, despite the Town's diligent efforts, the EEA has not yet granted final approval of the Conservation Restriction.

5. The Cluster Development Plan. The Cluster Development Plan shall consist of seventy (70) residential condominium units, developed in a combination of triplexes, duplexes and single unit buildings. Conceptual site and architectural plans reflecting the general configuration and details of the Cluster Development Plan shall be developed and finalized in the course of review of the Cluster Development Plan plans and specifications by the Needham Zoning Board of Appeals ("ZBA") and, ultimately, in the issuance by the ZBA of a Comprehensive Permit pursuant to M.G.L. c.40B, §§20-23 and shall consist of, among other things, the following:
 - a. *Affordable Housing Units.* Five percent (5%) of the units, rounded up, within the Cluster Development Plan shall be constructed onsite and designated as affordable units (the "Affordable Units"), available to eligible households earning no more than 80% of Area Median Income such that these Affordable Units count upon the Town's Subsidized Housing Inventory as "SHI Units". The Affordable Units shall consist of a mix of two- and three-bedroom homeownership units in accordance with applicable DHCD policy and requirements.
 - b. *Access.* Access to the Cluster Development Plan shall be provided via a new private access driveway from Charles River Street east of Whitman Road as shown conceptually on Exhibit F. The new private access driveway shall include a connection to the existing common driveway located upon the Property to provide for emergency access/egress only, inclusive of the placement of a fire access gate, designed and located with input from the Needham Fire Department and which shall be reflected on the plans approved by the ZBA in granting a Comprehensive Permit for the Cluster Development Plan.
 - c. *Water & Sewer.* The Parties agree to cooperate in facilitating access and the provision of municipal services for the Cluster Development Plan. The Town acknowledges the following: (i) there is a municipal water service connection to serve the Cluster Development Plan that ties in at (a) the municipal line within Charles River Street and (b) the existing service line currently servicing the Property, which runs from Whitman Road to the Property; and (ii) there will be sewer service to the Cluster Development Plan provided by reservation of an easement for a new sewer line connection across the Town Parcel from the Northland Parcel to allow for a connection to the existing municipal and/or MWRA sewer lines located along the Charles River.
 - d. *Traffic.* As part of the Comprehensive Permit filing to the ZBA for the Cluster Development Plan, Northland shall prepare a traffic impact analysis ("TIA") that includes analysis of (a) the traffic impacts that are associated with the Cluster Development Plan, (b) traffic conditions along Charles River Street and (c) site line distances at the Cluster Development Plan access road curb cut at Charles River Street. Northland agrees to complete, at its sole cost and expense, the traffic and pedestrian improvements specified in the TIA. The design of these improvements

may be reviewed in the course of the Comprehensive Permit review process by an independent traffic engineer hired on behalf of the ZBA to ensure the adequacy of these improvements to maintain safe traffic conditions along the corridor and provide for safe travel by residents, employees and visitors of the Cluster Development Plan.

- e. *Neighborhood Buffers.* The Cluster Development Plan shall include the following buffer areas which shall be largely free from clear cutting of trees except as specifically required for such items as road layout, stormwater management, or provision of underground utilities. Such buffer areas shall be setback areas that, as may be conditioned by the Development Approvals, are further specified to be kept in a well maintained, wooded condition with (i) invasive species controlled, (ii) deadwood removed, and (iii) new supplemental planting established to maintain and enhance vegetated screening of the Cluster Development Plan from abutting properties.
 - i. **Buffer from Charles River Street:** There shall be a two hundred (200) foot buffer area established between the shared boundary line of the layout of Charles River Street and the Northland Parcel and any new buildings included as part of the Cluster Development Plan. Within this two hundred (200) foot buffer area, Northland may construct the proposed access drive.
 - ii. **Buffer from the Whitman Road Neighborhood:** There shall be a one hundred (100) foot buffer area established between the shared common property line between any existing residential lot and any improvements included as part of the Cluster Development Plan.
 - iii. **Buffer from Kettyle Lot:** There shall be a one hundred twenty (120) foot buffer established along the shared property line that separates the Northland Parcel from the Kettyle Lot as such shared property line is shown on the concept plans.

Except as supplemented by additional landscaping, these buffer areas shall be land left in its natural state suitably landscaped and maintained in harmony with the terrain of the site, its environs and character of the surrounding neighborhood except as provided herein. Northland shall use commercially reasonable efforts to minimize the amount of clearing performed in connection with any of the work or improvements allowed within the buffer areas such as road layout, stormwater management, or provision of underground utilities.

With the exception of the proposed access drive in the buffer from Charles River Street, these buffer areas shall not be used for parking or roadways, but may include permeable paths and walkways. The buffer areas may be used for passive outdoor recreational purposes and for the installation and maintenance of underground utility services and for the coursing or temporary retention of storm drainage, which may require grading work. No structures shall be erected or maintained in a buffer area except as may be reasonably necessary for and incidental to the use of the buffer area as approved by the Zoning Board of Appeals, such as lampposts, benches, distribution panels or boxes, small sheds, stone landscape or retaining walls and decorative fences.

- f. Modifying the Cluster Development Plan or Concept Plan: Pursuant to Section 12 of this Agreement, the Parties must amend this Agreement (i) to increase the overall number of units, (ii) to decrease the minimum percentage of affordable units, (iii) to relocate the proposed access from Charles River Street, or (iv) to make any other material change to the Cluster Development Plan or Concept Plan not otherwise authorized or required by the Development Approvals.
6. Town Authority. Nothing contained in this Agreement shall limit, control, or affect the authority of any other Town board, commission, department or official to carry out their respective powers and duties, or to decide upon and issue, deny, and/or condition applicable permits and other approvals within their jurisdiction in connection with review of the Cluster Development Plan, the Northland ANR Lots Plan, or any other approval within the jurisdiction of the Town. Notwithstanding the foregoing, Northland reserves the right to terminate this Agreement as set forth in Section 8, below.
7. Term. The term of this Agreement shall commence on the Effective Date and end on the date on which a final certificate of occupancy is issued by the Town for the Cluster Development Plan, unless sooner terminated pursuant to the terms hereof (the "Termination Date"). The Parties agree to execute a notice of termination of this Agreement (the "Termination of Notice of Contract") and record the Termination of the Notice of Contract with the Registry within five (5) business days of the Termination Date. The form of Termination of Notice of Contract is attached hereto as Exhibit H.
8. Termination. This Agreement shall terminate and no longer be of force or effect in the following circumstances:
- (i) the Parties fail to enter into the Town PSA pursuant to this Agreement; or
 - (ii) Northland delivers a written termination notice to the Town notifying the Town of its termination of the Northland PSA with respect to the purchase of Property, the ANR Lots or the House Lot portion thereof; or
 - (iii) Northland delivers a written termination notice to the Town notifying them of its termination of the Northland PSA and any of the following:
 - a. Northland concludes that, despite its diligent and good faith efforts, it is unable or unlikely to timely secure any of the Development Approvals necessary to construct the Cluster Development Plan pursuant to the Northland PSA;
 - b. Any appeal has been made of one of the Development Approvals;
 - c. Northland concludes that any of the terms and conditions imposed by the Development Approvals presents a material impediment to the successful planning, financing, development or operation of the Cluster Development Plan; or
 - d. Northland concludes that it will be unable to secure financing for the Cluster Development Plan subject to terms and conditions reasonably acceptable to Northland.

In the event Northland has already acquired the ANR Lots pursuant to the Northland PSA prior to any termination of this Agreement, it shall have no further obligation to sell the ANR Lots to the Town beyond the Exclusive Option Period provided for in Section 2.a above, which shall survive termination of this Agreement.

9. Applicable Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, then the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties to this Agreement, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the Parties. The Parties hereby consent to jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the County of Norfolk.
10. Assignment. This Agreement shall not be assigned by either of the Parties except as set forth herein.
 - a. *Assignment by Northland.* Prior to the acquisition of the Property, except for an assignment to Northland's nominee (which is permitted without consent from the Town), this Agreement shall not be assigned by Northland without the prior written approval of the Needham Select Board. After the acquisition of the Property, the Parties agree that Northland may (i) establish a residential condominium association to govern the Cluster Development Plan upon the Northland Parcel and Northland may freely transfer condominium units to third party purchasers; and (ii) transfer all of the Northland Parcel to another entity ("New Entity"), subject to the Northland's and the New Entity's acknowledgement that:
 - a) This Agreement shall run with title to the Northland Parcel and shall be binding upon Northland insofar as it is the owner of the Northland Parcel, and each of its successors or assigns as to the obligations which arise under this Agreement during their respective periods of ownership of the Northland Parcel and/or their respective interest in thereof, provided that any predecessor-in-title shall be forever released from this Agreement upon procuring a written acknowledgment from its immediate successor, addressed to the Town, acknowledging and agreeing that such successor-in-title is bound by the terms of this Agreement and that this Agreement shall be enforceable against such successor by the Select Board with respect to such successor's interest; and
 - b. *Assignment by the Town.* After the Town's acquisition of the ANR Lots and the Town Parcel, the Parties agree that (i) this Agreement shall run with title to the ANR Lots and the Town Parcel and shall be binding upon the Town insofar as it is the owner of the ANR Lots and the Town Parcel, and each of its successors or assigns as to the obligations which arise under this Agreement during their

respective periods of ownership of either or both of the ANR Lots and Town Parcel and/or their respective interest in thereof, provided that any predecessor-in-title shall be forever released from this Agreement upon procuring a written acknowledgment from its immediate successor, addressed to Northland, acknowledging and agreeing that such successor-in-title is bound by the terms of this Agreement and that this Agreement shall be enforceable against such successor by Northland with respect to such successor's interest.

11. Notices. All notices or requests concerning this Agreement shall be in writing, and addressed to the parties as follows:

Town:

Kate Fitzpatrick, Town Manager
Town of Needham
1471 Highland Avenue
Needham, MA 02492
Telephone: (781) 455-7500
Email: kfitzpatrick@needhamma.gov

with a copy to:

Christopher H. Heep, Esq.
Miyares and Harrington LLP
40 Grove Street Suite 190
Wellesley, MA 02482
Telephone: (617) 489-1600
Email: cheep@miyares-harrington.com

Northland:

John C. Dawley, President
80 Beharrell Street, Suite E
Concord, MA 01742
Telephone: (781) 229-4700
Email: jdawley@northlandresidential.com

With a copy to:

Peter L. Tamm, Esq.
Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Telephone: (617) 574-7891
Email: ptamm@goulstonstorrs.com

and:

Marcus Errico Emmer Brooks PC
45 Braintree Office Park, Suite #107
Braintree, MA 02184
Attention: Matthew W. Gaines, Esq.
Email: mgaines@meeb.com

12. Entire Agreement. This Agreement sets forth the entire agreement of the Parties with respect to the subject matter thereto and supersedes any prior agreements, discussions or understandings of the Parties and their respective agents and representatives. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This Agreement may be modified only in a written instrument signed by all Parties. Amendments to the terms of this Agreement may be agreed to on behalf of the Town by its Select Board.
13. Forbearance from Suit. The Parties shall forego any actions at law or equity attempting to contest the validity or prevent the enforceability of any provision(s) of this Agreement, and such forbearance shall bind any successor or assign. Such forbearance shall not preclude either party to this Agreement from bringing any action for breach of contract on the part of the other party or acts of intentional misconduct with respect to matters contemplated herein.
14. Force Majeure. The Parties shall not be in breach of this Agreement for so long as they are unable to complete any work or take any action required hereunder due to a *force majeure* event or other events beyond the Party's reasonable control.
15. Default; Opportunity to Cure. Failure by either Northland or the Town to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting party fails to commence to cure, correct or remedy such failure within fifteen (15) days of receipt of written notice of such failure from the other party and thereafter fails to complete such cure, correction, or remedy within sixty (60) days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such sixty-day period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting party exercises due diligence in the remedying of such default. Notwithstanding the foregoing, Northland shall cure any monetary default hereunder within thirty days following the receipt of written notice of such default from the Town.
16. Northland Obligations. The obligations of Northland do not constitute personal obligations of their members, trustees, partners, directors, officers or shareholders, or any direct or indirect constituent entity or any of their affiliates or agents. The Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. The liability of Northland is in all cases limited to its interest in the Property or portion thereof at the time such liability is incurred and shall not extend to any other portion of the Property for which the Town has assumed responsibility pursuant to this Agreement. In the event that all or any portion of the Northland Parcel is subjected to a condominium regime or a long-term ground lease, the condominium association or the ground lessee, as applicable, shall be deemed to be the owner/New Entity of the affected portion of the Northland Parcel.
17. Estoppels. Each party to this Agreement agrees, from time to time, upon not less than twenty-one days' prior written request from the other, to execute, acknowledge and deliver a statement in writing certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, setting them forth in

reasonable detail); (ii) that the party delivering such statement has no defenses, offsets or counterclaims against its obligations to perform its covenants hereunder (or if there are any of the foregoing, setting them forth in reasonable detail); (iii) that there are no uncured defaults of either party under this Agreement (or, if there are any defaults, setting them forth in reasonable detail); and (iv) any other information reasonably requested by the party seeking such statement. If the party delivering an estoppel certificate is unable to verify compliance by the other party with certain provisions hereof despite the use of due diligence, it shall so state with specificity in the estoppel certificate, and deliver an updated estoppels certificate as to such provisions as soon thereafter as practicable. Any such statement delivered pursuant to this section shall be in a form reasonably acceptable to, and may be relied upon by any, actual or prospective purchaser, tenant, mortgagee or other party having an interest in the Property. The Town Manager is hereby authorized to execute and deliver any such estoppel certificate on behalf of the Select Board.

18. Cooperation. The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with the development of the Cluster Development Plan or the implementation of the goals and objectives of this Agreement.
19. Compliance. Upon its purchase of the Property, Northland acknowledges and agrees that the Town, operating through its officers and employees and upon advance notice to Northland, shall have the right to enter the Northland Parcel during the construction period until the Cluster Development Plan is completed with advance notice to Northland, as reasonably necessary to inspect to confirm compliance with the terms of this Agreement.
20. Counterparts; Signatures. This Agreement may be executed in several counterparts and by each party to this Agreement on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes.
21. Record Notice. A notice of this Agreement in the form attached hereto as Exhibit I (the “Notice of Contract”) shall be recorded on title to the Property with the Registry with the Seller’s consent.

In the event this Agreement is amended, modified or terminated, the Parties agree to record notice of such amendment, modification or termination in a form reasonably acceptable to Parties with the Registry.
22. No Third-Party Beneficiaries. Notwithstanding anything to the contrary in this Agreement, the Parties do not intend for any third party to be benefitted hereby.
23. Representations and Warranties. The Parties respectively represent and warrant that:
 - a. Each is duly organized and existing and in good standing, has the full power, authority and legal right to enter into and perform this Agreement, and the execution, delivery and performance hereof and thereof (i) will not violate any judgment, order, law, bylaw or regulation, and (ii) do not conflict with, or constitute

a default under, any agreement or instrument to which they are a party or by which either party may be bound or affected; and

- b. This Agreement has been duly authorized, executed and delivered; this Agreement constitutes legal, valid and binding obligations of each party, enforceable in accordance with its terms; there is no action, suit or proceeding pending or, to the knowledge of any party, threatened against or affecting either wherein an unfavorable decision, ruling or finding would materially adversely affect the performance of any obligations hereunder, except as otherwise specifically noted in this Agreement.

(The remainder of this page is intentionally left blank.)

DRAFT

Executed as of the Effective Date.

Northland Residential Corporation

John C. Dawley, President

Town of Needham

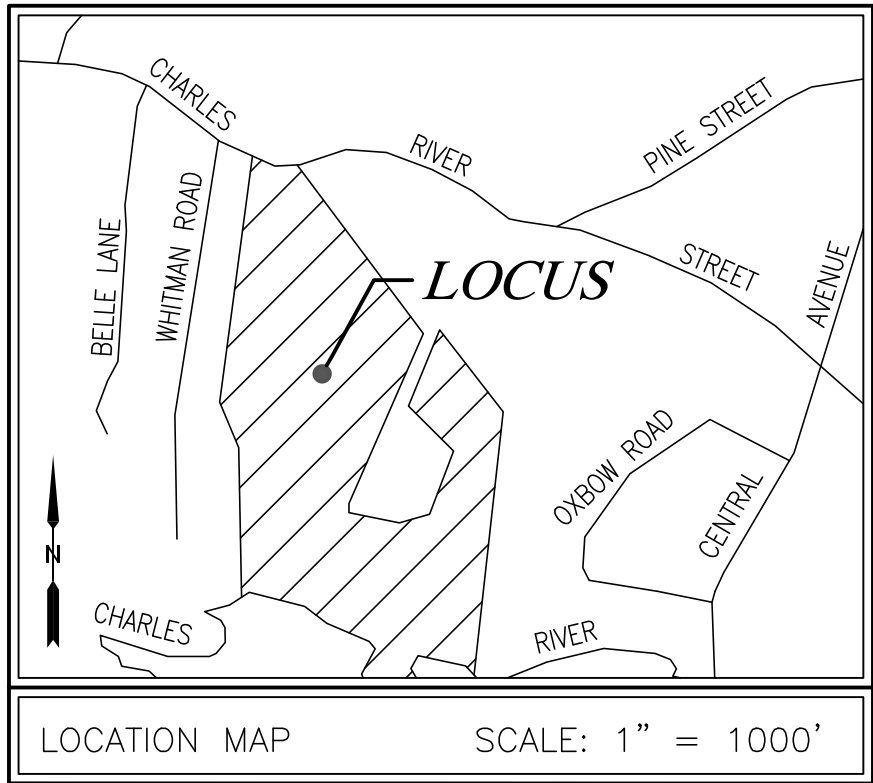
Kate Fitzpatrick, Town Manager

Exhibits

- Exhibit A: Copy of Northland PSA
- Exhibit B-1: House Lot Plan
- Exhibit B-2: The ANR Lots Plan
- Exhibit C: Property Line Agreement
- Exhibit D: Town Parcel Plan
- Exhibit E: Northland ANR Lots Plan
- Exhibit F: Castle Farm Parcels, Open Space Concept Plan, dated December 1, 2022
- Exhibit G: Town PSA
- Exhibit H: Form of Termination of Notice of Contact
- Exhibit I: Form of Notice of Contract

Exhibit A
Copy of Northland PSA
(attached)

Exhibit B-1
The House Lot Plan
(attached)

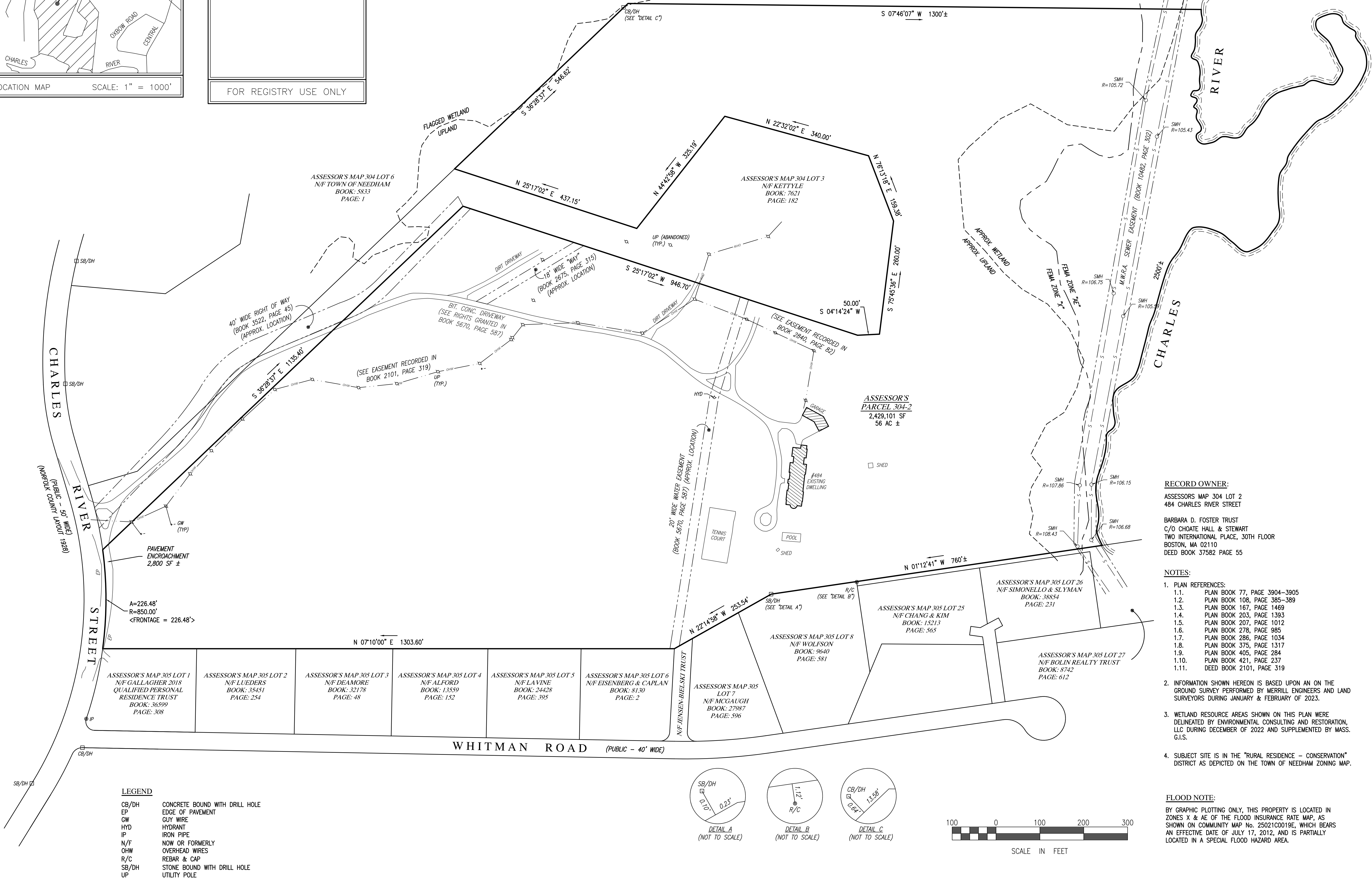


FOR REGISTRY USE ONLY

I CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES SHOWING EXISTING OWNERSHIPS AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIPS OR FOR NEW WAYS ARE SHOWN.

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

ROBERT E. GUGLIOTTA, P.L.S. DATE ROBERT E. GUGLIOTTA, P.L.S. DATE



RECORD OWNER:

ASSESSORS MAP 304 LOT 2
484 CHARLES RIVER STREET

BARBARA D. FOSTER TRUST
C/O CHOATE HALL & STEWART
TWO INTERNATIONAL PLACE, 30TH FLOOR
BOSTON, MA 02110
DEED BOOK 37582 PAGE 55

NOTES:

- PLAN REFERENCES:
 - PLAN BOOK 77, PAGE 3904-3905
 - PLAN BOOK 108, PAGE 385-389
 - PLAN BOOK 167, PAGE 1469
 - PLAN BOOK 203, PAGE 1393
 - PLAN BOOK 207, PAGE 1012
 - PLAN BOOK 278, PAGE 985
 - PLAN BOOK 286, PAGE 1034
 - PLAN BOOK 375, PAGE 1317
 - PLAN BOOK 405, PAGE 284
 - PLAN BOOK 421, PAGE 237
 - DEED BOOK 2101, PAGE 319
- INFORMATION SHOWN HEREON IS BASED UPON AN ON THE GROUND SURVEY PERFORMED BY MERRILL ENGINEERS AND LAND SURVEYORS DURING JANUARY & FEBRUARY OF 2023.
- WETLAND RESOURCE AREAS SHOWN ON THIS PLAN WERE DELINEATED BY ENVIRONMENTAL CONSULTING AND RESTORATION, LLC DURING DECEMBER OF 2022 AND SUPPLEMENTED BY MASS. G.I.S.
- SUBJECT SITE IS IN THE "RURAL RESIDENCE - CONSERVATION" DISTRICT AS DEPICTED ON THE TOWN OF NEEDHAM ZONING MAP.

FLOOD NOTE:

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONES X & AE OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25021C0019E, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 2012, AND IS PARTIALLY LOCATED IN A SPECIAL FLOOD HAZARD AREA.

merrillinc.com

REVISIONS:

DRAWN BY: REG

DESIGNED BY:

CHECKED BY: BKL

DRAFT



427 Columbia Road
Haverhill, MA 02339
781-626-9200

40 Court Street, Ste 2A
Plymouth, MA 02360
508-746-6060

687 Main Street
Norwell, MA 02061
781-659-8167

448 N. Falmouth Highway Unit A
North Falmouth, MA 02556
508-563-2183

PROJECT # 22-737

PROJECT:
PLAN OF LAND
CHARLES RIVER STREET
NEEDHAM
MASSACHUSETTS

CLIENT:
NORTHLAND RESIDENTIAL
CORPORATION
80 BEHARRELL STREET
CONCORD, MA 01742

DRAWING TITLE:

DATE:
FEBRUARY 10, 2023

SHEET 1 of 1
© Merrill Corporation

Exhibit B-2
ANR Lots Plan
(attached)

FLOOD NOTE:

THIS PROPERTY IS LOCATED IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25021C0019E, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 2012, AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

RECORD OWNER:

ASSESSORS PARCEL 304-4
0 CHARLES RIVER STREET

ASSESSORS PARCEL 304-5
0 CHARLES RIVER STREET

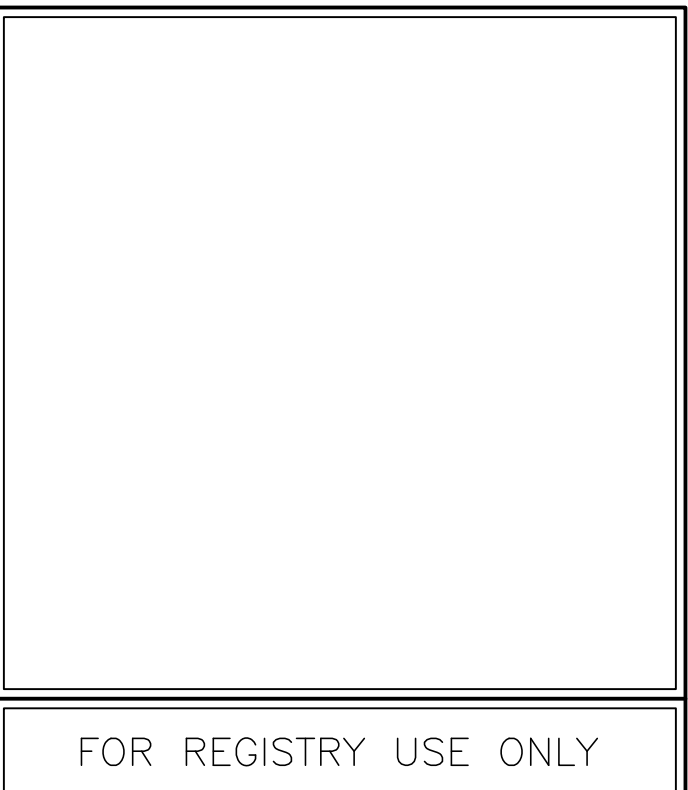
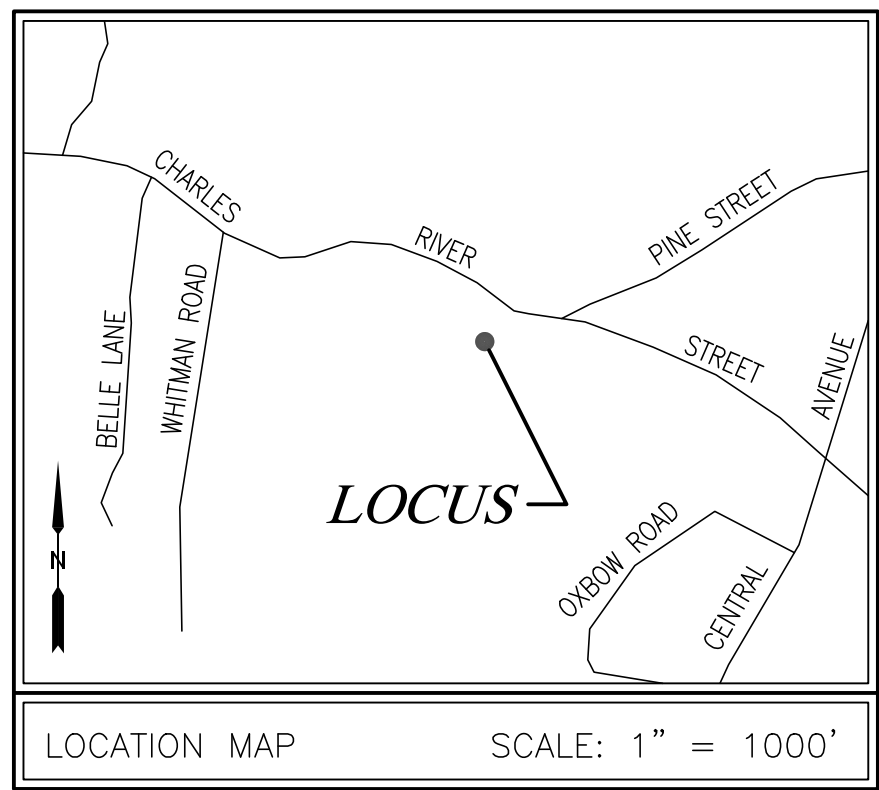
CHARLES H. W. FOSTER
C/O CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE, 30TH FLOOR
BOSTON, MA 02110
DEED BOOK 4055 PAGE 646

LEGEND

IP IRON PIPE
SB/DH STONE BOUND WITH DRILL HOLE

NOTES:

- PLAN REFERENCES:
 - PLAN #385 OF 1928
 - PLAN #1034 OF 1980
 - REGISTERED LAND PLAN #19692B
- INFORMATION SHOWN HEREON IS BASED UPON AN ON THE GROUND SURVEY PERFORMED BY MERRILL ENGINEERS AND LAND SURVEYORS DURING DECEMBER OF 2022.
- WETLAND RESOURCE AREAS SHOWN ON THIS PLAN WERE DELINEATED BY ENVIRONMENTAL CONSULTING AND RESTORATION, LLC DURING DECEMBER OF 2022 AND FIELD LOCATED BY MERRILL ENGINEERS AND LAND SURVEYORS.
- SUBJECT SITE IS IN THE "RURAL RESIDENCE - CONSERVATION" DISTRICT AS DEPICTED ON THE TOWN OF NEEDHAM ZONING MAP.
- ALL MONUMENTS FOUND WITHIN 0.05' OF RECORD POSITION UNLESS OTHERWISE DETAILED.



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REVISIONS:

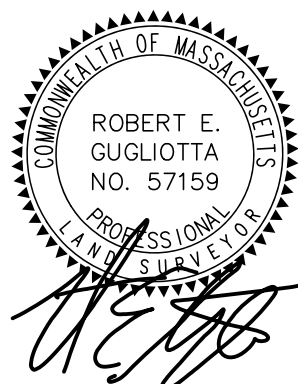
DRAWN BY:

REG

DESIGNED BY:

CHECKED BY:

BKL



427 Columbia Road
Haverhill, MA 02339
781-826-9200

40 Court Street, Ste 2A
Plymouth, MA 02360
508-746-6060

Marine Division:
26 Union Street
Plymouth, MA 02360
508-746-6060

687 Main Street
Norwell, MA 02061
781-659-8167

448 N. Falmouth Highway Unit A
North Falmouth, MA 02556
508-563-2183

PROJECT #:

22-737

PROJECT:

PLAN OF LAND
CHARLES RIVER STREET
NEEDHAM,
MASSACHUSETTS

CLIENT:

NORTHLAND RESIDENTIAL
CORPORATION
80 BEHARRELL STREET
CONCORD, MA 01742

DRAWING TITLE:

PLAN OF LAND

DATE:

JANUARY 4, 2023

SHEET 1 of 1
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THIS DRAWING IS THE PROPERTY OF MERRILL CORPORATION AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR OTHERWISE USED FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN CONSENT OF MERRILL CORPORATION. ANY REPRODUCTION OR USE OF THIS DRAWING WITHOUT THE WRITTEN CONSENT OF MERRILL CORPORATION SHALL BE AT THE USER'S RISK AND WITHOUT LIABILITY TO MERRILL CORPORATION.

I CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES SHOWING EXISTING OWNERSHIPS AND THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIPS OR FOR NEW WAYS ARE SHOWN.

ROBERT E. GUGLIOTTA, P.L.S.

1/4/2023

DATE

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

ROBERT E. GUGLIOTTA, P.L.S.

1/4/2023

DATE

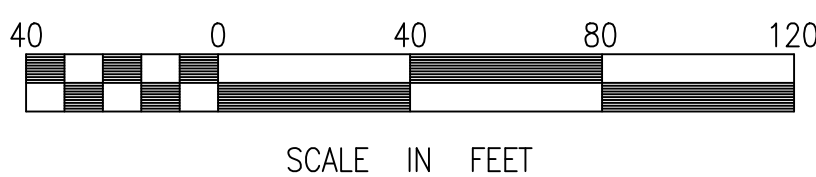


Exhibit C
Property Line Agreement
(attached)

AGREEMENT

This Agreement (the "Agreement") is entered into this ____ day of _____, 2023, by and between **William A. Lowell, Trustee of the Charles H.W. Foster 2000 Trust** u/d/t dated March 15, 2000, for which a Trustee's certificate is recorded herewith (the "Foster Trust") and the **Town of Needham**, a municipal corporation (the "Town").

WHEREAS, the Foster Trust is the owner of two parcels of land situated on Charles River Street, Needham, Massachusetts pursuant to a Quitclaim Deed recorded with the Norfolk Registry of Deeds (the "Registry") in Book 4055, Page 646 (the "Foster Deed"), said parcels being more particularly shown as the two three-acre parcels located on Charles River Street shown on a plan entitled "Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980," prepared by Carmelo Frazetti and recorded with the Registry as Plan 1034 of 1980, at Plan Book 286 (the "1980 Plan") (the "Foster Land");

WHEREAS, the Town is the owner of a certain parcel of land commonly referred to as Ridge Hill Reservation, located off of Charles River Street, Needham, Massachusetts pursuant to a Quitclaim Deed recorded with the Registry in Book 5833, Page 1 (the "Town Deed"), said parcel being more particularly described in said Town Deed (the "Town Land");

WHEREAS, both the Foster Land and the Town Land directly abut each other as shown on the 1980 Plan;

WHEREAS, due to the vague nature of the 1980 Plan with respect to the location of the lot lines separating the Foster Land and the Town Land, coupled with the lack of actual monuments, the exact perimeter boundaries of the Foster Land cannot be established on the ground using the 1980 Plan; and

WHEREAS, the Foster Trust and the Town desire to clarify the exact location of the perimeter boundaries of the Foster Land as it abuts the Town Land by depicting said perimeter boundaries on the New Plan (defined below).

NOW THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties on behalf of themselves, their successors and assigns, do hereby agree as follows:

1. The Foster Trust and the Town hereby agree and acknowledge that the lot lines separating the Foster Land and the Town Land are as shown on that certain plan entitled "Plan of Land Charles River Street Needham, Massachusetts", dated January , 2023, prepared by Merrill Engineers and Land Surveyors, and recorded herewith (the "New Plan"). The Foster Land is depicted as Parcel 304-4 and Parcel 304-5 on the New Plan, and the Town Land is depicted as Parcel 304-6 on the New Plan.

2. Nothing contained herein shall be deemed to affect the location of the easterly perimeter boundary of Parcel 304-5 that abuts property not owned by the Town.

[SIGNATURE PAGES TO FOLLOW.]

Witness the execution hereof under seal this ____ day of _____, 2023.

**William A. Lowell, Trustee of the Charles
H.W. Foster 2000 Trust u/d/t dated March 15, 2000**

COMMONWEALTH OF MASSACHUSETTS

County of _____:

On this ____ day of _____, 2023 before me, the undersigned notary public, personally appeared **William A. Lowell, Trustee of the Charles H.W. Foster Trust u/d/t dated March 15, 2000**, proved to me through satisfactory evidence of identification, which was: _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose and swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge.

Notary Public:
My commission expires:

Witness the execution hereof under seal this ____ day of _____, 2023.

**TOWN OF NEEDHAM, a Massachusetts
Municipal Corporation**

By its Town Manager:

Kate Fitzpatrick, Town Manager

COMMONWEALTH OF MASSACHUSETTS

County of _____:

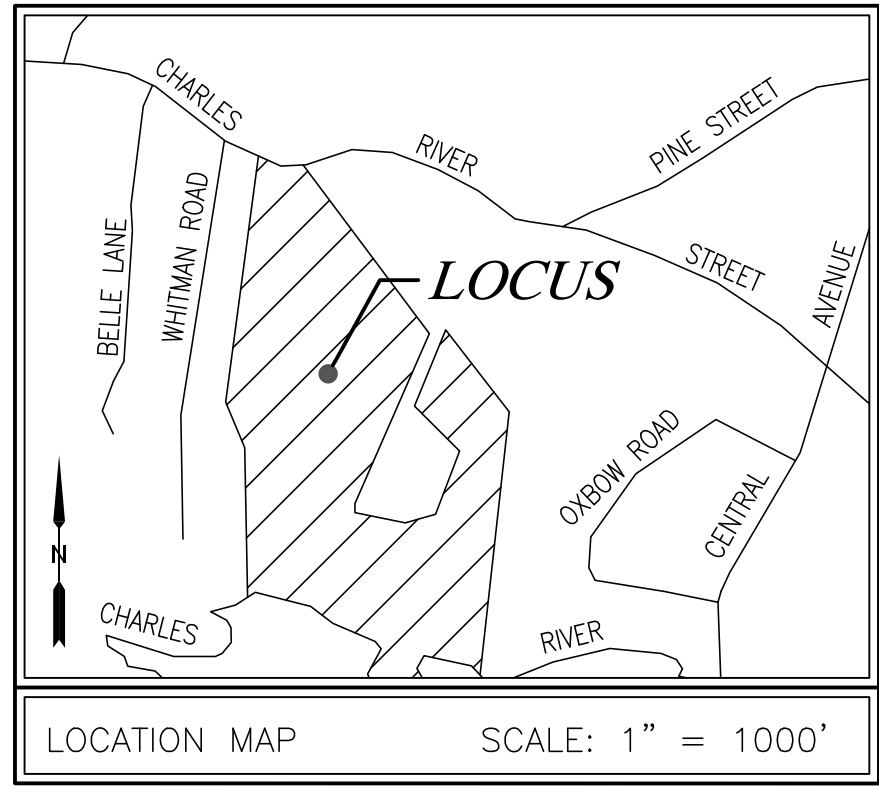
On this ____ day of _____, 2023 before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was: _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she/he signed it voluntarily for its stated purpose as a Member of the Select Board of the Town of Needham, Massachusetts.

Notary Public:
My commission expires

Exhibit D

Town Parcel Plan

(attached)



I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

ROBERT E. GUGLIOTTA, P.L.S. DATE

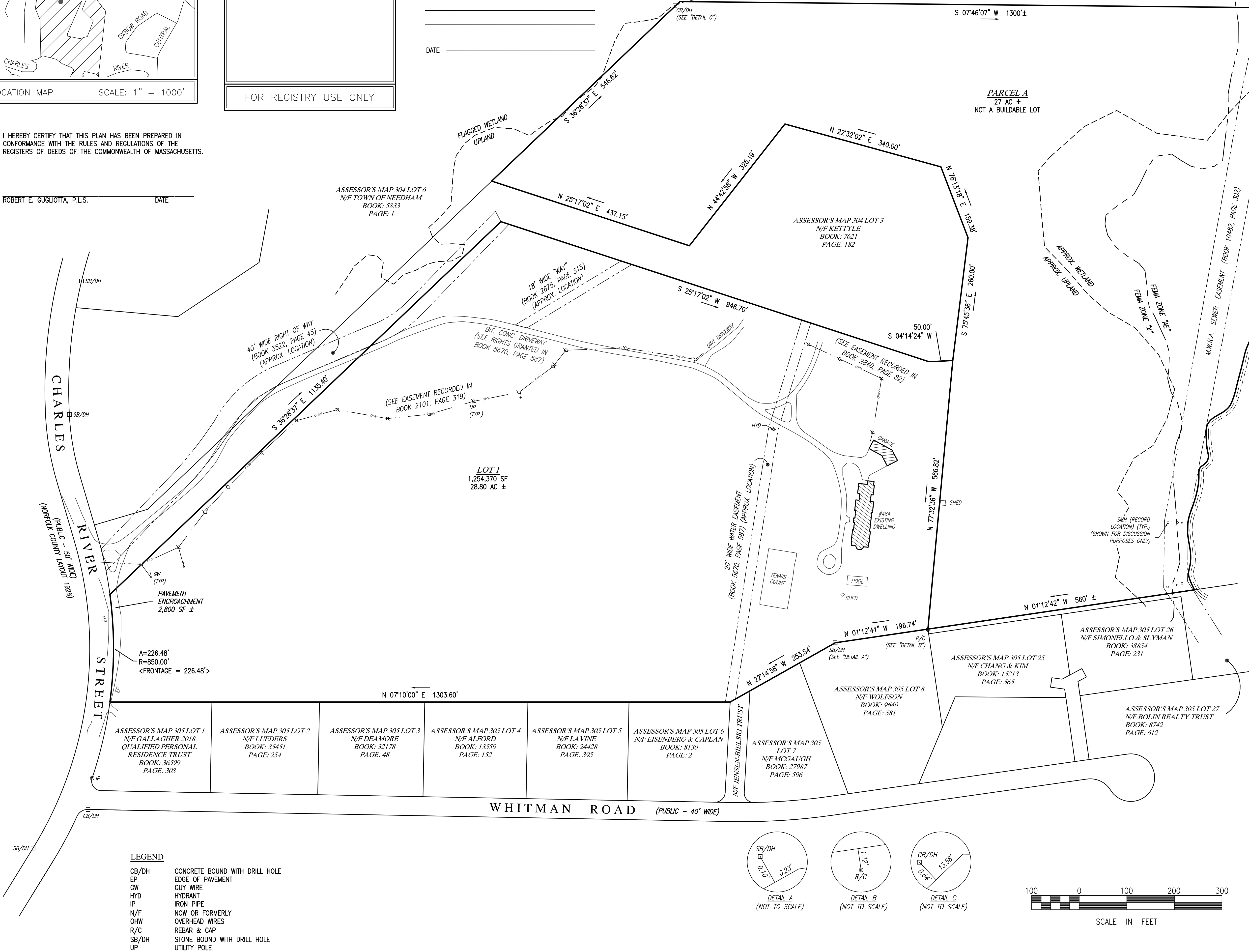
FOR REGISTRY USE ONLY

NEEDHAM PLANNING BOARD

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE _____

PLANNING BOARD ENDORSEMENT OF THIS PLAN INDICATES ONLY THAT THE PLAN IS NOT A SUBDIVISION UNDER M.G.L. CH. 41 SEC. 81L, AND DOES NOT INDICATE THAT THE LOT IS BUILDABLE, OR THAT IT MEETS ZONING, BOARD OF HEALTH, CONSERVATION OR GENERAL BY-LAW REQUIREMENTS. PLANNING BOARD ENDORSEMENT OF THIS PLAN IS NOT A DETERMINATION AS TO CONFORMANCE WITH THE TOWN OF NEEDHAM BYLAWS. NO DETERMINATION AS TO THE COMPLIANCE WITH THE ZONING BYLAW REQUIREMENTS HAS BEEN MADE NOR CAN BE CONSTRUED AS INTENDED BY THIS ENDORSEMENT.



RECORD OWNER:

ASSESSORS MAP 304 LOT 2
484 CHARLES RIVER STREET

BARBARA D. FOSTER TRUST
C/O CHOATE HALL & STEWART
TWO INTERNATIONAL PLACE, 30TH FLOOR
BOSTON, MA 02110
DEED BOOK 37582 PAGE 55

NOTES:

- PLAN REFERENCES:
 - PLAN BOOK 77, PAGE 3904-3905
 - PLAN BOOK 108, PAGE 385-389
 - PLAN BOOK 167, PAGE 1469
 - PLAN BOOK 203, PAGE 1393
 - PLAN BOOK 207, PAGE 1012
 - PLAN BOOK 278, PAGE 985
 - PLAN BOOK 286, PAGE 1034
 - PLAN BOOK 375, PAGE 1317
 - PLAN BOOK 405, PAGE 284
 - PLAN BOOK 421, PAGE 237
 - DEED BOOK 2101, PAGE 319
- INFORMATION SHOWN HEREON IS BASED UPON AN ON THE GROUND SURVEY PERFORMED BY MERRILL ENGINEERS AND LAND SURVEYORS DURING JANUARY & FEBRUARY OF 2023.
- WETLAND RESOURCE AREAS SHOWN ON THIS PLAN WERE DELINEATED BY ENVIRONMENTAL CONSULTING AND RESTORATION, LLC DURING DECEMBER OF 2022 AND SUPPLEMENTED BY MASS. G.I.S.
- SUBJECT SITE IS IN THE "RURAL RESIDENCE - CONSERVATION" DISTRICT AS DEPICTED ON THE TOWN OF NEEDHAM ZONING MAP.
- THE PURPOSE OF THIS PLAN IS TO DIVIDE ASSESSOR'S PARCEL 304-2 INTO LOT 1 AND PARCEL A. PARCEL A IS NOT TO BE CONSIDERED A BUILDABLE LOT.

FLOOD NOTE:

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED IN ZONES X & AE OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25021C0019E, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 2012, AND IS PARTIALLY LOCATED IN A SPECIAL FLOOD HAZARD AREA.

merrillinc.com

REVISIONS:

DRAWN BY: REG

DESIGNED BY:

CHECKED BY: BKL

DRAFT



427 Columbia Road
Haverhill, MA 02339
781-826-9200

40 Court Street, Ste 2A
Plymouth, MA 02360
508-746-6060

Marine Division
26 Union Street
Plymouth, MA 02360
508-746-6060

687 Main Street
Norwell, MA 02061
781-659-8167

448 N. Falmouth Highway Unit A
North Falmouth, MA 02556
508-563-2183

PROJECT #: 22-737

PROJECT:
PLAN OF LAND
CHARLES RIVER STREET
NEEDHAM
MASSACHUSETTS

CLIENT:
NORTHLAND RESIDENTIAL
CORPORATION
80 BEHARRELL STREET
CONCORD, MA 01742

DRAWING TITLE:
A.N.R. PLAN

DATE:
FEBRUARY 10, 2023

SHEET 1 of 1
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Exhibit E

Northland ANR Lots Plan
(attached)

CHARLES H. W. FOSTER
C/O CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE, 30TH FLOOR
BOSTON, MA 02110
DEED BOOK 4055 PAGE 646

THIS PROPERTY IS LOCATED IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, AS SHOWN ON COMMUNITY MAP No. 25021C0019E, WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 2012, AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

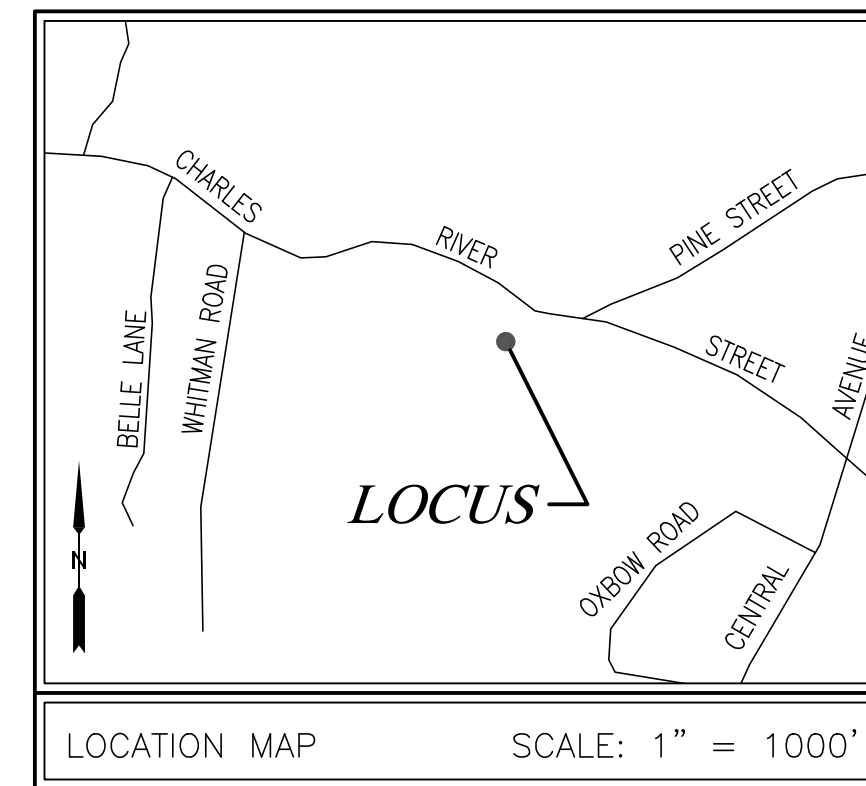
IP IRON PIPE
N/F NOW OR FORMERLY
SB/DH STONE BOUND WITH DRILL HOLE

- 1.1. PLAN #385 OF 1928
- 1.2. PLAN #1034 OF 1980
- 1.3. REGISTERED LAND PLAN #19692B
- 1.4. PLAN ENTITLED "PLAN OF LAND, CHARLES RIVER STREET, NEEDHAM, MASSACHUSETTS" PREPARED BY MERRILL ENGINEERS AND LAND SURVEYORS, DATED JANUARY 4, 2023, TO BE FILED AT THE MIDDLESEX SOUTH COUNTY REGISTRY OF DEEDS.

3. WETLAND RESOURCE AREAS SHOWN ON THIS PLAN WERE DELINEATED BY ENVIRONMENTAL CONSULTING AND RESTORATION, LLC DURING DECEMBER OF 2022 AND FIELD LOCATED BY MERRILL ENGINEERS AND LAND SURVEYORS.

5. ALL MONUMENTS FOUND WITHIN 0.05' OF RECORD POSITION UNLESS OTHERWISE DETAILED.

6. THE PURPOSE OF THIS PLAN IS TO DIVIDE ASSESSOR'S PARCEL 304-4 INTO LOTS 1 & 2, AND TO DIVIDE ASSESSOR'S PARCEL 304-5 INTO LOTS 3, 4 & 5.



FOR REGISTRY USE ONLY

KL



DETAIL A
(NOT TO SCALE)

DETAIL B
(NOT TO SCALE)

LOT 1
66,549 SF (UPLAND AREA)
14,260 SF (WETLAND AREA)
80,809 SF (TOTAL AREA)
1.86 AC ±

LOT 2
50,645 SF
1.16 AC ±
(ALL UPLAND)

LOT 3
44,205 SF
1.01 AC ±
(ALL UPLAND)

LOT 4
45,058 SF
1.03 AC ±
(ALL UPLAND)

LOT 5
43,597 SF
1.00 AC ±
(ALL UPLAND)

ASSESSORS PARCEL 304-1
N/F STAVROPOULOS,
PETER & LISA
CERTIFICATE #170151

NEEDHAM PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION CONTROL
LAW NOT REQUIRED

ASSESSORS PARCEL 304-6
N/F TOWN OF NEEDHAM
BOOK 5833, PAGE 1

ZONING REQUIREMENTS
RURAL RESIDENCE CONSERVATION DISTRICT

AREA*	43,560 SF
FRONTAGE	150 FEET
BUILDING HEIGHT	35 FEET/2.5 STORIES

MINIMUM YARDS:

FRONT	50 FEET
SIDE	25 FEET
REAR	25 FEET

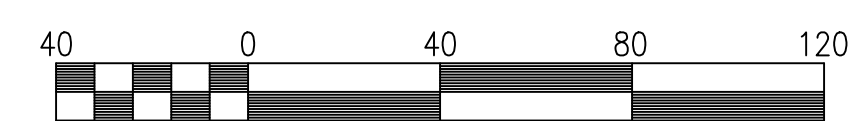
*PER SECTION 4.2.6 OF THE NEEDHAM ZONING BYLAW, NOT MORE THAN A COMBINED TOTAL OF TEN (10) PERCENT OF LAND AREAS SUBJECT TO THE WETLANDS PROTECTION ACT AND THE INLAND WETLANDS ACT, M.G.L., CH. 131, S. 40 AND 40A SHALL BE COUNTED IN CALCULATING THE AREA OF A LOT FOR PURPOSES OF DETERMINING THE MINIMUM LOT AREA IN A RURAL RESIDENCE-CONSERVATION DISTRICT

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN
CONFORMANCE WITH THE RULES AND REGULATIONS OF THE
REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.


ROBERT E. GUGLIOTTA, P.L.S.

2/9/2023

DATE _____



SCALE IN FEET

PROJECT #: 22-737

PROJECT:
A.N.R. PLAN OF LAND
CHARLES RIVER STREET
NEEDHAM,
MASSACHUSETTS

CLIENT:
NORTHLAND RESIDENTIAL
CORPORATION
80 BEHARRELL STREET
CONCORD, MA 01742

DRAWING TITLE:
A.N.R. PLAN OF LAND

DATE:
FEBRUARY 9, 2023

SHEET 1 of 1
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Exhibit F
 Castle Farm Parcels, Open Space Concept Plan, dated December 1, 2022



CASTLE FARM PARCELS
OPEN SPACE CONCEPT PLAN

NORTHLAND RESIDENTIAL CORP

- ANR Lots, 0 Charles River St. - Map/Block 304-4 & 304-5
- House Lot - 484 Charles River St. - Map/Block 304-2

- Legend:**
- CASTLE FARM PARCELS
 - RIDGE HILL RESERVATION
 - SHARED BOUNDARY (EXISTING)

SCALE 100' 0' 200'



• Note: This concept plan is based on public GIS data and aerial imagery and is for illustrative purposes only. (12/1/22)

Exhibit G
Town PSA
(attached)

PURCHASE AND SALE AGREEMENT

This ____ day of _____, 2023

1. PARTIES
AND MAILING
ADDRESSES

NORTHLAND RESIDENTIAL CORPORATION, a Massachusetts corporation having an address of 80 Beharrell Street, Suite E, Concord, Massachusetts 01742, or its successors or assigns, hereinafter called the "**Northland**", agrees to SELL and THE TOWN OF NEEDHAM, a municipal corporation of the Commonwealth of Massachusetts with an address c/o Office of the Town Manager, 1471 Highland Avenue, Needham, MA 02492, hereinafter called the "**Town**", agrees to BUY, upon the terms hereinafter set forth, the following described premises. The Town and Northland are hereinafter collectively referred to as the "**Parties**."

The Town agrees and acknowledges that as of the date of this Agreement, Northland is not the present owner of the Premises and Northland is entering into this Agreement in its authorized capacity as prospective buyer of the Premises pursuant to an agreement with the record title holder of the Premises

2. PREMISES
DESCRIPTION

All that land situated in the Town of Needham, County of Norfolk, Commonwealth of Massachusetts, being (a) known and numbered as (i) 0 Charles River Street (Assessors' Parcel 199-304-4), containing approximately 3.02 acres and (ii) 0 Charles River Street (Assessors' Parcel 199-304-5), containing approximately 3.05 acres (Assessors' Parcels 199-304-4 and 199-304-5 are hereinafter collectively referred to as the "**ANR Lots**"); and (b) that certain portion of the land situated in the Town of Needham, County of Norfolk, Commonwealth of Massachusetts, being known and numbered as 484 Charles River Street (Assessors' Parcels 199-304-2), containing approximately twenty-seven (27) acres (the "**Town Parcel**," and, collectively with the ANR Lots, the "**Premises**"). The ANR Lots and Town Parcel are more particularly described on **Exhibit A** and shown on **Exhibit B-1** and **Exhibit B-2** which are attached hereto and incorporated by reference.

3. BUILDINGS,
STRUCTURES,
IMPROVEMENTS,
FIXTURES

Included in the sale as a part of the Premises are the improvements, if any, now situated thereon.

4. TITLE DEED

Said Premises are to be conveyed by a good and sufficient quitclaim deed in the form attached hereto as **Exhibit C**, and incorporated herein by reference, running to the Town and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- a) Provisions of existing building and zoning laws;
- b) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- c) Any liens for municipal betterments assessed after the date of this agreement; and
- d) Easements, restrictions, reservations and any other matters of record, if any, so long as the same do not prohibit or materially interfere with the current use of said premises as vacant land, and which are listed on that certain Commitment for Title Insurance issued by **WFG National Title Insurance Co.**, attached hereto as **Exhibit D** and incorporated herein by reference (the "**Title Commitment**").

5. EASEMENTS &
RESTRICTIONS

The Town hereby agrees and acknowledges the following:

- (1) The quitclaim deed conveying title of the Premises to the Town shall contain a reservation of certain easements, including but not limited to easements for sewer and/or water utilities, over the Premises necessary for Northland to construct and operate a residential development project (the "**Cluster Development Plan**") as shown in **Exhibit C**.
- (2) Prior to Northland conveying the Premises to the Town, Northland shall record a declaration of restrictions (the "**Declaration of Restrictions**") as shown in **Exhibit E** with respect to each of the ANR Lots.

6. PURCHASE PRICE

The agreed purchase price for the Premises is **TWO MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$2,500,000.00)**, which is to be paid at the time of the delivery of the deed in cash or by electronic transfer of funds.

7. TIME FOR PERFORMANCE;
DELIVERY OF DEED; Such deed is to be delivered to the Norfolk County Registry of Deeds or to office of a mutually agreed upon escrow agent, at or before 2:00 P.M. on the date (the "**Closing Date**") that is five (5) business days after Northland delivers written notice (the "**Closing Notice**") to the Town that certain conditions precedent to closing on the transaction set forth in Section 8 of this Agreement have been satisfied. Northland shall deliver the Closing Notice to the Town no later than five (5) business days after it has acquired title to both the ANR Lots and the Town Parcel. Notwithstanding the foregoing, the Parties agree and acknowledge that the Closing Date shall occur on or before February 28, 2025 (the "**Outside Closing Date**")
8. CONDITIONS PRECEDENT Northland's obligations to consummate the transaction contemplated by this Agreement and Northland's liabilities hereunder are conditioned on the satisfaction at or before the Closing Date, as the case may be, of each of the following conditions (any one or more of which may be waived, in whole or in part by Northland, at Northland's sole option, at any time during the term of this Agreement by delivery of written notice from Northland to the Town, provided that the waiver by Northland of any one condition shall not release the Town from performing all remaining conditions) ("**Conditions Precedent to Northland's Obligations**"):
 - (i) The development agreement (the "**Development Agreement**") between Northland and the Town for the proposed development of the Cluster Development Plan on the parcel shown as the "**Northland Parcel**" on **Exhibit B** remains in full force and effect as of the Closing Date;
 - (ii) Northland shall have acquired title to the ANR Lots and the Town Parcel pursuant to the Purchase and Sale Agreement with an effective date of December 1, 2022 (as may be amended, the "**Northland PSA**"), a copy of which is attached hereto as **Exhibit F**; and
 - (iii) Northland shall have delivered a Closing Notice to the Town.
9. TERMINATION This Agreement shall terminate and no longer be of force or effect if (i) either of the Parties delivers a written termination notice to the other Party notifying them of its termination of the Development Agreement in accordance with the terms thereof or (ii) Northland delivers a written termination notice to the Town notifying the Town that Northland, in its reasonable discretion, has determined that one or more of the Conditions Precedent to Northland's Obligations cannot be satisfied on or before the Outside Closing Date.
10. POST-CLOSING OBLIGATION As soon as practically feasible following the Closing Date, the Town shall prepare, review with the Massachusetts Executive Office of Energy and Environmental Affairs and ultimately record a conservation restriction on the ANR Lots (a "**Conservation Restriction**") for the benefit of an entity qualified under Massachusetts law to enforce the Conservation Restriction providing that the ANR Lots shall be maintained in their current, natural, scenic and open condition, on the same terms as detailed in the Declaration of Restrictions. Notwithstanding the foregoing, the Town shall cause the Conservation Restriction to be recorded with the Registry on or before the date that is twelve (12) months following the date on which Northland conveys the ANR Lots and the Town Parcel to the Town. This date to record the Conservation Restriction may be extended by Northland only if, despite the Town's diligent efforts, the EEA has not yet granted final approval of the Conservation Restriction.
11. POSSESSION AND CONDITION OF PREMISES. Full possession of said Premises is to be delivered at the time of the delivery of the deed, said Premises to be then in the same condition as they now are, reasonable use and wear thereof excepted. The Town shall be entitled personally to inspect the Premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this clause.

12. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM If Northland shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, then Northland shall remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the time for performance hereof shall be extended for a period of thirty (30) days. Northland hereby agrees that title to the Premises shall be delivered in the same condition that such title is in as of the date of this Agreement, the state of which title is more specifically set forth on the Title Commitment, except that Northland shall not be obligated to clear or otherwise cure any encumbrances or liens placed on the Premises between the date of this Agreement and the Closing Date that are contained on the Title Commitment or that arise as a result of the acts or omissions of Town or at the request or with the prior consent of Town, including those certain easements and restrictions described in Section 5 of this Agreement.
13. TOWN'S ELECTION TO ACCEPT TITLE The Town shall have the election, at either the original or any extended time for performance, to accept such title as Northland can deliver to the said Premises in their then condition, in which case Northland shall convey such title.
14. ACCEPTANCE OF DEED The acceptance of a deed by the Town or their nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.
15. INSURANCE Northland may, but is not required to, maintain insurance on the Premises during the period commencing on the date hereof and ending on the Closing Date.
16. ADJUSTMENTS Taxes for the then current fiscal year shall be apportioned as of the day of performance of this Agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the Town at the time of the delivery of the deed.
17. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc. If Northland or the Town executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither Northland or the Town so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.
18. WARRANTIES AND REPRESENTATIONS The Town acknowledges that the Town has not been influenced to enter into this transaction nor have they relied upon any warranties or representations not set forth or incorporated in this Agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either Northland or the Town: None.
19. 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 enures 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 Northland and the Town. If two or more persons are named herein as the Town their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

20. ACCESS TO PREMISES

From and after the date hereof, upon reasonable advance notice to Northland (and in the case of intrusive or invasive investigations, reasonable prior notice shall be two (2) business days prior notice), the Town shall have the right of reasonable access to the Premises from time to time for the purpose of taking measurements, obtaining bids from contractors and engineers. The Town hereby acknowledges and agrees that the Town shall, and does hereby covenant and agree to, repair any and all damage caused by the activities of the Town or its agents on the Premises and to the maximum extent permitted by law to indemnify, defend and hold Northland harmless from any actions, suits, liens, claims, damages, expenses, losses and liability arising out of any such entry by the Town or its appointed agents or independent contractors or any acts performed in exercising the Town's rights under this Section 20 (including, without limitation, any rights or claims of materialmen or mechanics liens on the Premises). The foregoing indemnification shall survive the Closing Date or the termination of this Agreement for a period of twelve (12) months following the Closing Date or such termination. Upon written request of Northland, the Town shall obtain and maintain, at the Town's sole cost and expense, and shall deliver to Northland evidence of, commercial general liability insurance coverage in amounts noted below and naming Northland as an "additional insured."

Before The Town, its agents or representatives enter onto the Premises, the Town shall deliver to Northland a certificate of insurance naming Northland as additional insured, evidencing (A) commercial general liability insurance (including property damage, bodily injury and death) issued by an insurance company having a rating of at least "A-VII" by A.M. Best Company, with limits of at least One Million and 00/100 (\$1,000,000) per occurrence for bodily or personal injury or death and Two Million and 00/100 (\$2,000,000) aggregate per location for any insurance carried by The Town's consultants, agents or representatives, and limits of at least One Million and 00/100 (\$1,000,000) per occurrence for bodily or personal injury or death and Two Million and 00/100 (\$2,000,000) aggregate per location for any insurance carried by the Town for so long as the Town is not actively undertaking any such investigations, but is accompanying consultants, agents or representatives that are actively undertaking such investigations, and (B) excess liability insurance issued by an insurance company having a rating of at least "A-VII" by A.M. Best Company, with a Five Million and 00/100 (\$5,000,000) limit carried by the Town. The Town agrees to conduct and to cause its agents, consultants, employees, contractors and representatives to conduct its investigations and inspections (A) in a safe and professional manner, (B) so as not to create any dangerous or hazardous condition on the Premises, (C) in compliance with all applicable laws, and (D) only after obtaining all permits, if any, required to be obtained with respect to such inspections. For the sake of clarity, the Town and Northland hereby agree that the Town is not required to provide Northland with any studies, reports, investigations or other materials prepared by or for the Town in conjunction with the Town's due diligence investigations of the Premises and the Town shall retain sole ownership of all such materials.

21. NOTICES

All notices or other communications required or provided to be sent by either party shall be in writing and shall be sent by: (i) United States Postal Service, certified mail, return receipt requested, (ii) any nationally known overnight delivery service for next day delivery or (iii) hand. All notices shall be deemed to have been given upon receipt. All notices shall be addressed to the parties at the addresses below:

Town:

Kate Fitzpatrick, Town Manager
Town of Needham
1471 Highland Avenue
Needham, MA 02492
Telephone: (781) 455-7500
Email: kfitzpatrick@needhamma.gov

with a copy to:

Christopher H. Heep, Esq.
Miyares and Harrington LLP
40 Grove Street Suite 190
Wellesley, MA 02482
Telephone: (617) 489-1600
Email: cheep@miyares-harrington.com

Northland:

John C. Dawley, President
80 Beharrell Street, Suite E
Concord, MA 01742
Telephone: (781) 229-4700
Email: jdawley@northlandresidential.com

With a copy to

Peter L. Tamm, Esq.
Goulston & Storrs
400 Atlantic Avenue
Boston, MA 02110
Telephone: (617) 574-7891
Email: ptamm@goulstonstorrs.com

and

Matthew W. Gaines
Marcus, Errico, Emmer & Brooks, P.C.
45 Braintree Hill Office Park, Suite 107
Braintree, Massachusetts 02184
Telephone: 781-843-5000
Email: mgaines@meeb.com

Any address or name specified above may be changed by notice given to the other parties in accordance with this Section 21. The inability to deliver notice because of a changed address of which no notice was given as provided above, or because of rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any notice to be given by any party hereto may be given by the counsel for such party.

22. WAIVER & RELEASE The Town acknowledges that it has had full and complete opportunity to independently inspect the Premises and its physical characteristics and existing conditions, and that the Premises shall be sold strictly on an "as is" basis without warranty or representation of any kind, express or implied, except as otherwise provided herein. The Town hereby waives and releases any claims or actions that the Town may have against Northland related in any way to the Premises, including, without limitation, the physical and environmental condition of the Premises. The provisions of this paragraph shall survive the delivery of the Deed hereunder.
23. OTHER DOCUMENTS Upon request of the Town's attorney, if any, Northland shall obtain, execute and/or deliver, simultaneously with the delivery of the deed, such documents (in customary form) as reasonably may be required by either of said attorneys including, but not limited to, certifications or affidavits in regard to:
- a) persons or parties in possession of the Premises;
 - b) facts or conditions which may give rise to mechanics' or materialmen's liens; and
 - c) Northland's status as a foreign or non-foreign person or entity as defined in Section 1445 of the Internal Revenue Code.
24. REBA TITLE STANDARDS Any title matter that is the subject of a title standard of the Massachusetts Real Estate Bar Association at the time of the delivery of the deed shall be governed by said title standards to the extent applicable. Any dispute as to any title issue or conveyancing practice remaining unresolved at the scheduled time for performance under this Agreement shall be resolved in accordance with applicable Standards or Practices of the Massachusetts Real Estate Bar Association, to the extent possible.
25. CONSTRUCTION This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared primarily by counsel for one of the parties, it being recognized that both the Town and Northland have contributed substantially and materially to the preparation of this Agreement.
26. ASSIGNMENT The Town shall not assign its rights, interests or obligations hereunder except with Northland's prior written consent, which may be withheld in Northland's sole and absolute discretion. Notwithstanding the foregoing, Northland's prior written consent shall not be required in connection with an assignment by the Town to a municipal nominee; provided, however, the Town shall provide Northland with written notice of such assignment no less than ten (10) days prior to such assignment becoming effective. Northland is permitted to assign its rights, interests and/or obligations hereunder to a successor, assignee or nominee without the consent of the Town.
27. RECORDING The Town agrees that neither this Agreement nor any notice or memorandum hereof shall be recorded or filed with the Norfolk Registry of Deeds or with any other governmental body.
28. NO BROKER Each party warrants and represents that it has dealt with no broker or other real estate consultant in connection with the consummation of this Agreement, and in the event of any other consultant or brokerage claims against a party (the "Indemnified Party") predicated upon prior dealings with the other party, such other party agrees to defend the same and indemnify the Indemnified Party against any such claim.

Exhibits:

Exhibit A – Legal Description
Exhibit B – Plan
Exhibit C – Form of Quitclaim Deed
Exhibit D – Title Commitment
Exhibit E – Declaration of Restrictions
Exhibit F – Northland PSA

NOTICE: This is a legal document that creates binding obligations. If not understood, consult an attorney.

(remainder of page is intentionally left blank)

Northland

NORTHLAND RESIDENTIAL CORPORATION,
a Massachusetts corporation

By: _____
John C. Dawley, President

Town

TOWN OF NEEDHAM, a body politic and corporate and
political subdivision of the Commonwealth of Massachusetts

By: _____
Kate Fitzpatrick, Town Manager

(Signature Page to Purchase and Sale Agreement)

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B-1
ANR LOTS PLAN
(attached)

EXHIBIT B-2
TOWN PARCEL PLAN
(attached)

EXHIBIT C
FORM OF QUITCLAIM DEED

Upon Recording Return To:

Miyares and Harrington LLP
Attn: Christopher H. Heep, Esq.
40 Grove Street Suite 190
Wellesley, MA 02482

QUITCLAIM DEED

NORTHLAND RESIDENTIAL CORPORATION, a Massachusetts corporation with an address of 80 Beharrell Street, Suite E, Concord, Massachusetts 01742 (“**Grantor**”), for consideration paid and full consideration of TWO MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$2,500,000.00) to the Town of Needham, a municipal corporation of the Commonwealth of Massachusetts with an address c/o Office of the Town Manager, 1471 Highland Avenue, Needham, MA 02492, with QUITCLAIM COVENANTS, the land, together with any improvements thereon, located in Needham, Norfolk County, Massachusetts, as more particularly described in Exhibit A and shown as the “ANR Lots” and the “Town Parcel” on that certain plan entitled [“Approval Not Required Plan, Charles River Street, in Needham, Massachusetts,” dated _____, 202__, and recorded with the Norfolk County Registry of Deed in Plan Book____, Page _____,] attached hereto as EXHIBIT B.

Grantor reserves for itself, as the owner of the land shown as the “Northland Parcel” on Exhibit B, and their successors and assigns as appurtenant to the Northland Parcel, the exclusive, perpetual right and easement over the Town Parcel to install, maintain, repair, replace, relocate and remove lines or systems for utilities serving the Northland Parcel, including but not limited to sanitary sewers, storm drains, water, gas, electric, telephone, cable and communications lines. Any utilities constructed or installed by the Grantor over, under and on the Town Parcel shall remain the property of the Grantor and its successors and assigns to the extent such utilities have not been accepted by the Town of Needham or the respective utility company.

The conveyance is made together with and subject to all recorded easements, conditions, restrictions and agreements and all other matters of record that lawfully apply to the property hereby conveyed.

The premises do not constitute all or substantially all of the Grantor’s property in the Commonwealth of Massachusetts.

For Grantor’s title, see Quitclaim Deed of _____, dated _____, 202__, recorded with the Norfolk County District Registry of Deeds in Book _____, Page _____.

[Balance of page intentionally left blank]

**NORTHLAND RESIDENTIAL
CORPORATION,**
a Massachusetts corporation

By: _____
Name: John C. Dawley
Title: President

COMMONWEALTH OF MASSACHUSETTS
_____, ss.

On this ____ day of _____, 20__, before me, the undersigned notary public,
personally appeared provided to me through satisfactory evidence of identification which were
to be the person whose name is signed on the preceding or attached document and acknowledged
to me that (he) (she) signed it voluntarily for its stated purpose as _____ for
_____.

(official signature and seal of notary)
My commission expires:

EXHIBIT A
TO QUITCLAIM DEED

Legal Description of Premises

EXHIBIT B
TO QUITCLAIM DEED

Plan

EXHIBIT D
TITLE COMMITMENT

[attached behind]

EXHIBIT E
DECLARATION OF RESTRICTION

[attached behind]

When recorded return to:
Choate Hall & Stewart LLP
Two International Place
Boston, MA 02110
Attn: Matthew D. Mortensen, Esq.

DECLARATION OF RESTRICTIONS

THIS DECLARATION OF RESTRICTIONS (hereinafter, the “Declaration of Restrictions”) is made this ____ day of _____, 202__ by _____ (together with its successors and assigns, the “Declarant”), having a mailing address at _____.

WITNESSETH

WHEREAS, Declarant is the owner of those certain parcels of vacant land situated at 0 Charles River Street, Town of Needham, Norfolk County, Massachusetts 02492, as more fully described on **EXHIBIT A** attached hereto and incorporated herein by reference (the “Premises”);

WHEREAS, Declarant desires that, subject to the Prohibited Acts and Uses and Permitted Acts and Uses set forth below, the entirety of the 6.3-acre Premises be maintained in its natural, scenic and open condition and exclusively for conservation and passive recreation uses;

WHEREAS, Declarant desires and agrees that this Declaration shall run for the maximum period of time permissible under the laws of the Commonwealth of Massachusetts (including, without limitation, the exercise of any and all extensions), or until such time as a Conservation Restriction providing substantially the same protections as set forth herein is approved by the Executive Office of Energy and Environmental Affairs, Division of Conservation Services (“**EEA-DCS**”) pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws on the then-current form provided by the EEA-DCS and recorded at the Norfolk County Registry of Deeds;

NOW, THEREFORE, Declarant hereby voluntarily declares and imposes upon the Premises the following covenants, conditions and restrictions for the benefit of Declarant, its successors and assigns, Needham Land Trust, Inc. (the “Land Trust”), including the Land Trust’s successors and assigns, and said Premises shall be held, transferred, sold, conveyed, occupied and used subject to the covenants, conditions, and restrictions hereinafter set forth.

I. PURPOSES:

The purposes of this Declaration of Restrictions (“Purposes”) are to ensure that the Premises will be maintained in its natural, scenic, or open condition and for conservation and passive recreation uses, and to prevent any use or change that would materially impair the Conservation Values (as defined below) for so long as this Declaration of Restrictions is valid and binding on the Premises.

The Conservation Values protected by this Declaration of Restrictions include the following:

- Open Space. The Premises contributes to the protection of the scenic and natural character of the Ridge Hill Reservation and Charles River watershed, and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including the Ridge Hill Reservation.
- Public Access for Passive Outdoor Recreational and Educational Activities. Public access to the Premises will be allowed for non-commercial, passive recreational uses, including, without limitation, nature study, birding, wildlife observation, picnicking, walking, hiking, jogging/running, cross-country skiing or snowshoeing, nature and educational walks and outings, outdoor educational activities, other non-motorized outdoor recreational and educational activities, and similar passive recreational activities, provided that such uses do not alter the topography, landscape, or environmental qualities of the Premises.

II. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

Subject to the exceptions set forth in paragraph B below, the Declarant will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises other than in the exercise of, and as a necessary result of, the conduct of activities on and the use of the Premises as permitted under this Declaration of Restrictions;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;

4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Declarant and Land Trust;
7. Motor Vehicles. Using, parking, or storing electric or motorized vehicles, including, without limitation, motorcycles, mopeds, all-terrain vehicles, utility task vehicles, trucks, trailers, off-highway vehicles, snowmobiles, or any other on or off-road motorized or electric vehicles, except for those public safety vehicles that must access the Premises to carry out their official duties and those vehicles that must access the Premises for the conduct of those property management and other activities permitted under this Declaration of Restrictions, but not in the conduct of motorized recreation as a stand-alone activity;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Declarant's and Land Trust's intention to maintain the entire Premises under unified ownership;
9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Uses. Using the Premises for (i) residential purposes, (ii) industrial purposes, (iii) commercial recreation, (iv) non-passive recreation, (v) commercial purposes, (vi) agricultural purposes; (vii) hunting; or (viii) trapping.
12. Animals / Livestock. Using the Premises for animal penning or grazing; holding horses, pets, livestock, or domestic animals within a paddock; horseback riding, causing or permitting any domestic animals or livestock to be unattended or to roam or be at large on the Premises; and the storage or dumping of manure or other animal wastes;
13. Inconsistent Uses. Using the Premises for purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses

or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph II.A., the Declarant reserves the right to conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Declarant shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises;
2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Natural Habitat and Ecosystem Improvement. With prior written approval of the Land Trust, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
4. Trails. Maintaining and constructing trails as follows:
 - a. Trail Maintenance. Conducting routine maintenance of trails.
 - b. New Trails. With prior written approval of the Land Trust, constructing new trails or relocating existing trails.
 - c. Trail Features. With prior written approval of the Land Trust, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
5. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Declarant, sale of the Premises, the Land Trust's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
6. Outdoor Passive Recreational and Educational Activities. Non-commercial, passive recreational uses of the Premises by Declarant, Declarant's invitees, and the general public including without limitation nature study, birding, wildlife observation, picnicking, walking, hiking, jogging/running, bicycling, cross-country skiing or snowshoeing, nature and educational walks and outings, outdoor educational activities, other non-motorized outdoor recreational and educational activities, and similar

passive recreational activities, provided that such uses do not materially alter the topography, landscape, or environmental qualities of the Premises. Notwithstanding the foregoing, the use of motorized vehicles for outdoor passive recreational and educational activity by persons with mobility impairments is permitted.

7. Minor Educational and Recreational Structures. With prior written approval by the Land Trust, the construction, maintenance, repair and replacement of “Minor Structures” for use by the public for educational and passive recreational purposes, including, but not limited to, interpretive signs, exhibits, and benches. Said structures shall be designed and located so as not to have a material deleterious impact on the Conservation Values.
8. Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not have a significant adverse impact on the purpose of this Declaration of Restrictions.
9. Permit Compliance. Activities necessary to comply with any applicable Order of Conditions or Special Permits.
10. Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, may proceed following submission of an archaeological field investigation plan and its approval in writing by the Land Trust and the State Archaeologist of the Massachusetts Historical Commission or appropriate successor official.
11. Use of vehicles for land management and infrastructure. The use of tractors, brush hogs, mowers, skidders, or other land management vehicles appropriate for the purpose of maintaining existing trails, storm water systems, and Conservation Values, as necessary for any of the reserved rights herein, in accordance with accepted forestry management practices; carrying out the specifications of a state approved forestry management plan; or promoting habitat for indigenous wildlife.
12. Flood Storage Maintenance or Improvements. Activities designed to maintain or improve existing flood storage capacity may be allowed following review and approval by the Land Trust, and provided such activities will not have a deleterious impact on the purpose of this Declaration of Restrictions.
13. Environmental Restoration or Improvement Projects. With prior written approval by the Land Trust, all acts and uses which are necessary to restore any environmental damage or degradation and/or improve the Premises to more fully align with the purposes hereunder.
14. Use of Herbicides and Pesticides. The use of herbicides and pesticides, or any other chemical or mechanical means for the control of the plant life and insects, only as may

be permitted, in writing, by the Land Trust for the control of noxious or invasive species, and only if it will not impair the water quality or adjacent vegetation.

15. Permitted Acts and Uses. All acts and uses not prohibited by paragraph A, and not otherwise permitted herein, are permissible so long as they do not materially impair the Conservation Values, and are not expressly prohibited by the management plan, if any, in effect for the Premises, provided written approval is obtained from the Land Trust.

C. Site Restoration

Any work undertaken in conjunction with the Permitted Acts and Uses mentioned above shall seek to minimize disturbance to the Premises. Upon completion of any site work, to the extent feasible, any disturbed areas shall be restored substantially to match the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work.

D. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph II.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Permitted Acts and Uses requiring a permit, license or other approval from a public agency does not imply that the Land Trust or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

E. Notice and Approval

1. Notifying Land Trust. Whenever notice to or approval by Land Trust is required, Declarant shall notify or request approval from Land Trust, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Declarant intends to undertake the activity in question, except in the event of an emergency, or unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Declaration of Restrictions, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Land Trust to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Land Trust Review. Where Land Trust's approval is required, Land Trust shall grant or withhold approval in writing within sixty (60) days of receipt of Declarant's request. Land Trust's approval shall only be granted upon a showing that the proposed activity

will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Land Trust may require Declarant to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.

3. Resubmittal. Land Trust's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Declarant may subsequently submit the same or a similar request for approval.

III. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Declarant hereby grants to the Land Trust, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Declaration of Restrictions.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Declaration of Restrictions by appropriate legal proceedings and to obtain compensatory relief and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Land Trust will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Land Trust for the enforcement of this Declaration of Restrictions.
2. Notice and Cure. In the event the Land Trust determines that a violation of this Declaration of Restrictions has occurred and intends to exercise any of the rights described herein, the Land Trust shall, before exercising any such rights, notify the Declarant in writing of the violation. The Declarant shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Land Trust may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Declarant immediately ceases the violation and Land Trust determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Land Trust may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Declarant covenants and agrees to reimburse to Land Trust all reasonable costs and expenses (including counsel fees) incurred by the Land Trust in enforcing this Declaration of Restrictions or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Declaration of Restrictions, Declarant

shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.

C. Non-Waiver

Enforcement of the terms of this Declaration of Restrictions shall be at the sole discretion of Land Trust. Any election by the Land Trust as to the manner and timing of its right to enforce this Declaration of Restrictions or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Declaration of Restrictions, the Land Trust does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Land Trust or its agents.

E. Acts Beyond the Declarant's Control

Nothing contained in this Declaration of Restrictions shall be construed to entitle the Land Trust to bring any actions against the Declarant for any injury to or change in the Premises resulting from natural causes beyond the Declarant's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Declarant under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Declarant and Land Trust will cooperate in the restoration of the Premises, if desirable and feasible.

IV. PUBLIC ACCESS

Subject to the provisions of this Declaration of Restrictions, the Declarant hereby grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph II.B.6 provided that such agreement by Declarant is subject to the Declarant's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the Purposes and Conservation Values. Declarant has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph II.B.6. The Land Trust may require the Declarant to post the Premises against any use by the public that results in material impairment of the Conservation Values. This grant of public access to the Premises is solely for the purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Declarant and Land Trust hereto express their intent to benefit from exculpation from liability to the extent provided in such section.

V. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Declaration of Restrictions can only be terminated, released, or extinguished, whether in whole or in part, by (i) a court of competent jurisdiction under applicable law, or (ii) recording in the Norfolk County Registry of Deeds of a Conservation Restriction by EEA-DCS pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws providing substantially the same protections as set forth herein on the then-current form provided by the EEA-DCS.

B. Intentionally Omitted

C. Land Trust's Receipt of Property Right

Declarant and Land Trust agree that the conveyance of this Declaration of Restrictions gives rise to a real property right, immediately vested in the Land Trust, for the purpose of enforcing this Declaration of Restrictions, but does not entitle Land Trust, upon extinguishment, release, or termination, to any proceeds received by the Declarant from the subsequent sale, exchange or involuntary conversion of the Premises. Any proceeds that result from any such extinguishment, release, or termination will be distributed only after complying with the terms of any gift, grant, or other funding requirements.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Declarant and the Land Trust shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Declarant and the Land Trust shall first be paid out of any recovered proceeds.

VI. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Declaration of Restrictions shall run with the Premises for the maximum period of time permissible under the laws of the Commonwealth of Massachusetts (including, without limitation, the exercise of any and all extensions), or until such time as EEA-DCS approves a Conservation Restriction pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws providing substantially the same protections as set forth herein on the then-current form provided by the EEA-DCS, and shall be enforceable against the Declarant and the successors and assigns of the Declarant holding any interest in the Premises. Such Conservation Restriction shall be recorded in the Norfolk County Registry of Deeds and once recorded shall supersede this Declaration of Restrictions in its entirety.

This Declaration of Restrictions is hereby intended and declared to be for the maximum period of time permissible under the laws of the Commonwealth of Massachusetts (including, without limitation, the exercise of any and all extensions), or until such time as the EEA-DCS approved Conservation Restriction is recorded and no re-recording of this Declaration of Restriction under G.L. c. 184, ss. 23-30 or any other law shall ever be necessary in order to maintain the full legal

effect and authority hereof and Declarant and its successors and assigns, including but not limited to all subsequent owners of the Premises, hereby waive all their legal right to and shall forego any action in law or equity of any kind whatsoever attempting to contest the validity of any provision of this Declaration of Restrictions and shall not, in any enforcement action, raise the invalidity of any provision of this Declaration of Restrictions.

B. Execution of Instruments

The Land Trust is authorized to record or file any notices or instruments appropriate to assuring the maximum enforceability of this Declaration of Restrictions, including, without limitation, recording this Declaration of Restrictions at the Norfolk County Registry of Deeds. The Declarant, on behalf of itself and its successors and assigns, appoints the Land Trust its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Declarant and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Declaration of Restrictions shall run to the Land Trust, shall be in gross and shall not be assignable by the Land Trust, except when all of the following conditions are met:

1. the Land Trust requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, is a qualified, not-for-profit corporation under 501(C)(3) of the Internal Revenue Code and qualified under Massachusetts law to enforce this Declaration of Restriction; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Declarant agrees to incorporate by reference the terms of this Declaration of Restrictions in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Land Trust not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Declaration of Restrictions. If the Declarant fails to reference the terms of this Declaration of Restrictions in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Land Trust may record, in the applicable registry of deeds, or registered in the applicable land court registry district, and at the Declarant's expense, a notice of this Declaration of Restrictions. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Declarant's Liability

The Declarant shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Declaration of Restrictions shall survive the transfer for a period of one (1) year. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

VIII. ESTOPPEL CERTIFICATES

Upon request by the Declarant, the Land Trust shall, within thirty (30) days execute and deliver to the Declarant any document, including an estoppel certificate, which certifies the Declarant's compliance or non-compliance with any obligation of the Declarant contained in this Declaration of Restrictions.

IX. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Declaration of Restrictions into the fee. The Declarant agrees that it will not grant, and the Land Trust agrees that it will not take title, to any part of the Premises without having first assigned this Declaration of Restrictions following the terms set forth in Paragraph VI.C to ensure that merger does not occur and that this Declaration of Restrictions continues to be enforceable by a non-fee owner.

X. AMENDMENT

A. Limitations on Amendment

Declarant and Land Trust may amend this Declaration of Restrictions only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Declaration of Restrictions' duration;
2. be inconsistent with or materially impair the Purposes;
3. alter or remove the provisions described in Paragraph V (Termination/Release/Extinguishment); or
4. cause the provisions of this Paragraph X to be less restrictive; or
5. cause the provisions described in Paragraph VI.C (Running of the Benefit) to be less restrictive.

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Land Trust and Declarant and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XI. EFFECTIVE DATE

This Declaration of Restrictions shall be effective when the Declarant and the Land Trust have executed it, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Declarant: Name(s)
 Address
 Municipality, State, Zip code

With a copy to:

To Land Trust: Name
 Address
 Municipality, State, Zip code

With a copy to: Choate Hall & Stewart, LLP
 Two International Place
 Boston, MA 02110
 Attn: Andree Saulnier

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIII. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Declaration of Restrictions shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Declaration of Restrictions shall be liberally construed in order to effect the Purposes described herein. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Declaration of Restrictions or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Declaration of Restrictions shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Declarant and Land Trust with respect to this Declaration of Restrictions and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Declaration of Restrictions, all of which are merged herein.

XIV. MISCELLANEOUS

A. Pre-existing Public Rights

The execution of this Declaration of Restrictions is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Declaration of Restrictions.

B. Release of Homestead

The Declarant attests that there is no residence on the Premises that is occupied or intended to be occupied as a principal residence by a spouse, former spouse, or children of the Declarant, or a spouse, former spouse, or children of a beneficiary of the trust, if Premises is owned by a trust.

C. No Surety Interest

The Declarant attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Executory Limitation

If the Land Trust shall cease to exist or to be qualified to hold Declaration of Restrictions, and a prior assignment is not made pursuant to Paragraph VI, then Land Trust's rights and obligations under this Declaration of Restrictions shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VI.

E. Prior Encumbrances

This Declaration of Restrictions shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

F. The following signature pages are included in this Grant:

Declarant
Land Trust

G. The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises

H. No documentary stamps are required as this Declaration of Restrictions is a grant without payment of monetary consideration.

WITNESS my hand and seal this ____ day of _____, 202__,

By: _____

Its: _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this ____ day of _____, 202__, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

The foregoing Declaration of Restrictions from _____ was accepted by Needham Land Trust, Inc. this _____ day of _____, 202__.

By: _____

Its: _____, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

_____ County, ss:

On this _____ day of _____, 202__, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public

My Commission Expires:

EXHIBIT A

Legal Description of Premises

0 Charles River Street (Map/Block 304-4) – approx. 3.25 acres

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the westerly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled ‘Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980,’ prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

0 Charles River Street (Map/Block 304-5) – approx. 3.05 acres

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the easterly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled ‘Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980,’ prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

EXHIBIT F
NORTHLAND PSA

[attached behind]

Exhibit H
Termination of Notice of Contract
(attached)

TERMINATION OF NOTICE OF CONTACT

This **TERMINATION OF NOTICE OF CONTRACT** (this “Termination”) is made and entered into as of _____, 20__, by and between **NORTHLAND RESIDENTIAL CORPORATION**, a Massachusetts corporation (“Northland”), and the **TOWN OF NEEDHAM**, a municipal corporation of the Commonwealth of Massachusetts (the “Town”), with respect to three separate parcels of land: (i) 484 Charles River Street, containing approximately 57.86 acres; (ii) 0 Charles River Street, containing approximately [3.25] acres; and (iii) 0 Charles River Street, containing approximately [3.05] acres, each as more particularly described on Exhibit A attached hereto (hereinafter collectively referred to as “Property”).

Northland and the Town entered into a certain unrecorded Development Agreement (the “Contract”), dated as of _____, 2023, related to the Property; and a certain Notice of Contract (the “Notice”), dated _____, 2023 and recorded in the Norfolk County District Registry of Deeds in Book ___, Page ___.

This Termination constitutes record notice that the Contract has terminated or expired and that the Contract and the Notice are of no further force or effect as of the date hereof.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties have executed this Termination under seal on the day and year first above written.

NORTHLAND:

[to be added]

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF

)

_____, 202__

[to be updated based on Seller signature blocks].

Notary Public

My Commission expires:_____

THE TOWN:

[to be added]

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF

)

_____, 202__

[to be updated based on Buyer signature block].

Notary Public

My Commission expires: _____

EXHIBIT A

Legal Description of Property

(attached)

Exhibit I
Notice of Contract
(attached)

NOTICE OF CONTRACT

This **NOTICE OF CONTRACT** (this “Notice”) is made and entered into as of this _____, 2023, by and between **NORTHLAND RESIDENTIAL CORPORATION**, a Massachusetts corporation (“Northland”), and the **TOWN OF NEEDHAM**, a municipal corporation of the Commonwealth of Massachusetts (the “Town”), with respect to three separate parcels of land: (i) 484 Charles River Street, containing approximately 57.86 acres; (ii) 0 Charles River Street, containing approximately [3.25] acres; and (iii) 0 Charles River Street, containing approximately [3.05] acres, each as more particularly described on Exhibit A attached hereto (hereinafter collectively referred to as “Property”).

WHEREAS, Northland and the Town entered into a certain unrecorded Development Agreement (the “Contract”), dated as of _____2023, related to the Property; and

WHEREAS, Northland and the Town desire to execute and cause this Notice to be recorded for the purpose of providing record notice of certain obligations of Northland and the Town under the Contract relating to the Property;

NOW, THEREFORE, Seller and Buyer mutually agree as follows:

1. Pursuant to the terms of the Contract, the Town has a right to purchase the Property, as and to the extent provided in the Contract.
2. This Notice shall terminate on the date on which a termination of notice is recorded with the Norfolk County Registry of Deeds.
3. This Notice is not intended to, and shall not, modify, alter or terminate any term, provision or condition of the Contract. All persons desiring further information concerning the Contract are advised to inquire of the Town.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties have executed this Notice under seal on the day and year first above written.

NORTHLAND:

[to be added]

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF

)

_____, 2023

[to be updated based on Seller signature blocks].

Notary Public

My Commission expires:_____

THE TOWN:

[to be added]

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF) _____, 2023

[to be updated based on Buyer signature block].

Notary Public

My Commission expires: _____

EXHIBIT A

Legal Description of Property

Exhibit A

PURCHASE AND SALE AGREEMENT

between

**[REDACTED], in his capacity as
TRUSTEE OF THE CHARLES H.W. FOSTER 2000 TRUST, and
TRUSTEE OF THE BARBARA D. FOSTER TRUST,
as Seller,**

and

**NORTHLAND RESIDENTIAL CORPORATION,
as Buyer**

0 and 484 Charles River Street, Needham, Massachusetts

Dated as of December 1, 2022

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of the 1st day of December, 2022 (the "Effective Date"), by and between [REDACTED], in his capacity as trustee of the Charles H.W. Foster 2000 Trust u/d/t dated March 15, 2000, for which a trustee's certificate is recorded at Book 31517, Page 527 in Norfolk County Registry of Deeds (the "Registry"), as the same may have been amended and affected by matters of record with the Registry (as to the ANR Lots (defined below)), and [REDACTED], in his capacity as trustee of the Barbara D. Foster Trust, u/d/t dated February 4, 2020, for which a trustee's certificate is recorded at Book 37582, Page 53 in the Registry as affected by that trustee's certificate recorded at Book 38445, Page 582, as the same may have been amended and affected by matters of record with the Registry (as to the House Lot (defined below)) ([REDACTED]), in his capacity as trustee of both trusts, collectively hereinafter called "Seller", and **NORTHLAND RESIDENTIAL CORPORATION**, a Massachusetts corporation, and/or its successors, assigns or nominees ("Buyer"), and is joined in for the limited purposes set forth herein by WFG National Title Insurance Company, as escrow agent ("Escrow Agent").

BACKGROUND

A. This Agreement is made with reference to the following real and personal property (collectively, the "Property"):

(1) Land. (a) All that land situated in the Town of Needham (the "Town"), County of Norfolk, Commonwealth of Massachusetts, being known and numbered as 0 Charles River Street (Map/Block 304-4, and 304-5) (the "ANR Lots"), as more particularly described on **Exhibit A-1** attached hereto, and as more particularly shown on **Exhibit B-1** attached hereto, together with all Appurtenances (defined below); and (b) all that certain land situated in the Town, County of Norfolk, Commonwealth of Massachusetts, being known and numbered as 484 Charles River Street (Map/Block 304-2) (the "House Lot", and together with the ANR Lots, the "Land"), as more particularly described on **Exhibit A-2** attached hereto, and as more particularly shown on **Exhibit B-1** attached hereto, together with all Appurtenances. The House Lot is comprised of the Northland Parcel and the Town Parcel, as shown on **Exhibit B-1** attached hereto.

(2) Building and Improvements. The buildings, structures and other improvements owned by Seller located on the Land, if any (collectively, the "Building and Improvements"), in (the Land, Building and Improvements being hereinafter collectively referred to as the "Real Property");

(3) Appurtenances. All rights, privileges and easements appurtenant or belonging to the Land, including without limitation all of Seller's rights, title and interest, if any, in and to any (a) streets, roads, ways, rights-of-way, alleys, passageways, driveways, sidewalks and parking areas adjacent to the Land or used in connection therewith, (b) land lying in the bed of any existing or proposed street or way adjacent to the Land, (c) utility and other easements serving, used or intended for the use, enjoyment, operation and/or maintenance of the Land and the Building and Improvements thereon, (d) development, air, water and signage rights with respect to the Land, and (e) those specific easements, rights of way or other appurtenances, if any, included in the legal

description of the Land set forth in the aforesaid **Exhibit A-1 and Exhibit A-2** (collectively, the "Appurtenances");

(4) Personal Property. All of Seller's right, title and interest in any contracts affecting the Real Property (to the extent that Seller has the right to transfer such items), and all trees, shrubs, plants, and surface and sub-surface improvements appurtenant to the Land, (collectively, the "Personal Property").

B. Buyer acknowledges and agrees that, upon the occurrence of the First Installment Closing, or Second Installment Closing, as the case may be, Buyer shall take title to the First Installment Property, or Second Installment Property, as the case may be, without any representation or warranty from Seller, except as expressly set forth herein. Except as expressly set forth in this Agreement, the Property is to be conveyed and sold, "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**." For the avoidance of doubt, Seller shall remove any personal property from the Building and Improvements prior to the Second Installment Closing Date. Notwithstanding anything to the contrary set forth herein, Seller shall have the right prior to the Second Installment Closing Date, to remove personal property from the Second Installment Property, and such removed personal property shall not be considered part of the Property and Buyer shall have no claim against Seller or receive any deduction from the Purchase Price as a result of the removal thereof. The provisions of this Paragraph shall survive the Closings. "AS IS" shall be defined as of the date of this Agreement.

TERMS AND CONDITIONS

In consideration of the mutual covenants and agreements herein contained, and intending to be legally bound hereby, the parties hereto agree:

1. Sale and Purchase. Seller hereby agrees to sell, transfer and convey the Property to Buyer, and Buyer hereby agrees to purchase and accept the Property from Seller, in each case for the Purchase Price and on and subject to the other terms and conditions set forth in this Agreement. Except for those liabilities and obligations that Buyer accepts as provided in this Agreement, Buyer is not assuming any of the debts, liabilities or other obligations of, or claims against, Seller of any kind or nature whether direct or contingent and whether known or unknown.

2. Purchase Price. The purchase price for the Property (the "Purchase Price") shall be [REDACTED], subject to adjustment as set forth herein. The Purchase Price shall be allocated as follows:

[REDACTED] for the purchase of the ANR Lots (the "First Installment Property"); and

[REDACTED] for the purchase of the House Lot (the "Second Installment Property"), subject to adjustment as described below.

[REDACTED]

[REDACTED]

2.1 Signing Deposit. Within two (2) business days following the execution and delivery of this Agreement by both parties, Buyer shall deliver to Escrow Agent, in immediately available funds, to be held in escrow by the Escrow Agent and delivered and released in accordance with this Agreement, a cash deposit in the amount of [REDACTED] (the "Signing Deposit").

2.2 Permitting Deposit. Within two (2) business days following the Inspection Period Expiration Date (as the same may be extended), Buyer shall deliver to Escrow Agent, in immediately available funds, to be held in escrow by the Escrow Agent and delivered and released in accordance with this Agreement, a cash deposit in the amount of [REDACTED] (the "Permitting Deposit"), and together with the Signing Deposit, any other deposits of earnest money made pursuant to the terms of this Agreement, and all interest earned thereon while held by Escrow Agent the "Deposit"). Escrow Agent shall invest the Deposit in an interest-bearing account acceptable to Buyer, and shall promptly deliver evidence of such deposit to Buyer and Seller. As used in this Agreement, "Business Day" shall mean any day which is not a Saturday, Sunday or holiday on which banks are closed in Suffolk County or Norfolk County, Massachusetts.

2.3 Payment at Closing; Funding Agreement. At the consummation of the transaction contemplated herein as to the First Installment Property (the "First Installment Closing") Buyer shall deliver to Escrow Agent cash in an amount equal to [REDACTED]. At the consummation of the transaction contemplated herein as to the Second Installment Property (the "Second Installment Closing") Buyer shall deliver to Escrow Agent cash in an amount equal to [REDACTED] less the Deposit, subject to adjustment as set forth above. The Purchase Price, subject to adjustments and apportionments as set forth herein, shall be paid at the Closings by wire transfer of immediately available federal funds, transferred to the order or account of Seller or such other person as Seller may designate in writing. The term "Closings" or "Closing" as used herein shall be read to include both the First Installment Closing and/or the Second Installment Closing, as the circumstances require and as is appropriate. It is the intent of the parties that this Agreement provide for two separate Closings hereunder, and to the extent any ambiguity or uncertainty is created by the use of the defined terms herein, this Agreement shall be read and interpreted liberally to permit two Closings on the terms set forth herein. The delivery and recording of documents and the disbursement of funds shall be effectuated at the Closings by an escrow administered by the Escrow Agent, pursuant to instructions consistent with the terms of this Agreement and those customarily used in similar transactions, and as otherwise mutually agreed to by Buyer and Seller.

3. Inspection Period; Access.

3.1 Seller Property Documents. Within five (5) Business Days after the Effective Date, Seller shall provide to Buyer copies of all of the documents listed on **Exhibit C** ("Seller Property Documents"). Seller shall not have, and expressly disclaims any liability, obligation or responsibility of any kind with respect to the delivery of any publicly available

documents germane to the Property or the content, accuracy or completeness of the Seller Property Documents. Buyer acknowledges and agrees that Seller is acting in his capacity as trustee, and shall have no obligation to provide documentation as to the condition of the Property other than the Seller Property Documents.

3.2 Access. During the term of this Agreement, Buyer, its consultants, agents and representatives, shall be entitled to enter upon the ANR Lots and the Town Parcel to make investigations and perform inspections. Buyer shall be permitted to perform limited invasive tests and inspections on the ANR Lots for the purpose of (i) conducting soil testing for confirmation of waste water disposal verification in order to demonstrate that the ANR Lots can be subdivided into six 1-acre building lots; and (ii) confirming valuation of the ANR Lots related to the Buyer's purchase and financing of the same. Buyer shall be permitted to perform limited invasive tests and inspections on the Town Parcel for the purpose of confirming the ability to connect the Northland Parcel to MWRA/municipal sewer lines located along the Charles River edge of the Town Parcel. For the avoidance of doubt, any invasive tests and inspections on the Town Parcel shall be done in a manner so as to affect or disturb the minimal amount of the Town Parcel as is possible and Buyer shall not remove or disturb any vegetation from the Town Parcel without Seller's express prior written consent. During the term of this Agreement, Buyer, its consultants, agents and representatives, shall be entitled to enter upon the Northland Parcel, to make investigations and perform inspections and tests of various aspects of the Northland Parcel, including, but not limited to, values, marketability, financeability, wetlands delineation, boundaries, topography, title, presence or absence of ledge, zoning and permitting aspects, surveys, environmental studies, geotechnical studies, borings, soil and groundwater samples, scrapings, examinations and tests of all aspects of the Northland Parcel; provided, that Buyer shall provide Seller with reasonable prior notice of such entry upon the Northland Parcel (and in the case of intrusive or invasive investigations, reasonable prior notice shall be two (2) Business Days prior notice). Buyer shall patch and repair any damage to the Northland Parcel caused by any such tests or investigations (including, without limitation, reseeding any grass areas affected by Buyer's access to, or tests and investigations on, the Town Parcel), and indemnify, defend and hold harmless Seller from any and all liabilities, claims, costs, expenses (including reasonable attorneys' fees), liens and damages, resulting therefrom, or from any other damage to property or injury to persons resulting from Buyer's inspections. The foregoing indemnification shall survive the Closings or the termination of this Agreement for a period of twelve (12) months following the Closings or such termination. Before Buyer, its agents or representatives enter onto the Northland Parcel, Buyer shall deliver to Seller a certificate of insurance naming Seller as additional insured, evidencing (A) commercial general liability insurance (including property damage, bodily injury and death) issued by an insurance company having a rating of at least "A-VII" by A.M. Best Company, with limits of at least One Million and 00/100 (\$1,000,000) per occurrence for bodily or personal injury or death and Two Million and 00/100 (\$2,000,000) aggregate per location for any insurance carried by Buyer's consultants, agents or representatives, and limits of at least One Million and 00/100 (\$1,000,000) per occurrence for bodily or personal injury or death and Two Million and 00/100 (\$2,000,000) aggregate per location for any insurance carried by Buyer for so long as Buyer is not actively undertaking any such investigations, but is accompanying consultants, agents or representatives that are actively undertaking such investigations, and (B) excess liability insurance issued by an insurance company having a rating of at least "A-VII" by A.M. Best Company, with a Five Million and 00/100 (\$5,000,000) limit carried by Buyer. Buyer agrees to conduct and to cause its agents, consultants, employees, contractors and representatives to conduct its

investigations and inspections (A) in a safe and professional manner, (B) so as not to create any dangerous or hazardous condition on the Northland Parcel, (C) in compliance with all applicable laws, and (D) only after obtaining all permits, if any, required to be obtained with respect to such inspections. For the sake of clarity, Buyer and Seller hereby agree that Buyer is not required to provide Seller with any studies, reports, investigations or other materials prepared by or for Buyer in conjunction with Buyer's due diligence investigations of the Northland Parcel and Buyer shall retain sole ownership of all such materials.

3.3 Inspection Period (a) The term "Inspection Period," as used herein, shall mean the period beginning on the Effective Date and ending at 6:00 p.m. Eastern Time on the day which is the 60 days following the Effective Date ("Inspection Period Expiration Date"). If such day is not a Business Day, the Inspection Period shall be extended until 6:00 p.m. Eastern Time on the next Business Day. Buyer may terminate this Agreement in its sole discretion for any reason or no reason by delivery of written notice of such election to Seller and Escrow Agent given at any time prior to expiration of the Inspection Period, in which event the Signing Deposit shall be returned forthwith to Buyer and, except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder. In the absence of such written notice prior to the expiration of the Inspection Period (as the same may be extended), the contingency provided for in this Section 3.3 shall no longer be applicable (whether or not Buyer continues its due diligence after the Inspection Period), and this Agreement shall continue in full force and effect, Buyer shall be conclusively deemed to have waived its right to terminate this Agreement under this Section 3.3, and the Signing Deposit shall become non-refundable, except as otherwise provided for herein, and shall be immediately released directly to Seller by Escrow Agent (but shall be applicable to the Purchase Price).

(b) Buyer shall have the right to extend the Inspection Period by up to fifteen (15) days, provided that Buyer notifies Seller in writing on or before 6:00 p.m. Eastern time on the Inspection Period Expiration Date.

3.4 Title and Survey. Buyer, at its sole cost and expense, will order an updated title commitment ("Buyer's Commitment") from WFG National Title Insurance Company (the "Title Company") and such survey of the Property as Buyer shall desire (the "Survey"). Buyer shall have until the expiration of the Inspection Period to provide written notice to Seller (the "Title Notice" and the date of such notice, the "Title Notice Date") of any matters shown by Buyer's Commitment or the Survey which are not satisfactory to Buyer (collectively, the "Title Objections"). Within five (5) Business Days following receipt of the Title Notice, Seller shall give to Buyer a written notice ("Seller's Response Title Notice") stating that (i) Seller agrees to use reasonable efforts to cure one or more of the Title Objections identified in the Title Objection Notice on or before the First Installment Closing, or Second Installment Closing, as the case may be, or (ii) Seller does not agree to, or cannot, cure one or more of the defects identified in the Title Objection Notice; it being understood and agreed that Seller shall be obligated to eliminate prior to the First Installment Closing, or Second Installment Closing, as the case may be, all mortgages and assignments of leases and rents, mechanic's liens, tax liens, assessment liens, judgment liens, attachments, mortgage liens, and other similar exceptions to the title to the First Installment Property, or Second Installment Property, as the case may be, unless created by Buyer ("Monetary Encumbrances"). For purposes of this Section 3.4 "reasonable efforts" to cure any Title Objections

shall not require Seller to expend more than [REDACTED], in the aggregate.

In the event Seller is unable or unwilling to cure all of the Title Objections on the terms set forth in this Section 3.4, or cause the Title Company to insure over, any of the Title Objections contained in Buyer's Title Notice, Buyer may take either of the following actions (x) Buyer may terminate this Agreement by written termination notice to Seller received by Seller within five (5) Business Days of delivery of Seller's Response Title Notice ("Title Approval Date") and the Signing Deposit shall be returned to Buyer, or (y) Buyer may proceed to close this transaction, subject to the terms and conditions of this Agreement, in which event Buyer shall waive the Title Objections which Seller is unable or unwilling to cure. All matters shown on the Buyer's Commitment and/or the Survey and any update thereof issued by the Title Company prior to the Title Notice Date with respect to which Buyer fails to give a Title Notice on or before the last date for so doing, shall be deemed to be approved by Buyer and shall constitute a Permitted Encumbrance (as defined below) as provided in Section 3.6 hereof.

3.5 New Encumbrances. Buyer shall have the right to object to any new title or survey matters first occurring after the date of Buyer's Commitment or the Survey (each a "New Encumbrance") which will materially and adversely affect Buyer's development and use of the Property and is not acceptable to Buyer, by giving written notice of the New Encumbrance to which Buyer is objecting within five (5) Business Days of Buyer's becoming aware thereof. If Buyer does not object to any New Encumbrance by giving written notice to the Seller within five (5) Business Days of Buyer's becoming aware thereof, such New Encumbrance shall be a Permitted Encumbrance. In the event Buyer gives timely written notice of objection to any New Encumbrance as herein provided, the provisions of Section 3.4 shall apply with respect thereto as if set forth herein in full. If any New Encumbrance is a Monetary Encumbrance, Seller must satisfy same on or before the First Installment Closing Date, or Second Installment Closing Date, as the case may be, in accordance with the provisions of Section 3.4. Seller covenants and agrees that it shall not voluntarily grant any rights or otherwise willingly accept any New Encumbrance (including any Monetary Encumbrance other than inchoate liens for real estate taxes) during the term of this Agreement.

3.6 Permitted Encumbrances. Unless Buyer terminates this Agreement pursuant to Section 3.3, Section 3.4 or Section 3.5 hereof, Buyer shall be deemed to have approved and to have agreed to purchase the Property subject to the following:

3.6.1 All exceptions (including printed exceptions) to title shown in the Buyer's Commitment, or any update thereto issued by the Title Company other than Title Objections and New Encumbrances identified and not thereafter waived by Buyer;

3.6.2 All matters, rights, interests, discrepancies, conflicts in boundary lines, shortages in area, encroachments, and any state of facts shown on the Survey or any update thereto issued by the survey, other than Title Objections and New Encumbrances identified and not thereafter waived by Buyer;

3.6.3 The lien of non-delinquent real and personal property taxes and all assessments and unpaid installments thereof which are not delinquent;

3.6.4 Any other lien, encumbrance, easement or other exception or matter voluntarily imposed or consented to by Buyer prior to or as of the First Installment Closing Date, or Second Installment Closing Date, as the case may be.

All of the foregoing are referred to herein collectively as "Permitted Encumbrances." Notwithstanding the foregoing, the Permitted Encumbrances shall not include any Monetary Encumbrances, or any Title Objection which Seller has agreed to cure, or is obligated to cure.

3.7 Reporting. In the event that Buyer's due diligence reveals any condition of the Northland Parcel that in the opinion of Buyer's licensed site professional may require disclosure to any governmental agency or authority by Seller, Buyer shall immediately notify Seller thereof (and in any event within two (2) business days). In such event, Seller, and not Buyer or anyone acting on Buyer's behalf, shall make such disclosures as Seller deems appropriate. Notwithstanding the foregoing, Buyer may disclose matters concerning the Property to a governmental authority if, (a) in the opinion of Buyer's outside legal counsel, Buyer is required by law to make such disclosure, (b) Buyer's outside legal counsel consults with Seller's outside legal counsel regarding Buyer's outside legal counsel's analysis of the applicable laws (including, the basis of Buyer's outside legal counsel's opinion that disclosure by Buyer is required), and (c) to the extent practicable and permitted by law, Buyer gives Seller not less than ten (10) Business Days prior written notice of the proposed disclosure.

4. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows:

4.1 Authority. Seller has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transaction contemplated hereby. This Agreement has been, and all of the documents to be executed and delivered by Seller at the Closings shall be, duly authorized by all requisite trust action and properly executed and shall constitute valid and binding obligations of Seller.

4.2 No Conflict. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Seller do not and will not conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the Property or assets of the Seller by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Seller is a party, which will not be discharged, assumed or released at the Closings.

4.3 Patriot Act. Seller is in compliance with the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the "Order") and other similar requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and in any enabling legislation or other Executive Orders or regulations in respect thereof (the Order and such other rules, regulations, legislation or orders are collectively called the "Orders"). Neither the Seller nor any of its affiliates (A) is listed on the Specially Designated Nationals and Blocked Person List maintained by OFAC pursuant to the Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred

to as the "Lists"), (B) is a Person (as defined in the Order) who has been determined by competent authority to be subject to the prohibitions contained in the Orders; or (C) is owned or controlled by (including without limitation by virtue of such Person being a director or owning voting shares or interests), or acts for or on behalf of, any person on the Lists or any other Person who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

4.4 Seller has no knowledge of any past or present contamination of the Property in violation of any local, state or federal law, regulation, order, permit or approval.

4.5 Seller has no knowledge of any past or present underground fuel storage tanks on the Property.

4.6 To Seller's knowledge, there is no contemplated, threatened or actual eminent domain proceeding(s) and/or litigation, or the expiration or termination of filing of any appeals of any permits previously granted with respect to the Property, or any other past or current legal proceedings which, if adversely determined, would affect the ability of Buyer to acquire and/or develop the Property for the Project.

4.7 To Seller's knowledge, there are no existing leases, subleases, rental or occupancy agreements, written or oral, in effect which affect the Property, or would permit possession of the Property or any portion thereof after Closing (specifically excepting any agreements as between Buyer and the Town with respect to the Property).

4.8 To Seller's knowledge, there are no construction, management, leasing, service, equipment, supply, maintenance, or concession agreements in effect with respect to the Property which shall be binding upon Buyer or the Property after the Closing.

4.9 To Seller's knowledge, no person, firm, corporation or other entity has any right or option to acquire the Property or any part thereof (specifically excepting any agreements as between Buyer and the Town with respect to the Property), whether or not superior to Buyer's rights under this Agreement.

4.10 Seller is not a "foreign person" as in Section 1445(f)(3) of the Internal Revenue Code.

4.11 To Seller's knowledge, Seller has paid in full all invoices for material or labor furnished for the Property and no labor has been performed or materials furnished for the Property or any part thereof, nor is any such work or material to be performed at the Property for which a mechanics' or materialmen's lien or liens or any other lien can be claimed by any person, excluding any parties employed by Buyer, its agents, consultants or representatives. Subject to the limitations set forth in the preceding sentence, Seller shall indemnify and hold Buyer harmless from any claims, liabilities or expenses from nonpayment for material or labor furnished for the Property.

4.12 To Seller's knowledge, the real estate tax status of the Property is not subject M.G.L. ch. 61A or 61B.

The foregoing representations and warranties shall survive Closing for a period of six (6) months, and Buyer's obligations hereunder shall be contingent upon all of the foregoing being and

remaining true and accurate in all material respects as of the Closing. References to the "knowledge" of Seller means only the current actual knowledge of [REDACTED] (the "Trustee"). The Trustee has no duty (imposed or implied) to investigate, inspect or audit any files or documents in the possession or control of Seller, or otherwise (including without limitation any public records), or make any other inquiries, pertaining to the representations or warranties made by Seller in this Section 4. Buyer hereby acknowledges and agrees that, in no event, will the Trustee have any personal liability arising from a breach of a representation or warranty by Seller.

Until the Closing(s) or such time as this Agreement has been terminated, Seller shall not hereafter encumber, transfer, convey, lease, license or assign, or alter the real estate tax classification of, the Property, except as expressly provided herein.

5. **Representations and Warranties of Buyer.**

(a) Buyer represents and warrants that:

(i) **Authority.** Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts and is qualified to do business in the Commonwealth of Massachusetts. Buyer has the full limited liability company right and authority and has obtained any and all limited liability company consents required to enter into this Agreement and to consummate or cause to be consummated the transaction contemplated hereby. This Agreement has been, and all of the documents to be executed and delivered by Buyer at the Closings shall be, duly authorized by all requisite corporate action and properly executed and shall constitute valid and binding obligations of Buyer or its successor, assignee or nominee, subject to applicable bankruptcy and similar laws for the benefit of debtors

(ii) **No Conflict.** The execution and delivery of this Agreement and the consummation of the transactions contemplated hereunder on the part of Buyer does not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of the Buyer by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Buyer is a party or which is or purports to be binding upon Buyer or which otherwise affects Buyer, which will not be discharged, assumed or released at the Closings. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Buyer in accordance with its terms.

(iii) **Patriot Act.** Buyer is in compliance with the requirements of the Order and other similar requirements contained in the rules and regulations of OFAC and in any other Orders. Neither the Buyer nor any of its affiliates (A) is listed on the Lists, (B) is a Person (as defined in the Order) who has been determined by competent authority to be subject to the prohibitions contained in the Orders; or (C) is owned or controlled by (including without limitation by virtue of such Person being a director or owning voting shares or interests), or acts for or on behalf of, any person on the Lists or any other Person who has been determined by competent authority to be subject to the prohibitions contained in the Orders.

6. **Development Approvals**. Buyer intends to develop the Property for the Project (as defined below), and Buyer's obligation to proceed to the Second Installment Closing is contingent upon Buyer having obtained all of the Development Approvals (as defined below), with any applicable appeal periods having expired with no appeals having been filed (or with any such appeals having been fully and finally dismissed to Buyer's reasonable satisfaction).

6.1 **Development Approvals Condition**.

(a) Commencing on the Effective Date, Buyer, at Buyer's sole cost and expense, shall use commercially reasonable, good faith, continuous and diligent efforts to obtain any and all governmental or quasi-governmental permits, approvals, variances, entitlements and the like (including, without limitation and to the extent required, a development agreement (the "Development Agreement") with the Town for the Project wherein the Town agrees to purchase from Buyer the ANR Lots and the Town Parcel for the sum of Two Million Five Hundred Thousand and 00/100 Dollars (\$2,500,000.00), a Site Eligibility Letter from the Massachusetts Department of Housing and Community Development ("DHCD") or other applicable state subsidized housing agency for the Project, a LIP application to DHCD or other applicable state subsidized housing agency, an Order of Conditions from the Needham Conservation Commission, MEPA approvals, sewer connection permit, subdivision approval of the House Lot into the Northland Parcel and Town Parcel, and a Comprehensive Permit from the Needham Zoning Board of Appeals for the Project, but specifically excluding any partial or full building permit or certificate of occupancy), with all appeal periods thereon having expired with no appeal having been filed (cumulatively, the "Development Approvals") in order to both demolish the Buildings and Improvements, and develop, a project on the Northland Parcel containing approximately [REDACTED] age-targeted residential units, with no more than [REDACTED] of such units being moderate-income units, in accordance with its development plan (the "Project"). It shall be a condition of Buyer's obligation to consummate the Second Installment Closing contemplated hereunder (the "Development Approvals Condition") that such Development Approvals, with all applicable appeal periods having expired with no appeals having been filed (or with any such appeals having been fully and finally dismissed) shall be received within nine (9) months of the Effective Date, subject to extension as set forth herein (the "Outside Approval Date"). Buyer may waive the Development Approvals Condition at any time at Buyer's sole option, by delivery of written notice from Buyer to Seller.

(b) Buyer shall have the right to extend the Outside Approval Date by up to sixty (60) days (the "Extended Outside Approval Date"), provided that Buyer (i) is proceeding with commercially reasonable, good faith, continuous and diligent efforts to obtain the Development Approvals, and (ii) notifies Seller in writing on or before 6:00 p.m. Eastern time at least thirty (30) days prior to the expiration of the Outside Approval Date. In the event Buyer exercises its right to extend the Outside Approval Date as set forth in this Section 6.1(b), then one-half of the Permitting Deposit, equal to [REDACTED] shall become non-refundable (except as otherwise provided for herein), and shall be released directly to Seller by Escrow Agent (but shall be applicable to the Purchase Price).

(c) Buyer shall have the right to extend the Extended Outside Approval Date by up to thirty (30) days (the "Subsequent Extended Outside Approval Date"), provided that provided that Buyer (i) is proceeding with diligent, good faith efforts to obtain the Development

Approvals, and (ii) notifies Seller in writing on or before 6:00 p.m. Eastern time at least thirty (30) days prior to the expiration of the Extended Outside Approval Date. In the event Buyer exercises its right to extend the Outside Approval Date as set forth in this Section 6.1(c), then one-half of the Permitting Deposit, equal to [REDACTED] shall become non-refundable (except as otherwise provided for herein), and shall be released directly to Seller by Escrow Agent (but shall be applicable to the Purchase Price).

(d) The Approval Date may be extended to the extent necessary to resolve or defend any appeals of the Development Approvals, provided that (i) Buyer shall have already exercised its extensions set forth in Section 6.1(b) and 6.1(c) (and if not, Buyer shall exercise such extensions), (ii) Buyer shall provide Seller with five (5) Business Days' advance written notice of all hearings regarding such appeals, and (iii) in no event shall the Approval Date extend more than ninety (90) days following the Subsequent Extended Outside Approval Date without the prior written consent of Seller, which may be withheld in Seller's sole and absolute discretion.

6.2 Seller Cooperation; Non-Opposition. Seller shall reasonably cooperate with Buyer in its process of obtaining Development Approvals, by executing, at Buyer's request, any applications for Development Approvals if so required as fee owner of the Property, provided that such obligation shall not subject Seller to any cost or expense nor require Seller to attend any public hearing or subject the Property to any modification or demolition prior the applicable Closing for such portion of the Property. Neither Seller, nor any employee, officer, director, representative, or agent of Seller acting in its official capacity on Seller's behalf shall object before any governmental authority, by means of appeals or oral or written opposition, to Buyer's development of the Property. Notwithstanding the foregoing, Buyer acknowledges and agrees that at all times while Buyer is pursuing the Development Approvals: (a) Buyer shall use good faith efforts to advise Seller and give Seller reasonable advance notice in accordance with Section 15 below and an opportunity to be present at all public hearings, public meetings, and meetings with neighborhood and community groups regarding the proposed Project; (b) Buyer shall record only such permits, determinations, approvals or other documents relating to the Property or the Project which must be recorded to avoid their lapse, subject to prior approval by Seller, which shall not be unreasonably withheld, conditioned, or delayed; (c) Buyer shall provide Seller with information copies of all applications and documents filed by Buyer with any governmental authority concerning the Property or the Project, if possible prior to such filing and, in any event, promptly thereafter; (d) Buyer shall not orally or in writing agree to anything with any governmental authority, person, entity or other organization that results in any financial or other obligation that is binding on Seller or on the Property that Seller would be responsible for satisfying if the Second Installment Closing does not occur, Buyer hereby acknowledging and agreeing that any and all such agreements must be contingent on the Second Installment Closing occurring as contemplated herein; (e) any actions taken by Buyer at any time, and any changes to the present zoning classification of the Property, shall not in any way impact, impair, restrict or limit Buyer's current zoning scheme, including, without limitation Seller's present "by right" or "legal-non conforming" uses, such that any new or expanded uses, permits, approvals or determinations obtained by Buyer or any changes to the Town's Zoning By-Law (the "Zoning By-Law") requested by Buyer (if any) only will be supplemental or additive to such "by right" or "legal non-conforming" currently enjoyed by Seller at the Property; and (f) Buyer shall not materially change the scope of the Project beyond the parameters outlined in this Agreement without Seller's prior approval, which may be withheld in Seller's sole and absolute discretion. For purposes of the preceding clause (f) of this Section 6.2

only, “materially change” shall not include: (i) a minor change in the number of units to be developed on the Northland Parcel or minor shifts in the proposed boundary lines between the Northland Parcel and Town Parcel, or (ii) other changes which reduce the portion of the Land set aside for open space and/or conservation, as depicted on **Exhibit B-1**, in a de minimis manner. For the avoidance of doubt, any proposed change to the use of the House Lot for uses other than residential purposes shall be considered a “material change” to the scope of the Project for the purposes of the preceding clause (f) of this Section 6.2.

With respect specifically to sub-section (e) above, Buyer and Buyer’s attorneys shall confer in advance with Seller and Seller’s attorneys to discuss any proposed changes to the Zoning By-Law or the Zoning Map required for the Project which would impact the Property and would require Town Meeting approval. Buyer shall not submit any such proposed zoning changes which would violate the requirements of sub-section (e) above without first obtaining Seller’s prior written consent, which may be withheld in Seller’s sole and absolute discretion.

6.3 Buyer Termination Right. If the Development Approvals Condition is not satisfied by the Outside Approval Date, as the same may be extended, or if at any time following the Effective Date of this Agreement and prior to the Outside Approval Date, as the same may be extended, Buyer determines in its reasonable discretion that the Development Approvals Condition is unlikely to be satisfied, Buyer may terminate this Agreement by delivery of written notice of such election to Seller and Escrow Agent given on or before the Outside Approval Date, as the same may be extended, in which event the Permitting Deposit shall be returned forthwith to Buyer and, except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder. Notwithstanding the foregoing, if Buyer exercises its termination right pursuant to this Section 6.3 and Buyer has failed to exercise good faith, diligent efforts to obtain the Development Approvals, then Seller shall retain the Permitting Deposit. For purposes of the preceding sentence, good faith, diligent efforts shall include, without limitation, any one of the following actions taken by Buyer following the Effective Date and prior to the Outside Approval Date (and Escrow Agent shall be permitted to accept any of the following as evidence of diligent efforts): submission and/or preparation of any application for any Development Approval, Buyer’s written confirmation of any meetings with public officials to discuss Development Approvals, preparation of any design drawings or renderings for redevelopment of the Project.

7. Conditions Precedent

(a) Buyer’s obligations to consummate the transaction contemplated by this Agreement and Buyer’s liabilities hereunder are conditioned on the satisfaction at or before the time of the First Installment Closing, or Second Installment Closing, as the case may be, of each of the following conditions (any one or more of which may be waived or modified, in whole or in part by Buyer, at Buyer’s sole option, at any time during the term of this Agreement by delivery of written notice from Buyer to Seller, provided that the waiver or modification by Buyer of any one condition shall not release Seller from performing all remaining conditions) (“Conditions Precedent to Buyer’s Obligations”):

(i) Accuracy of Representations. All representations and warranties of Seller shall remain true and correct in all material respects as of the First Installment Closing Date, or the Second Installment Closing Date, as the case may be.

(ii) Performance. Seller shall have performed, observed and complied in all material respects with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on its part prior to or as of First Installment Closing, or Second Installment Closing, as the case may be.

(iii) Documents and Deliveries. All instruments and documents required to be delivered by Seller under Section 10.2 of this Agreement shall be delivered to Escrow Agent and shall be in form and substance consistent with the requirements herein.

(iv) Condition of Title. Title to the Property and the condition of the Survey shall be subject only to the Permitted Encumbrances.

(v) Development Approvals. The Development Approvals Condition having been satisfied or waived.

(vi) Town Approval. A vote at a Town Meeting approving the acquisition of the Town Parcel and the ANR Lots, and the appropriation of the funds therefor.

(vii) Condition of Property. The Property shall be in materially the same condition it is in as of the Effective Date, casualty, normal wear and tear and any matters arising from the actions or inactions of any Buyer party, excepted. There shall have been no release of hazardous materials by Seller in violation of applicable law on, in, under or about the Property subsequent to the Effective Date.

(b) Seller's obligations to consummate the transaction contemplated by this Agreement and Seller's liabilities hereunder are conditioned on the satisfaction at or before the time of First Installment Closing, or Second Installment Closing, as the case may be, of each of the following conditions (any one or more of which may be waived or modified, in whole or in part by Seller, at Seller's sole option, at any time during the term of this Agreement by delivery of written notice from Seller to Buyer, provided that the waiver or modification by Buyer of any one condition shall not release Seller from performing all remaining conditions):

(i) Accuracy of Representations. All representations of Buyer shall remain true and correct in all material respects as of the First Installment Closing Date, or the Second Installment Closing Date, as the case may be.

(ii) Performance. Buyer shall have performed, observed and complied in all material respects with all material covenants, agreements and conditions required by this Agreement to be performed, observed and complied with on its part prior to or as of First Installment Closing, or Second Installment Closing, as the case may be.

(iii) Documents and Deliveries. All instruments and documents required to be delivered by Buyer under Section 10.3 of this Agreement shall be delivered to Escrow Agent and shall be in form and substance consistent with the requirements herein.

8. **Failure of Conditions – Termination**.

8.1 Failure of Condition. In the event that any of the Conditions Precedent to Buyer's Obligations are not satisfied by the First Installment Closing Date, or the Second Installment Closing Date, as the case may be, in Buyer's reasonable discretion (a "Failure of Buyer's Condition"), then, Buyer may elect, by written notice to Seller, to (i) terminate this Agreement by notice to Seller before or at the First Installment Closing, or Second Installment Closing, as the case may be; (ii) extend the First Installment Closing Date, or the Second Installment Closing Date, as the case may be by up to 90 days to allow Seller to cure the Failure of Buyer's Condition, in which case Seller shall use commercially reasonable efforts to cure such failure; or (iii) waive or modify the condition and proceed to the First Installment Closing, or Second Installment Closing, as the case may be, without reduction in the Purchase Price. No waiver or modification of any condition shall constitute a waiver or modification of any other condition. Notwithstanding anything to the contrary contained herein, Buyer shall have no right to nullify or unwind the First Installment Closing in the event of any Failure of Buyer's Condition as to the Second Installment Closing which is discovered or occurs after the First Installment Closing Date. For purposes of this Section 8.1 "commercially reasonable efforts" to cure failures of Conditions Precedent to Buyer's Obligations shall not require Seller to expend more than [REDACTED], in the aggregate. Notwithstanding anything to the contrary contained herein, Seller shall have no obligation to use commercially reasonable efforts to cure any failure of the Condition Precedent to Buyer's Obligations set forth in Sections 7(a)(iv), 7(a)(v), or 7(a)(vi).

8.2 Termination. If Buyer elects to terminate this Agreement due to a Failure of Buyer's Condition, the Deposit shall be returned to Buyer (other than any portion of the Deposit that has, or was obligated to have, already been released directly to Seller by Escrow Agent), and neither party shall have any further rights, obligations or liabilities hereunder, except that if such Failure of Buyer's condition occurs as a result of the action, inaction, or default of Seller, Buyer shall be entitled to pursue the remedies set forth in Section 13.2, regardless of Buyer's election under Section 8.1 above.

9. Seller's Covenants.

9.1 Affirmative Covenants. Between the date of this Agreement and the First Installment Closing Date, or Second Installment Closing Date, as the case may be, Seller agrees to:

9.1.1 give prompt written notice to Buyer of any fire or other casualty affecting any portion of the Property after the date of this Agreement;

9.1.2 deliver to Buyer promptly after receipt by Seller copies of all notices of violation issued by any board, bureau, commission, department or body of any municipal, county, state or federal government unit, or any subdivision thereof, with respect to the Property received by Seller after the date of this Agreement;

9.1.3 in the event Seller becomes aware that any representation or warranty of Seller set forth in Section 5 hereof will not be true and correct in all material respects on the First Installment Closing Date, or Second Installment Closing Date, as the case may be, as if made at and as of the First Installment Closing Date, or Second Installment Closing Date, as the

case may be, Seller shall give prompt written notice thereof to Buyer, which notice shall include all appropriate information related thereto that is in Seller's possession or control; and

9.1.4 maintain the Property using the same level of effort and expense as Seller has maintained the Property for Seller's own account prior to the Effective Date.

9.2 Negative Covenants. Between the Effective Date and the First Installment Closing Date, or Second Installment Closing Date, as the case may be, Seller agrees that, without Buyer's written consent in each case, it will not:

9.2.1 voluntarily grant, create, assume or permit to be created any mortgage in excess of any presently outstanding principal sum, lien, encumbrance, easement, covenant, condition, right-of-way or restriction upon the Property, or voluntarily take or permit any action adversely affecting the title to the Property, as it exists on the date of this Agreement.

9.2.2 enter into any leases upon the Property or enter into any contracts concerning the Property that would be binding on the Buyer after the First Installment Closing Date, or Second Installment Closing Date, as the case may be.

9.2.3 directly or indirectly transfer or market the Property to others, employ or direct any agent with respect to the marketing or disposition of the Property, directly or indirectly solicit, accept or consider any such offer or expression of interest, or negotiate or enter into any "back up" or contingent offers or agreements with respect to the sale of the Property.

10. Closing(s); Deliveries.

10.1 Bifurcated Closing; Time of Closing. (a) The Closing shall take place in two installments – the First Installment Closing and the Second Installment Closing. Notwithstanding anything to the contrary contained herein, the Purchase Price in the First Installment Closing shall not be reduced by the amount of the Deposit, and such Deposit amount shall be deducted from the Purchase Price in the Second Installment Closing. The term "Closing Dates" or "Closing Date" as used herein shall be read to include both the First Installment Closing Date and/or the Second Installment Closing Date, as the circumstances require and as is appropriate. Neither party and/or their attorney shall be obligated to attend either Closing in person, and the parties may arrange to close by overnight mail, courier services, or electronic delivery of documents, accompanied by customary escrow instructions to the Escrow Agent, consistent with the provisions of this Agreement, and in accordance with standard conveyancing practices in the Commonwealth of Massachusetts.

(b) The First Installment Closing shall take place at 11:00 a.m. Eastern Time, at the offices of the Buyer's attorney or Escrow Agent, on the date which is ninety (90) days following the Effective Date (the "First Installment Closing Date").

(c) The Second Installment Closing shall take place at 11:00 a.m. Eastern Time, at the offices of the Buyer's attorney or Escrow Agent, on the date which is forty-five (45) days following the expiration of the Outside Approval Date, as the same may be extended (the "Second Installment Closing Date").

10.2 Seller Deliveries. (a) At least two (2) Business Days prior to the First Installment Closing Date, Seller shall deliver to Buyer, through the escrow administered by Escrow Agent, the following, and it shall be a condition to Buyer's obligation to close that Seller shall have delivered the same:

(i) A Quitclaim Deed to the Real Property from Seller, duly executed and acknowledged by Seller and substantially in the form of **Exhibit D-1**, as to the First Installment Property, which Quitclaim Deed shall be subject to approval by the Title Company.

(ii) Such affidavits or letters of indemnity as the Title Company shall reasonably require in order to omit from the owner's policy of title insurance exceptions for unfiled mechanics' or materialmen's liens for work performed by Seller prior to the First Installment Closing or for rights of parties in possession, as to the First Installment Property.

(iii) A Non-Foreign Affidavit as required by the Foreign Investors in Real Property Tax Act ("FIRPTA"), as to the First Installment Property.

(iv) A certification by Seller that all representations and warranties made by Seller in Section 4 of this Agreement are true and correct in all material respects on the date of the First Installment Closing, as modified or deemed modified in accordance therewith.

(v) A Bill of Sale from Seller, duly executed by Seller and substantially in the form of **Exhibit E**, as to the First Installment Property.

(vi) All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby, as to the First Installment Property.

[REDACTED]

(b) At least two (2) Business Days prior to the Second Installment Closing Date, Seller shall deliver to Buyer, through the escrow administered by Escrow Agent, the following, and it shall be a condition to Buyer's obligation to close that Seller shall have delivered the same:

(i) A Quitclaim Deed to the Real Property from Seller, duly executed and acknowledged by Seller and substantially in the form of **Exhibit D-2**, as to the Second Installment Property, which Quitclaim Deed shall be subject to approval by the Title Company.

(ii) Such affidavits or letters of indemnity as the Title Company shall reasonably require in order to omit from the owner's policy of title insurance exceptions for unfiled mechanics' or materialmen's liens for work performed by Seller prior to the Second Installment Closing or for rights of parties in possession, as to the Second Installment Property.

(iii) A Non-Foreign Affidavit as required by the Foreign Investors in Real Property Tax Act ("FIRPTA"), as to the Second Installment Property.

(iv) A Bill of Sale from Seller, duly executed by Seller and substantially in the form of **Exhibit E**, as to the Second Installment Property.

(v) A certification by Seller that all representations and warranties made by Seller in Section 4 of this Agreement are true and correct in all material respects on the date of the Second Installment Closing, as modified or deemed modified in accordance therewith.

(vi) All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby, as to the Second Installment Property.

[REDACTED]

(viii) The Declaration of Restrictions to be recorded with respect to the ANR Lots.

10.3 Buyer Deliveries. (a) At least two (2) Business Days prior to the First Installment Closing Date Buyer shall deliver to Seller, through the escrow administered by Escrow Agent, the following, and it shall be a condition to Seller's obligation to close that Buyer shall have delivered the same:

(i) In accordance with Seller's instructions, a wire transfer in the amount of the Purchase Price allocated for the First Installment Closing ([REDACTED]) and subject to the adjustments provided for in this Agreement, transferred to the order or account of Seller or to such other person or persons as Seller shall designate in writing.

(ii) A certification by Buyer that all representations and warranties made by Buyer in Section 5 of this Agreement are true and correct in all material respects on the date of the First Installment Closing.

(iii) All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby, as to the First installment Property.

(b) At least two (2) Business Days prior to the Second Installment Closing Date Buyer shall deliver to Seller, through the escrow administered by Escrow Agent, the following, and it shall be a condition to Seller's obligation to close that Buyer shall have delivered the same:

(i) In accordance with Seller's instructions, a wire transfer in the amount of the Purchase Price allocated to the Second Installment Closing ([REDACTED]), less the Deposit, and subject to the adjustments provided for in this Agreement, transferred to the order or account of Seller or to such other person or persons as Seller shall designate in writing.

(ii) A certification by Buyer that all representations and warranties made by Buyer in Section 5 of this Agreement are true and correct in all material respects on the date of the Second Installment Closing.

(iii) All other instruments and documents reasonably required to effectuate this Agreement and the transactions contemplated thereby, as to the Second Installment Property.

(iv) The Declaration of Restrictions to be recorded with respect to the ANR Lots.

11. Apportionments; Taxes; Expenses.

11.1 Taxes and Utilities. Real estate taxes and any general or special assessments for the applicable tax period ("Taxes") and water and sewer charges (if any) and any utility charges (collective with Taxes, "Charges and Taxes") shall be apportioned or prorated between Seller and Buyer as of the close of the day preceding the First Installment Closing Date or the Second Installment Closing Date, as the case may be. If final tax statements for the applicable tax period or any applicable statement of charges in which the applicable Closing occurs are not available at such Closing, Seller and Buyer shall prorate Charges and Taxes for such applicable tax period based upon the most recent ascertainable assessed values and tax rates. All prorations shall be based upon a fraction determined by dividing the number of days elapsed up through the date immediately preceding the applicable Closing Date by 365. The parties shall make the appropriate adjusting payment between them when the final tax or charge statements, as applicable, are available.

11.2 Expenses. Each party will pay all its own expenses incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation, (1) all costs and expenses stated herein to be borne by a party, and (2) all of their respective legal fees. Buyer, in addition to its other expenses, shall pay at each Closing, as applicable to such Closing (1) all recording charges incident to the recording of the deed for the applicable Real Property, (2) all premiums for any coverage under Buyer's title insurance policy and all fees for the Commitment, (3) all survey costs, and (4) one-half of the fees, costs and expenses of Escrow Agent. Seller, in addition to its other expenses, shall pay at each Closing (1) the deed stamps for recording of the deed to be recorded at such Closing, and (2) one-half of the fees, costs and expenses of Escrow Agent for such Closing.

12. **Condemnation; Damage or Destruction.** If at any time prior to the First Installment Closing Date all or any material portion of the First Installment Property is condemned or taken by eminent domain proceedings by any public authority, then at Buyer's option by notice given to Seller within ten (10) Business Days following Buyer's receipt of written notice of such condemnation, Buyer may terminate this Agreement only as to the First Installment Property (for purposes of this sentence, material shall mean that access to the First Installment Property is practically impossible given the portion taken by eminent domain proceedings or by any public authority).

If at any time prior to the Second Installment Closing Date, all or any material portion of the Second Installment Property is condemned or taken by eminent domain proceedings by any

public authority, then at Buyer's option by notice given to Seller within ten (10) Business Days following Buyer's receipt of written notice of such condemnation, this Agreement shall terminate, and the Deposit (other than any portion of the Deposit that has, or was obligated to have, already been released directly to Seller by Escrow Agent) shall be returned to Buyer, and except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder (for purposes of this sentence, material shall mean that access to the Second Installment Property sufficient to support the Project is practically impossible given the portion taken by eminent domain proceedings or by any public authority).

If there is any condemnation or taking, as set forth above, and if Buyer elects not to terminate this Agreement as herein provided, then there shall be no reduction to the Purchase Price.

Notwithstanding anything to the contrary contained herein, Buyer shall have no right to nullify or unwind the First Installment Closing in the event of any condemnation or eminent domain proceedings as to the Second Installment Property following the First Installment Closing Date.

If at any time prior to the Second Installment Closing Date any material portion of the Building and Improvements is damaged or destroyed by fire or other casualty, Seller will take such steps as are necessary to secure the Building and Improvements in accordance with applicable laws.

Seller shall maintain the First Installment Property insured as it is currently insured until the First Installment Closing, and Seller shall maintain the Second Installment Property insured as it is currently insured until the Second Installment Closing. If there is any condemnation, as set forth above, and if Buyer elects not to terminate this Agreement as herein provided, then there shall be no reduction to the Purchase Price and Buyer shall accept the Property in its then condition, provided that, with respect to a taking, all condemnation proceeds paid or payable to Seller shall belong to Buyer and shall be paid over and assigned to Buyer at Closing, less any costs of collection.

13. **Remedies.**

13.1 **Buyer Default.** If Buyer breaches this Agreement or otherwise fails to comply with any of the terms of this Agreement, then (after Buyer has been given written notice specifically referencing this Section 13.1, and a five (5) Business Day period to cure such breach or failure, except that such notice and cure period shall not apply to Buyer's failure to timely perform its obligations on any applicable Closing Date) Seller may terminate this Agreement, in which event Seller shall retain the Deposit as liquidated damages, as Seller's sole and exclusive remedy at law or in equity. The parties have agreed that Seller's actual damages, in the event of a failure to consummate both Closings contemplated hereunder, would be extremely difficult or impracticable to determine. After negotiation, the parties have agreed that, considering all the circumstances existing on the date of this agreement, the amount of the Deposit is a reasonable estimate of the damages that Seller would incur in such event. Each party specifically confirms the accuracy of the statements made above and the fact that each party was represented by counsel who explained, at the time this agreement was made, the consequences of this liquidated damages

provision. The foregoing, however, shall not limit Seller's recovery under the express indemnity provisions in this Agreement.

13.2 Seller Default. In the event Seller breaches or fails, without legal excuse, to complete the sale of the Property or to perform its obligations under this Agreement to be performed at or prior to each of the Closings, then (after Seller has been given written notice specifically referencing this Section 13.2 and a five (5) Business Day period to cure such breach or failure) Buyer may elect, as Buyer's sole and exclusive remedy, either to: (1) terminate this agreement and receive a refund of the Deposit, including, but not limited to, any amounts which may have been previously released to Seller, in which event neither party shall have any further rights or obligations hereunder except as otherwise provided herein, or (2) enforce specific performance of this Agreement but no actual, consequential, or punitive damages; or (3) waive the default or other closing condition and proceed to consummate the transaction(s) in accordance with the provisions of this Agreement. In addition to the foregoing, Buyer may postpone the applicable Closing from time to time for such period(s) as may be deemed appropriate to give Seller additional time within which to satisfy Seller's obligations hereunder and no such agreement by Buyer to such postponement(s) shall constitute a waiver by Buyer of any rights of Buyer for any Seller default. In the event Buyer terminates this Agreement as a result of Seller's default as aforesaid, the Escrow Agent is hereby instructed to return the any portion of the Deposit still held by Escrow Agent to Buyer two (2) business days after receipt by the Escrow Agent and Seller of a sworn affidavit from Buyer stating that Seller is in default under the terms of this Agreement, and Seller shall within two (2) business days pay to Buyer any portion of the Deposit previously released to Seller, unless during said two (2) business day period, the Escrow Agent receives from Seller written objection to the same. If, in the absence of a failure of a condition precedent or a default by Buyer, Buyer terminates this Agreement pursuant to clause (1) above because specific performance is not available as a remedy as a result of an intentional or willful breach of Seller's obligations set forth herein, then Seller shall reimburse Buyer for Buyer's verifiable out of pocket third party due diligence costs and expenses, not to exceed [REDACTED]. If Buyer elects to enforce specific performance of this Agreement pursuant to clause (2) above, then the Purchase Price shall be reduced by the out of pocket cost to Buyer of such action to enforce specific performance.

13.3 Release. Except as expressly provided in Section 13.4, and except for any environmental liability retained by Seller pursuant to applicable law or which results from or may relate to Seller's ownership and/or use of the Property, upon the First Installment Closing, or Second Installment Closing, as the case may be, Buyer shall assume the risk that adverse matters, including but not limited to, construction defects, adverse physical, environmental, Hazardous Materials, endangered species, zoning, access or water course issues or conditions, may not have been revealed by Buyer's investigations as to the First Installment Property, or Second Installment Property, as the case may be. Except as expressly provided in Section 13.4, upon the First Installment Closing, or Second Installment Closing, as the case may be, Buyer shall release Seller from, and waive any and all liability, claims, demands, damages, losses, expenses and costs (including attorneys' fees and expenses), that may otherwise have been brought, incurred or claimed by Buyer of any and every kind or character, known or unknown, for, arising out of, or attributable to, any latent or patent issue or condition at the First Installment Property, or Second Installment Property, as the case may be, including, without limitation, claims, liabilities and contribution rights relating to the presence, discovery or removal of any Hazardous Materials in, at, about or under the First

Installment Property, or Second Installment Property, as the case may be, or for, connected with or arising out of any and all claims or causes of action based thereon. It is the intention of the parties that the foregoing release shall be effective with respect to all matters, past and present, known and unknown, suspected and unsuspected. Buyer realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to losses, damages, liabilities, costs and expenses which are presently unknown, unanticipated and unsuspected, and Buyer further agrees that the waivers and releases herein have been negotiated, bargained for and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release Seller from and waive the liability, losses, demands, damages, expenses, costs and claims described herein that may otherwise have been brought, incurred or claimed by Buyer. As used herein, "Hazardous Materials" shall mean and include, but shall not be limited to any petroleum product and all hazardous or toxic substances, wastes or substances, any substances which because of their quantitated concentration, chemical, or active, flammable, explosive, infectious or other characteristics, constitute or may reasonably be expected to constitute or contribute to a danger or hazard to public health, safety or welfare or to the environment, including, without limitation, any hazardous or toxic waste or substances which are included under or regulated by (whether now existing or hereafter enacted or promulgated, as they may be amended from time to time) including, without limitation, the Massachusetts Oil and Hazardous Material Release and Prevention Act, M.G.L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. ("CERCLA"), the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., and similar state laws and regulations adopted thereunder.

13.4 Post-Closing Breach of Representations. Seller and Buyer agree that, following the each of the Closings, each shall be liable for, and shall indemnify and hold harmless the other party from, the direct, but not consequential or punitive, damages (including losses, claims, liabilities, costs and expenses) resulting from any breach of its representations and warranties expressly set forth in this Agreement; provided, however, that: (i) such representations, warranties and indemnities are personal to Seller and Buyer and may not be assigned to or enforced by any other Person, other than to an assignee of Buyer in accordance with Section 18.1; and (ii) the representations and warranties of Seller and Buyer set forth in this Agreement shall survive each of the Closings for a period of six (6) months (and shall not be merged with the execution and delivery of the Deed and other closing documents hereunder), and no action or proceeding thereon shall be valid or enforceable, at law or in equity, if a legal proceeding is not commenced within that time. Notwithstanding the foregoing, however, if either Closing occurs, Buyer hereby expressly waives, relinquishes and releases any right or remedy available to it at law, in equity, under this Agreement or otherwise to make a claim against Seller for damages that Buyer may incur, or to rescind this Agreement and the transactions contemplated hereby, as the result of any of Seller's representations or warranties in this Agreement or any document executed by Seller in connection herewith being untrue, inaccurate or incorrect if Buyer actually knew that such representations or warranties were untrue, inaccurate or incorrect at the time of either Closing. Buyer further agrees that, following the Closings, no claims may or shall be made for any alleged breach of any representations or warranties made by Seller under or relating to this Agreement unless the amount of such claims, in the aggregate, exceeds [REDACTED] (at which point, subject to the above provisions, Seller shall be liable for all such damages caused thereby relating back to the first dollar of loss), subject to the limitation that in no event shall Seller be liable for claims that exceed [REDACTED]

[REDACTED] in the aggregate, and an action or proceeding thereon is commenced no later than the date that is six (6) months from the Closing Dates.

14. **Confidentiality.** The parties shall keep confidential the terms and conditions governing this transaction, provided that (i) the parties may disclose the fact of this transaction, and may disclose the terms hereof to their respective counsel, consultants, potential investors and financing sources, as well as such information which is required in connection with pursuing the Development Approvals, and (ii) this provision shall not limit Buyer's ability to communicate and meet with third parties concerning the development of the Project. In addition, the parties may disclose such information if required by or to comply with the order of a court of competent jurisdiction, the law, or any regulatory body or administrative agency governing either party or the members, partners or principals thereof. The provisions of this Section 14 shall survive the termination of this Agreement but shall no longer be applicable following Second Installment Closing in accordance with the terms of this Agreement. Any press release or public disclosure regarding this transaction before or after either of the Closings must be approved by Buyer and Seller.

15. **Notices.** All notices and other communications provided for herein shall be in writing and shall be sent to the address set forth below (or such other address as a party may hereafter designate for itself by notice to the other parties as required hereby) of the party for whom such notice or communication is intended:

15.1 If to Seller:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

with a copy to

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

15.2 If to Buyer:

Northland Residential Corporation
80 Beharrell Street, Suite E
Concord, MA 01742
Attn: John C. Dawley
Email: jdawley@northlandresidential.com

With a copy to:

Marcus Errico Emmer Brooks PC

45 Braintree Office Park, Suite #107
Braintree, MA 02184
Attention: Matthew W. Gaines, Esq.
Email: mgaines@meeb.com

15.3 If to the Escrow Agent:

WFG National Title Insurance Company
400 International Parkway #160
Lake Mary, FL 32746
Attention: Dawn M. DuBough
Email: ddubourg@wfgtitle.com

Any such notice or communication shall be sufficient if sent by registered or certified mail, return receipt requested, postage prepaid; by hand delivery; by overnight courier service; or by e-mail, with an original by one of the methods specified above. Any such notice or communication shall be effective when delivered or when delivery is refused.

16. **Brokers.** Buyer and Seller each represents to the other that it has not dealt with any broker or agent in connection with this transaction other than LandVest, Inc. ("**Broker**"). Seller shall pay Broker commission(s) pursuant to a separate agreement with Broker. Seller shall pay to Broker (i) the brokerage commission with respect to the First Installment Property if and when the First Installment Closing occurs and Seller receives the Purchase Price allocated to the First Installment Property, but not otherwise, and (ii) the brokerage commission with respect to the Second Installment Property if and when the Second Installment Closing occurs and Seller receives the Purchase Price allocated to the Second Installment Property, but not otherwise. Each party hereby indemnifies and holds harmless the other party from all loss, cost and expense (including reasonable attorneys' fees) arising out of a breach of its representation or undertaking set forth in this Section 16. The provisions of this Section 16 shall survive the Closings or the termination of this Agreement.

17. **Escrow Agent.** Escrow Agent shall hold the Deposit in accordance with the terms and provisions of this Agreement, subject to the following:

17.1 **Obligations.** Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties or obligations shall be read into this Agreement against Escrow Agent.

17.2 **Reliance.** Escrow Agent may act in reliance upon any writing or instrument or signature, and any statement or assertion contained in such writing or instrument, which it, in good faith, believes, and may assume that any person purporting to give any such writing, notice, advice or instrument in connection with the provisions of this Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing the same, and Escrow Agent's duties under this Agreement shall be limited to those provided in this Agreement.

17.3 Indemnification. Unless Escrow Agent discharges any of its duties under this Agreement in a negligent manner or is guilty of misconduct with regard to its duties under this Agreement, Seller and Buyer shall indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or other expenses, fees, or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in such connection Seller and Buyer shall indemnify on an equal basis Escrow Agent against any and all expenses including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim in such capacity.

17.4 Disputes. Any notice sent by Seller or Buyer (the "Notifying Party") to the Escrow Agent shall be sent simultaneously to the other noticed parties, which shall include all individuals and parties set forth in Section 16 above (the "Notice Parties"). If the Notice Parties do not object to the Notifying Party's notice to the Escrow Agent within seven (7) days after the Notice Parties' receipt of the Notifying Party's certificate to the Escrow Agent, the Escrow Agent shall be able to rely on the same. If the Notice Parties send, within such seven (7) days, written notice to the Escrow Agent disputing the Notifying Party's certificate, a dispute shall exist and the Escrow Agent shall hold the Deposit as hereinafter provided. Notwithstanding the foregoing, no seven (7) day period for objection shall apply with respect to a notice of election to terminate delivered prior to the end of the Inspection Period and Escrow Agent shall return the Deposit forthwith to Buyer upon receipt of such notice prior to the expiration of the Inspection Period, regardless of any objection received from Seller. The parties hereto hereby acknowledge that Escrow Agent shall have no liability to any party on account of Escrow Agent's failure to disburse the Deposit if a dispute shall have arisen with respect to the propriety of such disbursement and, in the event of any dispute as to who is entitled to receive the Deposit, Escrow Agent shall disburse them only in accordance with joint written instructions of Buyer and Seller or pursuant to the final order of a court of competent jurisdiction, or shall deposit or interplead such funds into a court of competent jurisdiction pending a final decision of such controversy. The parties hereto further agree that Escrow Agent shall not be liable for failure of any depository and shall not be otherwise liable except in the event of Escrow Agent's gross negligence or willful misconduct. The Escrow Agent shall be reimbursed on an equal basis by Buyer and Seller for any reasonable expenses incurred by the Escrow Agent arising from a dispute with respect to the Deposit. If the parties (including Escrow Agent) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or the propriety of any action contemplated by Escrow Agent, or the application of the Deposit, Escrow Agent shall hold the Deposit until the receipt of written instructions from both Buyer and Seller or a final order of a court of competent jurisdiction. In addition, in any such event, Escrow Agent may, but shall not be required to, file an action in interpleader to resolve the disagreement. Escrow Agent shall be indemnified for all costs and reasonable attorneys' fees in its capacity as Escrow Agent in connection with any such interpleader action and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in the interpleader action is received.

17.5 Counsel. Escrow Agent may consult with counsel of its own choice and have full and complete authorization and protection in accordance with the opinion of such counsel. Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind, unless caused by its negligence or misconduct.

17.6 Interest. The Deposit shall be held by the Escrow Agent in an interest bearing account. All interest earned on the Deposit during such period shall be deemed to be part of the Deposit and shall accrue to the benefit of Buyer except to the extent the Deposit becomes payable to Seller. In such event the interest earned on the Deposit shall accrue to the benefit of the Seller. All interest on the Deposit shall be considered income of the ultimate recipient.

17.7 FDIC. The parties hereto do hereby certify that they are aware that the Federal Deposit Insurance Corporation ("FDIC") coverages apply only to a cumulative maximum amount of \$250,000 for each individual depositor for all of depositor's accounts at the same or related institution. The parties hereto further understand that certain banking instruments such as, but not limited to, repurchase agreements and letters of credit are not covered at all by FDIC insurance.

Further the parties hereto understand that Escrow Agent assumes no responsibility for, nor will the parties hereto hold Escrow Agent liable for, any loss occurring which arises from the fact that the amount of the above account may cause the aggregate amount of any individual depositor's accounts to exceed \$250,000 and that the excess amount is not insured by the Federal Deposit Insurance Corporation or that FDIC insurance is not available on certain types of bank instruments.

The parties to this escrow acknowledge that the maintenance of such escrow accounts with some depository institutions may result in Escrow Agent being provided with an array of bank services, accommodations or other benefits by the depository institution. Escrow Agent or its affiliates also may elect to enter into other business transactions with or obtain loans for investment or other purposes from the depository institution. All such services, accommodations and other benefits shall accrue to Escrow Agent, and Escrow Agent shall have no obligation to account to the parties to the escrow for the value of such services, accommodations or other benefits.

18. Miscellaneous.

Assignability. The terms, covenants and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. Buyer shall not assign its rights under this Agreement without the prior written consent of the Seller, which consent may be granted or withheld in Seller's sole discretion; provided further however, Buyer shall have the right to assign this Agreement, without Seller's prior written consent, but with two (2) Business Days prior notice to Seller, to an entity controlled by or under common control with Buyer, provided that in the event of such assignment the assignee shall assume all of Buyer's obligations hereunder and affirm all representations, warranties and indemnities of Buyer hereunder. In no event shall Buyer be released from any covenants, obligations, or responsibilities hereunder by virtue of any assignment, and Buyer and such assignee or nominee shall be jointly and severally liable for all covenants, obligations, and responsibilities of Buyer hereunder.

18.2 Governing Law; Bind and Inure. This Agreement shall be governed by the law of the Commonwealth of Massachusetts and shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, assigns and personal representatives.

18.3 Time of the Essence. Time is of the essence of this Agreement.

18.4 Headings. The headings preceding the text of the paragraphs and subparagraphs hereof are inserted solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

18.5 Counterparts. This Agreement may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. To facilitate execution of this Agreement, the parties may execute and exchange by telephone or electronic facsimile counterparts of the signature page.

18.6 Exhibits. All Exhibits which are referred to herein and which are attached hereto or bound separately and initialed by the parties are expressly made and constitute a part of this Agreement.

18.7 Survival; Merger. Unless expressly made to survive, the representations, warranties and all other obligations and covenants of Seller contained herein shall be deemed to have been merged into the deed and shall not survive the Closings.

18.8 Use of Proceeds to Clear Title. To enable Seller to make conveyance as herein provided, Seller may, at the time of either Closing, use the Purchase Price or any portion thereof to clear the title of any or all encumbrances or interests, provided that provision reasonably satisfactory to Buyer's attorney is made for prompt recording of all instruments so procured in accordance with conveyancing practice in the jurisdiction in which the Property is located.

18.9 Use of Pronouns. The use of the neuter singular pronoun to refer to Seller and Buyer shall be deemed a proper reference, even though Seller or Buyer may be an individual, partnership or a group of two or more individuals. The necessary grammatical changes required to make the provision of this Agreement apply in the plural sense where there is more than one seller or buyer and to either partnerships or individuals (male or female) shall in all instances be assumed as though in each case fully expressed.

18.10 Submission not an Offer or Option. The submission of this Agreement or a summary of some or all of its provisions for examination or negotiation by Buyer or Seller does not constitute an offer by Seller or Buyer to enter into an agreement to sell or purchase the Property, and neither party shall be bound to the other with respect to any such purchase and sale until a definitive agreement satisfactory to the Buyer and Seller in their sole discretion is executed and delivered by both Seller and Buyer.

18.11 Entire Agreement; Amendments. This Agreement and the Exhibits hereto set forth all of the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained herein. This Agreement may not be changed orally but only by an agreement in writing, duly executed by or on behalf of the party or parties against whom enforcement of any waiver, change, modification, consent or discharge is sought.

18.12 Marketing. From and after the Effective Date, Seller will not directly or indirectly market the Property to others, employ or direct any agent with respect to the marketing or disposition of the Property, directly or indirectly solicit, accept or consider any such offer or

expression of interest, or negotiate or enter into any “back up” or contingent offers or agreements with respect to the sale of the Property.

18.13 Liability of Fiduciaries. If either party executes this Agreement in a representative or fiduciary capacity, only the trust, limited liability company, corporation or other entity shall be bound, and neither the person so executing, nor the beneficiary of any trust, the member of any limited liability company, the director or shareholder of any corporation, nor the principal of any other entity, shall be personally liable for any obligation, express or implied, hereunder.

18.14 Post-Closing Restrictions. (a) Buyer, nor any of its successors or assigns, shall not at any time following the Second Installment Closing, permit access to the Town Parcel over or across the Northland Parcel, except in the case of emergency, for the connection and maintenance of utilities serving the Project, to maintain the Town Parcel in its current natural, scenic and open condition, or for passive recreation (such as hiking, cross-country skiing, and snowshoeing, but expressly excluding recreation by electric or motor vehicles, including, without limitation, all-terrain vehicles, motorcycles, utility task vehicles, electric bicycles, or other on or off-road vehicles).

The restriction set forth in this Section 18.14(a) shall be memorialized in the deed for the Second Installment Property, and Buyer, and its successors and assigns shall take all actions necessary to require the restriction to endure for the maximum period of time permitted under applicable law, including, without limitation, timely recording notices of restriction, as that term is used in MGL ch. 184 §27 and in accordance with the terms and provisions set forth therein.

(b) During the Inspection Period, Buyer and Seller shall negotiate in good faith the terms of a declaration of restrictions (a “Declaration of Restrictions,””) which Declaration of Restriction shall be recorded with respect to each of the ANR Lots at the Second Installment Closing. The Declaration of Restrictions shall provide that (i) the ANR Lots shall be maintained in their current natural, scenic and open condition, and (ii) except in the case of emergency, no access over the ANR Lots to the adjacent land commonly known as “Ridge Hill Reservation” shall be permitted by means of electric or motor vehicles, including, without limitation, all-terrain vehicles, motorcycles, utility task vehicles, electric bicycles, or other on or off-road vehicles. The negotiation of the Declaration of Restrictions, to each of the Buyer’s and Seller’s mutual satisfaction, on or before the Inspection Period Expiration Date, shall be a condition precedent for either party to proceed hereunder beyond the Inspection Period Expiration Date and in the event that Buyer and Seller have not agreed upon a mutually acceptable form of Declaration of Restrictions on or before the Inspection Period Expiration Date, either party may terminate this Agreement within two (2) business days following the Inspection Period Expiration Date by delivery of written notice of such election to the other party, in which event the Deposit shall be returned forthwith to Buyer and, except as expressly set forth herein, neither party shall have any further liability or obligation to the other hereunder.

The Development Agreement (or, if the Development Agreement is not required as part of the Development Approvals, another separate, legally enforceable, agreement by and between the Buyer and the Town executed prior to the Outside Approval Date) shall provide that as soon as

practically feasible following the conveyance of the ANR Lots and the Town Parcel to the Town (an "ANR Conveyance"), the Town shall record a conservation restriction on the ANR Lots (a "Conservation Restriction") on the then-current form provided by the Executive Office of Energy and Environmental Affairs, for the benefit of Needham Land Trust, Inc. or Wildlands Trust, Inc. (or a comparable not-for-profit corporation recognized as a tax-exempt organization under 501(C)(3) of the Internal Revenue Code and qualified under Massachusetts law to enforce the Conservation Restriction) providing that (A) the ANR Lots shall be maintained in their current natural, scenic and open condition, and (B) except in the case of emergency, no access over the ANR Lots to the adjacent land commonly known as "Ridge Hill Reservation" shall be permitted by means of electric or motor vehicles, including, without limitation, all-terrain vehicles, motorcycles, utility task vehicles, electric bicycles, or other on or off-road vehicles. It is the intent of the parties that both ANR Lots be encumbered by the Declaration of Restrictions, and that such Declaration of Restrictions be superseded by the Conservation Restriction as soon as practically feasible following the ANR Conveyance. In the event the Buyer acquires the ANR Lots, but does not acquire the House Lot, the Buyer is not obligated to record a Declaration of Restrictions or Conservation Restriction on the ANR Lots.

The provisions of this Section 18.14 shall survive the Closings.

18.15 Residential Sales Requirements.

(a) Buyer acknowledges that (a) Buyer has been informed by Seller of the provisions of the lead paint statute and regulations (105 CMR 460 et seq.) (the "Lead Paint Law"), (b) Seller has made disclosure to Buyer with respect to lead paint in the building located on the House Lot required by the Lead Paint Law, and (c) Buyer has received the notification forms required by the Lead Paint Law. Buyer acknowledges that Seller has notified Buyer of Buyer's right to perform a lead paint inspection of the building located on the House Lot if Buyer so chooses. Buyer agrees that upon the Second Installment Closing, Buyer shall assume all responsibility with respect to lead paint at the Property.

(b) Seller shall have no obligation to deliver a certificate from the fire department of the city or town in which the Property is located stating that (i) the building located on the House Lot has been equipped with approved smoke detectors in accordance with applicable law, or (ii) that the building located on the House Lot has been equipped with carbon monoxide detectors in compliance with M.G.L. c. 148 § 26F1/2 or (iii) that Property is otherwise exempted from the statute, and to the extent required by law, Buyer shall obtain such applicable certificate(s) prior to the Second Installment Closing. Buyer and Seller agree that any actions, obligations, costs, improvements or alterations required in order for the Property to comply with M.G.L. c. 148 § 26 or other applicable law or regulation regarding compliance with fire code, smoke and carbon monoxide detectors at the Second Installment Closing shall be the sole responsibility of Buyer and Buyer shall indemnify Seller for any costs or claims arising from the same. The provisions of this Paragraph 28 shall survive the Second Installment Closing.

The provisions of this Section 18.15 shall survive the Second Installment Closing.

18.16 Like Kind Exchange. Seller and Buyer acknowledge that Seller may desire to include the transaction provided for under this Agreement as part of a tax-deferred exchange

transaction pursuant to Section 1031 of the Internal Revenue Code and that, in such case, Seller's right, title and interest pursuant to this Agreement will be assigned to an entity formed by a Qualified Intermediary, for the purpose of completing such 1031 exchange transaction. Buyer agrees to cooperate with Seller and Seller's Qualified Intermediary at no additional cost, liability or recourse to Buyer, by executing the documents necessary to complete such Section 1031 exchange transaction, provided that such exchange shall not affect the Closing Dates.

18.17 REBA. Any matter which is the subject of a Title Standard or Practice Standard of the Massachusetts Real Estate Bar Association at the time of delivery of the Deeds shall be governed by said Title Standard or Practice Standard to the extent applicable.

[No Further Text; Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

SELLER:

[REDACTED]

[REDACTED], in his capacity as Trustee of the Charles H.W. Foster 2000 Trust u/d/t dated March 15, 2000, and not individually

[REDACTED]

[REDACTED] in his capacity as Trustee of the Barbara D. Foster Trust, u/d/t dated February 4, 2020, and not individually

BUYER:

NORTHLAND RESIDENTIAL CORPORATION, a
Massachusetts corporation

By: John C. Danley
Name: John C. Danley
Title: President CEO

ESCROW AGENT:

WFG NATIONAL TITLE INSURANCE COMPANY

By: _____
Name: Dawn M. duBourg
Title: Agency Commercial Closer

List of Exhibits

Exhibit A-1	-	Legal Description of ANR Lots
Exhibit A-2	-	Legal Description of House Lot
Exhibit B-1	-	Depiction of Property
Exhibit C	-	Description of Seller Property Documents
Exhibit D-1	-	Form of Deed for First Installment Property
Exhibit D-2	-	Form of Deed for Second Installment Property
Exhibit E	-	Form of Bill of Sale

EXHIBIT A-1

Legal Description Of ANR Lots

0 Charles River Street (Map/Block 304-4) – approx. 3.25 acres

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the westerly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled 'Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980,' prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

For Seller's title, see deed dated January 25, 1963 and recorded with the Norfolk County Registry of Deeds in Book 4055, Page 646, and the Probate of the Estate of Charles H.W. Foster, Norfolk Probate N012P2584EA.

0 Charles River Street (Map/Block 304-5) – approx. 3.05 acres

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the easterly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled 'Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980,' prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

For Seller's title, see deed dated January 25, 1963 and recorded with the Norfolk County Registry of Deeds in Book 4055, Page 646, and the Probate of the Estate of Charles H.W. Foster, Norfolk Probate N012P2584EA.

EXHIBIT A-2

Legal Description Of House Lot

484 Charles River Street (Map/Block 304-2) – approx. 56.20 acres

Tract I:

A parcel of land with the building thereon situated on the southerly side of Charles River Street in Needham in the County of Norfolk and said Commonwealth, bounded and described as follows:

Northerly on Charles River Street, about 1,898 feet;

Easterly on land now or formerly of Brown by three lines as shown on Plan of Land in Needham, Mass. by Pilling Engineering Co., Inc. dated October 3, 1956, recorded with Norfolk Deeds as Plan No. 1393 of 1956 in Plan Book 203, measuring about 579.97 feet, 115.25 feet and 102.18 feet;

Southeasterly on land now or formerly of Walker-Gordon Laboratory Company as shown on said plan 511.80 feet;

Southwesterly on land now or formerly of Wheeler shown as Lot 4 on said plan 522.19 feet;

Southerly on the same 529.88 feet;

Easterly: on the same by two lines measuring 946.70 feet and about 650 feet;

Southerly: on the Charles River by an irregular line measuring about 540 feet; and

Westerly: on land conveyed by Charles H. W. Foster to Henry C. Brookings by deed dated March 15, 1933, and recorded with said deeds, Book 1986, Page 21, by three lines measuring about 1,805 feet, 153.54 feet and 1,303.60 feet.

Tract II:

A certain parcel of land with the buildings thereon situated southerly of Charles River Street in Needham, Norfolk County, Massachusetts shown as Lots 3 and 4 on Plan of Land in Needham, Mass. by Pilling Engineering Co., Inc. dated October 3, 1956, recorded with Norfolk Deeds on November 14, 1956 as Plan No. 1393 of 1956 in Plan Book 203, bounded and described as follows:

Northerly on land of Frances H. Foster formerly of Mabel H. Foster, five hundred twenty nine and 88/100 (529.88) feet;

Northeasterly on Lot 2 on said Plan, five hundred twenty-two and 19/100 (522.19) feet;

Easterly on land now or formerly of Walker-Gordon Laboratory Company by two lines measuring respectively four hundred ninety and 27/100 (490.27) feet and eight hundred forty-five and 94/100 (845.94) feet;

Southerly on the Charles River by an irregular line about two thousand, two hundred thirty-five (2,235) feet;

Southwesterly on Lot 1 on said Plan about six hundred fifty (650) feet; and

Westerly on other land of said Frances H. Foster, nine hundred forty-six and 70/100 (946.70) feet.

There is excepted from the above-described parcels, however, (1) the premises conveyed by Charles H.W. Foster to the Town of Needham by deed dated January 24, 1981 and recorded in Book 5833, Page 1, (2) the two lots containing three acres each on Charles River Street shown on a plan dated November 24, 1980 by Carmelo Frazetti recorded at Plan No. 1034 of 1980 in Plan Book 286, and (3) the premises conveyed by Charles H.W. Foster to William H. Kettyle and Cynthia N. Kettyle by deed recorded in Book 5670, Page 587.

For Seller's title, see deed dated February 4, 2020 and recorded February 6, 2020 at Book 37582, Page 55.

EXHIBIT B-1
Depiction of Property



**CASTLE FARM PARCELS
OPEN SPACE CONCEPT PLAN**

NORTHLAND RESIDENTIAL CORP

- ANR Lots, 0 Charles River St. • Map/Block 304-4 & 304-5
- House Lot - 484 Charles River St. • Map/Block 304-2

- Legend:**
- CASTLE FARM PARCELS
 - RIDGE HILL RESERVATION
 - SHARED BOUNDARY (EXISTING)

SCALE 100 0 200
NORTH

* Note: This concept plan is based on public GIS data and aerial imagery and is for illustrative purposes only. (12/1/22)

EXHIBIT C

Seller Property Documents

- ALTA Commitment for Title Insurance for the House Lot (Map/Block 304-2) issued by First American Title Insurance Company, File No. [REDACTED] with an effective date of October 18, 2021.
- ALTA Commitment for Title Insurance for the 3.05 acre ANR Lot (Map/Block 304-5) issued by First American Title Insurance Company, File No. [REDACTED], with an effective date of October 18, 2021.
- ALTA Commitment for Title Insurance for the 3.25 acre ANR Lot (Map/Block 304-4) issued by First American Title Insurance Company, File No. [REDACTED], with an effective date of October 18, 2021.
- Property Report dated October 4, 2004, prepared by Matlock Associates for Charles H.W. Foster.

EXHIBIT D-1

Quitclaim Deed for First Installment Property

When recorded return to:

[REDACTED]
[REDACTED]
[REDACTED]

QUITCLAIM DEED

[REDACTED], in his capacity as Trustee of the Charles H.W. Foster 2000 Trust (the "Trust"), u/d/t dated March 15, 2000, for which a trustee's certificate is recorded herewith, having a mailing address c/o [REDACTED] [REDACTED] ("Grantor"), for consideration paid, and in full consideration of [REDACTED], grants with QUITCLAIM COVENANTS to [REDACTED], a [REDACTED], having a mailing address of 80 Beharrell Street, Suite E, Concord, Massachusetts 01742 ("Grantee"), the following real property (the "Property"):

those certain parcels of land, with the buildings and improvements thereon, situated at 0 Charles River Street, Town of Needham, Norfolk County, Massachusetts 02492, as more fully described on EXHIBIT A attached hereto and incorporated herein by reference.

This conveyance is subject to the following restrictive covenants which shall run with the land, and be in favor of and be enforceable by Grantor named herein, its successors or assign, and the final remainder beneficiaries of the Trust:

No more than six (6) single-family homes shall be built on the Property, regardless of any future subdivision of the Property or rights granted by the current or future Town of Needham Zoning By-Laws; and

Grantee, and its successors and assigns, shall not grant, permit, or allow (either by action or inaction) access over or across the Property to the adjacent land commonly known as "Ridge Hill Reservation" (provided that this restriction shall not prevent the incidental and passive recreational access by residents of any single-family home built on the Property).

The term of the restrictive covenant set forth herein shall endure for the maximum period of time permitted under Massachusetts law, and may be extended for the maximum period of time under Massachusetts law by Grantor, or its successors or assigns, recording notices of restriction, as that term is used in MGL ch. 184 §27 prior to the expiration of (i) thirty (30) years following the date of recording of this Quitclaim Deed, and (ii) fifty (50) years following the date of recording of this Quitclaim Deed. **[SUBJECT TO TITLE COMPANY REVIEW]**

Grantor hereby waives any and all rights of homestead in and to the Property and hereby certifies under pains and penalties of perjury that there are no occupants or others with homestead rights in the Property.

Meaning and intending to convey a portion of the same premises conveyed to Grantor by quitclaim deed from Rockwood H. Foster and Hugh K. Foster to Charles H.W. Foster, recorded in the Norfolk County Registry of Deeds at Book 4055, Page 646.

**[NO FURTHER TEXT ON THIS PAGE. SEE NEXT PAGE FOR SIGNATURE AND
ACKNOWLEDGMENT.]**

This Quitclaim Deed is executed as a Massachusetts sealed instrument this ____ day of _____, 2022.

_____, Trustee, Charles H.W. Foster
2000 Trust, u/d/t dated March 15, 2000

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF _____

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared, _____, Trustee, Charles H.W. Foster 2000 Trust, u/d/t dated March 15, 2000, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Notary Public
My Commission Expires:

**EXHIBIT A TO QUITCLAIM DEED
LEGAL DESCRIPTION**

The following land in Norfolk County, Massachusetts:

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the easterly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled 'Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980," prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

Map/Block 304-5.

A parcel of land with the buildings thereon situated on Charles River Street in Needham in the County of Norfolk and said Commonwealth and shown as the westerly parcel of the two three-acre parcels located on Charles River Street shown on plan entitled 'Plan of Land in Needham, Mass., Charles River St, dated November 25, 1980," prepared by Carmelo Frazetti and recorded as Plan 1034 of 1980, at Plan Book 286.

Map/Block 304-4.

JOINDER TO QUITCLAIM DEED

[The Final Remainder Beneficiaries will join in the Quitclaim Deed for the limited purpose of MGL ch. 184 §27]

EXHIBIT D-2

Quitclaim Deed for Second Installment Property

When recorded return to:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

QUITCLAIM DEED

[REDACTED], in his capacity as Trustee of the Barbara D. Foster Trust (the "**Trust**"), u/d/t dated February 4, 2020, for which a trustee's certificate is recorded in the Norfolk County Registry of Deeds (the "**Registry**") at Book 37582, Page 53, as affected by that trustee's certificate recorded in the Registry at Book 38445, Page 582, having a mailing address c/o [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] ("**Grantor**"), for consideration paid, and in full consideration of [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED], grants with QUITCLAIM COVENANTS to [REDACTED], a [REDACTED], having a mailing address of 80 Beharrell Street, Suite E, Concord, Massachusetts 01742 ("**Grantee**"), the following real property (the "**Property**"):

that certain parcel of land, with the buildings and improvements thereon, situated at 484 Charles River Street, Town of Needham, Norfolk County, Massachusetts 02492, as more-fully described on EXHIBIT A attached hereto and incorporated herein by reference.

This conveyance is subject to the following restrictive covenant which shall run with the land, and be in favor of and be enforceable by Grantor named herein, its successors or assign, and the final remainder beneficiaries of the Trust:

No party shall have access over or across the Property for the purpose of accessing the portion of the Property as described on EXHIBIT B hereto (the "**Town Parcel**"), except in the case of emergency and for the connection and maintenance of utilities serving the remaining portion of the Property, to maintain the Town Parcel in its current natural, scenic and open condition, or for passive recreation (such as hiking, cross-country skiing, and snowshoeing, but expressly excluding recreation by electric or motor vehicles, including, without limitation, all-terrain vehicles, motorcycles, utility task vehicles, electric bicycles, motorboat, or other on or off-road vehicles).

The term of the restrictive covenant set forth herein shall endure for the maximum period of time permitted under Massachusetts law, and may be extended for the maximum period of time under Massachusetts law by Grantor, or its successors or assigns, recording notices of restriction, as that term is used in MGL ch. 184 §27 prior to the expiration of (i) thirty (30) years following the date of recording of this Quitclaim Deed, and (ii) fifty (50) years following the date of recording of this Quitclaim Deed. [SUBJECT TO TITLE COMPANY REVIEW]

Grantor hereby waives any and all rights of homestead in and to the Property and hereby certifies under pains and penalties of perjury that there are no occupants or others with homestead rights in the Property.

Meaning and intending to convey the same premises as conveyed to Grantor by quitclaim deed from Barbara D. Foster to Grantor, recorded in the Registry at Book 37582, Page 55.

**[NO FURTHER TEXT ON THIS PAGE. SEE NEXT PAGE FOR SIGNATURE AND
ACKNOWLEDGMENT.]**

This Quitclaim Deed is executed as a Massachusetts sealed instrument this ____ day of _____, 2023.

_____, Trustee, Barbara D. Foster Trust,
u/d/t dated February 4, 2020

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF _____

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared, _____, Trustee, Barbara D. Foster Trust, u/d/t dated February 4, 2020, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Notary Public
My Commission Expires:

**EXHIBIT A TO QUITCLAIM DEED
LEGAL DESCRIPTION**

The following land in Norfolk County, Massachusetts:

Tract I:

A parcel of land with the building thereon situated on the southerly side of Charles River Street in Needham in the County of Norfolk and said Commonwealth, bounded and described as follows:

Northerly on Charles River Street, about 1,898 feet;

Easterly on land now or formerly of Brown by three lines as shown on Plan of Land in Needham, Mass. by Pilling Engineering Co., Inc. dated October 3, 1956, recorded with Norfolk Deeds as Plan No. 1393 of 1956 in Plan Book 203, measuring about 579.97 feet, 115.25 feet and 102.18 feet;

Southeasterly on land now or formerly of Walker-Gordon Laboratory Company as shown on said plan 511.80 feet;

Southwesterly on land now or formerly of Wheeler shown as Lot 4 on said plan 522.19 feet;

Southerly on the same 529.88 feet;

Easterly: on the same by two lines measuring 946.70 feet and about 650 feet;

Southerly: on the Charles River by an irregular line measuring about 540 feet; and

Westerly: on land conveyed by Charles H. W. Foster to Henry C. Brookings by deed dated March 15, 1933, and recorded with said deeds, Book 1986, Page 21, by three lines measuring about 1,805 feet, 153.54 feet and 1,303.60 feet.

Tract II:

A certain parcel of land with the buildings thereon situated southerly of Charles River Street in Needham, Norfolk County, Massachusetts shown as Lots 3 and 4 on Plan of Land in Needham, Mass. by Pilling Engineering Co., Inc. dated October 3, 1956, recorded with Norfolk Deeds on November 14, 1956 as Plan No. 1393 of 1956 in Plan Book 203, bounded and described as follows:

Northerly on land of Frances H. Foster formerly of Mabel H. Foster, five hundred twenty nine and 88/100 (529.88) feet;

Northeasterly on Lot 2 on said Plan, five hundred twenty-two and 19/100 (522.19) feet;

Easterly on land now or formerly of Walker-Gordon Laboratory Company by two lines measuring respectively four hundred ninety and 27/100 (490.27) feet and eight hundred forty-five and 94/100 (845.94) feet;

Southerly on the Charles River by an irregular line about two thousand, two hundred thirty-five (2,235) feet;

Southwesterly on Lot 1 on said Plan about six hundred fifty (650) feet; and

Westerly on other land of said Frances H. Foster, nine hundred forty-six and 70/100 (946.70) feet.

There is excepted from the above-described parcels, however, (1) the premises conveyed by Charles H.W. Foster to the Town of Needham by deed dated January 24, 1981 and recorded in Book 5833, Page 1, (2) the two lots containing three acres each on Charles River Street shown on a plan dated November 24, 1980 by Carmelo Frazetti recorded at Plan No. 1034 of 1980 in Plan Book 286, and (3) the premises conveyed by Charles H.W. Foster to William H. Kettyle and Cynthia N. Kettyle by deed recorded in Book 5670, Page 587.

Map/Block 304-2.

EXHIBIT B TO QUITCLAIM DEED

[SELLER TO INSERT LEGAL DESCRIPTION OF TOWN PARCEL]

JOINDER TO QUITCLAIM DEED

[The Final Remainder Beneficiaries will join in the Quitclaim Deed for the limited purpose of MGL ch. 184 §27]

EXHIBIT E

Bill of Sale

[REDACTED], in his capacity as trustee of the Charles H.W. Foster 2000 Trust u/d/t dated March 15, 2000, for which a trustee's certificate is recorded at Book 31517, Page 527 in Norfolk County Registry of Deeds (the "Registry"), as the same may have been amended and affected by matters of record with the Registry, and [REDACTED], in his capacity as trustee of the Barbara D. Foster Trust, u/d/t dated February 4, 2020, for which a trustee's certificate is recorded at Book 37582, Page 53 in the Registry as affected by that trustee's certificate recorded at Book 38445, Page 582, as the same may have been amended and affected by matters of record with the Registry ([REDACTED]), in his capacity as trustee of both trusts, collectively hereinafter called "Seller", for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, bargains, sells, transfers, assigns and delivers to _____ LLC, a Massachusetts limited liability company ("Buyer"), all of Seller's right, title and interest in and to the fixtures, equipment and personal property owned by Seller and located on and used in connection with the operation of real property described on Exhibit A (the "Real Property") attached hereto, if any, including, if any, all blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, electric and other lighting fixtures, trees, shrubs, plants, surface and sub-surface improvements appurtenant to the Real Property, air conditioning equipment and ventilators, and all of Seller's right, title, and interest, in any of the following applicable to the Real Property: contracts, warranties, guaranties, licenses, entitlements, permits and approvals, and plans and specifications affecting the Real Property (to the extent that such items exist, are in the possession or control of Seller, and Seller has the right to transfer such items) (collectively, the "Personal Property"), but specifically excluding from the Personal Property and reserving unto Seller all personal property, furniture, equipment (other than building systems) which Seller elects to remove from the Real Property prior to the Second Installment Closing Date (as defined under the Purchase Agreement (defined below)), to have and to hold the Personal Property unto Buyer, its successors and assigns, forever.

Seller hereby represents and warrants to Buyer that Seller has the full right, power and authority to sell the Personal Property and to make and execute this Bill of Sale. Seller hereby agrees to warrant and defend the title to the Personal Property conveyed hereby to Buyer against the lawful claims and demands of all persons claiming by, through or under Seller, but not otherwise. Except as set forth above and in the Purchase and Sale Agreement by and between Seller and Buyer dated as of October ____, 2022 (the "Purchase Agreement"), Seller grants, bargains, sells, transfers and delivers the Personal Property in its "AS IS" condition, WITH ALL FAULTS, IF ANY, and makes no representations or warranties, direct or indirect, oral or written, express or implied, as to title, encumbrances and liens, merchantability, condition or fitness for a particular purpose or any other warranty of any kind, express or implied, all of which representations and warranties are expressly hereby disclaimed and denied. Buyer shall indemnify, defend and hold harmless Seller from and against any and all liability arising out of or related to Buyer's use of the Personal Property.

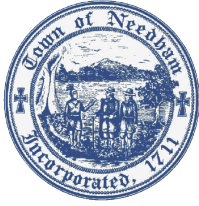
Capitalized terms used and not otherwise defined herein shall have the meanings given to such terms in the Purchase Agreement.

Executed under seal this ____ day of _____ 20__.

SELLER:

_____, in his capacity as Trustee of the Charles H.W. Foster 2000 Trust u/d/t dated March 15, 2000, and not individually

_____, in his capacity as Trustee of the Barbara D. Foster Trust, u/d/t dated February 4, 2020, and not individually

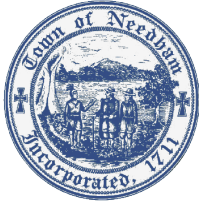


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Ballot Questions
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Board members will discuss the results of the two ballot questions placed before voters on the April 11, 2023 Town Election.	
2.	VOTE REQUIRED BY SELECT BOARD
N/A – Discussion Only	
3.	BACK UP INFORMATION ATTACHED
None	



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 4/12/2023

Agenda Item	Committee Reports
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Board members may report on the progress and / or activities of their Committee assignments.	
2.	VOTE REQUIRED BY SELECT BOARD
N/A – Discussion Only	
3.	BACK UP INFORMATION ATTACHED
None	

Select Board

Policy Number:	SB-PERS-003
Policy:	Contributory Insurance Rules and Regulations
Date Approved: Date Revised:	October 13, 1998 May 11, 1999 March 24, 2009 December 4, 2012 May 2, 2017 March 20, 2018 March 12, 2019 March 9, 2021 April 12, 2023
Approved:	_____ Chair, Select Board

Policy: The Town of Needham, acting by and through its duly elected Select Board , and in accordance with Section 14 of Chapter 32B of the General Laws of the Commonwealth of Massachusetts, does hereby adopt and establish the following rules and regulations governing certain eligibility and administrative guidelines for the Town's contributory insurance benefit offerings. The Select Board specifically reserves the right to add to, modify, and/or delete any and all provisions of these rules and regulations at any time.

Section 1. Divorced or Separated Spouses

In the event that a court of competent jurisdiction grants a judgment of divorce or of separate support, the divorced employee and his or her divorced/separated spouse may remain eligible for benefits under the Town's group insurance benefit program, in accordance with Section 9H of M.G.L.c. 32B, provided that each of the following conditions are met:

- (a) In the event that the employee/subscriber is not remarried:
1. The Town must be provided with a court certified version of the judgment of divorce or of separate support, which mandates that the divorced/separated spouse of the Town employee/retiree remain on a Town-offered group insurance plan.
 2. The employee/retiree must maintain a family plan (or multiple individual plans, if over 65) covering him/herself and his or her divorced/separated spouse (and any qualified dependents, if applicable).

- (b) In the event that the employee/subscriber remarries and wishes to enroll his or her new spouse as a dependent under the Town's group insurance benefit program:
1. The Town must be provided with a court certified version of the judgment of divorce or of separate support, which mandates that the divorced/separated spouse of the Town employee/retiree remain on a Town-offered group insurance plan.
 2. The Town shall have the right to require that the divorced or separated spouse enroll in a separate, individual policy, unless a rider to an employee's/retiree's family plan is authorized by the applicable insurance company.
 3. The Town of Needham employee/retiree shall be responsible to pay the full monthly premium (100% of the premium) for the plan in which the divorced/separated spouse is enrolled, or 100% of any additional cost for a rider to the employee's family plan, if authorized by the applicable insurance company.
 4. Such payments for the premium in which the divorced/separated spouse is enrolled shall be made by means of deducting the premium from the regular pay (or pension) of the eligible employee/retiree, and the employee/retiree shall be required to seek reimbursement from the divorced/separated spouse on his or her own accord. The Town Manager/designee reserves the right to waive this condition for extenuating circumstances. In the event that a waiver is granted, the divorced or separated spouse will be billed directly.

Section 2. Retiree Eligibility

Upon retirement, eligible individuals may participate in the Town's contributory group insurance program, to the extent allowed by the various insurance providers, and in accordance with Section 18 of M.G.L. c. 32B, provided that they otherwise qualify under M.G.L. c. 32B, and further provided that each of the following criteria applies:

- (a) The individual must have retired from service to the Town of Needham, and be receiving a retirement allowance in accordance with M.G.L. c. 32 from either the Town of Needham Contributory Retirement System or the State Teachers' Retirement System (except as specifically provided in M.G.L. c. 32B §9).
- (b) The individual was qualified and eligible to participate in the Town's group insurance program as an active employee of the Town of Needham.

Section 3. Part-time Teacher Eligibility

Part-time teachers classified as .5 FTE or greater shall be determined to be working 20 hours or more per week for the Town and shall therefore be considered employees in accordance with M.G.L. c. 32B section 1.

Section 4. Temporary and Seasonal Employee Eligibility

Temporary employees working 20 hours per week or more, whose service to the Town is expected to last six months or longer, shall be eligible for benefits in accordance with M.G.L. c. 32B. Seasonal employees whose service to the Town is expected to last less than six (6) months, regardless of the number of hours worked per week, shall be ineligible for benefits in accordance with M.G.L. c. 32B

Section 5. Compensated Part-time Elected Official Eligibility

Paid elected officials earning a minimum of \$1,000 per fiscal year shall be considered eligible for insurance in accordance with M.G.L. c. 32B Section 2. Nothing in the section shall affect the eligibility for insurance of elected officials who were receiving compensation in an amount less than \$1,000 as of the date of this policy.

Section 6. Retention of Insurance While on Unpaid Leave

- (a) Employees on designated family medical leave in accordance with the Family Medical Leave Act of 1993, as amended, shall be entitled to continue their insurance contribution during the term of the leave.
- (b) Employees who are on unpaid medical leave, which is not designated as family medical leave, shall be entitled to continue their insurance contribution rate during the period that the unpaid leave is determined to be medical leave by the Director of Human Resources.
- (c) Employees on approved, unpaid leave which has not been designated as FLMA or medical leave shall be eligible for insurance if they are on the payroll (i.e. receive wages) for at least one day per calendar month.
- (d) Employees on approved, unpaid leave which has not been designated as FMLA or medical leave, and who do not receive wages for at least one day per calendar month, shall be eligible to participate in a Town-offered health plan by paying 100% of the monthly premium for that calendar month.
- (e) Employees shall be eligible to continue their group insurance while on leave of absence for no longer than two consecutive calendar years, after which time they shall cease to be considered employees for group insurance purposes.

Section 7. Employee Termination

Employee premium contributions are made one month in advance of coverage. Upon termination, employee coverage will cease approximately one month from the date of separation from the payroll.

Section 8 Health Insurance Offerings

- (a) All subscribers electing health insurance through the Town effective July 1, 2018 must convert to the Benchmark or Qualified High Deductible Plans.

- (b) The Town will offer a voluntary Qualified High Deductible plan to all eligible subscribers. Active employees enrolled in the Qualified High Deductible plan will also be eligible to enroll in a Health Savings Account, as follows:

1. The Town will contribute an amount equal to 50% of the deductible to the Health Savings Account of active paid employees enrolled in any Qualified High Deductible plan offered by the Town, as long as the plan is offered by West Suburban Health Group, or for no less than five (5) years regardless of provider (the "Annual HSA Contribution"). Retirees are not eligible for the annual HSA contribution.
2. In fiscal years 2020 and beyond, the annual HSA contribution will be pro-rated and paid on a per pay period basis.

Section 9. Payment of Premiums

Any eligible subscriber who does not receive a paycheck or pension check in an amount sufficient to pay his or her required health insurance monthly premium will be billed directly for that amount. Failure to pay applicable premiums in the required timeframe will result in loss of insurance coverage.

Section 10: Employee Health Insurance Opt-Out Incentive Program

- (a) Active employees who have been covered as the insured under the Town's health insurance program for the past twenty-four (24) consecutive months may opt-out of Town coverage.
- (b) Employees choosing to opt-out of the Town's health insurance plan must sign and submit the Opt-out Form provided by the Town, certifying that the insured and any eligible spouses and dependents have enrolled in a health insurance plan elsewhere (excluding MassHealth).
- (c) Employees may enroll in the Opt-Out Incentive Program at any time during a fiscal year as long as they certify in writing that they will be receiving health insurance elsewhere (excluding MassHealth) as of the effective date specified. Employees may not retroactively opt-out of town coverage.
- (d) Employees who opt-out of Town coverage will be paid the amount of \$2,000 per full fiscal year for an individual plan and \$4,000 per full fiscal year for a family plan.
- (e) The Incentive amount will be pro-rated by month if an employee participates in the Opt-Out Program or re-enrolls in the Town's health insurance program during the plan year.
- (f) The Opt-Out Incentive will be paid via the employee's normal payroll cycle, less any required withholdings. Payments will not be made during unpaid periods. The amount of the reimbursement will be divided equally over the plan year, which runs from July 1 to June 30. The Opt-Out Incentive payment will not be added to the base pay for employees, will not be used in the computation of overtime, and will not be subject to retirement withholding.
- (g) Any employee who has opted-out of the Town's health insurance plan may re-enroll during the annual open-enrollment period, or within 30 days of a documented qualifying event, and the Opt-Out Incentive payment will cease.

- |
- (h) An employee who changes from a family to individual plan, or vice versa will not be eligible to participate in the Opt-Out Program. An employee who switches coverage to a spouse or parent who is also employed by or retired from the Town, will not be eligible to participate in the Opt-Out Program.
 - | (i) The Opt-Out Incentive program will sunset on June 30, ~~2023~~[2025](#) unless the Select Board votes to reauthorize the program.

DRAFT

**Town of Needham
Joint Meeting
Select Board, Park & Recreation Commission,
Board of Health, School Committee, Finance Committee,
Community Preservation Committee
Claxton Field Update
Minutes for February 15, 2023
Powers Hall
<https://us02web.zoom.us/j/88278879105>**

5:30 p.m.

Call to Order:

A special joint meeting of the Select Board was convened by Chair Marianne Cooley. Those present were Kevin Keane, Heidi Frail, Matthew Borrelli, and Kate Fitzpatrick, Town Manager. Marcus Nelson did not attend the meeting. Also in attendance were Katie King, ATM/Operations, members of the School Committee, Parks and Recreation Committee, Board of Health, Finance Committee, and the Community Preservation Committee. Lee Koska, Prasanta Bhunia, and Marie Rudeman from Weston and Sampson were also in attendance.

Ms. Cooley said the meeting tonight is to discuss Claxton Field and to understand the situation with the soil at the field.

Ms. King told the Select Board and other board and committee members that soil testing is upcoming at Claxton Field, noting many questions will not have answers until testing is complete. She said the goal of tonight's meeting is so everyone has the same foundational information, how the Town got to this point, and potential outcomes. Ms. King gave a brief history of Claxton Field, noting it was a former town burn dump prior to the Recycling and Transfer Station being built. She commented that about 60 years ago landfill was brought to the site and leveled, creating the fields as we know today. Ms. King said Claxton Field has been on the list for renovation to bring additional amenities to the user groups and residents. She said Town Meeting, in October 2020, approved funding for a new design, and Weston and Sampson was hired for its design, engineering, and environmental services. Ms. King said in December 2021 Weston and Sampson conducted initial soil borings at the site to visually inspect the composition of the soil. Discussion ensued on the layers of grass, topsoil, fill mixed with ash, waste material, and debris. She noted a second sample test round was completed and the design was modified so that no digging would take place below the initial layer of topsoil and included mitigation strategies. Ms. King said in spring 2022 Weston and Sampson presented the results of the second set of soil samples. It was noted that shards of debris were found under the playground at depths of 4 to 7 inches, at which time the playground structure was entirely removed. Ms. King also commented the second set of results showed 10 - 12" of consistent topsoil free of debris, and the field remained open. Ms. King said the next steps include chemical testing, which was recommended not take place based on 4 key items: (1) 10-12" depth across the field before hitting any waste, (2) a sense that materials at a former burn dump

likely would not produce gasses, (3) the unlikely occurrence that waste would migrate up to the top, and (4) the initial field design had changed and mitigation efforts were built into the construction plans. Ms. King said in the summer of 2022 an unrelated water main project on Central Avenue required use of space at Claxton Field for “lay down space,” when the contractor piled soil on a side area, prompting a complaint and a concern from a resident to the Board of Health. She said at that time the Board of Health, Health and Human Services, and the Department of Public Works re-engaged Weston and Sampson to identify mitigation strategies for the contractor to take. Ms. King said the contractor complied with all of the immediate mitigation strategies, with a few remaining items to be completed once the contractor leaves the site. Ms. King stated the focus for Claxton Field was to move forward with the funding request for construction submitted in the FY2024 budget process. She said in December 2022, Needham was contacted by the Massachusetts Department of Environmental Protection saying they received a complaint from a resident about what was happening with the soil on Claxton Field. Ms. King said members of the Board of Health, DPW and Health and Human Services met with the DEP to get a better understanding of the concern and the DEP expectations of the Town moving forward. Discussion ensued on the Massachusetts Contingency Plan (regulatory framework, environmental response requirements for landlords). She said the DEP has asked for additional testing to be done to get a sense of the chemical makeup of the soil, solely because of the history of the land being a burn dump. Ms. King concluded the town has done its due diligence and has a good plan in place, including mitigation built into the design. She said however, the DEP asked for further testing, which she said the Town is planning to do, noting additional design plans will be made if necessary.

Carys Lustig, Director of DPW said DPW’s boring test will be conducted on the site by Weston and Sampson. She said the sampling plan was approved by the DEP and sampling will begin tomorrow, February 16, 2023. Discussion ensued on testing of materials and four possible scenarios based on the outcome of testing.

Stacey Mulroy, Director of Park and Recreation said alternate locations for the high school softball teams are being sought, noting Broadmeadow and Avery Schools have been identified as possible options if Claxton is unavailable.

Timothy McDonald, Director of Health and Human Services acknowledged the many health questions that will come from the test results. He said it is incredibly unlikely that any materials would “off gas” through soil or migrate up through soil, saying typical uses at the field (running, jumping) likely has not exposed anyone to any type of chemicals, but until more information is gathered it is best not to speculate.

Ms. Cooley invited questions from board members.

Mr. Borrelli commented on the action plan. He asked about the timeline for receiving test results and having the DEP give clearance to use the fields. He asked if the fields could be prepped, should the best test results come back?

Ms. Lustig said preliminary test results are anticipated to be received by the end of February. She said a formal communication on all test results (except dioxins) and recommendations from Weston and Sampson is anticipated at the end of March. She noted the Licensed Site Professional (LSP) working for Weston and Sampson will evaluate information and give the Town final clearance for use of Claxton Field. She noted the spring playing season is near. Ms. Lustig said while the fields are currently not closed to the public, alternative locations are being provided should the Claxton fields become unavailable.

Joshua Levy, Finance Committee asked what money is being used to fund testing and will additional funds be necessary?

Ms. Lustig said the contractor who disturbed the site will be responsible for all testing of the soil they disturbed.

Mr. McDonald said a couple of years ago, Town Meeting approved a financial warrant article (\$50,000) requested by the Board of Health for outside scientific expertise. He said based on the quote received, all of the money will be used for the first round of testing.

Peter Pingitore, Community Preservation Committee asked whether there is enough time to get test results and come to a scenario (#2), which would allow the full presentation of the article before the CPC based on the described design in the application?

Ms. Lustig said it is unlikely to have test results to be able to move forward with the presentation to the CPC. She said it is hopeful to try and keep the project on its initial timeline, perhaps entertaining an application in the fall or bid the project before Town Meeting and not be able to award it until after Town Meeting the following year.

Ms. Cooley invited public comment.

Stephanie Magni, Varsity Softball Coach asked if Memorial Field was an option for use? She commented on the size of Avery Field, which could be a public danger.

Ms. Mulroy offered to set up a time speak with Ms. Magni about field possibilities.

Holly Clarke, 1652 Central Avenue asked who is responsible for keeping the piles of soil created by the contractor covered? She asked about the playground area and what could be done?

Ms. King said to contact the Department of Public Works should the covers need to be reinstalled.

Mr. Koska said a series of shallow borings was done in the playground area, noting beneath the sandbox and fabric liner was waste. An abundance of caution was recommended and the playground was closed. He noted small quantities of glass and other debris at the surface and in the stockpile, with no visible ash or concentrated waste material. He noted at this point, with the absence of ash or other materials, there is no reason to believe the material is overtly contaminated. He said part of the plan is to collect samples from the stockpile and advance an additional boring within the lay down area.

Steve Deroian, Needham Baseball and Softball said the situation dramatically impacts the program to lose two of four softball fields. He asked for clarification of possible scenarios when test results come back and future field renovations.

Joanne McHugh, 25 Blacksmith Drive asked that parking be considered when at alternative locations. She asked whether there is an opportunity to modify a baseball diamond to support softball?

Ms. Mulroy said significant renovation and maintenance would be required to convert a baseball field for softball. She said the idea is “not off the table” but it would take a considerable amount of renovation, time, and money.

Eric Goldstein, 12 Cogswell Court, Men’s Shul Softball League (MSSL) commented on four men’s softball teams that play on Sunday mornings. He concurred that the size of both Broadmeadow and Avery are questionable and parking is a problem.

Needham High School Softball Team members gave reasons why they believe Memorial Field could be their home field for the season. It was noted the freshman season three years ago was interrupted by the pandemic, suggesting it would be great for current senior girls to have an uninterrupted softball season. Ease of equipment storage, playing conditions on turf, transportation, parking, field lights, and location were also mentioned as positive reasons for Memorial Park to be the home field for softball this year.

Richard Sucher, 16 Winfield Street commented on the high school softball season, and asked how financially prepared is the Town to support whatever location is chosen for softball teams to use? He said any of the sites will take significant funds to get the fields “game ready.”

Ms. Lustig said the field at Broadmeadow was discussed and a quote was received from a vendor to get the field ready for the season. She said the DPW can cover the cost of converting the field into a varsity level field. She commented other

potential options will need to be discussed with the Park and Recreation Department to determine costs associated with converting a field.

Andrew Pittman, 75 Prince Street said a huge influx of children began playing softball during the pandemic because it is outdoors. He commended the Town for its efforts to upgrade the fields. He concurred with the high school girls who spoke earlier and supported their desire to play on Memorial Field. Mr. Pittman said it would be an awesome experience for them. He said he is cautiously optimistic about the results of testing the soil. He asked, “Will the field be renovated per the original renovation project, and will there be funds to do lighting upgrades?”

Ms. Cooley reiterated the Town is committed to renovating Claxton Field. She said, however, if option #4 is necessary and soil must be carted off site, she said it is a very different proposition. She commented that option #1, #2, and #3 are all in line with expectations and funding is in the Town’s plan.

Dan Lee, Needham High School Athletic Director commented on the idea of softball at Memorial Field. He stated the field is a viable option, but it will be tricky to schedule games around other sports.

Joshua Levy commented on the forthcoming soil sample results, asking “Is the Town operating under the assumption that there is some sort of hazard?”

Ms. Lustig said the Town is operating under the assumption that the material below the topsoil will probably trigger a reportable event with higher than minimum levels. However, she said it is the belief that the topsoil and materials are deep enough that there is no potential exposure for anyone playing on the fields. She commented that risk analysis suggests there is no reason to believe anything is wrong with the topsoil, based on earlier work done on the field. She concluded the only difference is that the Town is being asked to test the material.

Mr. Keane commented on the field at Broadmeadow, which he said is used by Little League.

Melissa Gerber Lassonde, Needham Baseball and Softball, commented that Needham needs more fields and multipurpose space. She said as the Town continues to grow, “we are bursting at the seams” with families, adults, and children looking for outdoor space.

Ms. Frail commented the Active Recreation Assets Working Group has a meeting coming up next week and suggested Melissa send her comments to otm@needhamma.gov

Mr. Borrelli summarized the conflicting information about Claxton Field. He reiterated the field is currently closed because it is the winter season. He said a high probability exists that the field will remain open, unless results from testing

indicate the field should close, and that the Town is currently considering alternate locations should the field be closed. He noted the possibility of the originally designed project with lighting. He said the meeting has been informative.

Ms. Cooley said the intent is to gather the group together again once testing results are available to review and discuss timelines. She thanked everyone for coming and offered the Select Board email address selectboard@needhamma.gov should people have additional questions.

6:37 p.m. Adjourn.

Submitted by:
Mary Hunt
March 24, 2023

**Town of Needham
Select Board
Minutes for Monday, March 14, 2023
Select Board's Chamber
and
Via ZOOM
<https://us02web.zoom.us/j/85183601452>**

5:30 p.m. A meeting of the Select Board was convened by Chair Marianne Cooley. Those present were Kevin Keane, Heidi Frail, and Matthew Borrelli.

Motion by Mr. Borrelli that the Select Board vote to enter into Executive Session to discuss strategy with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares. The Board will reconvene in open session at 6:00 p.m.

Second: Ms. Frail. Unanimously approved 4-0.

Marcus Nelson joined the meeting at 5:35.

6:04 p.m. Call to Order:

A meeting of the Select Board was convened by Chair Marianne Cooley. Those present were Marcus Nelson, Kevin Keane, Heidi Frail, and Matthew Borrelli. Kate Fitzpatrick, Town Manager, Dave Davison, ATM/Finance, Katie King, ATM/Operations, and Myles Tucker, Support Services Manager were also in attendance. Mary Hunt, Recording Secretary recorded the meeting by Zoom.

6:04 p.m. Public Comment Period: No comments were heard.

6:05 p.m. Public Hearing: Proposed Amendment to Town By-Laws and Charter to Appoint Certain Currently Elected Town Officers

Ms. Cooley commented on a League of Women Voters study which looked at some positions on Town boards and committees to consider if the Town was best served by an elected or appointed structure. The Select Board considered the role of Constables, Commissioners of Trust Funds, and the Board of Assessors. Ms. Cooley noted the appointment protocol was updated this year in consultation with the boards to ensure a democratic process.

Ms. Cooley invited public comment.

Carol Patey, 32 Linden Street, League of Women Voters member, referred to the completed LWV study. She said the study reached consensus on several questions and recommendations including that the Board of Assessors, Commissioners of

Trust Funds, and the Constables should be appointed rather than elected. She commented on skills required and running for each position remains mostly uncontested, largely leaving the decision out of voter hands. Ms. Patey noted towns similar to Needham appoint these positions. She said the LWV believes the best way to fill positions on the Board of Assessors, Commissioners of Trust Funds, and the Constables is to search for and to appoint qualified candidates to each position.

Joe Scalia, 99 Canterbury Lane, chair, Commissioners of Trust Fund referred to the Commissioner of Trust Funds manual put together 12 years ago by resident and member Mr. Ford Peckham. He said the task took months of work, questioning whether an appointed official would have taken the time to gather the information contained in the manual? Mr. Scalia said the members of the Commissioners of Trust Funds believe it is best to continue the process of having Commissioners elected. He said when a vacancy occurs, the remaining members and Select Board would appoint someone to fill the vacancy.

Dan Burns, 6 Louart Drive commented on conflict of interest and potential fraud, noting three volunteer members serve a very important role. He said he believes it makes more sense for positions to be elected. He commented on specialized skills needed to interpret trust documents, concluding there are many qualified members of the community who would be willing to run for the position.

Joshua Levy, 1606 Great Plain Avenue said he is against the proposal to change from elected to appointed positions. He said it would be better to educate the public and let them know what is required and how to become involved. Mr. Levy spoke about the Board of Assessors and how taxes are proportionately set. He said residents must feel their taxes are set fairly and independently by different boards having different functions. Mr. Levy said the best way to fill positions is by election and hopes the process continues.

Barry Pollack, 15 Pandolf Lane said he agrees with much of everything already said except for the conclusion to change from elected to appointed positions. He commented on the increasing number of people willing to run for office and contested races over the years, and write-in candidates. He proposed an independent committee appointed by the Town Moderator to investigate some of the findings by the League of Women Voters, noting the findings are important, but the solution is an anti-democratic way of moving election to appointment. He said a study should be done by an independent committee of one to find out what can be done collaboratively as a town to decrease perceived barriers to entry, ways to increase town participation, and ways to encourage criticism or challenges to actions by local officials so that people have a voice, are heard, and become more interested. He said educating people on town government and encouraging civic participation is important.

Henry Ragin, 25 Bennington Street (via Zoom) said the LWV study is interesting. He said uncontested elections happen across the board, noting the issue is how to

attract more civic involvement, urging the Select Board to make that the focus. Mr. Ragin questioned how the new procedures for appointing people are more democratic when the vote is taken away from citizens. He said there is nothing more democratic than the vote of the people. He strongly urged the Select Board not to continue with the procedure and vote down the idea of appointing the positions.

Michael Ruddy, 69 Melrose Avenue asked Ms. Cooley to explain the appointment process. He asked for transparency, noting he has no idea whether anyone being appointed has the proper credentials. Mr. Ruddy questioned whether delegating the process to one member of the Select Board is the right thing to do, as it seems undemocratic and open to corruption. Mr. Ruddy said he is disappointed by the recommendation by the LWV, noting the real issue is uncontested elections. He suggested the Select Board, before it takes away the democratic rights of the voters, should enable new policies.

Maggie Abruzese, 30 Bridle Trail Road said she appreciates the comments made and agrees with those who are advocating not to change the elected positions to appointed positions. She said she understands the concern of people not running and the LWV's recommendations of how to tackle the issue. Ms. Abruzese asked, "what is preventing the Select Board from finding qualified people to run for office and even interviewing them at a Select Board meeting?" She said the interviewee would discuss their qualifications so that the voters can make educated choices. She concluded by saying that having elected positions does not preclude seeking qualified candidates.

Artie Crocker, 19 Fairlawn Street said he always hopes people stepping into a position (i.e. Conservation Commission) fully agree with the mission of each board and committee. He said he is unsure whether positions should be appointed or elected, noting he has a hard time taking away an elected position without just cause.

Ms. Cooley closed the public hearing and thanked everyone for their input. She said the Select Board will discuss the topic at a later time.

6:15 p.m. Town Alcohol Regulations: Proposed Revisions - Public Hearing

Stephen Epstein, Chair, Board of Health and Kathleen Ward Brown, member met to discuss an updated draft of proposed revisions to the Town Alcohol Regulations.

Ms. Brown discussed the Board of Health's successful enforcement as it relates to tobacco. She said alcohol is different as the failure rates are high. Ms. Brown noted research from Boston University's School of Public Health.

Dr. Epstein said he welcomes the opportunity to comment on alcohol regulations. He noted tobacco regulations in Needham including compliance checks have been successful.

Discussion ensued on the possibility of the same approach to alcohol as tobacco, noting there have been several compliance check failures, as well as regulations and penalties for various offenses, and the requirement of in-person training after a compliance check failure.

Mr. Borrelli thanked Ms. Brown and Dr. Epstein for their work. He commented on penalties saying he favors giving the Select Board some discretion, as sometimes there are different circumstances. He said he favors completion of in-person training when an offense has occurred.

Ms. Cooley invited public comment.

Michael O'Connell, owner Needham Wine and Spirits said tighter controls are good and he is glad about compliance checks. He said as a license holder, he respects what Needham is doing.

Georgina Arietta-Ruetenik thanked the Select Board and Board of Health for the information and for trying to keep people safe.

The Board thanked Ms. Brown and Dr. Epstein for the discussion.

7:05 p.m. Consent Agenda and Appointments:

Motion by Mr. Borrelli that the Select Board vote to approve the Consent Agenda as presented.

CONSENT AGENDA *=Backup attached

- 1.*Approve minutes of February 28, 2023 (open session), March 6, 2023 (open session), February 14, 2023 (executive session), February 28, 2023 (executive session).**
- 2. Approve a request from Kevin Keane , event coordinator, to hold the Needham 2 Arlington walk in Needham. The event is scheduled for Saturday, April 22, 2023, 8:30am. The event and route have been approved by the following departments: Fire, Police, DPW, Park & Recreation.**
- 3. Approve a request from Ashly Scheufele, event coordinator, to hold the annual Needham Baseball & Softball Opening Day parade in Needham. The event is scheduled for Sunday, April 30th, 11:00am. The event and route have been approved by the following departments: Fire, Police, DPW, Park & Recreation.**
- 4. Accept the following donations made to the Needham Community Revitalization Trust Fund: \$325 from Henry Hospitality Inc and \$325 from Needham Music Inc for the Tiger Okoshi Mural, \$1295 from Roy & Clare**

Heffernan for the Bert & John Jacobs' Mural, and \$100 from Needham Diversity Initiative Inc. for the Chapel Street Banner display.

5. Move to continue the Public Hearing relative to the ABCC Alteration of Premises Amendment application for Poet King, LLC d/b/a Hungry Coyote to April 12, 2023.

6. Move to continue the Public Hearing relative to the suspension of the Section 12 All Alcohol License for Poet King, LLC d/b/a Hungry Coyote to April 12, 2023.

7. Approve a One Day Special License from Robert Timmerman of Needham Knights of Columbus for Friday, March 24, 2023, 6:00-11:00 PM for Exchange Club Trivia Night. The event will be held at Needham Knights of Columbus Hall, 1211 Highland Avenue, Needham. All documents are in order.

8.* Sign the Warrant for the Annual Town Election to be held on Tuesday, April 11, 2023.

Second: Mr. Keane. Unanimously approved 5-0.

APPOINTMENTS:

Motion by Ms. Frail that the Select Board vote to approve the Appointments as presented.

1. Alison Borrelli Single Parcel Historic District Study Committee Term Exp: 6/30/2026
2. Adam Block Single Parcel Historic District Study Committee Term Exp: 6/30/2026

Second: Mr. Keane. Approved 4-0-1. Mr. Borrelli abstained.

Ms. Cooley noted Mr. Borrelli's abstention is due to Alison Borrelli's appointment to the Single Parcel Historic District Study Committee. Ms. Fitzpatrick noted Ms. Borrelli was recommended by the local chapter of the Board of Realtors.

7:06 p.m. Sustainability Coordinator Position Discussion:

Stephen Frail, 29 Powers Street, chair, Climate Action Planning Committee discussed the CAPC's recommendation to create the position of sustainability coordinator.

Mr. Frail stated the charge of the Climate Action Planning and Needham's ability to meet mandated state greenhouse gas targets. He noted working groups met during the fall 2022 who made the recommendation of a government structure to support the implementation of a climate action plan. He said one of the goals was the hiring of a sustainability coordinator to improve the town's organizational capacity and understand elements of the climate action plan. Discussion ensued on the consultant who is writing the plan, state requirements, options, pathways to lowering greenhouse gas emissions, grant opportunities, and tax incentives. Mr. Frail said the vision is for the sustainability coordinator to drive the process, work closely with the consultant, residents and businesses, and work on the municipal aggregation program.

Ms. Cooley commented on the funding mechanism for the role. She said it seems there is the opportunity for securing grants to help move forward faster and the recommendation to fund the role through ARPA funds.

Mr. Borrelli said he understands the committee wants to hire a sustainability coordinator. He said he is concerned about voting for the position out of the budgetary process, as well as the workload, expense, and cost of implementation of some of the ideas. Mr. Borrelli said he appreciates the work of Mr. Frail.

Mr. Nelson thanked Mr. Frail for his work. He said it makes sense to create the position for a long-term benefit.

Ms. Fitzpatrick said the assignment is for 18 months, but there is no guarantee of more funding.

Ms. Frail said the position is important because most of the decarbonization that needs to happen is not based on the town, but the residents. She said the sustainability coordinator will be able to help residents take advantage of monies available to make changes to benefit their health. She said she is pleased to be able to offer residents ways to meet the goals.

7:24 p.m. MSBA Statement of Interest:

Dan Gutekanst, Superintendent of Schools, Matt Spengler, School Committee Chair, Andrea Longo Carter, School Committee Vice Chair, Anne Gulati, Assistant Superintendent of Schools (via Zoom), and Hank Haff, Director of Building Design and Construction (via Zoom) spoke with the Board about the proposed Statements of Intent (SOI) to be filed with the Massachusetts School Building Authority (MSBA) for project funding.

Dr. Gutekanst presented a PowerPoint. He spoke about the school master plan and the deteriorating conditions at both Mitchell School and Pollard School, including modular classrooms well beyond their useful life. He commented on alleviating overcrowding, lack of adequate program space, mitigating the impact of construction on one or more generations of students so that a student is not moving from school to school facing a construction project as he or she grows, avoidance of expensive building maintenance and temporary facilities, and to provide elementary enrollment capacity along with possible universal preschool.

Discussion ensued on the role of the Massachusetts School Building Authority, the partnership with Needham that has existed over the years, and the first step in the process for submitting an SOI.

Dr. Gutekanst spoke about Pollard School as the priority in the process, options for the other schools, and if the May 2024 Town Meeting votes in favor of a feasibility

study. He said delays will increase the cost of construction. Dr. Gutekanst spoke about the next steps including discussion and vote by the School Committee about the SOI, and asked for the support of the Select Board for the SOI's. He concluded saying the SOI will be submitted by April 14, 2023.

Discussion ensued on the reimbursement rates from the MSBA.

Mr. Nelson asked for clarification on placement of students while construction is happening.

Mr. Borrelli said the plan is great and worth asking the MSBA to partner with Needham. He said he is looking forward to voting on this issue.

Ms. Cooley commented on the order of projects.

Ms. Frail said she is concerned with a delay, other options and decisions that would need to be made, and not hearing from the MSBA until December 2023.

Mr. Keane said he would prefer to see Pollard School completely rebuilt.

The Board thanked Dr. Gutekanst and the presenters for the information.

7:46 p.m. Human Rights Committee Discrimination Complaint Process:

Tina Burgos, Chair, Human Rights Committee and Marlene Schultz, member, Human Rights Committee presented a recommendation to establish a discrimination complaint process for members of the Needham community who believe their human or civil rights have been violated and are looking for resources or support.

Ms. Burgos reviewed the process for making a complaint and whether an investigation is warranted.

Discussion ensued on confidentiality issues, the importance of anonymity for both individuals and businesses, using an Executive Session for discussion, release of meeting minutes, and language used in the Discrimination Complaint Process Flowchart.

Mr. Borrelli said he is very concerned with privacy and the role of the Town in an investigation, which he said could be extremely intimidating. He reiterated his concern for privacy and the effect a complaint could have on an individual or business now or in the future. He said the Attorney General, MCAD, and the police all have the expertise to assist people who approach the Human Rights Committee for help. He reiterated his concern for privacy, release of minutes, and that things could get out of hand. He said he would like to see a modified, condensed flow chart with details and continuity for each potential case.

Ms. Frail said the work is important and that it is hard to say Needham is a welcoming community when there is no mechanism to address when things happen.

Discussion ensued on how people can be supported and the role of the Human Rights Committee.

Ms. Cooley suggested a flow chart that talks more about working with both parties, having a facilitated conversation, and whether a resolution was reached or if the matter was referred to the Attorney General, MCAD, or the police. She suggested a pilot program where the Human Rights Committee tracks the data.

Ms. Burgos said she understands the Select Board's concerns, there is discrimination happening in Needham, and that people must feel safe.

The Board thanked Ms. Burgos and Ms. Shultz for the discussion.

8:23 p.m. The Board took a five-minute recess.

8:28 p.m. Parking Study Presentation:

Amy Haelsen, Economic Development Officer, Catrina Meyer, Stantec, Jason Schrieber, Stantec, and Liza Cohen, Stantec reviewed with the Board findings from a parking study focused on Needham Center and Needham Heights, including an overview of the study's goals, parking inventory data and utilization, public engagement efforts, a summary analysis and recommendations.

A PowerPoint presentation titled "Needham Center + Needham Heights Parking Studies."

Mr. Schrieber explained the process for evaluating parking in town, which began in November 2022. He noted the study goals and discussed key findings including that Needham has hundreds of empty spaces at peak hours in both Needham Center and Needham Heights. He told the Board the town does not have a parking space problem, but a parking space management problem.

Ms. Meyer reviewed information in the presentation including the Parking Inventory + Utilization Summary with a map of on-street and off-street parking, peak occupancy, parking utilization, public survey and key takeaways, and highlights from an open house held in January 2023.

Discussion ensued on incentivized pricing, employee parking permits, regulations and enforcement, zoning, a multimodal network, and 13 recommendations.

Mr. Borrelli said the presentation was very engaging and comprehensive. He noted the debate in town over the years about installing a parking garage, which according

to this study, is not necessary. Mr. Borrelli commented on permit parking, eliminating dangerous parking spaces, on-street parking in neighborhoods, and zoning. He concluded many of the recommendations are very doable.

Ms. Frail said the data is the foundation for decisions that have been needed to be made for a long time. She asked for raw data and that she is looking forward to making changes.

Mr. Nelson concurred with placing a bike rack near crosswalks. He appreciates the thoughtfulness of the study and looks forward to using the data.

Ms. Cooley said the information about parking standards is information for the Planning Board. She said she would like to prioritize work to solve some of the employee permit parking issues, noting she is dismayed that the Town is chasing employees when the employees are the people the town needs to be able to have a lively downtown. She said she hopes the recommendations can be used by the town. Ms. Cooley asked for more information about smart meters, kiosks, and apps.

Mr. Borrelli asked Mr. Schreiber his opinion of free holiday parking. Mr. Schreiber said everyone loves free parking, but it creates problems as people take advantage of the situation. However, he noted the current parking system does not encourage “good behavior to begin with.” He said ultimately it is a political decision to make.

The Board thanked the presenters for the information.

9:22 p.m. Stormwater Fee Discussion:

David Davison, Assistant Town Manager/Director of Finance, Carys Lustig, Director of Public Works, and Tom Ryder, Town Engineer reintroduced to the Board the background leading to a stormwater fee to provide partial funding for the Town’s required investment to manage and maintain stormwater runoff. Discussion included the creation of a stormwater stabilization fund at the May 2023 annual town meeting, the purpose of the fund, how it works, and a fee structure to pay expenses that the Town will incur to meet the required regulations set forth by the National Pollutant Discharge Elimination System (NPDES), and the permit that Needham is subject to.

Mr. Davison said communities have a responsibility to manage and control stormwater, melting snow, and water from water main breaks to ensure it is clean and does not impact public waterways (streams, ponds, and lakes). He said the cost over five years is conservatively estimated in the \$900,000 range. Discussion ensued on the formation of a committee, maintenance and operation of stormwater, and funds from the tax levy to pay for mitigation via the utility bill based on various tier’s. Mr. Davison noted the fee will help defray some, but not all of the costs.

Mr. Borrelli said his concern is for commercial properties, who have different pavement requirements. He suggested thinking about commercial properties, but otherwise the fee structure is good.

Ms. Frail said the fees presented are reasonable.

Ms. Cooley commented Mr. Moe Handel, sits on the MWRA Advisory Board for the town and has been addressing concerns from the community related to the new NPDES permit process. The Select Board was asked to weigh in and consider sending a letter asking the MWRA Advisory Board be permitted to be invited to attend the virtual information session as representatives of the community. The Board agreed sending a letter makes sense.

9:40 p.m. Town Manager:

Kate Fitzpatrick, Town Manager spoke with the Board regarding 2 items:

1. Open Special Town Meeting Warrant

Ms. Fitzpatrick reviewed articles contained in the warrant for the May 8, 2023 Special Town Meeting. She asked that the Board vote to open the Special Town Meeting Warrant.

Motion by Mr. Keane that the Board vote to open the warrant for the May 8, 2023 Special Town Meeting.

Second: Mr. Borrelli. Unanimously approved 5-0.

2. 2023 Annual Town Meeting Warrant

Ms. Fitzpatrick reviewed proposed changes to the Annual Town Meeting Warrant. She asked the Board to vote on the proposed changes in the Annual Town Meeting Warrant.

Motion by Mr. Borrelli that the Select Board vote to amend the 2023 Annual Town Meeting Warrant as presented at the Select Board meeting with the removal of Article 11 in the printed warrant.

Second: Mr. Nelson. Unanimously approved 5-0.

9:51 p.m. Board Discussion:

1. Dangerous Dog Update

Ms. Cooley reminded the Select Board of its vote on September 27, 2022 that the dog named Axel should be euthanized. She said the ruling was challenged by the owner and reversed by the court. Ms. Cooley stated the dog is alive, living in the same location, and required to comply with all stipulations set by the Select Board. She noted the dog has been neutered as requested by the Select Board. Ms. Cooley advised the neighbors that they should be aware of the situation.

2. Select Board Code of Conduct

Ms. Cooley reminded the Board of the Select Board Code of Conduct Subcommittee's draft proposal to the Board on February 28, 2023. The Subcommittee recommends that the Board vote to adopt the Code of Conduct as discussed at the meeting.

Motion by Mr. Borrelli that the Select Board vote to adopt the Select Board Code of Conduct dated March 14, 2023.

Second: Ms. Frail. Unanimously approved 5-0.

3. Committee Reports

Mr. Keane reported the Climate Action Planning Committee Greenhouse Gas Study will begin soon and proposals for the municipal aggregation consultant were sent out. He said the committee discussed solar arrays and solar canopies, which he stated are core issues for the Planning Board's consideration. Discussion ensued on the opt-in specialized code, HERS, and the new Stretch Code.

Ms. Frail said the Active Recreation Assets Working Group met last night and spent time discussing off leash dog activity. She said the group voted that there is an unmet need, and will be looking to recommend possible locations for off leash dog activity. She said a resident survey will be conducted to gather information to help the Town understand what is needed.

10:00 p.m. Adjourn:

Motion by Mr. Borrelli that the Select Board vote to adjourn the Select Board meeting of Tuesday, March 14, 2023.

Second: Mr. Nelson. Unanimously approved 5-0.

A list of all documents used at this Select Board meeting is available at:

<http://www.needhamma.gov/Archive.aspx?AMID=99&Type=&ADID>

The next Select Board meeting is scheduled for Tuesday, March 28, 2023.

Needham Department of Planning and Community Development

Public Services Administration Building (PSAB)

500 Dedham Avenue

Needham, MA 02492-2699

Tel: (781) 455-7550

April 3, 2023

Needham Select Board
c/o Marianne Cooley, Chairman
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Dear Ms. Cooley,

The Town of Needham Planning and Community Development Department has the intention to hire Kristan Patenaude as Recording Secretary for the Conservation Commission. There is no Planning and Community Development employee that is available to fill this position.

Ms. Patenaude is currently employed by the Town of Needham as the Recording Secretary for the Board of Health and the Design Review Board. There is no conflict with any of her responsibilities with these other Town departments. The Design Review Board meets on the 1st and 3rd Monday evening of each month commencing at 7:30 p.m. outside of normal business hours. The Board of Health meets during regular business hours. The Conservation Commission meets the 2nd and 4th Thursdays of the month at 7:00 pm.

Attached is a copy of the letter that Ms. Patenaude has submitted, disclosing the second and third positions with the Board of Health and the Design Review Board, as well as her 20(b) Disclosure Form.

Please do not hesitate to contact me directly if I can provide further information.

Very truly yours,

Debora Anderson

Debora Anderson
Director of Conservation

Kristan Patenaude
14 Scottie Way
Amherst, NH 03031

March 28, 2023

Needham Select Board
c/o Marianne Cooley, Chair
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Dear Ms. Cooley,

The Town of Needham Planning and Community Development Department intends to hire me as Recording Secretary for the Conservation Commission. I am currently employed by the Town of Needham as the Recording Secretary for the Board of Health and the Design Review Board.

The Director of Planning and Community Development has asked me to fill this position due to my experience with minute taking and administrative work. The start date for this position is expected to be April 13, 2023.

There will be no conflicts with my work at the Board of Health and the Design Review Board meetings, as the Conservation Commission meetings are at nonconflicting hours.

Please do not hesitate to contact me directly if I can provide further information.

Very truly yours,

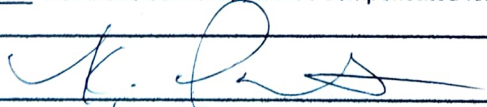
A handwritten signature in blue ink, appearing to read 'K. Patenaude', with a long horizontal flourish extending to the right.

Kristan Patenaude

**DISCLOSURE BY MUNICIPAL EMPLOYEE
OF FINANCIAL INTEREST IN A MUNICIPAL CONTRACT
AS REQUIRED BY G. L. c. 268A, § 20(b)**

	MUNICIPAL EMPLOYEE INFORMATION
Name of municipal employee:	Kristan Patenaude
Title/ Position	Recording Secretary
Fill in this box if it applies to you.	If you are a municipal employee because a municipal agency has contracted with your company or organization, please provide the name and address of the company or organization.
Agency/ Department	Needham Health Department/Department of Human Services Rosemary Recreation Complex 178 Rosemary Street Needham, MA Design Review Board/Planning and Community Development Public Services Administrative Building 500 Dedham Avenue Needham, MA
Agency Address	See above
Office phone:	781-455-7500
Office e-mail:	
	Check one: ☐ Elected or ☒ Non-elected
Starting date as a municipal employee.	April 13, 2023
BOX # 1 Select either STATEMENT #1 or STATEMENT #2. Write an X beside your financial interest.	ELECTED MUNICIPAL EMPLOYEE I am an elected municipal employee.  STATEMENT #1: I had one of the following financial interests in a contract made by a municipal agency before I was elected to my municipal employee position. I will continue to have this financial interest in a municipal contract. OR ☐ STATEMENT #2: I will have a new financial interest in a contract made by a municipal agency. My financial interest in a municipal contract is:  I have a non-elected, compensated municipal employee position. ☐ A municipal agency has a contract with me. ☐ I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization. ☐ I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.
BOX # 2	NON-ELECTED, COMPENSATED MUNICIPAL EMPLOYEE I am a non-elected municipal employee.

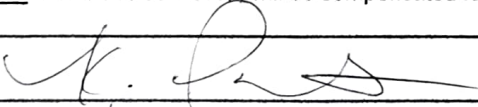
Select either STATEMENT #1 or STATEMENT #2. Write an X beside your financial interest.	☐ STATEMENT # 1: I had one of the following financial interests in a contract made by a municipal agency before I took a position as a non-elected municipal employee. I will continue to have this financial interest in a municipal contract. My financial interest in a municipal contract is: ☐ A municipal agency has a contract with me, but not an employment contract. ☐ I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization. -- OR -- ☒ STATEMENT # 2: I will have a new financial interest in a contract made by a municipal agency. My financial interest in a municipal contract is: ☒ I have a non-elected, compensated municipal employee position. ☐ A municipal agency has a contract with me. ☐ I have a financial benefit or obligation because of a contract that a municipal agency has with another person or an entity, such as a company or organization. ☐ I work for a company or organization that has a contract with a municipal agency, and I am a "key employee" because the contract identifies me by name or it is otherwise clear that the city or town has contracted for my services in particular.
FINANCIAL INTEREST IN A MUNICIPAL CONTRACT	
Name and address of municipal agency that made the contract	Lee Newman, Director of Planning and Community Development Town of Needham 500 Dedham Avenue Needham, MA
Please put in an X to confirm these facts.	"My Municipal Agency" is the municipal agency that I serve as a municipal employee. The "contracting agency" is the municipal agency that made the contract. ☐ My Municipal Agency is not the contracting agency. ☐ My Municipal Agency does not regulate the activities of the contracting agency. ☐ In my work for my Municipal Agency, I do not participate in or have official responsibility for any of the activities of the contracting agency. ☒ The contract was made after public notice or through competitive bidding.
FILL IN THIS BOX OR THE BOX BELOW	ANSWER THE QUESTION IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND YOU. - Please explain what the contract is for. An employment contract.
	ANSWER THE QUESTIONS IN THIS BOX IF THE CONTRACT IS BETWEEN THE CITY OR TOWN AND ANOTHER PERSON OR ENTITY. - Please identify the person or entity that has the contract with the municipal agency.

FILL IN THIS BOX OR THE BOX ABOVE	- What is your relationship to the person or entity? - What is the contract for?
What is your financial interest in the municipal contract?	- Please explain the financial interest and include the dollar amount if you know it. Salary Compensation for employment position.
Date when you acquired a financial interest	Date of Initial Hire for Board of Health on May 23, 2022
What is the financial interest of your immediate family?	- Please explain the financial interest and include the dollar amount if you know it. None
Date when your immediate family acquired a financial interest	
Write an X to confirm each statement.	FOR A CONTRACT FOR PERSONAL SERVICES – Answer the questions in this box ONLY if you will have a contract for personal services with a municipal agency (i.e., you will do work directly for the contracting agency). I will have a contract with a municipal agency to provide personal services. ☐ The services will be provided outside my normal working hours as a municipal employee. ☐ The services are not required as part of my regular duties as a municipal employee. ☐ For these services, I will be compensated for not more than 500 hours during a calendar year.
Employee signature:	
Date:	3/30 / 2023

Attach additional pages if necessary.

NOT A PERSONAL SERVICES CONTRACT -- File disclosure with the city or town clerk.

SEE CERTIFICATION AND APPROVAL REQUIRED FOR PERSONAL SERVICES CONTRACTS, BELOW.

FILL IN THIS BOX OR THE BOX ABOVE	- What is your relationship to the person or entity? - What is the contract for?
What is your financial interest in the municipal contract?	- Please explain the financial interest and include the dollar amount if you know it. Salary Compensation for employment position.
Date when you acquired a financial interest	Date of Initial Hire for Board of Health on May 23, 2022
What is the financial interest of your immediate family?	- Please explain the financial interest and include the dollar amount if you know it. None
Date when your immediate family acquired a financial interest	
Write an X to confirm each statement.	FOR A CONTRACT FOR PERSONAL SERVICES – Answer the questions in this box ONLY if you will have a contract for personal services with a municipal agency (i.e., you will do work directly for the contracting agency). I will have a contract with a municipal agency to provide personal services. ☐ The services will be provided outside my normal working hours as a municipal employee. ☐ The services are not required as part of my regular duties as a municipal employee. ☐ For these services, I will be compensated for not more than 500 hours during a calendar year.
Employee signature:	
Date:	3/30 / 2023

Attach additional pages if necessary.

NOT A PERSONAL SERVICES CONTRACT – File disclosure with the city or town clerk.

SEE CERTIFICATION AND APPROVAL REQUIRED FOR PERSONAL SERVICES CONTRACTS, BELOW.