



**AGENDA
BOARD OF SELECTMEN
MONDAY, DECEMBER 19, 2022
WAQUOIT MEETING ROOM
MASHPEE TOWN HALL
16 GREAT NECK ROAD NORTH
MASHPEE, MA 02649**

Broadcast Live on Local Cable Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

6:30 p.m. – Convene Meeting in Open Session

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

In honor of the Late Dr. Brian L. Howes

MINUTES

Approval of the Following Minutes:

Monday, November 21, 2022 Regular Session; Monday, December 5, 2022 Regular & Executive Sessions

APPOINTMENTS & HEARINGS

- 6:30 pm Public Hearing – Presentation and Review of Options for Road Safety Improvements on Old Barnstable Road between Breezy Acres and the Mashpee-Falmouth Town Line
- Public Comment
- Discussion and Approval of Seventh Amendment to Memorandum of Understanding between the Mashpee Wampanoag Tribe and the Town of Mashpee Massachusetts for the Provision of Fire Protection and Emergency Medical Services and Law Enforcement Mutual Aid Assistance
- Discussion and Approval of Amendment to Upper Cape Regional Transfer Station Intermunicipal Agreement (IMA) for the Upper Cape Regional Transfer Station (UCTRS):
DPW Director Catherine Laurent
- Discussion and Approval of Short Term Financing Agreement for the Wastewater Project:
Treasurer/Tax Collector Craig Mayen
- Discussion and Certification of Hiring Process for Police Public Safety Dispatcher: *Shannon Lee*
- Discussion and Approval of New Ambulance Billing Rates: *Fire Chief John Phelan*
- Discussion and Approval of Chopchaque Bogs Conservation Restriction:
Assistant Conservation Agent Daniel Kent
- *DNR Director Ashley Fisher:*
 - Discussion and Approval of Mooring Regulation Fee Changes; Additions to Waterways Regulations Chapter 170
 - Santuit Pond: Public Outreach Events; Project Updates

COMMUNICATIONS & CORRESPONDENCE

NEW BUSINESS

- Presentation, Discussion and Possible Approval of Negotiating and Entering into a Retail Marijuana and Product Manufacturing Establishment Host Community Agreement with CatDogg, LLC dba Sublime Cannabis: *Robert Catania, Evan Lehrer*

OLD BUSINESS

- Discussion and Approval of Letter to the Sandwich Board of Selectmen with regard to the NSG Village Green-1 Project

CONTINUED ON NEXT PAGE

BOARD OF SELECTMEN AGENDA (CON'T)**ADDITIONAL TOPICS**

(This space is reserved for topics that the Chair did not reasonably anticipate would be discussed)

LIAISON REPORTS**WATER QUALITY UPDATES****TOWN MANAGER UPDATES****EXECUTIVE SESSION**

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

- Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519;
- MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;
- MASS. C.O.P., Local 320, Unit B – Sergeants;
- MASS. C.O.P., Local 477, Unit C – Police Lieutenants
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;
- Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

RETURN TO OPEN SESSION:

Discussion and Possible Ratification of Approval of the Following Contracts:

- Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519
- MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;
- MASS. C.O.P., Local 320, Unit B – Sergeants;
- MASS. C.O.P., Local 477, Unit C – Police Lieutenants
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;
- Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

ADJOURNMENT

MASHPEE TOWN CLERK
DEC 15 '22 PM1:36



AGENDA
BOARD OF SELECTMEN
MONDAY, NOVEMBER 21, 2022
WAQUOIT MEETING ROOM
MASHPEE TOWN HALL
16 GREAT NECK ROAD NORTH
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6:30 p.m. – Convene Meeting in Open Session

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

MINUTES

Approval of the Monday, November 7, 2022 Regular and Executive Session Minutes

APPOINTMENTS & HEARINGS

- Public Comment
- 6:35 pm – Tax Classification Hearing: *Assessor Joseph Gibbons*
- Discussion and Approval of Fiscal Year 2023 Tax Rate
- Discussion and Possible Approval of Removal of Mohamed Fahd from the Mashpee Community Garden Advisory Committee (MCGAC) (Term Expires June 30, 2023)
- Discussion and Approval of the Following Resignations and Appointments:
 - Resignations:
 - Board of Health: *Brian Baumgaertel* (Term Expires June 30, 2024)
 - Barnstable County Home Consortium: *Arden Russell* (Term Expires January 31, 2024)
 - Appointments:
 - Board of Health: *Edward Raposa* (Term Expires June 30, 2024)

COMMUNICATIONS & CORRESPONDENCE

NEW BUSINESS

- Discussion and Approval of January through June 2023 Select Board Meeting Schedule

ADDITIONAL TOPICS

(This space is reserved for topics that the Chair did not reasonably anticipate would be discussed)

LIAISON REPORTS

2022-2023 Liaison Assignments until May 2023: *Chair David Weeden*

WATER QUALITY UPDATES

TOWN MANAGER UPDATES

EXECUTIVE SESSION

ADJOURNMENT

Mashpee Select Board
Minutes
November 21, 2022

Present: Selectman David W. Weeden, Selectman John J. Cotton, Selectman Thomas F. O'Hara,
Selectman Carol A. Weeden, Selectman Michael A. Wyman-Colombo
Town Manager Rodney C. Collins
Assistant Town Manager Wayne E. Taylor

Meeting Called to Order by Chairman Weeden at 6:31 p.m.
Mashpee Town Hall, Waquoit Meeting Room

MINUTES

Monday, November 7, 2022 Regular and Executive Session Minutes: JC/TO 5-0.

Motion made by Selectman Cotton to approve the Regular and Executive Session Minutes of Monday, November 7, 2022 as presented.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

APPOINTMENTS & HEARINGS

Public Comment:

Elana Doyle a resident of Sunset Strip indicated she attended the recent forum on *Housing to Protect Cape Cod*. Ms. Doyle commented on the dire need for middle class housing and related concern with respect to existing bylaws which restrict reasonable housing development. Mashpee Commons is noted to be the ideal location for mixed use and dense building to accommodate a variety of housing needs due to its close proximity to services. Ms. Doyle conveyed her discouragement with respect to the outlandish opposition this development proposal has received. Most of the middle class do not qualify for housing lotteries and benefits. Having faced the crisis of possibly moving, Ms. Doyle further urged the Select Board to focus on housing to save our local population from having to leave a place they call home.

Donna Fuller, Lisa Frye, Terrie Cook, Marje Hecht, Arden Russell and Lynee Barbee indicated they would hold their comments for the Tax Classification Hearing.

Mashpee Select Board
Minutes
November 21, 2022

APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons:
Discussion and Approval of Fiscal Year 2023 Tax Rate:

The Select Board opened the Public Hearing on whether the Town of Mashpee should implement the Classification Act by reading aloud the hearing notice into the record. At the hearing the Mashpee Select Board will hear testimony as to what will be the Fiscal Year 2023 residential factor which will determine the share of taxes each classification of property will pay, what will be the open space factor, and whether there will be a residential exemption and/or a small business exemption.

Joseph Gibbons, Assessor was in attendance with Dawn Thayer the Finance Director and Craig Mayen the Treasurer/Tax Collector to facilitate this hearing.

Joseph Gibbons, Director of Assessing indicated the figures to be reviewed this evening are estimates. The tax rates are proposed and subject to the approval of the Department of Revenue.

Every community in the Commonwealth of Massachusetts must vote annually on the following sections of the Classification Act;

1. Whether to continue with a factor of "1" which would not shift the tax burden between classes. The Town of Mashpee has never shifted the tax rate.
2. To adopt the Open Space discount.
This option would have little effect in Mashpee as these parcels are greatly discounted.
3. To adopt the Small Commercial Exemption.
4. To adopt a Residential Exemption of up to 35% of the average assessed single-family property. This option would shift the resident's burden from the domiciliary parcels onto higher valued domiciles and ALL non-domiciliary properties.

Mr. Gibbons indicated the adoption of a Residential Exemption would increase the overall residential tax burden necessitating additional staffing and requiring state mandated review of the applications every 5 years.

At their meeting of November 16, 2022, the Town of Mashpee Board of Assessors voted unanimously to recommend the following:

1. To adopt a Residential Factor of "1", meaning no shifting of the residential burden to commercial.
2. To not adopt an Open Space discount.
3. To not adopt a Small Commercial Exemption
4. To recommend a Residential Exemption percentage of "No higher than 10%" if the Residential Exemption is adopted by the Select Board. A percentage no higher than 10% is due to potential overlay deficits, which could drastically affect the FY 2024 budget.

Mashpee Select Board
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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

The final certification of values was received on November 3, 2022. New growth was approved at \$805,000. The total value of all residential properties is \$7,355,506,020. Residential properties encompass 90% of the total \$8,000,000,000 valuation. The remainder includes commercial, industrial and personal properties. The total count of all residential properties is 11,055. And, the average value of all residential properties is \$665,356.

Mr. Gibbons indicated the average single-family home value in FY2023 is \$770,395. This represents a 20.10% increase over last years average value of \$641,465.

With no exemption in place, the FY2023 tax rate is \$6.94 per \$1,000 valuation. No exemption would amount to \$16 per month or \$196 per year.

With an exemption of 5%. The FY2023 tax rate is \$7.01 per \$1,000 valuation. At 5% the amount of tax exempted per average parcel is \$233.10.

Additional 10% and 20% scenario's relative to the FY2023 Residential Exemption were also reviewed and considered.

Of the 11,055 residential properties, 2,109 properties (19%) have qualified for a residential exemption if adopted by the Select Board. Currently, this is a low percentage of applications/approvals. If a residential exemption was approved at 5%, there would be overlay shortfalls. An overlay shortfall creates a deficit which would reduce available funds in the FY2024 budget. Any deficit must be address in the FY2024 recapitulation worksheet prior to the setting of the next year's tax rate. At 5%, the projected overlay shortfall for 2,000 application approvals is \$466,200.

It is currently estimated that 100 applications have been denied, others are deficient applications awaiting further information. The majority of homes in trust that qualified were noted to be approved. An abatement is approved for (1) property only not for multiple ownerships.

It is estimated that 5,700 to 6,200 residents may qualify for the Residential Exemption. If 3,000 residents obtain the exemption the potential overlay shortfall is \$699,300. State law allows abatements to be received until April 1st.

Discussion followed with respect to the added workload within the Assessing Department and costs to administer the residential exemption. Mr. Gibbons explained that every daily function in the Assessing Office is affected. This is a labor intensive process. At minimum, a half time staff member is required to solely dedicate to this function.

This is a shift from one category to another. The Town would bring in the same amount of levy.

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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

The workload was considered as well as the mandate to review applications every 5 years. With 1-200 applications in que, and with approval, there may be an influx of additional applications. Mr. Gibbons indicated of the 351 Massachusetts communities, 16 administer this program.

Documents necessary to apply for a residential exemption include the front page of a federal income tax return, and a driver's license. Only one property can be filed for an exemption. The information contained in the documents verifies a persons legal address. At times the information needs to be fully vetted with multiple property owners.

As discussion continued there is deep concern with respect to year-round renters and preserving this housing market. Year-round renters would include those living in mobile home parks. Due to market conditions many year-round homes are being sold or being rented on a short-term basis.

It was agreed that information would be obtained to further review the impacts of the residential exemption if imposed. A list of year-round rentals and short-term rentals would be further reviewed. The exemption would go to the landlord, not the tenant. This may be an incentive for a property owner to rent on a year-round basis.

For comparison it was noted the Town of Provincetown expanded their residential exemption to domiciliary parcels. Provincetown has applied for a HOME Rule Petition which is currently under review for an expanded residential exemption to include qualified year-round rentals. With a 25% exemption, their total participation is approximately 1,600. The Town of Barnstable adopted a 20% residential exemption. The program has been viable since 2006, however it is a daily function to adhere to with full-time support staff required. There have been issues with re-vetting as well.

The Select Board opened the hearing to solicit public comment.

Donna Fuller a Mashpee Neck Road resident since 1972 urged the Select Board to vote against the residential exemption. Ms. Fuller stated that it is unfair to summer residents to be taxed without really having any say. Summer visitors give little impact to our services. With an irrevocable trust, Ms. Fuller stated she may not qualify and the proposal could possibly increase taxes substantially.

With regards to obtaining a list of year-round and short-term rentals, Elana Doyle indicated the Town collects taxes on short-term rentals, and a list of the rentals should be available for review.

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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

Public Comment: (continued)

Lisa Frye of 40 Autumn Drive spoke on the tax levy stating the pie is the same pie, and the Town will not benefit any more or any less. The proposed residential exemption would be shifted to a different population, the people who are not year-round residents. They don't get to vote. It is disturbing to shift the burden to those who can afford it. It is also unfair as the role of the Select Board is to look out for all of the taxpayers, not just the ones who vote.

Terrie Cook, 6 Angelo's Way indicated as a homeowner she would benefit from the residential exemption. But it is unfair the summer residents would be taxed at a different rate. People won't build here and we will not have new growth. This would affect our businesses. It is like taxation without representation. Ms. Cook voiced concern the commercial tax properties would maintain their rate, a little lower in this proposal. There are a lot of assumptions made about folks who are non-domiciliary. Many times, it is just a small family coming to Mashpee staying in a cottage having a brief vacation. Our town depends on the summer residents and it is hopeful the Select Board would consider the unintended consequences before this is brought to our town.

Marje Hecht of Hoophole Road urged the Select Board to make housing more affordable for year-round residents. Second homeowners may say this is unfair. Large expensive second homes have driven up expenses and local commodities are sky high. This is a progressive tax, perhaps an exemption with an income provision. Sixteen Massachusetts communities have adopted this plan as a step to make housing more affordable for the year-round residents who elect this Select Board who makes decisions on our behalf, not the minority of households who make their living elsewhere.

Arden Russell, Sturgis Lane made note of the affordable housing crisis on Cape Cod and the rapid cost of living that is not sustaining our workforce. Ms. Russell requested the Select Board soften the blow and adopt the residential exemption designed to create a benefit to lower valued homes. Now is the time as the town moves forward with wastewater to ease the burden. There are very few year-round rental homes in Mashpee and many of the affordable rentals do not contribute to taxes. Ms. Russell urged the Select Board to vote in favor of the residential exemption to allow the town to do more.

Lynne Barbee a resident of Surf Drive echoed the previous speakers. Ms. Barbee stated there are many people in Mashpee living on a fixed income in modest homes. Volunteering in Human Services Ms. Barbee indicated this department is receiving a lot of requests for fuel assistance. There is a different economic reality from those who own a second home. Ms. Barbee urged the Select Board to vote favorably on this matter.

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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

Public Comment: (continued)

Mike Cahill, a seasonal resident indicated he drove an hour to attend this meeting. Mr. Cahill has been a seasonal resident summering with his grandfather since the 1950's. He loves coming to Mashpee in the summer, now coming with his children to enjoy what he did as a child. To continue to afford the home he lives in Mr. Cahill participates in the short-term rental program, abiding by the rules. In support of the seasonal residents Mr. Cahill indicated that second home ownership is not the case for all. Many have inherited the homes that they really cannot afford and are now resorting to the short-term rental program to maintain their family homes. Mr. Cahill stated this is taxation without representation, a reminder of the tea party. The Select Board was respectfully asked to consider the blue collar workers who want to keep their homes. This is another tax in addition to the tax they are paying to rent their homes.

Diane Phillips strongly recommended against a tax rate that is reduced for residents and increased for non-residents. Ms. Phillips a resident of the Ashumet Pond area on Wheeler Road indicated her neighbors can barely afford their home. If the homes are filled with year-round residents, there would be more children. The Town does not have the infrastructure to support this. Many residents are also concerned with the water quality.

Larry Palmer of 63 Waterway stated that he has been coming to Mashpee for 16 years. He only stays for one week each year, but this is where he wants to retire. With two children in college, he is struggling too. He would like to build a home, and stay part-time until retirement. Costs are expensive and it is difficult to build in this town. Mr. Palmer indicated the tax is revenue neutral with additional costs to administer. This may increase neighbor against neighbor, its human nature. Ties are hard and it is important to work together.

Mike Richardson, 47 Slice Way indicated when he first moved to Mashpee, he was a part-time resident. Mr. Richardson now lives in Mashpee full-time and actively participates in town activities and on committees. Mr. Richardson stated we all have to work together to try to help each other out. It is not fair to place neighbor against neighbor. Changing the tax rate for one person to pay more, the other less, is not the answer.

Mashpee Select Board
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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

Public Comment: (continued)

Ashumet Road resident Mary Waygan encouraged the Select Board to pass the residential exemption. This is an important tool to provide affordable living in Mashpee and to ease the housing cost burden. Rising property taxes can be a burden to those families at the low to moderate income levels and also to those on fixed incomes. Over 30% of Mashpee's housing stock is used seasonally. This causes huge pressure on the housing market. Ms. Waygan indicated the Town's Housing Production Plan states one of the barriers for living here is property taxes, and housing seasonality in Mashpee. Ms. Waygan stated the problem is not going to be solved by building or subsidizing everything that is needed. The residential exemption is a tool in the tool box, and the town should give this a try. Ms. Waygan voiced support to obtain benefit for year-round rental housing.

Andrew Gottlieb 119 Pickerel Cove indicated that over the years this has been brought forward with opposition. For those trying to live on the Cape this is in their best financial interest. Other Cape towns have instituted the residential exemption without placing neighbor against neighbor. Mr. Gottlieb stated this can be done. The majority of homes would gain more than \$350. Approximately 4% of homes valued over \$2 million would be paying more. There are a lot of people struggling. As a solution Mr. Gottlieb recommended to transfer free cash to avoid running into a deficit in the overlay. Money collected from the taxpayer would provide the tax relief. Unused funds would revert to free cash. It was recommended the Select Board consider a 10% residential exemption as the cap.

A summer resident spending more time in Mashpee working from home stated the pie will only see the same amount of pie. It was requested this burden not be passed onto the seasonal resident, but to the commercial classification.

Tom Fudala spoke in support of the comments made by Mr. Gottlieb. On a fixed income Mr. Fudala indicated he can barely afford to pay his bills now. Many of his neighbors cannot afford a second home, and are in need of assistance. Mr. Fudala indicated the May Town Meeting supported the software updates, printing, mailing costs and the hiring of a consultant in preparation for the residential exemption. In his opinion this is a no brainer, something to do for all of the working people in town. Mr. Fudala suggested the Select Board look into the year-round rental concept. As a member of the Water District Mr. Fudala indicated he is going to vote in support of the residential exemption.

There was a comment regarding the cost of living an issue of concern across the country. It's not because people have a second home.

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APPOINTMENTS & HEARINGS

Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

Public Comment: (continued)

Elana Doyle agreed with the opinions of Mary Waygan and Andrew Gottlieb stating it is probably a good idea.

In closing Lisa Frye asked how a decrease in her tax and an increase to the summer residents would create more affordable housing. In response Ms. Waygan indicated housing is affordable if you do not spend more than 30% of your income. The government sets the definition of 80% AMI or less if you pay more than 30% of your income. This is a housing tax burden. Ms. Waygan added that affordable living does not go into the affordable housing inventory.

It was noted the average cost of the increase without a residential exemption is \$196 per year.

A resident of Percy's Road indicated the pandemic has changed a lot of domiciles in Boston. It was recommended the Select Board vote against the proposal.

Being no further comment, the Select Board took the following action;

Motion made by Selectman Cotton to close the Public Hearing.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

Ms. Waygan indicated she attended the *Housing to Protect Cape Cod* forum on housing and affordability for those who need to live and work here. The gathering encouraged her to think outside the box. It was recommended the Select Board strongly consider exempting 10% which would equate a reduction of \$435 for those who have lower income properties.

As the Select Board considered the proposal and the comments received it was agreed the cost of living is high and there is a strong need for affordability and job creation with better paying jobs. The cost of housing is astronomical. The economy is driving the housing sales beyond the asking price. There is a need to look at zoning, denser communities and smaller lot sizes.

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Tax Classification Hearing: Assessor Joseph Gibbons: (continued)
Discussion and Approval of Fiscal Year 2023 Tax Rate:

It was noted the Town is moving forward with rental housing with the LeClair Village at 950 Falmouth Road and at the 209 Old Barnstable Road site.

Discussion continued regarding taking a conservative approach to the process to get the program up and running. The rates of 5% and 10% were considered and debated. It was noted the Town conducts a Classification Hearing each year. Decisions can be made at the annual hearing regarding the classifications and percentages to be offered. There is strong concern with regards to the impact to year-round renters and for those renting mobile homes.

Offering a major decrease opposed to a modest decrease in taxes was deeply deliberated in concern for those living on a limited income. With the use of free cash as an offset, both Chairman Weeden and Michaela Colombo-Wyman argued for a higher percentage to benefit residents.

The recommendation of the Board of Assessors if the residential exemption is adopted by the Select Board is no higher than 10%.

Short-term rentals that are reported and taxed are detailed through the Office of the Board of Health. Year-round rentals are not fully known at this time.

Motion made by Selectman Sherman to impose a percentage rate of 5% in FY2024. Motion seconded by Selectman Cotton. The motion was withdrawn as the vote requires more substance. A sample motion was provided.

The following is a two-part vote to implement the residential exemption and to set the percentage of the exemption;

Motion made by Selectman Wyman-Colombo to implement the residential exemption.

Motion seconded by Selectman Cotton.

VOTE: 4-1. Motion carries.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, no
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, (1)		

Motion made by Selectman Sherman to move that the Town of Mashpee adopt a Factor of "1" for all Classes of property with No discount for Open Space, No Small Commercial Exemption and a Residential Exemption percentage of 5%.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

It was agreed after the numbers have been received regarding year-round rentals and trailer/mobile homes, the Select Board would revisit the equation at the next hearing.

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November 21, 2022

APPOINTMENTS & HEARINGS

Discussion and Possible Approval of Removal of Mohamed Fahd from the Mashpee Community Garden Advisory Committee (MCGAC) (Term Expires June 30, 2023):

Regarding the matter pertaining to the Mashpee Community Garden Committee, it was disclosed both parties agreed to review the dispute to develop a resolution. Town Manager Rodney C. Collins recommended the Select Board table this matter.

Motion made by Selectman Cotton to accept the recommendation of the Town Manager to table the matter associated to the Mashpee Community Garden Advisory Committee.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

Discussion and Approval of the Following Resignations and Appointments:

Resignations:

Board of Health: Brian Baumgaertel (Term Expires (Term Expires June 30, 2024):

Correspondence was received from Brian Baumgaertel dated October 20, 2022 resigning from the Board of Health effective November 18, 2022.

Motion made by Selectman Sherman to accept with regret the resignation of Brian Baumgaertel from the Board of Health sending a well written letter to Mr. Baumgaertel for his service.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

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APPOINTMENTS & HEARINGS

Barnstable County Home Consortium: Arden Russell (Term Expires January 31, 2024):

Additional communication was received from Arden Russell dated November 8, 2022 resigning from the Barnstable County Home Consortium effective immediately.

Motion made by Selectman O'Hara to accept the resignation from Arden Cadrin from the Barnstable County Home Consortium with regret.

Motion seconded by Selectman Sherman.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

Appointments:

Board of Health: Edward Raposa (Term Expires June 30, 2024):

A letter of interest was received from Edward Raposa to serve on the Board of Health dated August 26, 2022.

Motion made by Selectman Sherman to appoint Edward Raposa to the Board of Health as a Member-At Large with a term to expire; June 30, 2024.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

NEW BUSINESS

Discussion and Approval of January through June 2023 Select Board Meeting Schedule:

Motion made by Selectman Sherman to approve the Select Board Meeting Schedule from January to June 2023 as presented.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

Mashpee Select Board
Minutes
November 21, 2022

LIAISON REPORTS

Chamber of Commerce:

55 Thanksgiving dinners are scheduled to be distributed on Wednesday.
Volunteers are needed for the Annual Christmas parade.

Joint Base Cape Cod:

Discussions are ongoing regarding the potential design for the new Cape Cod canal bridges.

2022-2023 Liaison Assignments until May 2023: Chair David Weeden:

The Liaison Assignment List was updated for the remainder of 2022 and for 2023.
The revised list will be distributed to the Select Board members.

WATER QUALITY UPDATES

The Sewer schedule has been posted on the Town's website and on the Town's social media page.
Ground breaking has begun.

TOWN MANAGER UPDATES

Poll Location:

Due to concerns while the Quashnet School is in session, it may be necessary for the Select Board to seek an alternate site and/or date for voting at the polls.

Finance Committee Reserve Fund Transfer:

Due to an increase in postage, mailings and advertising for the elections, including a Town special election the Finance Committee voted at their November 10, 2022 meeting to transfer funds from the Finance Committee Reserve Fund to cover the shortfall to the Town Hall Communication account.

Christmas Parade:

The annual Christmas parade will be held on December 10, 2022 with a rain date of December 11, 2022 in Mashpee Commons.

Town Hall Closure:

In observance of the Thanksgiving holiday Town Offices will be closed on Thursday and Friday.

Mashpee Select Board
Minutes
November 21, 2022

ADJOURNMENT

Motion made by Selectman Sherman to adjourn at 9:07 p.m.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 5-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Sherman, yes	Selectman Wyman-Colombo, yes	
Opposed, none		

Respectfully submitted,

Kathleen M. Soares
Secretary to the Select Board

DRAFT BOARD OF SELECTMEN REGULAR SESSION MINUTES DECEMBER 5, 2022



**AGENDA
BOARD OF SELECTMEN
MONDAY, DECEMBER 5, 2022
WAQUOIT MEETING ROOM
MASHPEE TOWN HALL
16 GREAT NECK ROAD NORTH
MASHPEE, MA 02649**

Broadcast Live on Local Cable Channel 18

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>

6:30 p.m. – Convene Meeting in Open Session

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

MINUTES

Approval of the Monday, November 21, 2022 Regular Session Minutes

APPOINTMENTS & HEARINGS

- Public Comment
- 6:35 pm Public Hearing – Annual Alcoholic Beverages & Entertainment Licenses
- 6:40 pm - Public Hearing - Parking Ban Bowdoin Road (Continued from November 7, 2022)
- Discussion and Approval of Easement between the Town of Mashpee (Grantee) and Save Popponesset Bay, Inc. (Grantor): *Assistant Town Manager Wayne Taylor*
- *DPW Director Catherine Laurent:*
 - Discussion and Approval of Awarding the Following Contracts:
Trash and Recycling – *Cavossa Disposal Corp.*; Portable Toilets – *Pina Sajje Sanitation*
 - Discussion and Approval of New Fee Schedule for Use of Town Facilities
- Discussion and Approval of the Special Event Application for the 1st Annual “Polar Plunge” on January 1, 2023 10 – 11:30 am at Attaquin Park: *Mashpee Recreation, Mashpee Kiwanis, Naukabout*
- Discussion and Approval of Waiver of \$100 Tent Fee for the Firefighters Annual “Homeless for the Holidays” Event: *Leonard Goldman*
- Discussion and Approval of the Following Resignations and Appointments:
 - Resignations:
 - Conservation Commission (Term Expires June 30, 2025) and Planning & Construction Committee (Term Expires June 30, 2023): *Thomas J. O’Neill*
 - Appointments:
 - Board of Health: *John Livingston* (Term Expires June 30, 2023)
 - Mashpee Election Wardens: *Janice Leone, Daphne Burt*

COMMUNICATIONS & CORRESPONDENCE

NEW BUSINESS

- Discussion and Approval of Closure of Mashpee Town Offices for the Annual Organization Day - December 21, 2022: *Town Manager Rodney Collins*

ADDITIONAL TOPICS

(This space is reserved for topics that the Chair did not reasonably anticipate would be discussed)

CONTINUED ON NEXT PAGE

BOARD OF SELECTMEN AGENDA (CON'T)

LIAISON REPORTS

WATER QUALITY UPDATES

TOWN MANAGER UPDATES

EXECUTIVE SESSION

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

- Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519;
- MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;
- MASS. C.O.P., Local 320, Unit B – Sergeants;
- MASS. C.O.P., Local 477, Unit C – Police Lieutenants
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;
- Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;
- Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;
- Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

ADJOURNMENT

DRAFT BOARD OF SELECTMEN REGULAR SESSION MINUTES DECEMBER 5, 2022

Mashpee Select Board
Minutes
December 5, 2022

Present: Selectman David W. Weeden, Selectman John J. Cotton, Selectman Thomas F. O'Hara,
Selectman Michaela Wyman-Colombo
Town Manager Rodney C. Collins
Assistant Town Manager Wayne E. Taylor

Absent: Selectman Carol A. Sherman

Meeting Called to Order by Chairman Weeden at 6:30 p.m.
Mashpee Town Hall, Waquoit Meeting Room

MINUTES

November 21, 2022 Regular Session Minutes:

The minutes were amended on Page 10 as underlined:

With the use of free cash as an offset, both Chairman Weeden and Michaela Colombo-Wyman argued for a higher percentage to benefit residents.

The following was a two-part vote to implement the residential exemption and to set the percentage of the exemption.

Motion made by Selectman Wyman-Colombo to implement the residential exemption.

Motion seconded by Selectman Cotton.

VOTE: 4-1. Motion carries.

Roll Call Vote:

<u>Selectman Weeden, yes</u>	<u>Selectman Cotton, yes</u>	<u>Selectman O'Hara, no</u>
<u>Selectman Sherman, yes</u>	<u>Selectman Wyman-Colombo, yes</u>	<u>Opposed, (1)</u>

Motion made by Selectman Wyman-Colombo to table the minutes of November 21, 2022 to the next Select Board meeting.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

APPOINTMENTS & HEARINGS

Public Comment:

Ken Debrowski a resident of Great Field Landing offered comment on the expenses associated to the Phase I Wastewater Plan. Mr. Debrowski urged the Select Board to develop a strategic plan, to include Phase II, design and construction costs while communicating openly to the public regarding this need.

Mashpee Select Board
Minutes
December 5, 2022

Public Comment:

Planning Board Chair Mary Waygan announced the launching of a public opinion survey for the Town's Local Comprehensive Plan. This is a strategic planning document for the entire town on housing, water, economic development, roadways, land use, community development, and open space, etc. Hardcopies of the survey will be available at the Mashpee Public Library, the Planning Department Office located within the Mashpee Town Hall, and at the Mashpee Senior Center. Each facility will have drop off boxes. The survey can be completed online at www.surveymonkey.com/r/planmashpee2022.

A virtual community workshop will be held on Monday, December 30, 2022 via ZOOM. This will focus on the needs and vision of the community. Information may be found by calling the Planning Department 508-539-1414 or reviewing the Town of Mashpee website and/or social media page as well as online at www.planmashpee.com.

Public Hearing – Annual Alcoholic Beverages & Entertainment Licenses:

Acting as the Local Licensing Authority for the Town of Mashpee, the Select Board opened the Public Hearing on the 2023 Annual Alcoholic Beverages and Entertainment License renewals for the Town of Mashpee. The hearing notice was read aloud into the record in accordance with posting procedures.

The Building Commissioner and Fire Department has verified that all licensed establishments have passed building and fire inspections. The Health Agent has verified that all licensed establishments have passed health inspections, and there are no reported violations from the Chief of Police. All licensed establishments are current on their property taxes, and have filed complete renewal applications. All license holders have submitted proof of workers' compensation insurance as mandated by the State, as well as proof of liquor liability insurance as required.

The following licensed establishments include;

Package Store – All Alcohol
Package Store – Wine & Malt
Restaurant – All Alcohol
Restaurant – Wine & Malt
Commercial Club – All Alcohol
Farmer Brewery Pouring – Malt Only
Farmer Distillery Pouring

The Select Board opened the hearing to solicit comment. Being none, the Select Board took the following action;

Motion made by Selectman Cotton to close the Public Hearing.

Motion seconded by Selectman Wyman-Colombo.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Public Hearing – Annual Alcoholic Beverages & Entertainment Licenses: (continued)

Package Store – All Alcohol:

Andy's Market
The Barn
Best Buy Beverages, Inc.
Liberty Liquors
South Cape Wine & Spirits

**Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Package Store All Alcohol for 2023 as referenced above.
Motion seconded by Selectman O'Hara.**

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Package Store – Wine & Malt:

Mashpee Mart
Mashpee Mini Mart
Rapid Refill
Rory's

**Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Package Store Wine & Malt for 2023 as referenced above.
Motion seconded by Selectman Wyman-Colombo.**

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Public Hearing – Annual Alcoholic Beverages & Entertainment Licenses: (continued)

Restaurant – All Alcohol:

Asia
Bleu
Bobby Byrne's
Café Trevi
Cape Cod Coffee
Estia
Finally Dino's
The Lanes
Magni Inc. (Cape Cod Coffee, Evergreen Circle)
99 Restaurant
Quashnet Valley Country Club
Siena
Soprano's
Wicked
Wildfire Pizza LLC

Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Restaurant All Alcohol for 2023 as referenced above.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Restaurant – Wine & Malt:

Bangkok Thai Cuisine
Zoe's

Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Restaurant Wine & Malt for 2023 as referenced above.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

DRAFT BOARD OF SELECTMEN REGULAR SESSION MINUTES DECEMBER 5, 2022

Mashpee Select Board
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December 5, 2022

Public Hearing – Annual Alcoholic Beverages & Entertainment Licenses: (continued)

Commercial Club – All Alcohol:

New Seabury Country Club
Willowbend Country Club

Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Commercial Club All Alcohol for 2023 as referenced above.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Farmer Brewery Pouring – Malt Only:

Naukabout Beer Company

Motion made by Selectman O'Hara to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Farmer Brewery Pouring Malt Only for 2023 as referenced above.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Farmer Distillery Pouring:

Cape & Islands Distillers

Motion made by Selectman Cotton to approve the Annual Alcoholic Beverage Licenses and Entertainment License Renewals; Farmer Distillery Pouring for 2023 as referenced above.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

DRAFT BOARD OF SELECTMEN REGULAR SESSION MINUTES DECEMBER 5, 2022

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Public Hearing - Parking Ban Bowdoin Road (Continued from November 7, 2022):

The Select Board opened the Public Hearing on the proposed Parking Ban on Bowdoin Road, continued from November 7, 2022.

Town Manager Rodney C. Collins indicated he has met with all of the individual business owners on Bowdoin Road reviewing concerns with the Director of Public Works regarding on-street parking and road improvements. With improved dialogue the DPW will be moving forward with road improvements with amenable resolutions. It is therefore recommended the Select Board close the Public Hearing and take no further action.

Motion made by Selectman Cotton to close the Public Hearing on the proposed Parking Ban on Bowdoin Road, Mashpee and take no action as recommended.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Discussion and Approval of Easement between the Town of Mashpee (Grantee) and Save Popponesset Bay, Inc. (Grantor): Assistant Town Manager Wayne Taylor:

To enable the Town of Mashpee to continue to re-nourish the Popponesset Spit while performing annual maintenance dredging it is recommended the Select Board approve the renewal of the Easement Agreement with Save Popponesset Bay, Inc. This action will protect the Spit from further erosion.

It was disclosed the agreement has been reviewed and approved to form by Town Counsel.

Motion made by Selectman Cotton to approve and execute the renewal of the Easement Agreement between the Town of Mashpee and Save Popponesset Bay, Inc. as presented.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

DRAFT BOARD OF SELECTMEN REGULAR SESSION MINUTES DECEMBER 5, 2022

Mashpee Select Board
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December 5, 2022

APPOINTMENTS & HEARINGS

DPW Director Catherine Laurent:

Discussion and Approval of Awarding the Following Contracts:

Trash and Recycling – Cavossa Disposal Corp.; Portable Toilets – Pina Sajje Sanitation:

Catherine Laurent, Director of Public Works was in attendance to recommend the Select Board award the annual contracts for Trash/Recycling Services and the Rental of Portable Toilets due to expire on December 31, 2022. This is the first year of a 2-year bid proposed in Calendar Year 2023.

Motion made by Selectman O'Hara to recommend the following contract be awarded for 2023; Trash/Recycling Services to Cavossa Disposal Corp.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Motion made by Selectman Cotton to recommend the following contracts be awarded for 2023; Rental of Portable Toilets to Pina Sajje Sanitation

Motion seconded by Selectman Wyman-Colombo.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Discussion and Approval of New Fee Schedule for Use of Town Facilities:

The Director of Public Works recommended a new fee schedule be imposed for the Use of Town Facilities. The document was last updated in 2014. The effective date of the new fees is January 1, 2023. Fees charged reimburse the Town for costs associated to the use of facilities by outside groups. Fees are comparable with neighboring communities.

Motion made by Selectman O'Hara to approve the New Fee Schedule for the Use of Town Facilities effective January 1, 2023 as recommended.

Motion seconded by Selectman Wyman-Colombo.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Discussion and Approval of the Special Event Application for the 1st Annual “Polar Plunge” on January 1, 2023 10 – 11:30 am at Attaquin Park: Mashpee Recreation, Mashpee Kiwanis, Naukabout:

Mary K. Bradbury, Recreation Director was before the Select Board to request approval for the 1st Annual “Polar Plunge” planned to be held at the Attaquin Beach on Monday, January 1, 2023 from 10:00 a.m. to 11:30 a.m.

All proceeds related to this event would benefit the Kiwanis Club of Mashpee. It is anticipated that over 200 persons would be attending this event. Participants will be invited to return to Naukabout to socialize after the event.

Motion made by Selectman O’Hara to approve the 1st Annual Polar Plunge on January 1, 2023 as referenced.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O’Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Discussion and Approval of Waiver of \$100 Tent Fee for the Firefighters Annual “Homeless for the Holidays” Event: Leonard Goldman:

Correspondence was received from Leonard Goldman dated November 28, 2022 requesting the Select Board waive the \$100 tent fee for the annual “Homeless for the Holidays” event. At the event held in the vicinity of the Mashpee rotary, the Mashpee Firefighters will collect nonperishable food items, unwrapped toys, and cash donation to be dispersed to the Boys and Girls Club and to the St. Vincent DePaul Food Pantry.

Motion made by Selectman O’Hara to waive the \$100 Tent Fee for the Firefighters Annual “Homeless for the Holidays” event as presented.

Motion seconded by Selectman Cotton.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O’Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Discussion and Approval of the Following Resignations and Appointments:

Resignations:

Conservation Commission (Term Expires June 30, 2025) and Planning & Construction Committee (Term Expires June 30, 2023): Thomas J. O'Neill:

The Select Board was in receipt of a resignation from Tom O'Neill dated November 21, 2022 from the Mashpee Conservation Commission and from the Planning & Construction Committee.

Motion made by Selectman Cotton to accept the resignation of Tom O'Neill from the Conservation Commission and Planning & Construction Committee as presented.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Appointments:

Board of Health: John Livingston (Term Expires June 30, 2023):

A letter of interest was received from John Livingston dated November 14, 2022 to serve on the Board of Health. The Board of Health interviewed and recommended Mr. Livingston for membership.

Motion made by Selectman Cotton to appoint John Livingston to the Board of Health for a term to expire; June 30, 2023.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Two additional candidates are recommended for appointment as alternates. It was agreed Town Counsel would review the Charter and Bylaws for possible alternate appointments to this board.

Mashpee Select Board
Minutes
December 5, 2022

APPOINTMENTS & HEARINGS

Mashpee Election Wardens: Janice Leone and Daphne Burt:

Correspondence was received from the Town Clerk, Deborah Kaye dated November 23, 2022 recommending the appointments of Janice Leone and Daphne Burt as Election Wardens.

Motion made by Selectman Cotton to appoint Janice Leone as Election Warden as recommended.

Motion seconded by Selectman Wyman-Colombo.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Motion made by Selectman Cotton to appoint Daphne Burt as Election Warden as recommended.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

NEW BUSINESS

Discussion and Approval of Closure of Mashpee Town Offices for the Annual Organization Day - December 21, 2022: Town Manager Rodney Collins:

Town Manager Rodney C. Collins requested the Select Board approve the annual closure of Mashpee Town Offices on December 21, 2022 for the purpose of reorganization.

Motion made by Selectman Cotton to approve the closure of Town Offices for the annual organization day on December 21, 2022 as requested.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Mashpee Select Board
Minutes
December 5, 2022

LIAISON REPORTS

Select Board Liaison Assignments: The School Liaison assignment was reassigned to Selectman Cotton.

School Tour: The Superintendent of Schools graciously held an informative tour of the Mashpee Schools with Selectman Cotton and Selectman Wyman-Colombo attending.

Harbor Management Committee: The Harbor Management Committee has been moving forward with a Harbor Management Plan for the Town of Mashpee in collaboration with grant requirements received from the Economic Seaport Council. The plan will enable the Town to receive grant funding when it is adopted. The process will be similar to the Local Comprehensive Plan and public hearings are anticipated to be held as information is gathered and reviewed for this document.

WATER QUALITY UPDATES

Santuit Pond:

To gain public outreach a boat landing workshop was held on November 19, 2022 with stakeholders to gain community input and long term solutions for parking, possible site amenities, enhancements, fishing and boating activities on Santuit Pond.

At the listening session there were discussions regarding stormwater management and other studies ongoing to improve water quality. An additional hearing is planned on December 19, 2022 to review proposed safety improvements.

Sandwich 40B Project:

In other matters there is concern with regards to a proposed 40B plan to construct a 4 four-story building with 180' of frontage on Peters Pond on a 64-acre parcel in the Town of Sandwich. The project proposes 144 units with 180 bedrooms. The proposal exceeds the DEP 10,000 gallons per day limit requiring a groundwater discharge permit.

Selectman Wyman-Colombo brought this matter to the attention of the Select Board and Town Managers. The total site area is not within a Zone II, however, based on the groundwater contours, the down gradient wells in Mashpee are receptors to the groundwater discharge. An evaluation of the groundwater flow, travel time and draw rates of the down gradient public supply wells needs to be further evaluated.

Peters Pond is an environmentally sensitive receptor. The pond classified as a Class A fishery has experienced a decline in biological health as indicated by cyanobacteria bloom activity.

There is concern as the total site area is within the northern watershed for Popponesset Bay, an impaired estuary in the Town of Mashpee.

Mashpee Select Board
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December 5, 2022

WATER QUALITY UPDATES

Sandwich 40B Project: (continued)

The Town of Mashpee, Sandwich and Barnstable signed an Intermunicipal Agreement (IMA) in November 2017 which identifies the percent of Sandwich's nitrogen input that needs to be removed from the impaired Popponesset watershed.

With contaminants of emerging concern, it is important for the applicant to provide an evaluation of standard wastewater treatment versus treatment for contaminants of emerging concern. Recent studies have indicated that typical wastewater treatment does not address contaminants such as PFAS and PFOS which concentrate in the wastewater treatment effluent discharged into the ground.

It was agreed that additional information would be provided. It was noted that Joint Base Cape Cod (JBCC) has been testing surrounding watersheds for contaminants, and possibly the pond areas.

Chapter 40B is a state law designed to increase housing affordability. Qualifying developers are allowed to bypass local zoning restrictions if at least 25% of the housing units are deed-restricted as affordable. Town's that have met their 10% deed-restricted affordable housing do not qualify for Chapter 40B. The Town of Sandwich's affordable housing rate is 4.31%.

The developer of the Sandwich project has received approval from Mass Housing to construct 144 units. An additional 240 units are planned at the site location.

Based on the groundwater contours there is direct impact to the Town of Mashpee. As the Town moves forward with wastewater and the Watershed Management Plan to maintain compliance with TMDL's there is concern this project would impact Mashpee's watershed.

The Town Manager was directed to draft a letter to the Town of Sandwich and to Mass Housing for review at the next Select Board meeting. It is anticipated the Town of Mashpee as concerned stakeholders would re-energize the IMA Agreement between the respective parties.

The non-profit, Friends of Peters Pond is holding a meeting to review the Chapter 40B laws in response to the development proposal identified as the Sandwich Green and Village Green. It was disclosed the Town of Sandwich Select Board has not yet received an application from the developer.

Community Septic Loan Program:

It was recommended the application for the Community Septic Loan program administered by Barnstable County be advertised on the Town's website and social media page to inform residents of this program.

Mashpee Select Board
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December 5, 2022

TOWN MANAGER UPDATES

FY24 Budget Review: The budget review process for fiscal year 2024 will begin on December 12, 2022. The schedule and informational budget booklet of departmental submissions has been submitted to the Select Board.

Voting Process/Elections: Dialogue is ongoing with the School Superintendent regarding the scheduling of elections at the Quashnet School due to safety concerns.

Cell Tower: The Red Brook Road cell tower has been constructed and is in the process of activation.

EXECUTIVE SESSION

Discuss Strategy Regarding Negotiations with Nonunion Personnel (Personnel Administration Plan) and the Following Collective Bargaining Units, where an Open Meeting May have a Detrimental Effect on the Bargaining Position of the Town:

Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519;

MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;

MASS. C.O.P., Local 320, Unit B – Sergeants;

MASS. C.O.P., Local 477, Unit C – Police Lieutenants

Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249,

Administrator's Unit A – Administrators;

Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249,

Administrator's Unit B – Administrators;

Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;

Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;

Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter;

Mashpee Select Board
Minutes
December 5, 2022

EXECUTIVE SESSION/ADJOURNMENT

Motion made by Selectman Cotton that the Board convene in Executive Session at 7:38 p.m. for the purpose of discussing strategy regarding negotiations with nonunion personnel relative to the Personnel Administration Plan and with the following collective bargaining units, where an Open Meeting may have a detrimental effect on the bargaining position of the Town:

Mashpee Permanent Fire Fighters Association, International Association of Fire Fighters (IAFF) Local 2519

MASS. C.O.P., Local 324, Unit A – Patrol Officers and Detectives;

MASS. C.O.P., Local 320, Unit B – Sergeants;

MASS. C.O.P., Local 477, Administrator's Unit C – Police Lieutenants

Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit A – Administrators;

Laborer's International Union of North America (LIUNA), MASS Public Employee's Local 1249, Administrator's Unit B – Administrators;

Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit A;

Service Employees International Union (SEIU), AFL-CIO Local 888, Public Works Unit B;

Service Employees International Union (SEIU), Local 888, Clerical/Library/Dispatchers Chapter

from which the Board will not reconvene in Open Session.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Respectfully submitted,

Kathleen M. Soares
Secretary to the Select Board

Mashpee Select Board
Minutes-Executive Session
December 5, 2022

ADJOURNMENT

Motion made by Selectman Cotton to adjourn at 7:55 p.m.

Motion seconded by Selectman O'Hara.

VOTE: Unanimous. 4-0.

Roll Call Vote:

Selectman Weeden, yes	Selectman Cotton, yes	Selectman O'Hara, yes
Selectman Wyman-Colombo, yes	Opposed, none	

Respectfully submitted,

Kathleen M. Soares
Secretary to the Select Board



**TOWN OF MASHPEE
BOARD OF SELECTMEN
PUBLIC HEARING NOTICE**

The Mashpee Select Board has scheduled a public hearing for Monday, December 19, 2022 at 6:30 pm to review options for road safety improvements on Old Barnstable Road between Breezy Acres and the Mashpee-Falmouth Town Line. The proposed improvements include accommodations for pedestrians and bicyclists as well as alteration to the road's geometry.

Conceptual plans will be presented at the hearing. Said plans will also be available at the Mashpee Town Hall in the Town Manager's Office and at the Mashpee DPW for viewing prior to the hearing. Public input is encouraged and may be offered at the hearing or by emailing bos@mashpeema.gov.

Per order of

The Mashpee Board of Selectmen

David W. Weeden, *Chair*

John J. Cotton, *Vice-Chair*

Thomas F. O'Hara, *Clerk*

Carol A. Sherman

Michaela Wyman-Colombo



**TOWN OF MASHPEE
BOARD
OF SELECTMEN
PUBLIC HEARING
NOTICE**

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David W. Weeden, *Chair*
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Thomas F. O'Hara, *Clerk*
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Michaela Wyman-Colombo

December 2, 2022



OLD BARNSTABLE ROAD Safety Project



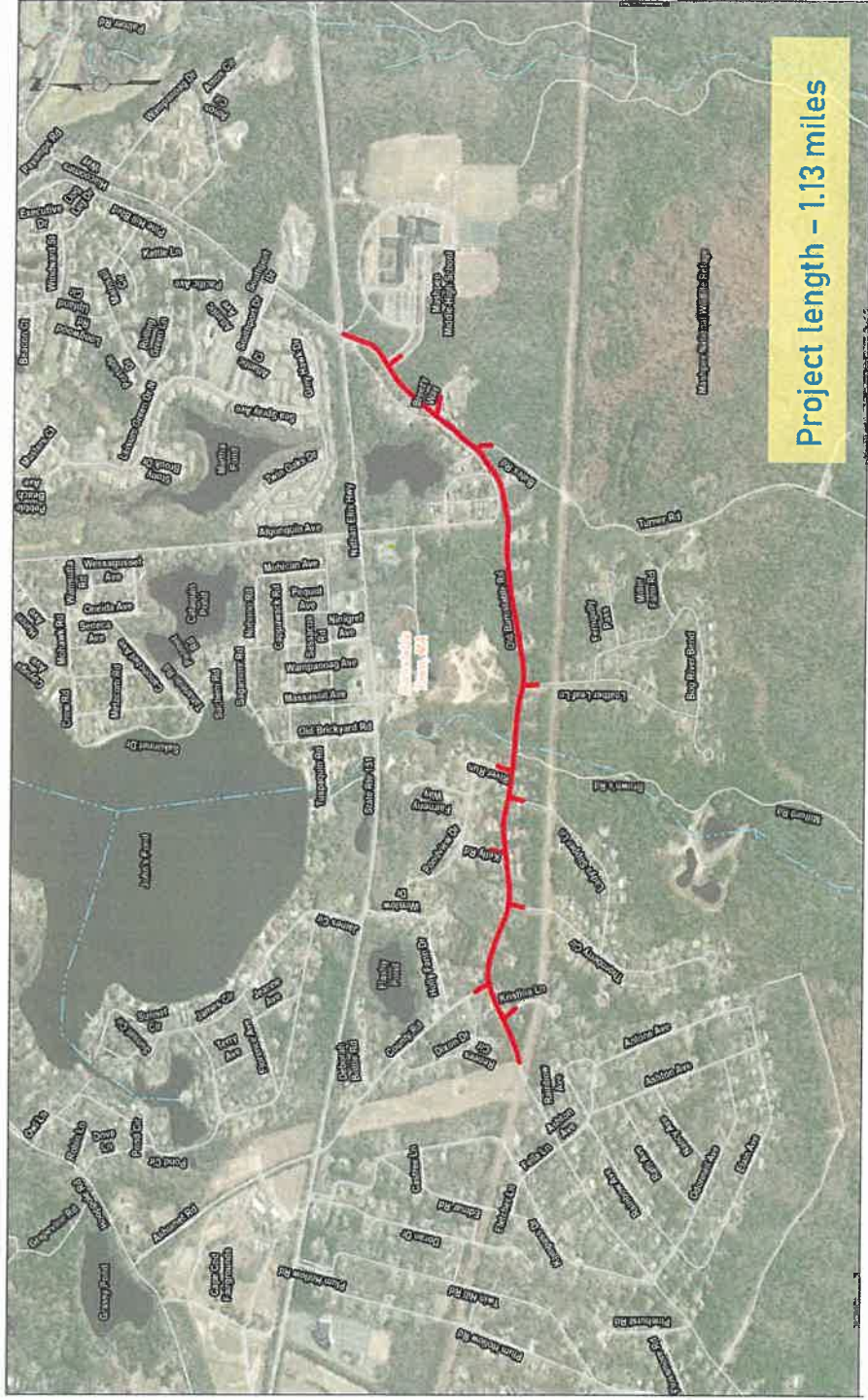
Safety for motorists, cyclists and pedestrians. . .



DECEMBER 19, 2022



Project Location





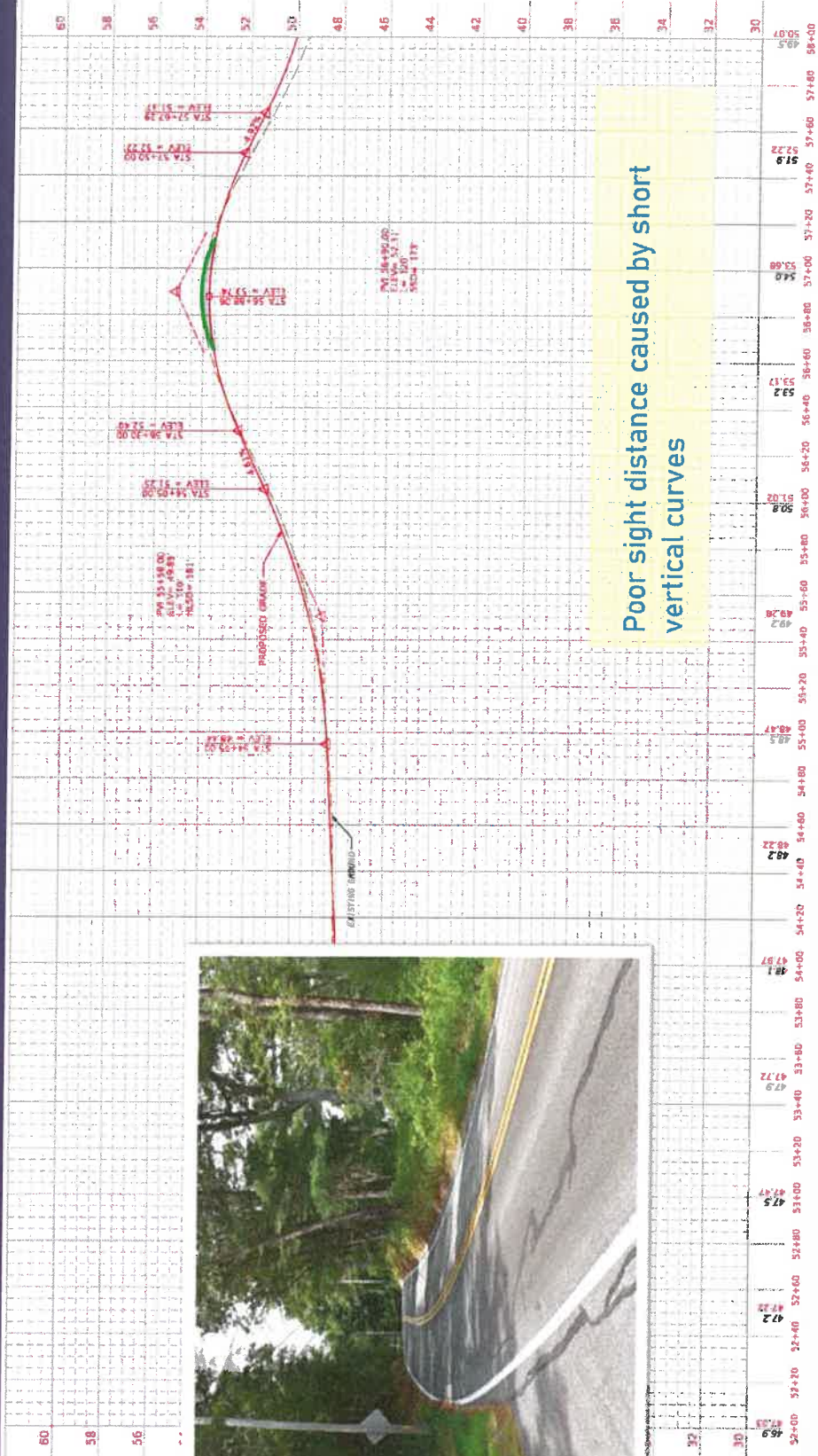
Existing Concerns



Proximity of trees and utility poles create a roadside hazard



Existing Concerns



Poor sight distance caused by short vertical curves



Project Background



2018

July 31, 2018

Tribe receives grant to design a safer Old Barnstable Road



2019

September 10, 2019

Qk4 is awarded the design contract and commences design.



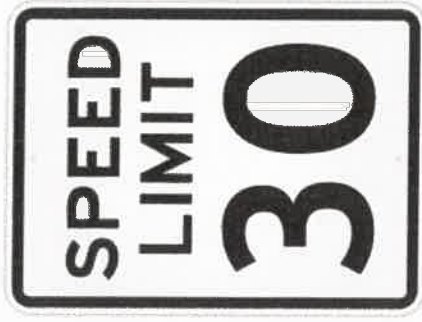
2022

December 19, 2022

Meeting to discuss preliminary alternatives

Key Features

DESIGN CRITERIA



30mph Design Speed



11% Max Grade



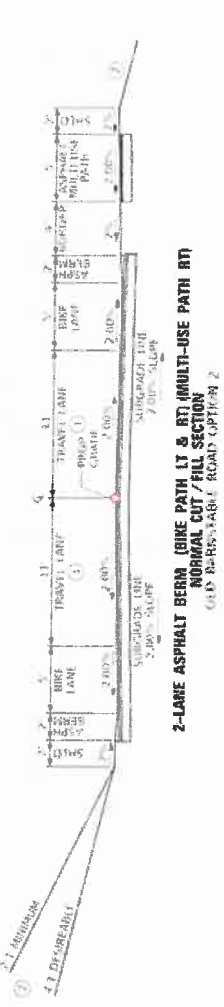
200ft Stopping
Sight Distance



Accommodate
cyclists &
pedestrians

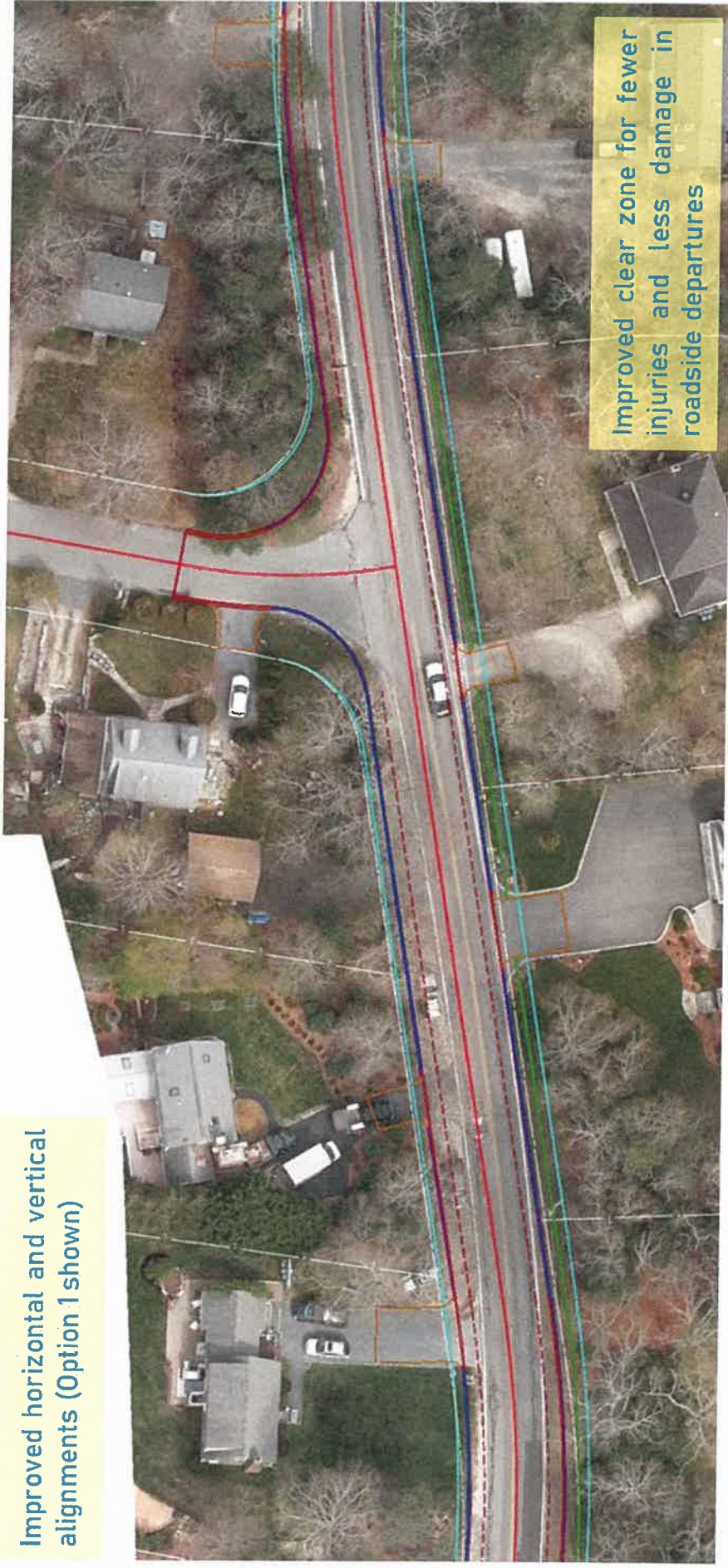
TYPICAL SECTION

OPTION 1



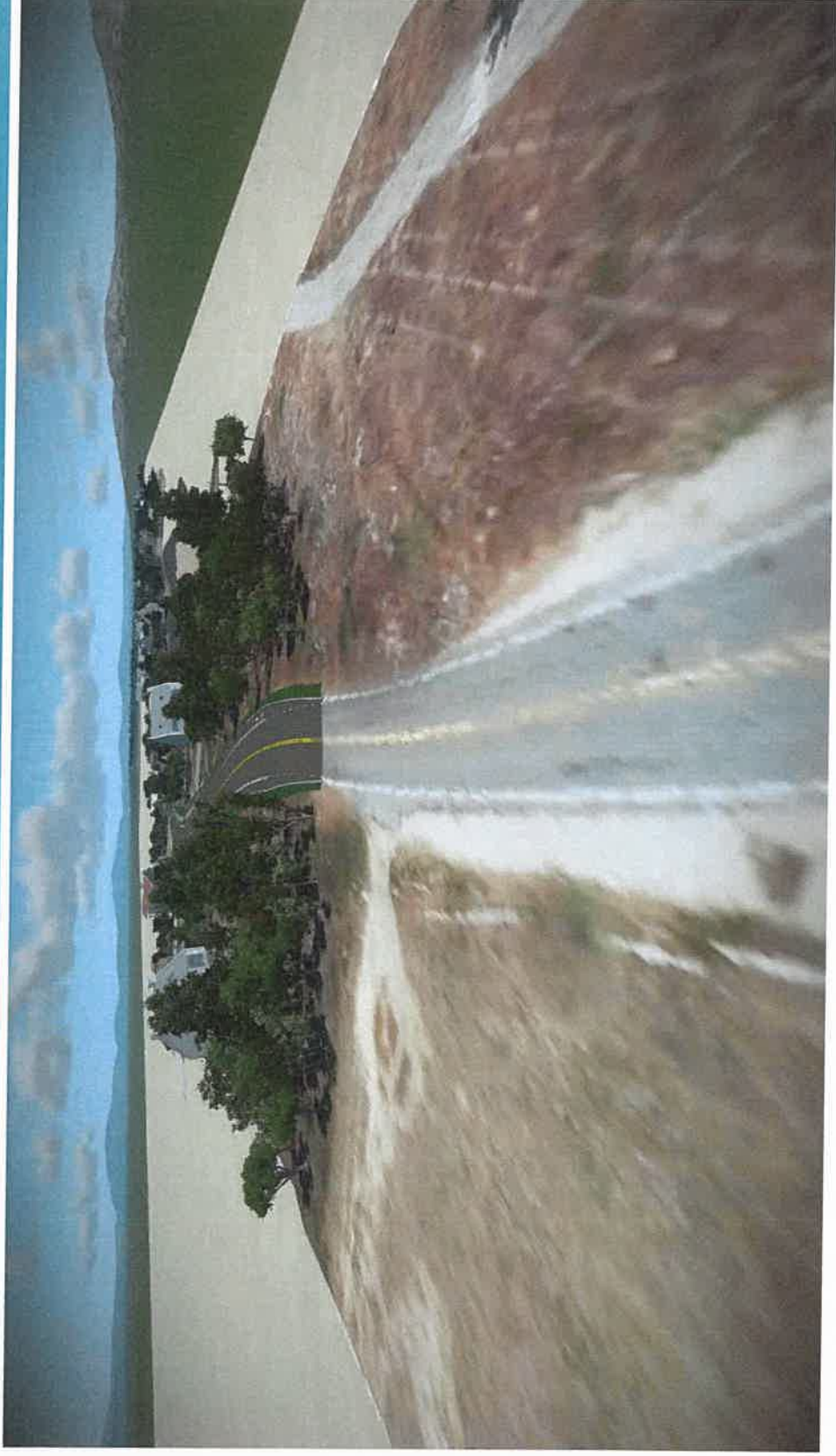
KEY FEATURES

Improved horizontal and vertical alignments (Option 1 shown)

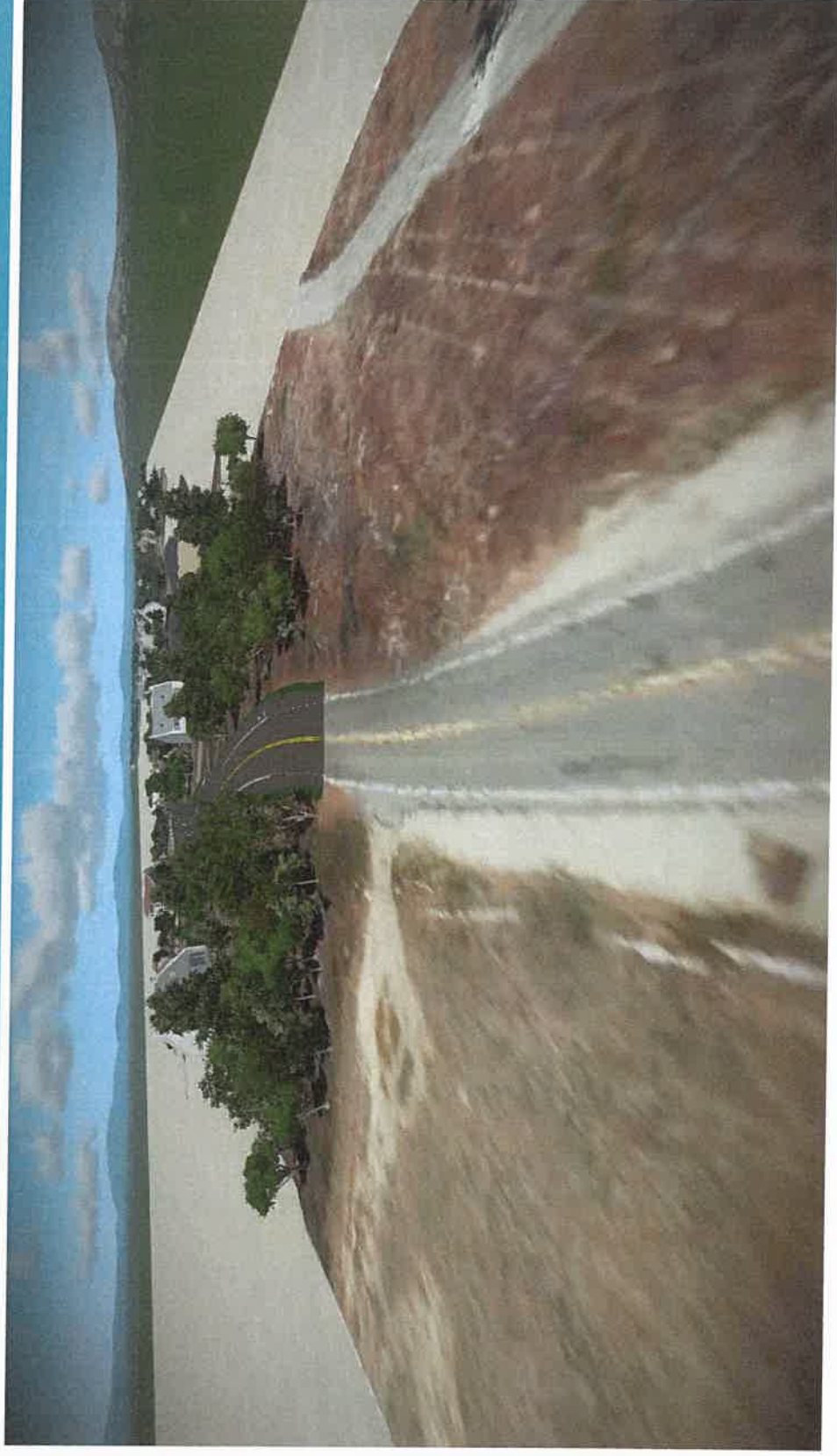


Improved clear zone for fewer injuries and less damage in roadside departures

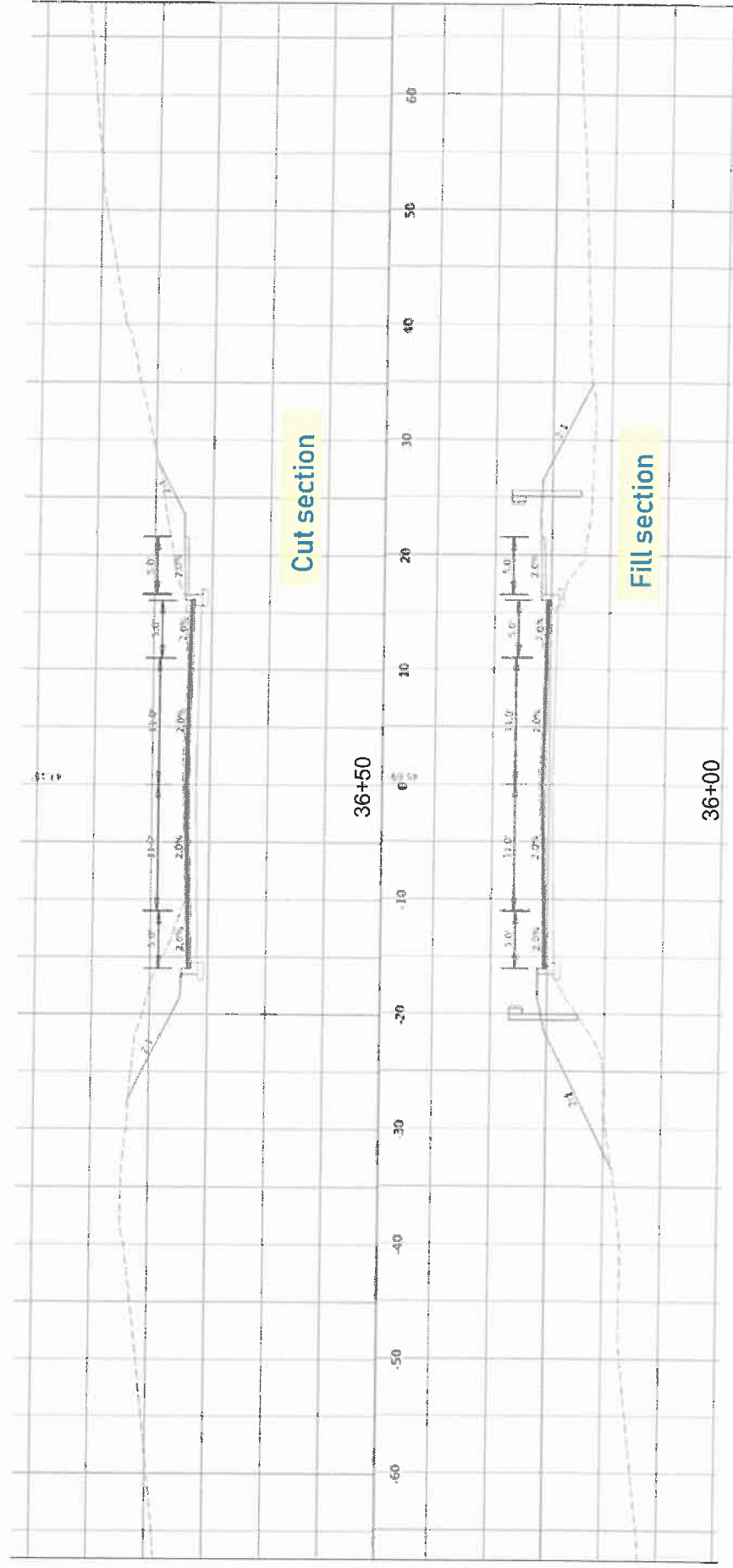
OPTION 1 – DRIVE THRU



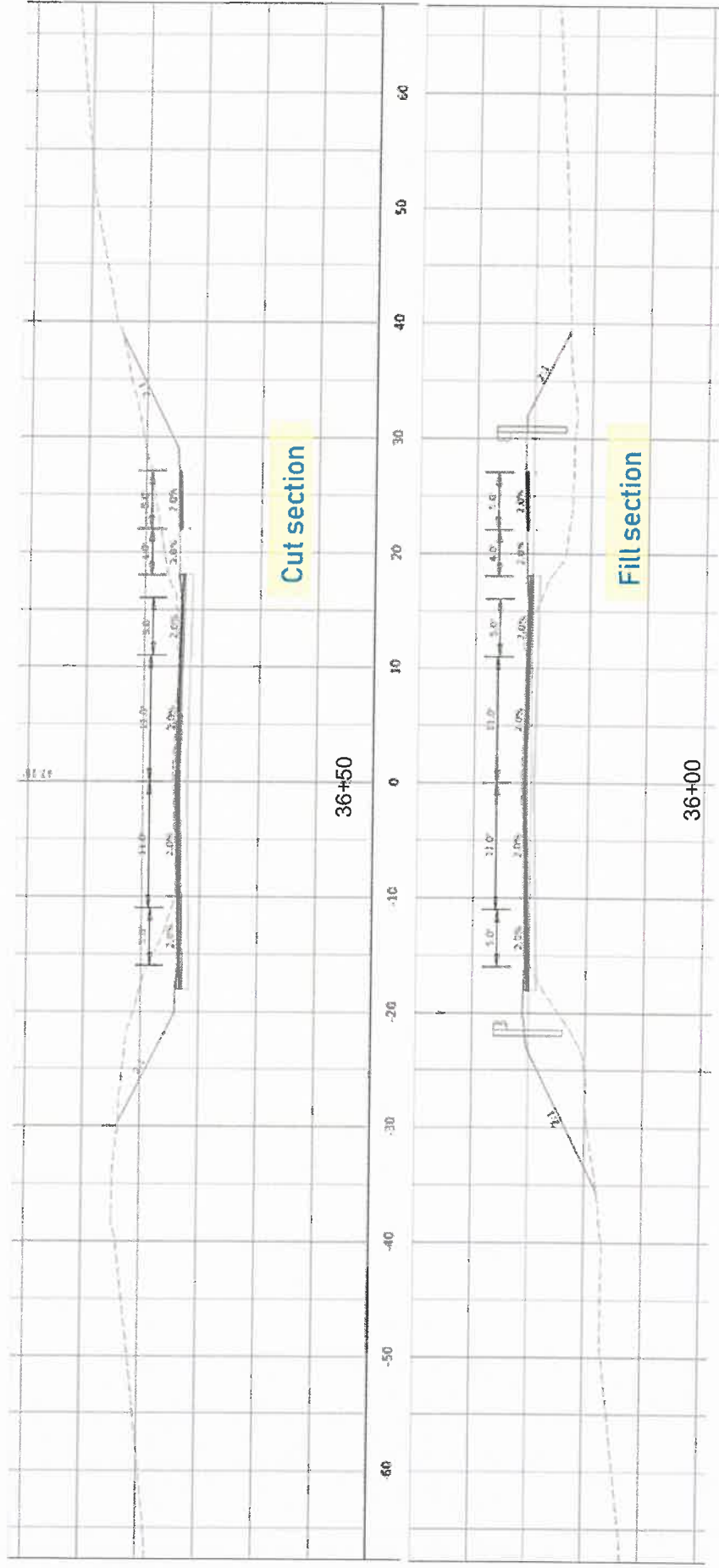
OPTION 2 – DRIVE THRU



Cross Sections – Option 1



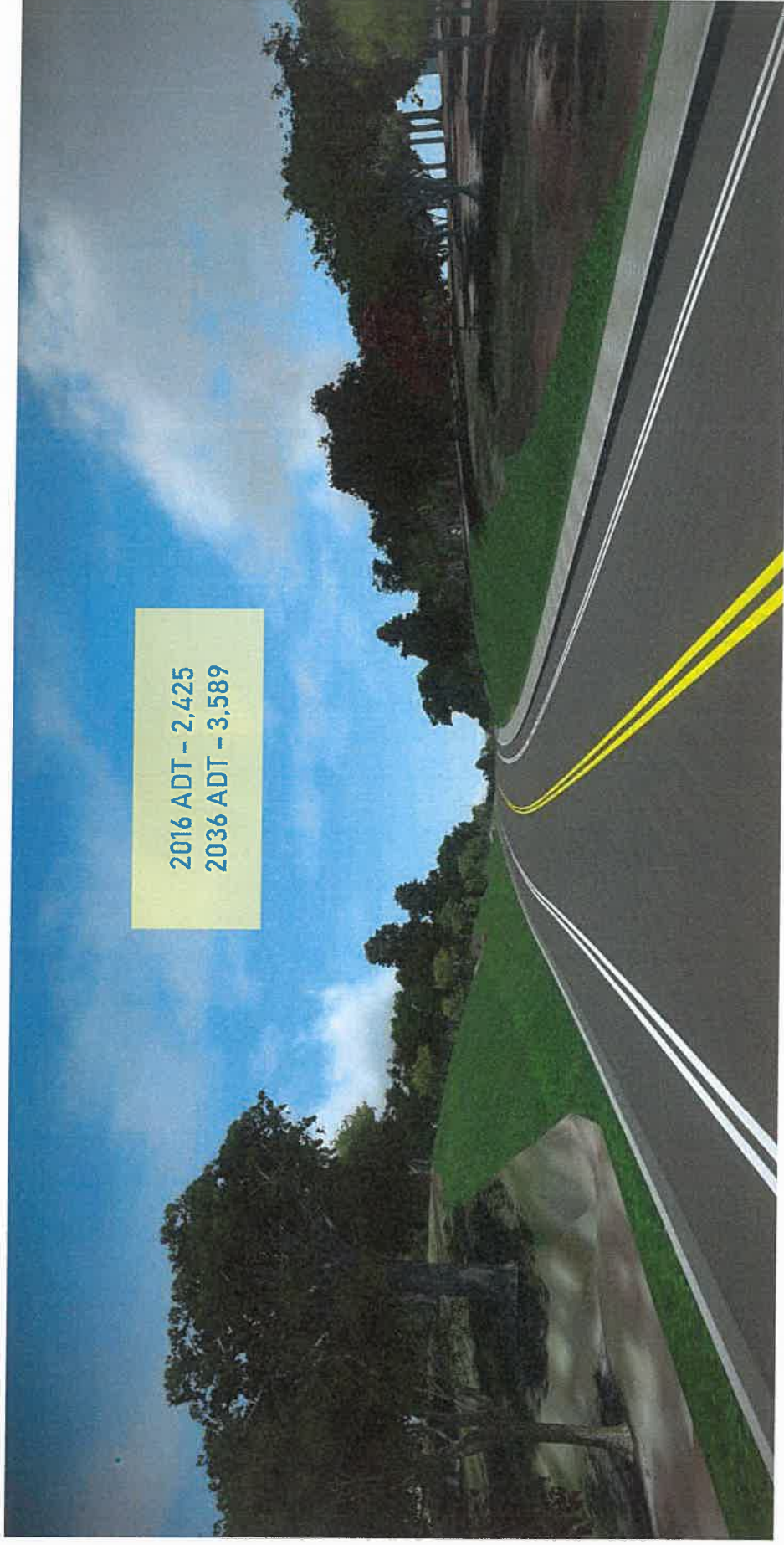
Cross Sections – Option 2



POTENTIAL IMPACTS

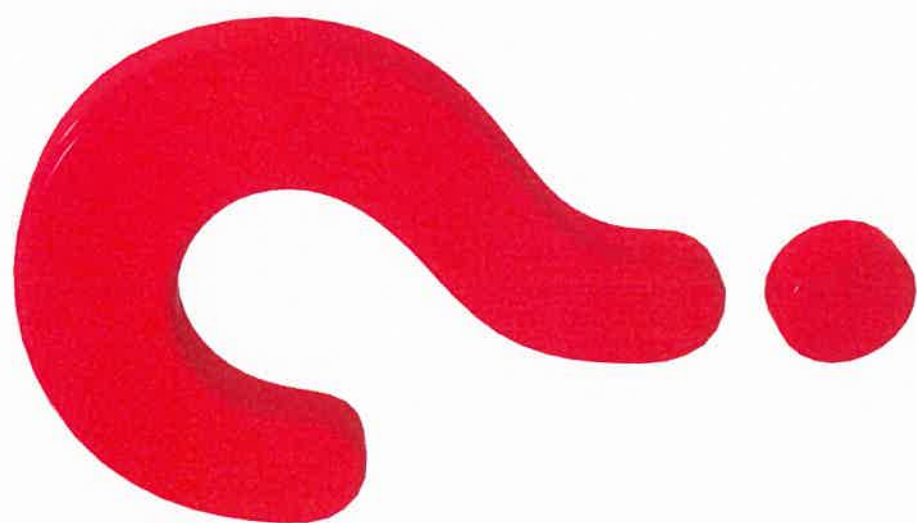


TRAFFIC Considerations



2016 ADT - 2,425
2036 ADT - 3,589

Traffic Volumes





Thank you
for your
time!

MEMORANDUM OF UNDERSTANDING

**BETWEEN THE MASHPEE WAMPANOAG TRIBE AND
THE TOWN OF MASHPEE, MASSACHUSETTS
FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES
AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE**

SEVENTH AMENDMENT

This Seventh Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe (the "Tribe") and the Town of Mashpee, Massachusetts (the "Town"), hereinafter collectively referred to as the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance, entered into by and between the Tribe and the Town on January 11, 2016 (the "MOU").

RECITALS

This Seventh Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU and to otherwise revise the language of the MOU as more specifically provided herein.

1. Section 5 (DURATION) of the MOU is hereby deleted and replaced with the following:

DURATION: This MOU, as amended from time to time, shall remain in full force and effect until such time as one or both of the Parties hereto terminates the MOU pursuant to Section 8 herein.

2. The Parties hereby agree to amend Section 7.b to the MOU (LAW ENFORCEMENT MUTUAL AID ASSISTANCE) as follows:

7 b. The Town agrees to cooperate and provide law enforcement assistance to the Tribe when the Tribe requests assistance, subject to the availability of Town staff and resources as determined by the Mashpee Chief of Police or his designee. Tribal law enforcement officers are the only persons authorized to request such assistance under this subsection. Upon request for assistance by a duly authorized Tribal law enforcement officer, the Town officer or officers will provide law enforcement assistance to the Tribe in the same manner and in accordance with the same professional standards to which said such officer/officers would be held if they were engaged in similar law enforcement activity on land within the jurisdiction of the Town of Mashpee and in accordance with the standards under which Mashpee police officers conduct themselves while acting pursuant to Interagency Mutual Aid agreements authorized by M.G.L. 40 sec 8G, as specifically set forth in Attachment A hereto. In such assistance scenarios, Town of Mashpee officers shall have full authority afforded to police officers by Massachusetts General Law when acting within the territorial jurisdiction of the Town of Mashpee. While in transit to, returning from, and during a mutual aid response for the Tribe, Mashpee police officers shall maintain the right of indemnification granted by Massachusetts law, or by the Town, or both, for all claims arising out of any action within the scope of their employment in accordance with this MOU. Any criminal prosecution or other court proceeding relating to or resulting from any such

Town law enforcement assistance provided on Tribal lands may be pursued in any court of competent jurisdiction based on the nature of the offense committed.

3. Except as set forth in this Seventh Amendment, all other provisions of the MOU remain in full force and effect in accordance with its original terms.

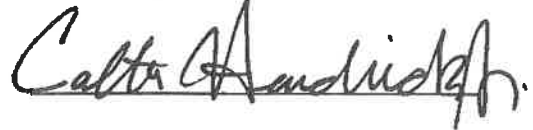
4. This Seventh Amendment shall be retroactive to, and effective as of, August 1, 2022.

Town of Mashpee

Mashpee Wampanoag Tribe

By its Town Manager,
Duly authorized by the Select Board

By Vice Chairman Carlton Hendricks, Jr.



Date: _____

Date 12/9/2022



Mashpee Wampanoag Tribe
483 Great Neck Rd So. Mashpee, MA 02649
Phone (508) 477-0208 * Fax (508) 477-1218

2022-RES-072

EMERGENCY APPROVAL OF THE SEVENTH AMENDMENT TO MEMORANDUM OF UNDERSTANDING WITH TOWN OF MASHPEE

WHEREAS, the Mashpee Wampanoag Tribe ("Tribe") is a federally-recognized Indian tribe with a duly-enacted Constitution;

WHEREAS, the Mashpee Wampanoag Tribal Council ("Tribal Council"), the governing body of the Tribe, deems it essential under Article VI, § 2.A. of the Mashpee Wampanoag Tribal Constitution ("Constitution") to promote and protect the political integrity, economic security and general welfare of the Tribe and members of the Tribe;

WHEREAS, Article VI, § 2.D of the Constitution empowers the Tribal Council to negotiate and enter into contracts and agreements with state and local governments, private persons and corporate entities; and

WHEREAS, this Meeting is an emergency meeting of the Tribal Council within the meaning of the Constitution that has been duly convened by the Chairperson of the Tribe; and

WHEREAS, pursuant to Article IX, Section 1(e)(1) of the Constitution a quorum for this Meeting is seven (7) members of the Tribal Council; and,

WHEREAS, the Tribal Council finds that it is urgent and time sensitive to ensure there exists continuous availability of law enforcement, fire and emergency medical services to all citizens, Indian and non-Indian, on the Trust lands near the Town of Mashpee and a smooth transition from state and local criminal jurisdiction over Tribal citizens; and

WHEREAS, the Tribal Council entered into a Memorandum of Understanding with the Town of Mashpee ("MOU") on January 11, 2016 as attached that cover the delivery of

fire, medical and law enforcement mutual aid to the Tribal Trust lands near the Town of Mashpee; and

WHEREAS, the Tribal Council has received notice that the MOU has expired and desires to extend the MOU, under the same terms and conditions with an amendment to Section 5 and Section 7.B as provided in the Seventh Amendment to the MOU, attached hereto as Exhibit A; and

WHEREAS, the Tribal Council desires to clearly express its authorization for the Tribal Council Chairman, or other Tribal Council Officer, to execute such amendment to the MOU, and to take such other actions as are reasonable or necessary in furtherance of the execution or performance of such MOU.

NOW, THEREFORE, BE IT RESOLVED, that the Tribal Council hereby approve the Seventh Amendment to the MOU as attached hereto with the Town of Mashpee to assist the Tribe with law enforcement mutual aid, and fire and emergency medical services on Tribal Trust Lands near the Town of Mashpee; and

BE IT FINALLY RESOLVED, that the Tribal Council authorizes the Tribal Council Chairman, or other Tribal Council Officer, to execute the Seventh Amendment to the MOU and to take such other actions as are reasonable and necessary in furtherance of the execution or performance of the MOU.

If any provision of this Resolution or the application of any provision of this Resolution is held to be invalid, the remainder of this Resolution shall not be affected with the respect to the same. This Resolution shall become effective immediately and shall continue pursuant to the authority vested in the Tribal Council pursuant to Article VI, Sections 2.A. and D. of the Constitution; provided that in accordance with 2009-ORD-2007, this resolution will be valid for no longer than thirty (30) days from the date hereof (unless exigent circumstances require a longer limited period of validity), and accordingly, this Resolution shall no longer be effective upon expiration of such period, unless upon the expiration of the thirty (30) day period, the Tribal Council expressly finds that the emergency situation necessitates extension of this resolution for another period not to exceed thirty (30) days.

CERTIFICATION

We, the undersigned Chairperson and Secretary of the Mashpee Wampanoag Tribal Council, do hereby certify that the Tribal Council is composed of 13 members of whom 8, constituting a quorum, were present at a Emergency Meeting thereof, duly called, noticed, convened, and held on the 9th day of December, 2022 and that the foregoing resolution was duly adopted by the affirmative vote of 6 members, with 0 opposing, and with 1 not voting.

DATED this 9th day of December, 2022



CARLTON HENDRICKS

Vice Chairman and Presiding Officer
Mashpee Wampanoag Tribal Council

ATTEST:



Cassie Jackson, SECRETARY

Mashpee Wampanoag Tribal Council

EXHIBIT A

**SEVENTH AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN
THE MASHPEE WAMPANOAG TRIBE AND THE TOWN OF MASHPEE,
MASSACHUSETTS FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY
MEDICAL SERVICES AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE**

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASHPEE WAMPANOAG TRIBE AND
THE TOWN OF MASHPEE, MASSACHUSETTS
FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES
AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE

SIXTH AMENDMENT

This Sixth Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe (the "Tribe") and the Town of Mashpee, Massachusetts (the "Town"), hereinafter collectively referred to as the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance, entered into by and between the Tribe and the Town on January 11, 2016 (the "MOU").

RECITALS

This Sixth Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU until August 1, 2022.

Prior to the expiration of said one-year extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

AGREEMENT

1. The Parties hereby agree to extend the duration of the MOU until August 1, 2022.
2. Except as set forth in this Sixth Amendment, all other provisions of the MOU remain in full force and effect in accordance with its original terms.
3. This Sixth Amendment shall be retroactive to, and effective as of, August 1, 2020.
4. This Sixth Amendment shall be effective immediately.

Town of Mashpee

By Its Board of Selectmen



RODNEY C. COLLINS
Town Manager

~~APPROVED BY~~
BOARD OF SELECTMEN
ON 6/7/2021

Date: 6/8/2021

Mashpee Wampanoag Tribe

By Brian Weeden


Date: 5.27.21

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASHPEE WAMPANOAG TRIBE AND
THE TOWN OF MASHPEE, MASSACHUSETTS
FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES
AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE

FIFTH AMENDMENT


This Fifth Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe (the "Tribe") and the Town of Mashpee, Massachusetts (the "Town"), hereinafter collectively referred to as the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance, entered into by and between the Tribe and the Town on January 11, 2016 (the "MOU").

RECITALS

This Fifth Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU until August 1, 2020.

Prior to the expiration of said six (6) month extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

AGREEMENT

1. The Parties hereby agree to extend the duration of the MOU until ~~August~~ ^{September} 1, 2020. 
2. Except as set forth in this Fifth Amendment, all other provisions of the MOU remain in full force and effect in accordance with its original terms.
3. This Fifth Amendment shall be retroactive to, and effective as of, March 1, 2020.
4. This Fifth Amendment shall be effective immediately.

Town of Mashpee

By its Board of Selectmen



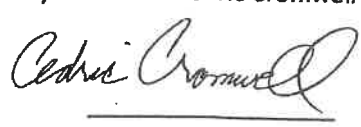
RODNEY C. COLLINS
Town Manager

APPROVED BY BOS
3/23/2020

Date: *3/26/2020*

Mashpee Wampanoag Tribe

By Chairman Cedric Cromwell



Cedric Cromwell

Date: March 25, 2020

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASHPEE WAMPANOAG TRIBE AND
THE TOWN OF MASHPEE, MASSACHUSETTS
FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES
AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE

FOURTH AMENDMENT

This Fourth Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe (the "Tribe") and the Town of Mashpee, Massachusetts (the "Town"), hereinafter collectively referred to as the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance, entered into by and between the Tribe and the Town on January 11, 2016 (the "MOU").

RECITALS

This Fourth Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU until March 1, 2020.

Prior to the expiration of said twelve (12) month extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

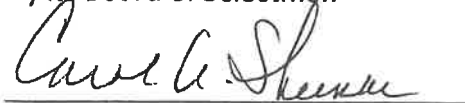
AGREEMENT

The Parties hereby agree to extend the duration of the MOU until March 1, 2020.

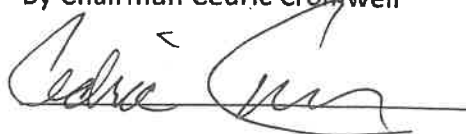
Except as set forth in this Fourth Amendment, all provisions of the MOU shall remain in full force and effect in accordance with its original terms.

This Fourth Amendment shall be effective immediately.

Town of Mashpee
By its Board of Selectmen



Mashpee Wampanoag Tribe
By Chairman Cedric Cromwell



Date: 2-13-2019

Date: February 11, 2019

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MASHPEE WAMPANOAG TRIBE AND
THE TOWN OF MASHPEE, MASSACHUSETTS
FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES
AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE

THIRD AMENDMENT

This Third Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe (the "Tribe") and the Town of Mashpee, Massachusetts (the "Town"), hereinafter collectively referred to as the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance, entered into by and between the Tribe and the Town on January 11, 2016 (the "MOU").

RECITALS

This Third Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU for an additional ten (10) month period until December 31, 2018.

Prior to the expiration of said ten (10) month extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

AGREEMENT

The Parties hereby agree to extend the duration of the MOU for a ten (10) month period, terminating on December 31, 2018.

Except as set forth in this Third Amendment, all provisions of the MOU shall remain in full force and effect in accordance with its original terms.

This Third Amendment shall be effective as of March 1, 2018.

Town of Mashpee
By its Board of Selectmen

Chairman

Mashpee Wampanoag Tribe
By Chairman Cedric Cromwell

Date:

2/15/18

Date: February 23, 2018

MEMORANDUM OF UNDERSTANDING
BETWEEN THE MASHPEE WAMPANOAG TRIBE (THE "TRIBE") AND THE TOWN OF
MASHPEE, MASSACHUSETTS (THE "TOWN") FOR THE PROVISION OF FIRE
PROTECTION AND EMERGENCY MEDICAL SERVICES AND LAW ENFORCEMENT
MUTUAL AID ASSISTANCE.

SECOND AMENDMENT

This Second Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe ("Tribe") and the Town of Mashpee, Massachusetts ("Town"), hereinafter collectively the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance entered into by and between the Tribe and Town on January 11, 2016 (the "MOU").

RECITALS

- A. This Second Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU for an additional one (1) year period until January 11, 2019.
- B. Prior to the expiration of said one (1) year extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

AGREEMENT

- 1. The Parties hereby agree to extend the duration of the MOU ~~for a one-year period~~ terminating on February 28, 2019 *PC*
- 2. Except as set forth in this Second Amendment, all other provisions of the MOU shall remain in full force and effect in accordance with its original terms.
- 3. This Second Amendment shall be effective as of January 11, 2018 *PC*

Town of Mashpee
By its Board of Selectmen

Mashpee Wampanoag Tribe
By Chairman Cedric Cromwell

Thomas F. O'Hara
Chairman

Cedric Cromwell
Dated: December 20, 2018

Carol A. Shum
John J. Cahalane
Dated: January 8, 2018

MEMORANDUM OF UNDERSTANDING
BETWEEN THE MASHPEE WAMPANOAG TRIBE (THE "TRIBE") AND THE TOWN OF
MASHPEE, MASSACHUSETTS (THE "TOWN") FOR THE PROVISION OF FIRE
PROTECTION AND EMERGENCY MEDICAL SERVICES AND LAW ENFORCEMENT
MUTUAL AID ASSISTANCE.

FIRST AMENDMENT

This First Amendment is to the Memorandum of Understanding between the Mashpee Wampanoag Tribe ("Tribe") and the Town of Mashpee, Massachusetts ("Town"), hereinafter collectively the "Parties", for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance entered into by and between the Tribe and Town on January 11, 2016 (the "MOU").

RECITALS

- A. This First Amendment is for the purpose of amending Paragraph 5 of the MOU to extend the duration of the MOU for an additional one (1) year period until January 11, 2018.
- B. Prior to the expiration of said one (1) year extension, the Parties shall confer to determine whether to extend and/or amend the MOU further.

AGREEMENT

- 1. The Parties hereby agree to extend the duration of the MOU for a one year period terminating on January 11, 2018.
- 2. Except as set forth in this First Amendment, all other provisions of the MOU shall remain in full force and effect in accordance with its original terms.
- 3. This First Amendment shall be effective as of January 11, 2017.

Town of Mashpee
By its Board of Selectmen

Chairman

Mashpee Wampanoag Tribe
By Chairman Cedric Cromwell

Dated: January 10, 2017

Dated: January 9, 2017



16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

MEMORANDUM OF UNDERSTANDING

THIS IS A MEMORANDUM OF UNDERSTANDING (THE "MOU") BETWEEN THE MASHPEE WAMPANOAG TRIBE (THE "TRIBE") AND THE TOWN OF MASHPEE, MASSACHUSETTS (THE "TOWN") FOR THE PROVISION OF FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES AND LAW ENFORCEMENT MUTUAL AID ASSISTANCE.

The date this agreement is entered into is the 11th day of ~~December~~ January, 2016. This MOU shall go into effect immediately. The Parties agree as follows:

1. **FINDINGS:**

- a. The Tribe intends to exercise the full extent of its civil and criminal jurisdiction over its Tribal Lands and its Tribal citizens and other members of federally-recognized Indian tribes in accordance with federal law.
- b. The Parties desire a smooth transition from state and local to tribal and federal jurisdiction over the Tribal Lands and the continuous availability of fire protection, emergency medical, and law enforcement services to all citizens, Indian and non-Indian, on the Tribal Lands.

2. **AUTHORITY:**

- a. The Tribe is a federally recognized Indian tribe. The Tribe is acting through its Tribal Council as authorized by the Constitution of the Mashpee Wampanoag Tribe, article VI, sections 2A and 2D.
- b. The Town is a municipal corporation in Barnstable County, Massachusetts. The Town is acting by its Board of Selectman as authorized by Massachusetts General Laws chapter 40, sections 4A and 8G.

3. **PURPOSE:** The purpose of this MOU is to memorialize the Town's and Tribe's agreement for the provision of fire protection and emergency medical services and law enforcement mutual aid assistance in the exercise of each party's criminal jurisdiction on Tribal lands for the purpose of protecting the health, safety and welfare of all individuals located thereon.

4. DEFINITIONS:

- a. "Native American" means a duly enrolled member of a federally-recognized Indian Tribe.
- b. "Party" means a governmental unit that has joined the agreement.
- c. "Tribal law enforcement" means an individual listed as attached in Exhibit B.
- d. "Tribal Lands" means lands of the Mashpee Wampanoag Tribe taken into trust by the federal government as shown in the map attached hereto as Exhibit A.

5. DURATION: This MOU shall be in effect for a period of one (1) year, commencing on the day the Parties jointly execute this MOU. This MOU is subject to extension by written agreement between the Parties. Absent such written agreement between the Parties, the Town's obligation to provide the services described herein will terminate at the end of the 1-year period.

6. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES: The Town shall furnish fire protection and emergency medical services, including dispatch services for both, to Tribal Lands upon the same terms, at the same level of service, and with the applicable legal standard of care, which it provides to other persons and properties within the Town. The Tribe grants permission to the Town's duly authorized Fire and EMS personnel in accordance with applicable Town of Mashpee response standards, to enter its Tribal Lands for the purposes of delivering fire protection and emergency medical services, and for those purposes only, provided that the Town shall inform Tribal law enforcement of every entry onto the Tribal Lands by its personnel for that purpose as soon as practicable, but in no event later than three (3) hours after each such entry. This Section 6 may be canceled or terminated by either Party at any time upon fifteen (15) days written notice by registered or certified mail. In the event the Fire Chief deems it necessary to have police personnel for security on the scene during the delivery of fire and emergency medical services, the Fire Chief shall request, by telephone and/or radio, and will receive such assistance from a Tribal law enforcement officer. In the event Tribal Police do not respond to said telephone and/or radio call, permission is implied for Town of Mashpee Police to respond for purposes of protection of Fire personnel.

7. LAW ENFORCEMENT MUTUAL AID ASSISTANCE:

- a. The Parties acknowledge that the applicability of federal and tribal criminal laws on Tribal Lands may depend on whether the subject or the victim is Native American, and that state criminal law has been held inapplicable to Native Americans in Indian Country. The Parties acknowledge that the Commonwealth of Massachusetts (the "State") continues to hold criminal jurisdiction over non-Native Americans for crimes committed against non-Native Americans and victimless crimes on Tribal Lands. The Parties agree that nothing in this MOU shall make any law applicable to a certain person or certain conduct where it would not otherwise be applicable.

- b. The Town agrees to cooperate and provide law enforcement assistance to the Tribe when the Tribe requests assistance, when resources permit. Tribal law enforcement officers are the only persons authorized to request assistance under this subsection. Upon a duly authorized request of the Tribe, the Town officer or officers will assist the Tribe in enforcement of the Tribe's criminal jurisdiction. All active Town police officers shall be deputized by the Tribe for this limited purpose.
 - c. The Tribe agrees to cooperate and provide a prompt decision to requests for consent for the entry of Town police officers in the event that a crime occurs on Tribal Lands that falls under the jurisdiction of the Town. Tribal law enforcement officers are the only persons authorized to provide consent under this MOU.
 - d. The Tribe agrees to cooperate and provide a prompt decision to requests for consent to the entry of Town officers in the event that a crime occurs outside Tribal Lands when a suspected offender enters Tribal Lands immediately after the commission of that crime or during a fresh pursuit by Town officers. Tribal law enforcement officers are the only persons authorized to provide consent under this MOU.
 - e. The Town agrees to cooperate and provide a prompt decision to requests for consent for the entry of Tribal officers in the event that a crime occurs on Tribal Lands and the suspected offender enters Town of Mashpee lands immediately after the commission of that crime or during a fresh pursuit by Tribal officers. The Town's Police Chief and each designated shift supervisor are the only persons authorized to provide consent under this MOU.
 - f. The Tribe agrees to cooperate and provide law enforcement assistance to the Town when the Town requests assistance, when resources permit. The Town's Police Chief and each designated shift supervisor are the only persons authorized to request assistance under this subsection. Upon a duly authorized request of the Town, Tribal law enforcement will assist the Town in enforcement of the Town's criminal jurisdiction. All active Tribal police officers shall be deputized by the Town for this limited purpose.
 - g. The Town agrees to provide law enforcement dispatch services to the Tribe.
8. **TERMINATION:** This MOU may be canceled or terminated by either Party at any time upon fifteen (15) days written notice by registered or certified mail.
9. **NOTICES:** Written notices required or permitted under this MOU are sufficient if they are sent by registered or certified mail or by other means mutually acceptable to the Parties.

Notices to Tribe:
Cedric Cromwell, Chairman
Mashpee Wampanoag Tribal
Council

Mashpee Wampanoag Tribe
483 Great Neck Road, South
Mashpee, MA 02649

Notices to Town:
Rodney Collins
Town Manager
Town of Mashpee

Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

10. SOVEREIGN IMMUNITY: Nothing in this MOU shall be construed as a waiver of either Party's sovereign immunity under either Tribal or Massachusetts Law, and is not intended to impair, limit, or affect the status of any Party. It is the intent of the Parties, and by execution of this MOU the Parties hereby agree, that there shall not be any right of action for either Party to sue the other with respect to the exercise of any duties, rights or responsibilities authorized under the terms of this MOU.
11. IMMUNITIES: The Town, and/or officers or employees of the Town rendering services under this MOU shall be considered agents of the Tribe for immunity purposes; and no Town officers or employees rendering aid in Tribal Lands pursuant to this MOU shall be liable in Tribal Court on account of any act or omission in good faith on the part of such officers or employees while so engaged. "Good faith" in this subsection shall not include willful misconduct or gross negligence. Further, the Town and all officers, agents, and employees of the Town rendering services under the MOU shall be immune from any civil or criminal liability arising or alleged to arise from their performance or non-performance of their official duties to the fullest extent provided by, and in accordance with, the provisions of Massachusetts law, including the Massachusetts Tort Claims Act, G.L. c. 258 and any regulations promulgated thereunder. In the event that Tribal law enforcement is rendering aid under the MOU to the Town, such Tribal law enforcement shall be immune from any civil or criminal liability arising or alleged to arise from their performance or non-performance of their official duties to the fullest extent provided by, and in accordance with, the provisions of Massachusetts law, including the Massachusetts Tort Claims Act, G.L. c. 258 and any regulations promulgated thereunder.
12. AMENDMENTS: This MOU may only be amended by a writing signed by the duly authorized representatives of each Party.
13. COUNTERPARTS: This MOU may be executed in several counterparts, each of which is an original, but all of which together constitute a single instrument.
14. ENTIRE AGREEMENTS: This MOU constitutes the entire agreement between the Parties on these issues. Nothing herein modifies or voids the Intergovernmental Agreement By and Between the Tribe and Town, dated April 22, 2008.
15. SAVINGS CLAUSES:
 - a. Under no circumstance shall any officer, agent, or employee of the Town be subject to tribal court jurisdiction by virtue of entering into this MOU or by performing or failing to perform any duty and/or obligation set forth in this MOU. Nothing in this MOU shall be construed to subject the Town or any officers or agents thereof to the jurisdiction of the Tribe or to tribal law.

- b. Under no circumstance shall any officer, agent, or employee of the Tribe be subject to State court jurisdiction by virtue of entering into this MOU or by performing or failing to perform any duty and/or obligation set forth in this MOU. Nothing in this MOU shall be construed to subject the Tribe or any officers or agents thereof to the jurisdiction of the State or to State law.
- c. The provisions of this MOU are severable and should any provision be held invalid or unenforceable, the remainder of this MOU remains in effect unless terminated as provided in this MOU. If any provision of this MOU is severed from the MOU then the Parties must promptly meet and negotiate in good faith to achieve the intended purpose of the severed provision in a manner that is valid and enforceable under applicable law.
16. AUTHORITY: The undersigned represent that they are authorized to execute this MOU on behalf of the Tribe and Town, respectively.
17. APPLICABLE LAW: Interpretation of any disputed provision of this MOU, or related to any alleged act or omission of the Town or Tribe or an officer or representative thereof, shall be interpreted consistent with the laws of Massachusetts and the United States.
18. BEST EFFORTS: The Parties agree that they shall devote their best efforts to the fulfillment of their respective duties and obligations hereunder in accordance with the provisions of this MOU.

EXECUTED as a sealed instrument on the date first mentioned above.

Town of Mashpee
By its Board of Selectman


Chairman


Carol A. Sherman


[illegible]

Mashpee Wampanoag Tribe
By: Chairman, Cedric Cromwell

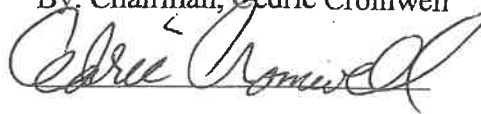

Cedric Cromwell

EXHIBIT A

Tribal Lands Map

Mashpee Wampanoag Tribal Properties In Trust

SANDWICH

BARNSTABLE

431 MAIN ST

414 MAIN ST

41 HOLLOW RD

184 MEETING HOUSE RD

213 SAMPSONS MILL RD

410 MEETING HOUSE RD

414 MEETING HOUSE RD

483 GREAT NECK RD SOUTH

GREAT NECK RD SOUTH

FALMOUTH

56 UNCLE PERCYS RD

17 MIZZENMAST ROAD



0 0.5 1 2 3 Miles

List of Tribal Law Enforcement

1. Kevin M. Frye, Sr. (**Primary**)

774-238-8329

Kevin.frye@mwtribe.com

2. Curtis W. Frye, III (**Secondary**)

774-392-1903

Cfrye@mwtribe.com

RECEIVED

2016 JAN 14 PM 1:25

RECEIVED
ST. LOUIS, MO



Town of Mashpee

Department of Public Works

*350 Meetinghouse Road
Mashpee, Massachusetts 02649
Telephone - (508) 539-1420
Fax - (508) 539-3894*

MEMORANDUM

December 12, 2022

TO: Select Board
Rodney Collins, Town Manager

FROM: Catherine Laurent, Director *CL*

RE: Recommendation for Amendment to Upper Cape Regional Transfer Station Intermunicipal Agreement and Extension of Said Agreement

As discussed at the Select Board meeting on November 7, 2022, the Intermunicipal Agreement (IMA) for the Upper Cape Regional Transfer Station (UCRTS) will expire on December 31, 2022 unless extended by the member towns of Mashpee, Falmouth, Sandwich, and Bourne. While the Mashpee Select Board did vote to extend the IMA that night, the vote by the Bourne Select Board not to extend the term created an issue as a unanimous vote by the four towns is required.

After further discussion with Patrick Costello, Counsel for the UCRTS Board of Managers, the recommendation is for the four towns to first vote to allow the Town of Bourne to withdraw from the UCRTS IMA and then to have the remaining three towns take a second vote to extend the IMA.

Below are the two motions prepared by Counsel.

(By Falmouth, Sandwich, Mashpee and Bourne): Move that the Board approve an Amendment to the Intermunicipal Agreement among the Towns of Falmouth, Sandwich, Mashpee and Bourne For The Maintenance and Operation of a Regional Municipal Services Facility at The Joint Base Cape Cod, dated July 1, 2018, for the purpose of effecting the Town of Bourne's withdrawal from the Intermunicipal Agreement prior to the December 31, 2022 Agreement termination date;

(By Falmouth, Sandwich and Mashpee only) Further, move that the Board vote pursuant to Article XIV of the amended Intermunicipal Agreement among the Towns of Falmouth, Sandwich and Mashpee to extend the term of said Intermunicipal Agreement to June 30, 2026 upon the mutual agreement of said Towns.

The Falmouth Select Board voted on both motions at their meeting on December 5, 2022. The Bourne Select Board voted the first motion at their meeting on December 6, 2022. The Sandwich Select Board voted on both motions at their meeting on December 8, 2022.

AMENDMENT #1 TO INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF FALMOUTH, SANDWICH, MASHPEE AND BOURNE, MASSACHUSETTS FOR THE MAINTENANCE AND OPERATION OF A REGIONAL MUNICIPAL SERVICES FACILITY AT THE JOINT BASE CAPE COD.

The effective date of this AMENDMENT #1 is December ___, 2022. Each of the aforementioned Towns (hereafter, "Town", individually, and "Towns", collectively) is a municipal corporation in Barnstable County, Massachusetts. Each Town is acting by its Board of Selectmen/ Select Board, as authorized by Massachusetts General Laws chapter 40, section 4A.

WHEREAS, the Towns have jointly constructed, operated, and maintained a solid waste rail transfer station known as the Upper Cape Regional Transfer Station (UCRTS) at the Joint Base Cape Cod property (the "Site") pursuant to an Intermunicipal Agreement dated June 3, 1987, as subsequently amended on October 19, 1987, December 31, 1996, June 16, 2008, and June 30, 2015;

WHEREAS, in 2018, upon expiration of the term of said Intermunicipal Agreement, the Towns agreed that it was in their collective best interest to maintain an intermunicipal relationship among the Towns with the prospective right to occupy, operate and use the Site upon which the UCRTS has existed for such other purpose(s) as the parties may deem beneficial and appropriate; accordingly, they executed a successor Intermunicipal Agreement, effective July 1, 2018, for said purpose(s) (hereafter, the "IMA");

WHEREAS, the term of the IMA shall expire on December 31, 2022, unless said term is extended by the mutual agreement of all parties thereto;

WHEREAS, on November 1, 2022 the Select Board of the Town of Bourne voted not to extend the term of the IMA;

WHEREAS, the Towns of Falmouth, Sandwich and Mashpee collectively wish to extend the term of the IMA as a three Town agreement;

WHEREAS, in order to facilitate an extension of the existing IMA among the Towns of Falmouth, Sandwich and Mashpee, the Towns have agreed to amend the IMA to terminate Bourne's engagement as a party to the IMA prior to December 31, 2022, notwithstanding the Termination provisions of IMA Article XII. A; and

WHEREAS, this Amendment #1 has been duly authorized by votes of the Board of Selectmen/ Select Board in each Town to effect Bourne's termination as a party to the IMA.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and agreements contained herein, the Towns hereby agree that the Town of Bourne shall be terminated as a party to the IMA and its engagement therein shall terminate as of the effective date hereof.

The IMA is hereby amended, as follows to effect Bourne's termination as a party thereto:

- 1) The Title and introduction of the IMA is hereby revised to read as follows:

INTERMUNICIPAL AGREEMENT

THIS IS AN INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF FALMOUTH, SANDWICH AND MASHPEE, MASSACHUSETTS FOR THE MAINTENANCE AND OPERATION OF A REGIONAL MUNICIPAL SERVICES FACILITY AT THE JOINT BASE CAPE COD.

- 2) Article I of the IMA is hereby amended to read as follows:

I. THE FACILITY

Falmouth, Sandwich and Mashpee, shall jointly finance, equip, maintain, repair and operate the Site for such purposes as may be determined by the respective Towns, acting by and through their duly authorized representatives on the Board of Managers, referred to in Article III of this Agreement. In addition to the powers and duties described in Article IV of this Agreement, said Board of Managers shall be authorized to act on behalf of the Towns by entering into agreements with the department of the United States government known as Joint Base Cape Cod to enable the United States government to use the Site in the same manner as Falmouth, Sandwich and Mashpee. In this Agreement, Falmouth, Sandwich and Mashpee shall be referred to as a "Town" or collectively as the "Towns", and the Joint Base Cape Cod shall be referred to as "the JBCC".

- 3) Article VIII (Protection Against Liability), Paragraph B is amended by deleting the phrase "any of the four Towns" appearing in the first sentence thereof and replacing said phrase with "any of the three Towns".
- 4) All remaining terms and conditions of the IMA not expressly modified herein shall remain in full force and effect up to and including the extended Term expiration date.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Falmouth Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF FALMOUTH

Date: _____

Approved as to form:

Falmouth Town Counsel

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Sandwich Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF SANDWICH

Date: _____

Approved as to form:

Sandwich Town Counsel

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Mashpee Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF MASHPEE

Date: _____

Approved as to form:

Mashpee Town Counsel

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Bourne Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF BOURNE

Date: _____

Approved as to form:

Bourne Town Counsel

EXTENSION OF INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF FALMOUTH, SANDWICH AND MASHPEE MASSACHUSETTS FOR THE MAINTENANCE AND OPERATION OF A REGIONAL MUNICIPAL SERVICES FACILITY AT THE JOINT BASE CAPE COD.

Pursuant to Article XI (Term) of the INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF FALMOUTH, SANDWICH AND MASHPEE MASSACHUSETTS FOR THE MAINTENANCE AND OPERATION OF A REGIONAL MUNICIPAL SERVICES FACILITY AT THE JOINT BASE CAPE COD, dated July 1, 2018, as amended, (hereafter, the "IMA"), the Boards of Selectmen/ Select Boards of the Towns of Falmouth, Sandwich and Mashpee have each voted to extend the term of the IMA through June 30, 2026.

Accordingly, the Term of the IMA is extended, effective January 1, 2023, upon mutual agreement of said Towns through June 30, 2026. All remaining terms and conditions of the IMA, as amended, not expressly modified herein shall remain in full force and effect up to and including the extended term expiration date.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, by and through their respective Boards of Selectmen/ Select Boards, duly authorized, effective January 1, 2023.

TOWN OF FALMOUTH

Chair

Date of Term Extension vote: _____

TOWN OF SANDWICH

Chair

Date of Term Extension vote: _____

TOWN OF MASHPEE

Chair

Date of Term Extension vote: _____



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

MEMORANDUM

Date: December 9, 2022

TO: Rodney Collins – Town Manager

FROM: Craig Mayen - Treasurer/Tax Collector

CC: Wayne Taylor – Assistant Town Manager

RE: Selectboard Meeting – 12-19-22

I spoke with you today about the SRF agreement sent to the Town of Mashpee in October 2022 for the short term and long term financing of the 54 Million dollar wastewater project.

As we had previously discussed in October, the SRF agreement has the short term interest rate a 0%. The agreement has the long term interest rate for 30 years at 2.4%. Previously, I requested you not sign the document as the long term interest rate was not what was indicated to the public when the project financing was presented. I also spoke with SRF in October and indicated our displeasure about the request to sign a document indicating interest of 2.4% on the long term financing when 0% had always been discussed.

The 0% long term interest rate is dependent on qualification from the MassDEP. My discussions with Ray Jack, town consultant engineer, indicated we are eligible for the 0% long term funding and documentation was sent to MassDEP by our contractors months ago. MassDEP has stated they have received the information and Mr. Jack and the town contractors have corresponded with MassDEP to guide them through the paperwork.

Having spoken with Nate Kennan from SRF in the last week to inquire where MassDEP was in the process, he indicated it would take a few months for MassDEP to approve the 0% long term financing.

It appears the 0% long term financing is coming from MassDEP, but not officially approved yet. Verbal communication with SRF has indicated, once approved by MassDEP, the long term financing will change to 0%.



My request to you is to let the Selectboard know the situation and ask for their approval to sign the contract.

I want to get the short term financing document funding in place as it will take about 2 months for short term money to start flowing and want to avoid the possibility of reducing the town free cash.

I will plan to attend the Selectboard meeting and have attached the financing agreements to this memo.



Financing No: **CWP-21-16**

Date: **October 5, 2022**

Borrower: **Town of Mashpee**

Initial Obligation Amount: **\$47,455,300**

Financing Type:

☐

Loan

☒

Bond Purchase Obligation

FINANCING AGREEMENT

This Financing Agreement (this "Financing Agreement") is entered into by and between the Massachusetts Clean Water Trust (together with its successors and assigns, the "Trust"), an instrumentality of The Commonwealth of Massachusetts (the "Commonwealth") and the borrower listed above, a political subdivision or public instrumentality (together with its successors and assigns, the "Borrower"). The agreement between the Trust and the Borrower is comprised of this Financing Agreement and includes the attached Schedules A, B and C, and the "Terms and Conditions to the Massachusetts Clean Water Trust Financing Agreement" dated as of the date set forth in Schedule A hereto, including all representations, warranties, and covenants set forth therein (the "Terms and Conditions"), which hereby is incorporated by reference. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Enabling Act and in the Terms and Conditions.

RECITALS:

WHEREAS, the Trust is organized and exists under the Enabling Act to assist Local Governmental Units in the Commonwealth to initiate, acquire, construct, improve, maintain and operate Drinking Water Projects and Water Pollution Abatement Projects; and

WHEREAS, pursuant to the Enabling Act, the Trust is authorized to make loans to or purchase local governmental obligations from Local Governmental Units in the Commonwealth to finance or refinance costs of a Project or Projects; and

WHEREAS, Local Governmental Units are authorized to contract with the Trust with respect to such financings or refinancings and to issue local governmental obligations (the

"Local Governmental Obligations") to evidence their obligations to repay such loans or to provide for the purchase thereof by the Trust; and

WHEREAS, the Trust has heretofore issued one or more commitments to the Borrower to finance or refinance costs of the Project or Projects described in Schedule A to this Financing Agreement either (a) by a loan (a "Loan") from the Trust to the Borrower or (b) through the purchase by the Trust (a "Bond Purchase Obligation") of Local Governmental Obligations to be issued by the Borrower, as indicated above under "Financing Type," in an aggregate amount equal to the Initial Obligation Amount set forth in Schedule C attached hereto; and

WHEREAS, to provide for such Loan or Bond Purchase Obligation, the Trust and the Borrower have duly authorized the execution and delivery of this Financing Agreement pursuant to the Enabling Act and the Applicable Authority and the Borrower has duly authorized the issuance and delivery to the Trust of its Local Governmental Obligations in an aggregate principal amount equal to the Initial Obligation Amount; and

WHEREAS, in accordance with the Enabling Act the Department has issued a Project Approval Certificate to the Trust approving each Project and the costs thereof to be financed or refinanced by the Trust and, in connection therewith, the Borrower and the Department are executing and delivering, simultaneously with the execution and delivery of this Financing Agreement, one or more Project Regulatory Agreements pertaining to the construction and operation of each Project.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows.

1. Terms of this Financing Agreement. The terms of the Loan or Bond Purchase Obligation represented by this Financing Agreement, including, but not limited to, the effective date of the applicable Terms and Conditions, the description of the Project(s), the Initial Obligation Amount, the interest rate, fees, payment terms, and other essential or important terms and information, are set forth in Schedule A and Schedule C attached hereto.

2. Additional Conditions. Additional conditions to the Loan or Bond Purchase Obligation represented by this Financing Agreement, including any additional security therefor, and any amendments or additions to the Terms and Conditions, are set forth in Schedule B attached hereto.

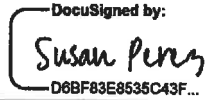
3. Payment Schedule. The schedule of debt service payments and other fees to be paid by the Borrower pursuant to the Loan or Bond Purchase Obligation represented by this Financing Agreement are set forth in Schedule C attached hereto, which Schedule C may be amended from time to time.

4. Terms and Conditions. The general terms and conditions for the Loan or Bond Purchase Obligation are set forth in the Terms and Conditions dated as of the date set forth on Schedule A attached hereto. Such Terms and Conditions are available on the Trust's website. The Borrower acknowledges and agrees that it is responsible for reviewing the Terms and Conditions and consulting with its legal counsel, as necessary, and maintaining a copy of the Terms and Conditions in its loan file.

5. Certification of Authorized Officer of the Borrower. The undersigned, an Authorized Officer of the Borrower, hereby acknowledges and certifies that such Authorized Officer has read and reviewed and consulted with the Borrower's legal counsel, as necessary, and agrees to the terms, conditions, representations, covenants, and undertakings set forth in this Financing Agreement, including all schedules attached hereto and the Terms and Conditions.

IN WITNESS WHEREOF, the Trust and the Borrower have caused this Financing Agreement to be executed by their duly Authorized Officers the day and year first above written.

MASSACHUSETTS CLEAN WATER TRUST

By  _____
Authorized Officer
Title: Executive Director

BORROWER

By _____
Authorized Officer
Title:

SCHEDULE A

- A. Terms and Conditions dated as of: **April, 2021**
- B. Project Approval Certificate(s) - Number and Date: **CW-21-16, 1/5/2022**
- C. SRF Identification Number: **CWSRF-6749**
- D. Applicable Authority: **Chapter 44 of the General Laws of the Commonwealth of Massachusetts**
- E. Authorized Officers:
- a) Of the Trust: The Chairman and Vice Chairman of the Trust (and each designee thereof pursuant to G.L. Ch.30 §6A) and the Executive Director and Treasurer of the Trust.
Craig Mayen, Treasurer
Town of Mashpee
 - b) Of the Borrower: **16 Great Neck Road North**
Mashpee, MA 02649
 - c) Of the Department: The Commissioner, the Deputy Commissioner and the Deputy Assistant Commissioner for Financial and Construction Management of the Department.
- F. Interest –
- Interest Rate*: **2.4%**
- Financial Equivalent Interest Rate: **2.0 %**
- G. Administrative Fee: **Seventy-five thousandths of one percent (.075%) of the Loan Principal Obligation outstanding on the January 14 or July 14, as applicable, preceding each Loan Repayment Date, subject to proration for any period greater than or less than six (6) months.**
- H. Closing Date: **No Later than October 6, 2025**
- I. Interim Loan Interest Rate (as applicable): **0 %**

*Estimated rate for extended term financing. The actual rate will be determined closer to Closing and will provide a subsidy generally equivalent to the subsidy represented by a two percent interest rate on a loan amortized over twenty years.

J. **The Project(s): Mashpee WRRF and Collection System Phase 1**

K. **System: Water Pollution Abatement Facility**

L. **Addresses for Notices:**

To the Trust: Massachusetts Clean Water Trust
 1 Center Plaza
 Suite 430
 Boston, MA 02108
 Attention: Executive Director

To the Borrower: **Craig Mayen, Treasurer**
 Town of Mashpee
 16 Great Neck Road North
 Mashpee, MA 02649

To the Department: Department of Environmental Protection
 One Winter Street
 6th Floor
 Boston, MA 02108
 Attention: Commissioner

SCHEDULE B

Additional Covenants and Conditions

(Principal Forgiveness - Cape Cod and Islands Water Protection Fund and Disadvantaged Communities/Renewable Energy Projects)

In addition to the covenants and conditions and the obligations of the Borrower contained elsewhere in the Financing Agreement, the following covenants and conditions shall pertain to the Loan and the Local Governmental Obligations:

1. The Cape Cod and Islands Water Protection Fund Management Board (the "Management Board"), has approved an additional subsidy with respect to the Loan financing the Project from amounts on deposit in the Cape Cod and Islands Water Protection Fund (the "Fund") established by MGL c.29C, §19. The Management Board approved the maximum amount of such additional subsidy, which subsidy is expected to be applied by the Trust as principal forgiveness in four annual installments. ***Each such installment is subject to approval by the Management Board and to the availability of sufficient funds being on deposit in the Fund at the time of application. In the event that principal is not forgiven as expected, as a result of insufficient funds or otherwise, the portion not forgiven will be subject to permanent financing and repayment.***

2. In addition, the Trust has determined that the Borrower is a Disadvantaged Community eligible to receive funds made available for additional subsidy in the form of principal forgiveness, to finance Project Costs in an amount equal to the Loan's pro rata share of funds to be made available for Disadvantaged Communities and/or Renewal Energy projects

3. Following receipt by the Trust of the Borrower's Interim Loan Note in a principal amount equal to the Initial Obligation Amount (i.e. the maximum principal amount of the Loan), the Trust will make disbursements from time to time, in accordance with Section 10(c) of the Terms and Conditions, to the Borrower to pay Costs of the Project, subject to compliance by the Borrower with the provisions of the Financing Agreement.

4. Subject to the availability of funds, installments of principal forgiveness with respect to the Project will be applied to the Interim Loan following completion of the Project in a manner that complies with all conditions herein, in the Financing Agreement and in the Project Regulatory Agreement, as evidenced by the Department's issuance of a Project Completion Certificate applicable to the Project.

(a) Each installment of principal forgiveness applied prior to the permanent financing of the Loan shall be applied to the Interim Loan through an amendment to the Interim Loan Note to reduce its principal amount by the amount of such installment; thereafter the reduced Interim Loan Note shall remain outstanding until permanent financing (subject to further reductions by additional installments of principal forgiveness, if any).

(b) At the time of permanent financing, the amount to be permanently financed shall equal the then-outstanding amount of the Interim Loan Note less the amount (the "Remaining Expected Subsidy"), if any, of principal forgiveness (in the case of the subsidy from the Fund, in

amounts approved by the Management Board) that (i) has not yet been applied and (ii) is expected to be applied in the future. The Interim Loan Note shall be amended in connection with such permanent financing to equal the Remaining Expected Subsidy. The reduced Interim Loan Note shall remain outstanding until principal is forgiven; provided that if any expected installment of the Remaining Expected Subsidy shall be reduced or eliminated (in the case of subsidy from the Fund, as a result of a lack of sufficient funds on deposit in the Fund at the applicable time), then the allocable portion of the Interim Loan Note may be permanently financed and Payments thereon shall be payable on the Payment Dates and in an amount equal to such reduced or eliminated installment set forth in Schedule C, as the same may be subsequently amended, as provided herein and in the Agreement.

5. Notwithstanding the foregoing, the Borrower acknowledges that if the Department fails to issue the applicable Project Completion Certificate because of the Borrower's failure to comply with the conditions herein, in the Financing Agreement and in the Project Regulatory Agreement, then the Loan shall not receive principal forgiveness on the amount borrowed and Payments thereon shall be payable on the Payment Dates and in a maximum principal amount equal to the Initial Obligation Amount set forth in Schedule C, as the same may be subsequently amended, as provided herein and in the Agreement.

6. The Borrower further acknowledges that the Department, in the exercise of its audit procedures under the Project Regulatory Agreement, may determine that certain Project Costs paid from amounts deposited in a Project Account are ineligible to be financed with the Loan as provided herein. In such event, on and after the date of such determination by the Department, a portion of the Initial Obligation Amount (determined on a Pro-Rata Basis as hereinafter defined) equal to the amount of such ineligible Project Costs shall bear interest at the Interest Rate or such other rate determined in accordance with Section 4(c) of the Terms and Conditions. As used in this Paragraph 5, the term "Pro-Rata Basis" means the portion of each Payment allocable to the principal amount of the Loan payable hereunder subsequent to the date of a determination by the Department as described in this Paragraph 5 as is equal, as nearly as practicable, to the ratio by which the amount of ineligible Project Costs paid from the applicable Project Account bears to the Initial Obligation Amount. Upon any such occurrence the Trust shall recalculate the amount to be applied as principal forgiveness on the Loan, shall certify such amounts to the Borrower and shall amend Schedule C attached hereto to reflect the Payments thereafter payable hereunder, and shall surrender the Local Governmental Obligations to the Borrower in exchange for amended or substitute Local Governmental Obligations reflecting such change in Payments.

7. Notwithstanding anything in the Agreement to the contrary, this Schedule B may be amended by the Trust upon notice to the Borrower to the extent necessary to comply with the provisions of the Federal Act or the Enabling Act (including, without limitation, Section 19 and 20 thereof), provided that, except to the extent otherwise expressly provided in the Agreement or this Schedule B, no such amendment shall be made which materially adversely affects the rights or obligations of the Borrower under the Agreement without the prior written consent of the Borrower.

Draft Schedule C

Prepared by MCWT

Oct, 5 2022 - 11:48 AM

Massachusetts Clean Water Trust Preliminary Structuring Analysis Town of Mashpee CWP-21-16

Initial Obligation Amount 47,455,300.00
Loan Forgiveness*
Cape Cod Fund Subsidy*
Net Loan Obligation 47,455,300.00

Loan Origination Fee (\$5.5/1000) 261,004.15
Loan Term (in years) 30
Loan Rate 2.40%
Closing Date 11/15/2023
First Interest 1/15/2024
First Principal 7/15/2024

Date	Principal	Interest	Total Debt Service	Admin Fee (0.15%)	Loan Origination Fee	Total Payments	Total Annual Payments
11/15/2023							
1/15/2024		189,821.20	189,821.20	35,591.48	261,004.15	486,416.83	486,416.83
7/15/2024	1,581,844.00	569,463.60	2,151,307.60	35,591.48		2,186,899.08	
1/15/2025		550,481.47	550,481.47	34,405.09		584,886.56	2,771,785.64
7/15/2025	1,581,844.00	550,481.47	2,132,325.47	34,405.09		2,166,730.56	
1/15/2026		531,499.34	531,499.34	33,218.71		564,718.05	2,731,448.62
7/15/2026	1,581,844.00	531,499.34	2,113,343.34	33,218.71		2,146,562.05	
1/15/2027		512,517.22	512,517.22	32,032.33		544,549.54	2,681,111.60
7/15/2027	1,581,844.00	512,517.22	2,094,361.22	32,032.33		2,126,393.54	
1/15/2028		493,535.09	493,535.09	30,845.94		524,381.03	2,650,774.57
7/15/2028	1,581,844.00	493,535.09	2,075,379.09	30,845.94		2,106,225.03	
1/15/2029		474,552.96	474,552.96	29,659.56		504,212.52	2,610,437.55
7/15/2029	1,581,844.00	474,552.96	2,056,396.96	29,659.56		2,086,056.52	
1/15/2030		455,570.83	455,570.83	28,473.18		484,044.01	2,570,100.53
7/15/2030	1,581,844.00	455,570.83	2,037,414.83	28,473.18		2,065,888.01	
1/15/2031		436,588.70	436,588.70	27,286.79		463,875.50	2,529,763.51
7/15/2031	1,581,844.00	436,588.70	2,018,432.70	27,286.79		2,045,719.50	
1/15/2032		417,606.58	417,606.58	26,100.41		443,706.99	2,489,426.49
7/15/2032	1,581,844.00	417,606.58	1,999,450.58	26,100.41		2,025,550.99	
1/15/2033		398,624.45	398,624.45	24,914.03		423,538.48	2,449,089.46
7/15/2033	1,581,844.00	398,624.45	1,980,468.45	24,914.03		2,005,382.48	
1/15/2034		379,642.32	379,642.32	23,727.65		403,369.97	2,408,752.44
7/15/2034	1,581,843.00	379,642.32	1,961,485.32	23,727.65		1,985,212.97	
1/15/2035		360,660.20	360,660.20	22,541.26		383,201.47	2,368,414.43
7/15/2035	1,581,843.00	360,660.20	1,942,503.20	22,541.26		1,965,044.47	
1/15/2036		341,678.09	341,678.09	21,354.88		363,032.97	2,328,077.44
7/15/2036	1,581,843.00	341,678.09	1,923,521.09	21,354.88		1,944,875.97	
1/15/2037		322,695.97	322,695.97	20,168.50		342,864.47	2,287,740.44
7/15/2037	1,581,843.00	322,695.97	1,904,538.97	20,168.50		1,924,707.47	
1/15/2038		303,713.86	303,713.86	18,982.12		322,695.97	2,247,403.44
7/15/2038	1,581,843.00	303,713.86	1,885,556.86	18,982.12		1,904,538.97	
1/15/2039		284,731.74	284,731.74	17,795.73		302,527.47	2,207,066.45
7/15/2039	1,581,843.00	284,731.74	1,866,574.74	17,795.73		1,884,370.47	
1/15/2040		265,749.62	265,749.62	16,609.35		282,358.98	2,166,729.45
7/15/2040	1,581,843.00	265,749.62	1,847,592.62	16,609.35		1,864,201.98	
1/15/2041		246,767.51	246,767.51	15,422.97		262,190.48	2,126,392.45
7/15/2041	1,581,843.00	246,767.51	1,828,610.51	15,422.97		1,844,033.48	
1/15/2042		227,785.39	227,785.39	14,236.59		242,021.98	2,086,055.46
7/15/2042	1,581,843.00	227,785.39	1,809,628.39	14,236.59		1,823,864.98	
1/15/2043		208,803.28	208,803.28	13,050.20		221,853.48	2,045,718.46
7/15/2043	1,581,843.00	208,803.28	1,790,646.28	13,050.20		1,803,696.48	
1/15/2044		189,821.16	189,821.16	11,863.82		201,684.98	2,005,381.46
7/15/2044	1,581,843.00	189,821.16	1,771,664.16	11,863.82		1,783,527.98	
1/15/2045		170,839.04	170,839.04	10,677.44		181,516.48	1,965,044.47
7/15/2045	1,581,843.00	170,839.04	1,752,682.04	10,677.44		1,763,359.48	
1/15/2046		151,856.93	151,856.93	9,491.06		161,347.99	1,924,707.47
7/15/2046	1,581,843.00	151,856.93	1,733,699.93	9,491.06		1,743,190.99	
1/15/2047		132,874.81	132,874.81	8,304.68		141,179.49	1,884,370.47
7/15/2047	1,581,843.00	132,874.81	1,714,717.81	8,304.68		1,723,022.49	
1/15/2048		113,892.70	113,892.70	7,118.29		121,010.99	1,844,033.48
7/15/2048	1,581,843.00	113,892.70	1,695,735.70	7,118.29		1,702,853.99	
1/15/2049		94,910.58	94,910.58	5,931.91		100,842.49	1,803,696.48
7/15/2049	1,581,843.00	94,910.58	1,676,753.58	5,931.91		1,682,685.49	
1/15/2050		75,928.46	75,928.46	4,745.53		80,673.99	1,763,359.48
7/15/2050	1,581,843.00	75,928.46	1,657,771.46	4,745.53		1,662,516.99	
1/15/2051		56,946.35	56,946.35	3,559.15		60,505.49	1,723,022.49
7/15/2051	1,581,843.00	56,946.35	1,638,789.35	3,559.15		1,642,348.49	
1/15/2052		37,964.23	37,964.23	2,372.76		40,337.00	1,682,685.49
7/15/2052	1,581,843.00	37,964.23	1,619,807.23	2,372.76		1,622,180.00	
1/15/2053		18,982.12	18,982.12	1,186.38		20,168.50	1,642,348.49
7/15/2053	1,581,843.00	18,982.12	1,600,825.12	1,186.38		1,602,011.50	
	47,455,300.00	17,273,726.80	64,729,026.80	1,103,335.58	261,004.15	66,093,366.53	66,093,366.53

Notes:

*This project qualifies for loan forgiveness in accordance with Schedule B to the Financing Agreement.

Financing No: **CWP-21-16-A**

Date: **October 5, 2022**

Borrower: **Town of Mashpee**

Initial Obligation Amount: **\$6,502,700**

Financing Type:

☐

Loan

☒

Bond Purchase Obligation

FINANCING AGREEMENT

This Financing Agreement (this "Financing Agreement") is entered into by and between the Massachusetts Clean Water Trust (together with its successors and assigns, the "Trust"), an instrumentality of The Commonwealth of Massachusetts (the "Commonwealth") and the borrower listed above, a political subdivision or public instrumentality (together with its successors and assigns, the "Borrower"). The agreement between the Trust and the Borrower is comprised of this Financing Agreement and includes the attached Schedules A, B and C, and the "Terms and Conditions to the Massachusetts Clean Water Trust Financing Agreement" dated as of the date set forth in Schedule A hereto, including all representations, warranties, and covenants set forth therein (the "Terms and Conditions"), which hereby is incorporated by reference. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Enabling Act and in the Terms and Conditions.

RECITALS:

WHEREAS, the Trust is organized and exists under the Enabling Act to assist Local Governmental Units in the Commonwealth to initiate, acquire, construct, improve, maintain and operate Drinking Water Projects and Water Pollution Abatement Projects; and

WHEREAS, pursuant to the Enabling Act, the Trust is authorized to make loans to or purchase local governmental obligations from Local Governmental Units in the Commonwealth to finance or refinance costs of a Project or Projects; and

WHEREAS, Local Governmental Units are authorized to contract with the Trust with respect to such financings or refinancings and to issue local governmental obligations (the

“Local Governmental Obligations”) to evidence their obligations to repay such loans or to provide for the purchase thereof by the Trust; and

WHEREAS, the Trust has heretofore issued one or more commitments to the Borrower to finance or refinance costs of the Project or Projects described in Schedule A to this Financing Agreement either (a) by a loan (a “Loan”) from the Trust to the Borrower or (b) through the purchase by the Trust (a “Bond Purchase Obligation”) of Local Governmental Obligations to be issued by the Borrower, as indicated above under “Financing Type,” in an aggregate amount equal to the Initial Obligation Amount set forth in Schedule C attached hereto; and

WHEREAS, to provide for such Loan or Bond Purchase Obligation, the Trust and the Borrower have duly authorized the execution and delivery of this Financing Agreement pursuant to the Enabling Act and the Applicable Authority and the Borrower has duly authorized the issuance and delivery to the Trust of its Local Governmental Obligations in an aggregate principal amount equal to the Initial Obligation Amount; and

WHEREAS, in accordance with the Enabling Act the Department has issued a Project Approval Certificate to the Trust approving each Project and the costs thereof to be financed or refinanced by the Trust and, in connection therewith, the Borrower and the Department are executing and delivering, simultaneously with the execution and delivery of this Financing Agreement, one or more Project Regulatory Agreements pertaining to the construction and operation of each Project.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows.

1. Terms of this Financing Agreement. The terms of the Loan or Bond Purchase Obligation represented by this Financing Agreement, including, but not limited to, the effective date of the applicable Terms and Conditions, the description of the Project(s), the Initial Obligation Amount, the interest rate, fees, payment terms, and other essential or important terms and information, are set forth in Schedule A and Schedule C attached hereto.

2. Additional Conditions. Additional conditions to the Loan or Bond Purchase Obligation represented by this Financing Agreement, including any additional security therefor, and any amendments or additions to the Terms and Conditions, are set forth in Schedule B attached hereto.


3. Payment Schedule. The schedule of debt service payments and other fees to be paid by the Borrower pursuant to the Loan or Bond Purchase Obligation represented by this Financing Agreement are set forth in Schedule C attached hereto, which Schedule C may be amended from time to time.

4. Terms and Conditions. The general terms and conditions for the Loan or Bond Purchase Obligation are set forth in the Terms and Conditions dated as of the date set forth on Schedule A attached hereto. Such Terms and Conditions are available on the Trust's website. The Borrower acknowledges and agrees that it is responsible for reviewing the Terms and Conditions and consulting with its legal counsel, as necessary, and maintaining a copy of the Terms and Conditions in its loan file.

5. Certification of Authorized Officer of the Borrower. The undersigned, an Authorized Officer of the Borrower, hereby acknowledges and certifies that such Authorized Officer has read and reviewed and consulted with the Borrower's legal counsel, as necessary, and agrees to the terms, conditions, representations, covenants, and undertakings set forth in this Financing Agreement, including all schedules attached hereto and the Terms and Conditions.

IN WITNESS WHEREOF, the Trust and the Borrower have caused this Financing Agreement to be executed by their duly Authorized Officers the day and year first above written.

MASSACHUSETTS CLEAN WATER TRUST

By  _____
Authorized Officer
Title: Executive Director

BORROWER

By _____
Authorized Officer
Title:

SCHEDULE A

- A. Terms and Conditions dated as of: **April, 2021**
- B. Project Approval Certificate(s) - Number and Date: **CW-21-16, 1/5/2022**
- C. SRF Identification Number: **CWSRF-6749**
- D. Applicable Authority: **Chapter 44 of the General Laws of the Commonwealth of Massachusetts**
- E. Authorized Officers:
- a) Of the Trust: The Chairman and Vice Chairman of the Trust (and each designee thereof pursuant to G.L. Ch.30 §6A) and the Executive Director and Treasurer of the Trust.
Craig Mayen, Treasurer
Town of Mashpee
 - b) Of the Borrower: **16 Great Neck Road North**
Mashpee, MA 02649
 - c) Of the Department: The Commissioner, the Deputy Commissioner and the Deputy Assistant Commissioner for Financial and Construction Management of the Department.
- F. Interest –
- Interest Rate*: **2.4%**
- Financial Equivalent Interest Rate: **2.0 %**
- G. Administrative Fee: Seventy-five thousandths of one percent (.075%) of the Loan Principal Obligation outstanding on the January 14 or July 14, as applicable, preceding each Loan Repayment Date, subject to proration for any period greater than or less than six (6) months.
- H. Closing Date: **No Later than October 6, 2025**
- I. Interim Loan Interest Rate (as applicable): **0 %**

*Estimated rate for extended term financing. The actual rate will be determined closer to Closing and will provide a subsidy generally equivalent to the subsidy represented by a two percent interest rate on a loan amortized over twenty years.

J. The Project(s): **Mashpee WRRF and Collection System Phase 1**

K. System: **Water Pollution Abatement Facility**

L. Addresses for Notices:

To the Trust: Massachusetts Clean Water Trust
 1 Center Plaza
 Suite 430
 Boston, MA 02108
 Attention: Executive Director

To the Borrower: **Craig Mayen, Treasurer**
 Town of Mashpee
 16 Great Neck Road North
 Mashpee, MA 02649

To the Department: Department of Environmental Protection
 One Winter Street
 6th Floor
 Boston, MA 02108
 Attention: Commissioner

SCHEDULE B

Additional Covenants and Conditions

(Principal Forgiveness - Cape Cod and Islands Water Protection Fund and Disadvantaged Communities/Renewable Energy Projects)

In addition to the covenants and conditions and the obligations of the Borrower contained elsewhere in the Financing Agreement, the following covenants and conditions shall pertain to the Loan and the Local Governmental Obligations:

1. The Cape Cod and Islands Water Protection Fund Management Board (the "Management Board"), has approved an additional subsidy with respect to the Loan financing the Project from amounts on deposit in the Cape Cod and Islands Water Protection Fund (the "Fund") established by MGL c.29C, §19. The Management Board approved the maximum amount of such additional subsidy, which subsidy is expected to be applied by the Trust as principal forgiveness in four annual installments. ***Each such installment is subject to approval by the Management Board and to the availability of sufficient funds being on deposit in the Fund at the time of application. In the event that principal is not forgiven as expected, as a result of insufficient funds or otherwise, the portion not forgiven will be subject to permanent financing and repayment.***

2. In addition, the Trust has determined that the Borrower is a Disadvantaged Community eligible to receive funds made available for additional subsidy in the form of principal forgiveness, to finance Project Costs in an amount equal to the Loan's pro rata share of funds to be made available for Disadvantaged Communities and/or Renewal Energy projects

3. Following receipt by the Trust of the Borrower's Interim Loan Note in a principal amount equal to the Initial Obligation Amount (i.e. the maximum principal amount of the Loan), the Trust will make disbursements from time to time, in accordance with Section 10(c) of the Terms and Conditions, to the Borrower to pay Costs of the Project, subject to compliance by the Borrower with the provisions of the Financing Agreement.

4. Subject to the availability of funds, installments of principal forgiveness with respect to the Project will be applied to the Interim Loan following completion of the Project in a manner that complies with all conditions herein, in the Financing Agreement and in the Project Regulatory Agreement, as evidenced by the Department's issuance of a Project Completion Certificate applicable to the Project.

(a) Each installment of principal forgiveness applied prior to the permanent financing of the Loan shall be applied to the Interim Loan through an amendment to the Interim Loan Note to reduce its principal amount by the amount of such installment; thereafter the reduced Interim Loan Note shall remain outstanding until permanent financing (subject to further reductions by additional installments of principal forgiveness, if any).

(b) At the time of permanent financing, the amount to be permanently financed shall equal the then-outstanding amount of the Interim Loan Note less the amount (the "Remaining Expected Subsidy"), if any, of principal forgiveness (in the case of the subsidy from the Fund, in

amounts approved by the Management Board) that (i) has not yet been applied and (ii) is expected to be applied in the future. The Interim Loan Note shall be amended in connection with such permanent financing to equal the Remaining Expected Subsidy. The reduced Interim Loan Note shall remain outstanding until principal is forgiven; provided that if any expected installment of the Remaining Expected Subsidy shall be reduced or eliminated (in the case of subsidy from the Fund, as a result of a lack of sufficient funds on deposit in the Fund at the applicable time), then the allocable portion of the Interim Loan Note may be permanently financed and Payments thereon shall be payable on the Payment Dates and in an amount equal to such reduced or eliminated installment set forth in Schedule C, as the same may be subsequently amended, as provided herein and in the Agreement.

5. Notwithstanding the foregoing, the Borrower acknowledges that if the Department fails to issue the applicable Project Completion Certificate because of the Borrower's failure to comply with the conditions herein, in the Financing Agreement and in the Project Regulatory Agreement, then the Loan shall not receive principal forgiveness on the amount borrowed and Payments thereon shall be payable on the Payment Dates and in a maximum principal amount equal to the Initial Obligation Amount set forth in Schedule C, as the same may be subsequently amended, as provided herein and in the Agreement.

6. The Borrower further acknowledges that the Department, in the exercise of its audit procedures under the Project Regulatory Agreement, may determine that certain Project Costs paid from amounts deposited in a Project Account are ineligible to be financed with the Loan as provided herein. In such event, on and after the date of such determination by the Department, a portion of the Initial Obligation Amount (determined on a Pro-Rata Basis as hereinafter defined) equal to the amount of such ineligible Project Costs shall bear interest at the Interest Rate or such other rate determined in accordance with Section 4(c) of the Terms and Conditions. As used in this Paragraph 5, the term "Pro-Rata Basis" means the portion of each Payment allocable to the principal amount of the Loan payable hereunder subsequent to the date of a determination by the Department as described in this Paragraph 5 as is equal, as nearly as practicable, to the ratio by which the amount of ineligible Project Costs paid from the applicable Project Account bears to the Initial Obligation Amount. Upon any such occurrence the Trust shall recalculate the amount to be applied as principal forgiveness on the Loan, shall certify such amounts to the Borrower and shall amend Schedule C attached hereto to reflect the Payments thereafter payable hereunder, and shall surrender the Local Governmental Obligations to the Borrower in exchange for amended or substitute Local Governmental Obligations reflecting such change in Payments.

7. Notwithstanding anything in the Agreement to the contrary, this Schedule B may be amended by the Trust upon notice to the Borrower to the extent necessary to comply with the provisions of the Federal Act or the Enabling Act (including, without limitation, Section 19 and 20 thereof), provided that, except to the extent otherwise expressly provided in the Agreement or this Schedule B, no such amendment shall be made which materially adversely affects the rights or obligations of the Borrower under the Agreement without the prior written consent of the Borrower.

Draft Schedule C

Prepared by MCWT

Oct, 5 2022 - 11:52 AM

Massachusetts Clean Water Trust Preliminary Structuring Analysis Town of Mashpee CWP-21-16-A

Initial Obligation Amount	6,502,700.00	Loan Origination Fee (\$5.5/1000)	35,764.85
Loan Forgiveness*		Loan Term (in years)	30
Cape Cod Fund Subsidy*		Loan Rate	2.40%
Net Loan Obligation	6,502,700.00	Closing Date	11/15/2023
		First Interest	1/15/2024
		First Principal	7/15/2024

Date	Principal	Interest	Total Debt Service	Admin Fee (0.15%)	Loan Origination Fee	Total Payments	Total Annual Payments
11/15/2023							
1/15/2024		26,010.80	26,010.80	4,877.03	35,764.85	66,652.68	66,652.68
7/15/2024	216,757.00	78,032.40	294,789.40	4,877.03		299,666.43	
1/15/2025		75,431.32	75,431.32	4,714.46		80,145.77	379,812.20
7/15/2025	216,757.00	75,431.32	292,188.32	4,714.46		296,902.77	
1/15/2026		72,830.23	72,830.23	4,551.89		77,382.12	374,284.89
7/15/2026	216,757.00	72,830.23	289,587.23	4,551.89		294,139.12	
1/15/2027		70,229.15	70,229.15	4,389.32		74,618.47	368,757.59
7/15/2027	216,757.00	70,229.15	286,986.15	4,389.32		291,375.47	
1/15/2028		67,628.06	67,628.06	4,226.75		71,854.82	363,230.29
7/15/2028	216,757.00	67,628.06	284,385.06	4,226.75		288,611.82	
1/15/2029		65,026.98	65,026.98	4,064.19		69,091.17	357,702.98
7/15/2029	216,757.00	65,026.98	281,783.98	4,064.19		285,848.17	
1/15/2030		62,425.90	62,425.90	3,901.62		66,327.51	352,175.68
7/15/2030	216,757.00	62,425.90	279,182.90	3,901.62		283,084.51	
1/15/2031		59,824.81	59,824.81	3,739.05		63,563.86	346,648.38
7/15/2031	216,757.00	59,824.81	276,581.81	3,739.05		280,320.86	
1/15/2032		57,223.73	57,223.73	3,576.48		60,800.21	341,121.07
7/15/2032	216,757.00	57,223.73	273,980.73	3,576.48		277,557.21	
1/15/2033		54,622.64	54,622.64	3,413.92		58,036.56	335,593.77
7/15/2033	216,757.00	54,622.64	271,379.64	3,413.92		274,793.56	
1/15/2034		52,021.56	52,021.56	3,251.35		55,272.91	330,066.47
7/15/2034	216,757.00	52,021.56	268,778.56	3,251.35		272,029.91	
1/15/2035		49,420.48	49,420.48	3,088.78		52,509.26	324,539.16
7/15/2035	216,757.00	49,420.48	266,177.48	3,088.78		269,266.26	
1/15/2036		46,819.39	46,819.39	2,926.21		49,745.60	319,011.86
7/15/2036	216,757.00	46,819.39	263,576.39	2,926.21		266,502.60	
1/15/2037		44,218.31	44,218.31	2,763.64		46,981.95	313,484.56
7/15/2037	216,757.00	44,218.31	260,975.31	2,763.64		263,738.95	
1/15/2038		41,617.22	41,617.22	2,601.08		44,218.30	307,957.25
7/15/2038	216,757.00	41,617.22	258,374.22	2,601.08		260,975.30	
1/15/2039		39,016.14	39,016.14	2,438.51		41,454.65	302,429.95
7/15/2039	216,757.00	39,016.14	255,773.14	2,438.51		258,211.65	
1/15/2040		36,415.06	36,415.06	2,275.94		38,691.00	296,902.65
7/15/2040	216,757.00	36,415.06	253,172.06	2,275.94		255,448.00	
1/15/2041		33,813.97	33,813.97	2,113.37		35,927.35	291,375.34
7/15/2041	216,757.00	33,813.97	250,570.97	2,113.37		252,684.35	
1/15/2042		31,212.89	31,212.89	1,950.81		33,163.69	285,848.04
7/15/2042	216,757.00	31,212.89	247,969.89	1,950.81		249,920.69	
1/15/2043		28,611.80	28,611.80	1,788.24		30,400.04	280,320.74
7/15/2043	216,757.00	28,611.80	245,368.80	1,788.24		247,157.04	
1/15/2044		26,010.72	26,010.72	1,625.67		27,636.39	274,793.43
7/15/2044	216,757.00	26,010.72	242,767.72	1,625.67		244,393.39	
1/15/2045		23,409.64	23,409.64	1,463.10		24,872.74	269,266.13
7/15/2045	216,757.00	23,409.64	240,166.64	1,463.10		241,629.74	
1/15/2046		20,808.55	20,808.55	1,300.53		22,109.09	263,738.82
7/15/2046	216,757.00	20,808.55	237,565.55	1,300.53		238,866.09	
1/15/2047		18,207.47	18,207.47	1,137.97		19,345.43	258,211.52
7/15/2047	216,757.00	18,207.47	234,964.47	1,137.97		236,102.43	
1/15/2048		15,606.38	15,606.38	975.40		16,581.78	252,684.22
7/15/2048	216,757.00	15,606.38	232,363.38	975.40		233,338.78	
1/15/2049		13,005.30	13,005.30	812.83		13,818.13	247,156.91
7/15/2049	216,757.00	13,005.30	229,762.30	812.83		230,575.13	
1/15/2050		10,404.22	10,404.22	650.26		11,054.48	241,629.61
7/15/2050	216,757.00	10,404.22	227,161.22	650.26		227,811.48	
1/15/2051		7,803.13	7,803.13	487.70		8,290.83	236,102.31
7/15/2051	216,757.00	7,803.13	224,560.13	487.70		225,047.83	
1/15/2052		5,202.05	5,202.05	325.13		5,527.18	230,575.00
7/15/2052	216,757.00	5,202.05	221,959.05	325.13		222,284.18	
1/15/2053		2,600.96	2,600.96	162.56		2,763.52	225,047.70
7/15/2053	216,747.00	2,600.96	219,347.96	162.56		219,510.52	
	6,502,700.00	2,366,979.32	8,869,679.32	151,187.56	35,764.85	9,056,631.73	9,056,631.73

Notes:

*This project qualifies for loan forgiveness in accordance with Schedule B to the Financing Agreement.

PRA

DESCRIPTION TRANSMITTAL FORM

MASHPEE

Local Government Unit

Project Regulatory Certificate CWP-21-16

NEW - 10/01/2022

Project: ***Mashpee WRRF and Collection System - Phase 1***

Project No. ***CWSRF-6749***

Project Description:

The Town of Mashpee proposes the construction of the new Phase 1 Mashpee Water Resource Recovery Facility (WRRF) and collection system to address nitrogen impacts to the Mashpee River watershed. The facility will provide advanced wastewater treatment including nitrogen removal through a membrane bioreactor process. The Phase 1 WRRF is designed for an average flow of 0.12 mgd and maximum month flow of 0.31 mgd. The facility has been designed to be expanded through future phases of the Town's multi-phase Recommended Plan in order to meet the TMDLs for the Town's two nitrogen impaired watersheds.

Contract/Transmittal Notes:

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE REVOLVING FUND PROGRAM
PROJECT REGULATORY AGREEMENT**

This PROJECT REGULATORY AGREEMENT, (the "PRA"), dated October 1, 2022 is by and between the Department of Environmental Protection (the "Department"), and the Town of Mashpee (together with its successors and assigns, the "Borrower"):

WITNESSETH:

WHEREAS, M.G.L. c. 29C, as amended, Chapter 275 of the Acts of 1989, as amended, and Chapter 78 of the Acts of 1998, as amended (collectively, the "Act") authorizes the Department and the Massachusetts Clean Water Trust (the "Trust") to assist Local Government Units and other Eligible Applicants in The Commonwealth of Massachusetts (the "Commonwealth") to implement State Revolving Projects; and

WHEREAS, the Applicant has requested that the Trust finance or refinance costs of the State Revolving Fund Project described in this Agreement (the "Project") by one or more loans and/or grants (collectively, the "Financing") from the Trust to the Applicant, and to evidence the terms of each Financing, the Applicant has executed and delivered to the Trust one or more Financing Agreements and/or Grant Agreements (collectively, the "Financing Agreement"), on the same date as this PRA; and

WHEREAS, the Financing, the Project and the Costs thereof to be financed or refinanced by the Financing have been approved by the Department in accordance with the Act and the Regulations; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this PRA, the Department and the Applicant agree as follows:

Section 1. Definitions

1.1 Unless the context otherwise requires, all capitalized, undefined terms used in this PRA shall have the same meanings given such terms in the Recitals above, in the Act, in the Financing Agreement, or in the applicable Regulations. In addition, the following words and phrases shall have the following meanings.

"Authorized Officer of the Borrower" means the officer or officers of the Borrower identified as such in Exhibit A to this PRA.

"Default" means any of the events or circumstances specified in Section 5 of this PRA.

"Project" means the State Revolving Fund Project of the Borrower described in Exhibit A to this PRA.

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

“Project Approval Certificate” means the certificate issued by the Department to the Trust approving the Project and certifying those costs of the Project determined by the Department to be eligible for assistance from a loan and those costs eligible for financial assistance pursuant to the Act.

“Project Cost(s)” means any Project costs approved by the Department pursuant to this PRA for payment or reimbursement from the proceeds of the Loan.

“Regulations” means, (i) with respect to a Clean Water Project, the Department’s Clean Water State Revolving Fund program regulations at 310 CMR 44.00 et seq. (the “Clean Water Regulations”), (ii) with respect to a Drinking Water Project, the Department’s Drinking Water State Revolving Fund program regulations at 310 CMR 45.00 et seq. and (iii) with respect to a Title 5 Project, collectively, the Clean Water Regulations and Title 5.

“Title 5” means 310 CMR 15.00 et seq.

“Title 5 Project” means a Project for which the Borrower has developed, or been requested by its members and/or service recipients to administer, a community septic management program, constituting a State Revolving Fund Project within the meaning of the Act, to assist eligible homeowners to upgrade failing septic systems and otherwise to comply with the requirements of Title 5 through underlying betterment agreements with such homeowners.

Section 2. The Project and the Project Funding

2.1 The Borrower shall implement the Project in accordance with the final plans and specifications and/or scope of services approved by the Department, and shall obtain the Department’s prior written approval of any changes to the approved plans and specifications and/or scope of services for the Project. If the Project is a Title 5 Project, the Borrower shall comply with the Community Septic Management Plan manual.

2.2 The Borrower agrees with the Department’s determination of eligible and ineligible Project Costs as set forth in Exhibit D attached hereto, and shall seek payment or reimbursement of Project Costs in accordance with such determination.

2.3 The Project shall be financed in the amount(s) and as applicable at the interest rate(s) set forth in Section II of Exhibit A.

PRA No. : CWP-21-16**MASHPEE - Mashpee WRRF and Collection System - Phase 1****Section 3. Disbursement of Loan Proceeds**

3.1 **DISBURSEMENT SCHEDULE.** The Department and the Borrower agree that the disbursement schedule for Loan proceeds shall be as set forth in Exhibit B. Such disbursement schedule may be modified at the request of the Borrower, with the written approval of the Department and the Trust. Upon any such request, the Borrower shall provide the Department and Trust with an updated disbursement schedule.

3.2 **REQUISITIONS.** All requisitions must be emailed to the following email address: dmsdep.general@mass.gov

(a) All requisitions for payment or reimbursement of Project Costs shall be submitted by the Borrower in accordance with a form approved by the Department. Up to one (1) requisition may be submitted each month. Each requisition must be approved by the Department as evidenced by the signature of a Department official.

(b) Each requisition shall be signed by an Authorized Officer of the Borrower, shall set forth in reasonable detail the amount of payment or reimbursement due and the nature of the materials or property or services received, and shall provide the name and address of the person to whom payment or reimbursement is due. Each requisition shall be accompanied by the invoices for each of the amounts requisitioned. In addition, each requisition for a Title 5 Project shall be accompanied by a listing of the properties being provided funds and the estimated cost for each septic system repair or replacement. Each requisition shall also include a written certification signed by an Authorized Officer of the Borrower stating that:

(i) such payment or reimbursement is for Project Costs and that the obligations specified therein have not been the basis for a prior requisition which has been paid;

(ii) no Default as defined hereunder, and no Event of Default as defined in the Financing Agreement, has occurred and is continuing and no event or condition exists which, after notice or lapse of time or both, would become a Default hereunder or Event of Default under the Financing Agreement;

(iii) the payment or reimbursement requested by the requisition is due for work actually performed or materials or property actually supplied prior to the date of the requisition, less retainage; and,

(iv) with respect to a Title 5 Project, the payment or reimbursement requested by the requisition is for Project Costs authorized, or to be authorized, under an underlying betterment agreement between the Borrower and applicable homeowner, and that no advance funds shall be disbursed to such homeowner until such betterment agreement has been executed between the Borrower and such homeowner.

The Borrower shall submit documentation in support of a requisition in accordance with the Department's requisition form, and as otherwise requested by the Department. Within five (5) working days of its receipt of the complete documentation required in Section 3.2(b), the Department shall

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

forward the requisition, or such portion thereof as supported by the complete documentation, to the Trust for payment.

(c) The Department shall conduct an audit of the amounts requisitioned since the previous requisition or, if no audit has yet been conducted, since the date of the Loan. In connection with each such audit, the Borrower shall provide to the Department such supporting documentation and other relevant information as the Department may request in order to confirm the application of Loan proceeds and the classification of Project Costs. If the Department determines that Loan proceeds were not applied as indicated on any requisition or have been classified incorrectly, the Department shall reclassify such Project Costs and provide written notification to the Borrower and the Trust of such reclassification. Whenever practicable, the Department agrees to provide the Borrower with prior notice of a proposed reclassification of Project Costs and a reasonable opportunity to provide additional information and documentation pertaining to the Project Costs under review.

3.3 PROJECT COMPLETION.

(a) **PROJECT COMPLETION CERTIFICATE.** Completion of the Project shall be evidenced by the filing with the Department of a Project Completion Certificate signed by an Authorized Officer of the Borrower stating that the Project has been completed and performed in accordance with the plans and specifications approved by the Department and the requirements of this PRA and the Financing Agreement. In addition, the Department shall conduct a final inspection of the Project after the Department receives the Project Completion Certificate. The Department's final inspection constitutes the final cut-off-date for incurring allowable Project costs, except for those additional costs identified during the final inspection and those costs associated with allowable services performed during the one-year certification period referenced in Section 4.16. For Planning, and Asset Management Planning, a final report shall be sent with the Project Completion Certificate.

(b) **CLOSE-OUT AUDIT.** Upon filing with the Department of the Project Completion Certificate, the Department shall conduct a close-out audit of the Project, including a review of documentation submitted to the Department and an inspection of the Project. Upon satisfactory completion of such audit, the Department shall notify the Trust by filing a copy of the Project Completion Certificate with the Trust.

Section 4. Covenants of the Borrower.

4.1 The Borrower shall obtain the Department's prior written approval to: (a) advertise any Invitation to Bid or Request for Proposals to procure contracts for the Project; and (b) award any contracts for the Project.

4.2 The Borrower shall comply with the (a) the Civil Rights Act of 1964, 42 USC s.2000(1) et seq., as amended, Section 13 of the Federal Water Pollution Control Act (FWPCA) of 1972; Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, (b) the Equal Employment Opportunity requirements (Executive Order 11246), and all Executive Orders and regulations promulgated thereunder, and (c) the Affirmative Action and Minority/Women Business Enterprise

PRA No. : CWP-21-16**MASHPEE - Mashpee WRRF and Collection System - Phase 1**

('M/WBE') requirements in the Regulations and the federal Disadvantaged Business (DBE) rule. The Applicant shall ensure that any prime contracts or subcontracts for services, construction, goods or equipment for the Project contain the DM/DWBE utilization goals of 4.2% D/MBE and 4.5% D/WBE.

4.3 The Borrower shall at all times provide and maintain competent and adequate resident supervision and inspection of the Project under the direction of a licensed professional engineer. Such resident site engineer shall ensure that the implementation of the Project conforms with the approved plans and specifications, and shall certify to the Borrower and the Department at the completion of the Project that the implementation of the Project is in accordance with the Department-approved, final plans and specifications for the Project. The Borrower also agrees to submit an executed copy of the contract for resident site engineering services to the Department within sixty (60) days of the date of the contract award. The Borrower understands that no payments for the Project will be processed until such contract has been submitted to the Department.

4.4 All change orders or extra work orders not requiring the Department's prior approval shall be submitted to the Department within one month of the time they are executed. In addition, the Borrower shall notify the Department as soon as possible of any pending change orders or extra work orders in excess of \$100,000.

4.5 The Borrower shall be solely responsible for the implementation and completion of the Project in accordance with the Department-approved plans and specifications and Department permit(s) issued for the Project, and for the economical and efficient operation and administration of the Project. The Borrower's responsibilities include retaining sufficient operating personnel and conducting operational tests and other needed evaluations to ensure the economical and efficient operation and administration of the Project.

4.6 The Borrower shall establish accounts for the Project which shall be maintained in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets.

4.7 The Borrower agrees that the Department's issuance of a Project Approval Certificate for this Project or entry into this PRA does not constitute the Department's sanction or approval of any changes or deviation from any applicable state regulatory or permit standards, criteria, or conditions, or from the terms or schedules of state enforcement actions or orders applicable to the Project. The Borrower shall obtain, and comply with, all state permits and approvals required for the Project, and is solely responsible for the administration and successful completion of the Project.

4.8 The Borrower agrees to provide any Project information and documentation requested by the Department. The Borrower shall maintain all Project records for seven (7) years after the issuance of final payment or until any litigation, appeal, claim, or audit that is begun before the end of the seven (7) year period is completed and resolved, whichever is longer. The Department, the Trust, the Governor (or designee thereof), the Secretary of Administration and Finance (or designee thereof), and the State Auditor (or designee thereof), also shall have the right, at reasonable times and upon reasonable notice, to examine the books, records and other compilations of data that pertain to the performance of the provisions and requirements of this PRA.

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

4.9 Except with respect to Title 5 Projects, the Borrower shall obtain fee simple title or such other property interest in the Project site, including any easements and rights-of-way, necessary to ensure the undisturbed use and possession of the Project site for the purposes of implementation and operation of the Project for its estimated life.

4.10 Any proposed change in Project-related contracts which substantially modifies the Project initially proposed shall be submitted to the Department for prior approval.

4.11 The Borrower's implementation of the Project, including the procurement of related contracts, shall comply with all applicable requirements of federal, state and local laws, ordinances, by-laws, rules and regulations.

4.12 Department representatives shall have access to the Project site whenever Project work is in preparation or progress, and shall be provided proper facilities for such Project site access and inspection. All of the Borrower's construction and other relevant contracts shall contain the above provision.

4.13 The Borrower shall promptly notify the Department in writing whenever the Borrower has good reason to believe that the Project costs which it will incur will exceed or be substantially less than those previously approved in the Loan. The Department shall not be obligated to certify, nor the Trust to pay, costs incurred in excess of the Loan amount unless the Department has approved the increase through an amendment to the Project Approval Certificate and the Loan has been amended to include the increased amount. Any such increase shall be subject to the availability of funds.

4.14 The Department may suspend or terminate payments to the Borrower under the Financing Agreement when it determines that there is probable cause to believe that the Financing Agreement was obtained on the basis of fraud, deceit, or illegality or that the Borrower has failed to comply with the Regulations or the terms of this PRA or the Financing Agreement.

4.15 The Borrower shall notify the Department in writing when the project is complete. In addition, prior to receiving final payment for the Project, the Borrower shall file a Project Completion Certificate as described in Section 3.3 of this PRA.

4.16 The Borrower shall notify the Department of the actual date of the initiation of operation of the Project. One (1) year after the date of the initiation of operation of the Project, the Borrower shall certify to the Department whether the Project meets its performance standards. If the Borrower certifies, or the Department determines, that the Project does not meet its performance standards, the Borrower shall take corrective action to achieve the Project performance standards as directed by the Department.

4.17 The Borrower shall furnish information and otherwise cooperate with the Department and with the United States Environmental Protection Agency in any environmental review of the Project pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. s.4321 et seq. ("NEPA"), the Massachusetts Environmental Policy Act, M.G.L. c. 30, s.61 et seq. ("MEPA"), or the Regulations. The Borrower shall implement all mitigation measures required in connection with the environmental review processes under NEPA, MEPA, and the Regulations.

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

4.18 With respect to Projects for construction, excluding Title 5 Projects, the Borrower shall require each contractor and subcontractor to submit a certification with respect to the diesel retrofit program to the Department and the Borrower prior to commencing work on the Project. The Borrower shall not allow any contractor or subcontractor to commence work at the Project site prior to submitting such certification.

4.19 The Borrower shall comply with any special conditions set forth in Exhibit C.

Section 5. Default: Remedies for Default.

5.1 **DEFAULT.** The Borrower shall have committed a Default under this PRA if the Borrower shall fail to perform and observe any covenant, agreement or condition on its part provided in this PRA and such failure shall continue for a period of thirty (30) days after written notice thereof shall have been given to the Borrower by the Department; provided if such failure cannot be remedied within such thirty (30) day period, it shall not constitute a Default under this PRA if corrective action satisfactory to the Department is instituted by the Borrower within such period and diligently pursued until the failure is remedied.

5.2 **REMEDIES FOR DEFAULT.** If a Default shall occur, and be continuing hereunder, the Department may, in its sole discretion, take one or more of the following measures to the extent necessary to remedy the Default:

(a) The Department may postpone approval of requisitions submitted to the Department pursuant to Section 3 or direct the Trust to cancel all or any part of the Loan not yet disbursed to the Borrower; or

(b) The Department may rescind approval of any requisition previously approved by the Department but not yet acted upon by the Trust; or

(c) The Department may direct the Trust to declare an Event of Default under the Financing Agreement.

Section 6. Miscellaneous.

6.1 **NOTICES.** Except as otherwise stated in Section 3.2 with respect to requisitions, all notices, consents, certificates and other communications hereunder shall be sufficiently given when delivered by hand or courier or mailed by registered or certified mail, postage prepaid, addressed as set forth in Exhibit A or to such further or different address provided by any of the parties.

6.2 **ASSIGNMENTS.** The Borrower shall not assign this PRA, or any of the obligations hereunder, without the prior written consent of the Department and the Trust.

6.3 **SEVERABILITY.** In the event that any provision of this PRA shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6.4 **AMENDMENT.** This PRA may not be amended, modified or changed in any respect

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

except in writing and signed by the parties hereto. No such amendment, modification or change to this PRA (other than an amendment to Sections 2 and 4 and Exhibits A, C and D of such PRA) which, in the reasonable opinion of the Trust (expressed in a certificate of an Authorized Officer (as defined in the Financing Agreement) of the Trust delivered to the Department and the Borrower prior to the execution and delivery of such amendment, modification or change), would materially and adversely affect the rights and obligations of the Trust under the Financing Agreement shall be effective without the prior written consent of the Trust, which consent shall not be unreasonably withheld. A copy of any proposed amendment, modification or change to the applicable sections of this PRA shall be delivered to the Trust by the Department not less than ten (10) days prior to the date of execution and delivery thereof.

6.5 EXECUTION IN COUNTERPARTS. This PRA may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Electronic signatures shall be deemed original signatures for purposes of this Regulatory Agreement and all matters related thereto, with such electronic signatures having the same legal effect as original signatures. The parties to this Regulatory Agreement agree that this Regulatory Agreement, any amendment hereto or any other document necessary for the consummation of the transaction contemplated by this Regulatory Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable law and as so accepted, executed or agreed, will be binding on all parties to this Regulatory Agreement.


6.6 APPLICABLE LAW. This PRA shall be governed by, and construed in accordance with, the laws of the Commonwealth.

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

IN WITNESS WHEREOF, the Department and the Borrower have caused this Project Regulatory Agreement to be executed by their duly Authorized Officers the day and year first above written.

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION:

By  _____
For Maria E. Pinaud, Division
Director Division of Municipal
Services

BORROWER:

By _____
Authorized Officer

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit A

I. General

1. Authorized Officer: Rodney Collins, Town Manager
2. Borrower: Town of Mashpee
3. Address: Town Hall 16 Great Neck Road North
Mashpee, MA 02649
4. Project Manager: Chris J. Gallagher
5. DEP Contact and Address: Maria E. Pinaud
Division Director
1 Winter Street, 5th Floor
Boston, MA 02108
6. Project Title and Description: Mashpee WRRF and Collection System - Phase 1

The Town of Mashpee proposes the construction of the new Phase 1 Mashpee Water Resource Recovery Facility (WRRF) and collection system to address nitrogen impacts to the Mashpee River watershed. The facility will provide advanced wastewater treatment including nitrogen removal through a membrane bioreactor process. The Phase 1 WRRF is designed for an average flow of 0.12 mgd and maximum month flow of 0.31 mgd. The facility has been designed to be expanded through future phases of the Town's multi-phase Recommended Plan in order to meet the TMDLs for the Town's two nitrogen impaired watersheds.

II. Approved Funding:

1. Eligible Costs: \$47,455,300.00
2. Financial Assistance: 2% Interest

PRA No. : CWP-21-16**MASHPEE - Mashpee WRRF and Collection System - Phase 1****Exhibit B****LOAN DISBURSEMENT SCHEDULE**

MONTH/YEAR	ESTIMATED DRAW DOWN
October 2022	\$1,084,000.00
November 2022	\$790,000.00
December 2022	\$758,900.00
January 2023	\$850,000.00
February 2023	\$873,000.00
March 2023	\$1,455,000.00
April 2023	\$1,631,000.00
May 2023	\$1,793,500.00
June 2023	\$2,013,000.00
July 2023	\$2,656,500.00
August 2023	\$2,404,000.00
September 2023	\$2,939,000.00
October 2023	\$3,470,000.00
November 2023	\$2,739,000.00
December 2023	\$1,900,000.00
January 2024	\$1,751,000.00
February 2024	\$1,756,000.00
March 2024	\$1,967,000.00
April 2024	\$2,828,000.00
May 2024	\$3,663,000.00
June 2024	\$2,702,000.00
July 2024	\$1,858,000.00
August 2024	\$1,132,258.00
December 2024	\$2,441,142.00
	\$47,455,300.00

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit C

SPECIAL CONDITIONS

DAVIS BACON WAGE RATE REQUIREMENTS

All Projects for construction, excluding Title 5 Projects, having a financing agreement executed on or after October 30, 2009, are required to comply with the federal Davis Bacon Wage Rate Requirements.

FOR CLEAN WATER CONSTRUCTION PROJECTS:

The Borrower agrees to comply with the requirements of Section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) (Davis Bacon requirements) in all procurement contracts, and agrees to include this term and condition in all subcontracts and lower tiered transactions. All contracts and subcontracts for any construction project shall insert the full the Davis Bacon contract clauses found in the Department's Plan and Specification Checklist.

FOR DRINKING WATER CONSTRUCTION PROJECTS:

The Borrower agrees to comply with the requirements of Section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) (Davis Bacon Requirement) in all procurement contracts, and agrees to include this term and condition in all subcontracts and lower tiered transactions. All contracts and subcontracts for any construction project shall insert in full the Davis Bacon contract clauses found in the Department's Plan and Specification Checklist.

AMERICAN IRON AND STEEL

For all projects for the construction, alteration, maintenance or repair of a public water system or treatment works, the Borrower agrees that all of the iron and steel products used in the Project are to be produced in the United States (American Iron and Steel Requirement) unless (i) the Borrower has requested and obtained a waiver from the United States Environmental Protection Agency (EPA) pertaining to the Project or (ii) the Department has otherwise advised the Borrower that the American Iron and Steel Requirement is not applicable to the Project. The Borrower agrees to include the American Iron and Steel provisions in any construction contracts and maintain Project records demonstrating compliance with the American Iron and Steel Requirement in accordance with the March 14, 2014 EPA guidance on implementation of the American Iron and Steel Requirement.

COST AND EFFECTIVENESS

The Borrower agrees to comply with the Cost and Effectiveness requirements of Section 603(b)(13) of the Federal Water Pollution Control Act.

FISCAL SUSTAINABILITY PLAN (not applicable to Section 319 projects)

The Borrower agrees to prepare and implement a fiscal sustainability plan (FSP) in accordance with

PRA No. : CWP-21-16 MASHPEE - Mashpee WRRF and Collection System - Phase 1

603(d)(1)(E) of the Federal Water Pollution Control Act.

PROJECT SIGNAGE

The Borrower agrees to comply with the "Guidelines for Enhanced Public Awareness of SRF Assistance Agreements" issued by the United States Environmental Protection Agency on June 3, 2015 regarding the use of signs or other methods of enhancing awareness of the SRF project.

PRA No. : CWP-21-16

MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit D**ELIGIBILITY DETERMINATION**

<u>ITEM</u>	<u>LOAN ELIGIBLE COST</u>	<u>ELIGIBLE COST</u>	<u>INELIGIBLE COST</u>
<u>Construction</u>			
WMNP-2021-01 Water Resources Recovery Facility	\$27,905,000.00	\$27,905,000.00	\$0.00
WMNP-2021-03 Collection System - South	\$9,789,331.00	\$9,789,331.00	\$17,400.00
WNMP-2021-02 Collection System - North	\$5,001,598.00	\$5,001,598.00	\$22,600.00
<u>Construction Contingency</u>			
Contingency Contract No.1 as bid	\$1,395,250.00	\$1,395,250.00	\$0.00
Contingency Contract No.2 as-bid	\$250,080.00	\$250,080.00	\$1,130.00
Contingency Contract No.3 as-bid	\$489,467.00	\$489,467.00	\$870.00
<u>Construction Services</u>			
EPG Construction Services Contract 2 and 3	\$0.00	\$2,024,700.00	\$0.00
GHD Construction Services Contract 1 and 3	\$0.00	\$3,716,000.00	\$0.00
Owner's Project Manager W&S	\$0.00	\$762,000.00	\$0.00
<u>Other</u>			
Grinder Pump	\$100,000.00	\$100,000.00	\$0.00
Police Details	\$1,700,000.00	\$1,700,000.00	\$0.00
Utility Coordination	\$824,574.00	\$824,574.00	\$0.00
Total:	\$47,455,300.00	\$53,958,000.00	\$42,000.00

PRA

DESCRIPTION TRANSMITTAL FORM

MASHPEE

Local Government Unit

Project Regulatory Certificate CWP-21-16A

NEW - 10/01/2022

Project: ***Mashpee WRRF and Collection System - Phase 1***

Project No. ***CWSRF-6749***

Project Description:

The Town of Mashpee proposes the construction of the new Phase 1 Mashpee Water Resource Recovery Facility (WRRF) and collection system to address nitrogen impacts to the Mashpee River watershed. The facility will provide advanced wastewater treatment including nitrogen removal through a membrane bioreactor process. The Phase 1 WRRF is designed for an average flow of 0.12 mgd and maximum month flow of 0.31 mgd. The facility has been designed to be expanded through future phases of the Town's multi-phase Recommended Plan in order to meet the TMDLs for the Town's two nitrogen impaired watersheds.

Contract/Transmittal Notes:

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
STATE REVOLVING FUND PROGRAM
PROJECT REGULATORY AGREEMENT**

This PROJECT REGULATORY AGREEMENT, (the "PRA"), dated October 1, 2022 is by and between the Department of Environmental Protection (the "Department"), and the Town of Mashpee (together with its successors and assigns, the "Borrower"):

WITNESSETH:

WHEREAS, M.G.L. c. 29C, as amended, Chapter 275 of the Acts of 1989, as amended, and Chapter 78 of the Acts of 1998, as amended (collectively, the "Act") authorizes the Department and the Massachusetts Clean Water Trust (the "Trust") to assist Local Government Units and other Eligible Applicants in The Commonwealth of Massachusetts (the "Commonwealth") to implement State Revolving Projects; and

WHEREAS, the Applicant has requested that the Trust finance or refinance costs of the State Revolving Fund Project described in this Agreement (the "Project") by one or more loans and/or grants (collectively, the "Financing") from the Trust to the Applicant, and to evidence the terms of each Financing, the Applicant has executed and delivered to the Trust one or more Financing Agreements and/or Grant Agreements (collectively, the "Financing Agreement"), on the same date as this PRA; and

WHEREAS, the Financing, the Project and the Costs thereof to be financed or refinanced by the Financing have been approved by the Department in accordance with the Act and the Regulations; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this PRA, the Department and the Applicant agree as follows:

Section 1. Definitions

1.1 Unless the context otherwise requires, all capitalized, undefined terms used in this PRA shall have the same meanings given such terms in the Recitals above, in the Act, in the Financing Agreement, or in the applicable Regulations. In addition, the following words and phrases shall have the following meanings.

"Authorized Officer of the Borrower" means the officer or officers of the Borrower identified as such in Exhibit A to this PRA.

"Default" means any of the events or circumstances specified in Section 5 of this PRA.

"Project" means the State Revolving Fund Project of the Borrower described in Exhibit A to this PRA.

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“Project Approval Certificate” means the certificate issued by the Department to the Trust approving the Project and certifying those costs of the Project determined by the Department to be eligible for assistance from a loan and those costs eligible for financial assistance pursuant to the Act.

“Project Cost(s)” means any Project costs approved by the Department pursuant to this PRA for payment or reimbursement from the proceeds of the Loan.

“Regulations” means, (i) with respect to a Clean Water Project, the Department’s Clean Water State Revolving Fund program regulations at 310 CMR 44.00 et seq. (the “Clean Water Regulations”), (ii) with respect to a Drinking Water Project, the Department’s Drinking Water State Revolving Fund program regulations at 310 CMR 45.00 et seq. and (iii) with respect to a Title 5 Project, collectively, the Clean Water Regulations and Title 5.

“Title 5” means 310 CMR 15.00 et seq.

“Title 5 Project” means a Project for which the Borrower has developed, or been requested by its members and/or service recipients to administer, a community septic management program, constituting a State Revolving Fund Project within the meaning of the Act, to assist eligible homeowners to upgrade failing septic systems and otherwise to comply with the requirements of Title 5 through underlying betterment agreements with such homeowners.

Section 2. The Project and the Project Funding

2.1 The Borrower shall implement the Project in accordance with the final plans and specifications and/or scope of services approved by the Department, and shall obtain the Department’s prior written approval of any changes to the approved plans and specifications and/or scope of services for the Project. If the Project is a Title 5 Project, the Borrower shall comply with the Community Septic Management Plan manual.

2.2 The Borrower agrees with the Department’s determination of eligible and ineligible Project Costs as set forth in Exhibit D attached hereto, and shall seek payment or reimbursement of Project Costs in accordance with such determination.

2.3 The Project shall be financed in the amount(s) and as applicable at the interest rate(s) set forth in Section II of Exhibit A.

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Section 3. Disbursement of Loan Proceeds

3.1 **DISBURSEMENT SCHEDULE.** The Department and the Borrower agree that the disbursement schedule for Loan proceeds shall be as set forth in Exhibit B. Such disbursement schedule may be modified at the request of the Borrower, with the written approval of the Department and the Trust. Upon any such request, the Borrower shall provide the Department and Trust with an updated disbursement schedule.

3.2 **REQUISITIONS.** All requisitions must be emailed to the following email address:
dmsdep.general@mass.gov

(a) All requisitions for payment or reimbursement of Project Costs shall be submitted by the Borrower in accordance with a form approved by the Department. Up to one (1) requisition may be submitted each month. Each requisition must be approved by the Department as evidenced by the signature of a Department official.

(b) Each requisition shall be signed by an Authorized Officer of the Borrower, shall set forth in reasonable detail the amount of payment or reimbursement due and the nature of the materials or property or services received, and shall provide the name and address of the person to whom payment or reimbursement is due. Each requisition shall be accompanied by the invoices for each of the amounts requisitioned. In addition, each requisition for a Title 5 Project shall be accompanied by a listing of the properties being provided funds and the estimated cost for each septic system repair or replacement. Each requisition shall also include a written certification signed by an Authorized Officer of the Borrower stating that:

(i) such payment or reimbursement is for Project Costs and that the obligations specified therein have not been the basis for a prior requisition which has been paid;

(ii) no Default as defined hereunder, and no Event of Default as defined in the Financing Agreement, has occurred and is continuing and no event or condition exists which, after notice or lapse of time or both, would become a Default hereunder or Event of Default under the Financing Agreement;

(iii) the payment or reimbursement requested by the requisition is due for work actually performed or materials or property actually supplied prior to the date of the requisition, less retainage; and,

(iv) with respect to a Title 5 Project, the payment or reimbursement requested by the requisition is for Project Costs authorized, or to be authorized, under an underlying betterment agreement between the Borrower and applicable homeowner, and that no advance funds shall be disbursed to such homeowner until such betterment agreement has been executed between the Borrower and such homeowner.

The Borrower shall submit documentation in support of a requisition in accordance with the Department's requisition form, and as otherwise requested by the Department. Within five (5) working days of its receipt of the complete documentation required in Section 3.2(b), the Department shall

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forward the requisition, or such portion thereof as supported by the complete documentation, to the Trust for payment.

(c) The Department shall conduct an audit of the amounts requisitioned since the previous requisition or, if no audit has yet been conducted, since the date of the Loan. In connection with each such audit, the Borrower shall provide to the Department such supporting documentation and other relevant information as the Department may request in order to confirm the application of Loan proceeds and the classification of Project Costs. If the Department determines that Loan proceeds were not applied as indicated on any requisition or have been classified incorrectly, the Department shall reclassify such Project Costs and provide written notification to the Borrower and the Trust of such reclassification. Whenever practicable, the Department agrees to provide the Borrower with prior notice of a proposed reclassification of Project Costs and a reasonable opportunity to provide additional information and documentation pertaining to the Project Costs under review.

3.3 PROJECT COMPLETION.

(a) **PROJECT COMPLETION CERTIFICATE.** Completion of the Project shall be evidenced by the filing with the Department of a Project Completion Certificate signed by an Authorized Officer of the Borrower stating that the Project has been completed and performed in accordance with the plans and specifications approved by the Department and the requirements of this PRA and the Financing Agreement. In addition, the Department shall conduct a final inspection of the Project after the Department receives the Project Completion Certificate. The Department's final inspection constitutes the final cut-off-date for incurring allowable Project costs, except for those additional costs identified during the final inspection and those costs associated with allowable services performed during the one-year certification period referenced in Section 4.16. For Planning, and Asset Management Planning, a final report shall be sent with the Project Completion Certificate.

(b) **CLOSE-OUT AUDIT.** Upon filing with the Department of the Project Completion Certificate, the Department shall conduct a close-out audit of the Project, including a review of documentation submitted to the Department and an inspection of the Project. Upon satisfactory completion of such audit, the Department shall notify the Trust by filing a copy of the Project Completion Certificate with the Trust.

Section 4. Covenants of the Borrower.

4.1 The Borrower shall obtain the Department's prior written approval to: (a) advertise any Invitation to Bid or Request for Proposals to procure contracts for the Project; and (b) award any contracts for the Project.

4.2 The Borrower shall comply with the (a) the Civil Rights Act of 1964, 42 USC s.2000(1) et seq., as amended, Section 13 of the Federal Water Pollution Control Act (FWPCA) of 1972; Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, (b) the Equal Employment Opportunity requirements (Executive Order 11246), and all Executive Orders and regulations promulgated thereunder, and (c) the Affirmative Action and Minority/Women Business Enterprise

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(‘M/WBE’) requirements in the Regulations and the federal Disadvantaged Business (DBE) rule. The Applicant shall ensure that any prime contracts or subcontracts for services, construction, goods or equipment for the Project contain the DM/DWBE utilization goals of 4.2% D/MBE and 4.5% D/WBE.

4.3 The Borrower shall at all times provide and maintain competent and adequate resident supervision and inspection of the Project under the direction of a licensed professional engineer. Such resident site engineer shall ensure that the implementation of the Project conforms with the approved plans and specifications, and shall certify to the Borrower and the Department at the completion of the Project that the implementation of the Project is in accordance with the Department-approved, final plans and specifications for the Project. The Borrower also agrees to submit an executed copy of the contract for resident site engineering services to the Department within sixty (60) days of the date of the contract award. The Borrower understands that no payments for the Project will be processed until such contract has been submitted to the Department.

4.4 All change orders or extra work orders not requiring the Department’s prior approval shall be submitted to the Department within one month of the time they are executed. In addition, the Borrower shall notify the Department as soon as possible of any pending change orders or extra work orders in excess of \$100,000.

4.5 The Borrower shall be solely responsible for the implementation and completion of the Project in accordance with the Department-approved plans and specifications and Department permit(s) issued for the Project, and for the economical and efficient operation and administration of the Project. The Borrower’s responsibilities include retaining sufficient operating personnel and conducting operational tests and other needed evaluations to ensure the economical and efficient operation and administration of the Project.

4.6 The Borrower shall establish accounts for the Project which shall be maintained in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets.

4.7 The Borrower agrees that the Department’s issuance of a Project Approval Certificate for this Project or entry into this PRA does not constitute the Department’s sanction or approval of any changes or deviation from any applicable state regulatory or permit standards, criteria, or conditions, or from the terms or schedules of state enforcement actions or orders applicable to the Project. The Borrower shall obtain, and comply with, all state permits and approvals required for the Project, and is solely responsible for the administration and successful completion of the Project.

4.8 The Borrower agrees to provide any Project information and documentation requested by the Department. The Borrower shall maintain all Project records for seven (7) years after the issuance of final payment or until any litigation, appeal, claim, or audit that is begun before the end of the seven (7) year period is completed and resolved, whichever is longer. The Department, the Trust, the Governor (or designee thereof), the Secretary of Administration and Finance (or designee thereof), and the State Auditor (or designee thereof), also shall have the right, at reasonable times and upon reasonable notice, to examine the books, records and other compilations of data that pertain to the performance of the provisions and requirements of this PRA.

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

4.9 Except with respect to Title 5 Projects, the Borrower shall obtain fee simple title or such other property interest in the Project site, including any easements and rights-of-way, necessary to ensure the undisturbed use and possession of the Project site for the purposes of implementation and operation of the Project for its estimated life.

4.10 Any proposed change in Project-related contracts which substantially modifies the Project initially proposed shall be submitted to the Department for prior approval.

4.11 The Borrower's implementation of the Project, including the procurement of related contracts, shall comply with all applicable requirements of federal, state and local laws, ordinances, by-laws, rules and regulations.

4.12 Department representatives shall have access to the Project site whenever Project work is in preparation or progress, and shall be provided proper facilities for such Project site access and inspection. All of the Borrower's construction and other relevant contracts shall contain the above provision.

4.13 The Borrower shall promptly notify the Department in writing whenever the Borrower has good reason to believe that the Project costs which it will incur will exceed or be substantially less than those previously approved in the Loan. The Department shall not be obligated to certify, nor the Trust to pay, costs incurred in excess of the Loan amount unless the Department has approved the increase through an amendment to the Project Approval Certificate and the Loan has been amended to include the increased amount. Any such increase shall be subject to the availability of funds.

4.14 The Department may suspend or terminate payments to the Borrower under the Financing Agreement when it determines that there is probable cause to believe that the Financing Agreement was obtained on the basis of fraud, deceit, or illegality or that the Borrower has failed to comply with the Regulations or the terms of this PRA or the Financing Agreement.

4.15 The Borrower shall notify the Department in writing when the project is complete. In addition, prior to receiving final payment for the Project, the Borrower shall file a Project Completion Certificate as described in Section 3.3 of this PRA.

4.16 The Borrower shall notify the Department of the actual date of the initiation of operation of the Project. One (1) year after the date of the initiation of operation of the Project, the Borrower shall certify to the Department whether the Project meets its performance standards. If the Borrower certifies, or the Department determines, that the Project does not meet its performance standards, the Borrower shall take corrective action to achieve the Project performance standards as directed by the Department.

4.17 The Borrower shall furnish information and otherwise cooperate with the Department and with the United States Environmental Protection Agency in any environmental review of the Project pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. s.4321 et seq. ("NEPA"), the Massachusetts Environmental Policy Act, M.G.L. c. 30, s.61 et seq. ("MEPA"), or the Regulations. The Borrower shall implement all mitigation measures required in connection with the environmental review processes under NEPA, MEPA, and the Regulations.

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

4.18 With respect to Projects for construction, excluding Title 5 Projects, the Borrower shall require each contractor and subcontractor to submit a certification with respect to the diesel retrofit program to the Department and the Borrower prior to commencing work on the Project. The Borrower shall not allow any contractor or subcontractor to commence work at the Project site prior to submitting such certification.

4.19 The Borrower shall comply with any special conditions set forth in Exhibit C.

Section 5. Default; Remedies for Default.

5.1 **DEFAULT.** The Borrower shall have committed a Default under this PRA if the Borrower shall fail to perform and observe any covenant, agreement or condition on its part provided in this PRA and such failure shall continue for a period of thirty (30) days after written notice thereof shall have been given to the Borrower by the Department; provided if such failure cannot be remedied within such thirty (30) day period, it shall not constitute a Default under this PRA if corrective action satisfactory to the Department is instituted by the Borrower within such period and diligently pursued until the failure is remedied.

5.2 **REMEDIES FOR DEFAULT.** If a Default shall occur, and be continuing hereunder, the Department may, in its sole discretion, take one or more of the following measures to the extent necessary to remedy the Default:

(a) The Department may postpone approval of requisitions submitted to the Department pursuant to Section 3 or direct the Trust to cancel all or any part of the Loan not yet disbursed to the Borrower; or

(b) The Department may rescind approval of any requisition previously approved by the Department but not yet acted upon by the Trust; or

(c) The Department may direct the Trust to declare an Event of Default under the Financing Agreement.

Section 6. Miscellaneous.

6.1 **NOTICES.** Except as otherwise stated in Section 3.2 with respect to requisitions, all notices, consents, certificates and other communications hereunder shall be sufficiently given when delivered by hand or courier or mailed by registered or certified mail, postage prepaid, addressed as set forth in Exhibit A or to such further or different address provided by any of the parties.

6.2 **ASSIGNMENTS.** The Borrower shall not assign this PRA, or any of the obligations hereunder, without the prior written consent of the Department and the Trust.

6.3 **SEVERABILITY.** In the event that any provision of this PRA shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6.4 **AMENDMENT.** This PRA may not be amended, modified or changed in any respect

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

except in writing and signed by the parties hereto. No such amendment, modification or change to this PRA (other than an amendment to Sections 2 and 4 and Exhibits A, C and D of such PRA) which, in the reasonable opinion of the Trust (expressed in a certificate of an Authorized Officer (as defined in the Financing Agreement) of the Trust delivered to the Department and the Borrower prior to the execution and delivery of such amendment, modification or change), would materially and adversely affect the rights and obligations of the Trust under the Financing Agreement shall be effective without the prior written consent of the Trust, which consent shall not be unreasonably withheld. A copy of any proposed amendment, modification or change to the applicable sections of this PRA shall be delivered to the Trust by the Department not less than ten (10) days prior to the date of execution and delivery thereof.

6.5 EXECUTION IN COUNTERPARTS. This PRA may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Electronic signatures shall be deemed original signatures for purposes of this Regulatory Agreement and all matters related thereto, with such electronic signatures having the same legal effect as original signatures. The parties to this Regulatory Agreement agree that this Regulatory Agreement, any amendment hereto or any other document necessary for the consummation of the transaction contemplated by this Regulatory Agreement may be accepted, executed or agreed to through the use of an electronic signature in accordance with applicable law and as so accepted, executed or agreed, will be binding on all parties to this Regulatory Agreement.

6.6 APPLICABLE LAW. This PRA shall be governed by, and construed in accordance with, the laws of the Commonwealth.

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

IN WITNESS WHEREOF, the Department and the Borrower have caused this Project Regulatory Agreement to be executed by their duly Authorized Officers the day and year first above written.

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION:

DocuSigned by:

Robin McNamara

E9159A4361D849A...

By _____

For Maria E. Pinaud, Division
Director Division of Municipal
Services

BORROWER:

By _____

Authorized Officer

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit A

I. General

1. Authorized Officer: Rodney Collins, Town Manager
2. Borrower: Town of Mashpee
3. Address: Town Hall 16 Great Neck Road North
Mashpee, MA 02649
4. Project Manager: Chris J. Gallagher
5. DEP Contact and Address: Maria E. Pinaud
Division Director
1 Winter Street, 5th Floor
Boston, MA 02108
6. Project Title and Description: Mashpee WRRF and Collection System - Phase 1

The Town of Mashpee proposes the construction of the new Phase 1 Mashpee Water Resource Recovery Facility (WRRF) and collection system to address nitrogen impacts to the Mashpee River watershed. The facility will provide advanced wastewater treatment including nitrogen removal through a membrane bioreactor process. The Phase 1 WRRF is designed for an average flow of 0.12 mgd and maximum month flow of 0.31 mgd. The facility has been designed to be expanded through future phases of the Town's multi-phase Recommended Plan in order to meet the TMDLs for the Town's two nitrogen impaired watersheds.

II. Approved Funding:

1. Eligible Costs: \$6,502,700.00
2. Financial Assistance: 2% Interest

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Exhibit B

LOAN DISBURSEMENT SCHEDULE

MONTH/YEAR	ESTIMATED DRAW DOWN
October 2022	\$395,000.00
November 2022	\$177,000.00
December 2022	\$187,000.00
January 2023	\$210,000.00
February 2023	\$210,000.00
March 2023	\$226,000.00
April 2023	\$239,000.00
May 2023	\$244,000.00
June 2023	\$244,000.00
July 2023	\$249,000.00
August 2023	\$249,000.00
September 2023	\$249,000.00
October 2023	\$277,000.00
November 2023	\$277,000.00
December 2023	\$277,000.00
January 2024	\$272,000.00
February 2024	\$272,000.00
March 2024	\$272,000.00
April 2024	\$272,000.00
May 2024	\$272,000.00
June 2024	\$239,000.00
July 2024	\$397,900.00
January 2025	\$397,900.00
September 2025	\$397,900.00
	\$6,502,700.00

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit C

SPECIAL CONDITIONS

DAVIS BACON WAGE RATE REQUIREMENTS

All Projects for construction, excluding Title 5 Projects, having a financing agreement executed on or after October 30, 2009, are required to comply with the federal Davis Bacon Wage Rate Requirements.

FOR CLEAN WATER CONSTRUCTION PROJECTS:

The Borrower agrees to comply with the requirements of Section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) (Davis Bacon requirements) in all procurement contracts, and agrees to include this term and condition in all subcontracts and lower tiered transactions. All contracts and subcontracts for any construction project shall insert the full the Davis Bacon contract clauses found in the Department's Plan and Specification Checklist.

FOR DRINKING WATER CONSTRUCTION PROJECTS:

The Borrower agrees to comply with the requirements of Section 1450(e) of the Safe Drinking Water Act (42 U.S.C. 300j-9(e)) (Davis Bacon Requirement) in all procurement contracts, and agrees to include this term and condition in all subcontracts and lower tiered transactions. All contracts and subcontracts for any construction project shall insert in full the Davis Bacon contract clauses found in the Department's Plan and Specification Checklist.

AMERICAN IRON AND STEEL

For all projects for the construction, alteration, maintenance or repair of a public water system or treatment works, the Borrower agrees that all of the iron and steel products used in the Project are to be produced in the United States (American Iron and Steel Requirement) unless (i) the Borrower has requested and obtained a waiver from the United States Environmental Protection Agency (EPA) pertaining to the Project or (ii) the Department has otherwise advised the Borrower that the American Iron and Steel Requirement is not applicable to the Project. The Borrower agrees to include the American Iron and Steel provisions in any construction contracts and maintain Project records demonstrating compliance with the American Iron and Steel Requirement in accordance with the March 14, 2014 EPA guidance on implementation of the American Iron and Steel Requirement.

COST AND EFFECTIVENESS

The Borrower agrees to comply with the Cost and Effectiveness requirements of Section 603(b)(13) of the Federal Water Pollution Control Act.

FISCAL SUSTAINABILITY PLAN (not applicable to Section 319 projects)

The Borrower agrees to prepare and implement a fiscal sustainability plan (FSP) in accordance with

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

603(d)(1)(E) of the Federal Water Pollution Control Act.

PROJECT SIGNAGE

The Borrower agrees to comply with the "Guidelines for Enhanced Public Awareness of SRF Assistance Agreements" issued by the United States Environmental Protection Agency on June 3, 2015 regarding the use of signs or other methods of enhancing awareness of the SRF project.

PRA No. : CWP-21-16A MASHPEE - Mashpee WRRF and Collection System - Phase 1

Exhibit D

<u>ELIGIBILITY DETERMINATION</u>			
<u>ITEM</u>	<u>LOAN ELIGIBLE COST</u>	<u>ELIGIBLE COST</u>	<u>INELIGIBLE COST</u>
<u>Construction</u>			
WMNP-2021-01 Water Resources Recovery Facility	\$0.00	\$27,905,000.00	\$0.00
WMNP-2021-03 Collection System - South	\$0.00	\$9,789,331.00	\$17,400.00
WNMP-2021-02 Collection System - North	\$0.00	\$5,001,598.00	\$22,600.00
<u>Construction Contingency</u>			
Contingency Contract No.1 as bid	\$0.00	\$1,395,250.00	\$0.00
Contingency Contract No.2 as-bid	\$0.00	\$250,080.00	\$1,130.00
Contingency Contract No.3 as-bid	\$0.00	\$489,467.00	\$870.00
<u>Construction Services</u>			
EPG Construction Services Contract 2 and 3	\$2,024,700.00	\$2,024,700.00	\$0.00
GHD Construction Services Contract 1 and 3	\$3,716,000.00	\$3,716,000.00	\$0.00
Owner's Project Manager W&S	\$762,000.00	\$762,000.00	\$0.00
<u>Other</u>			
Grinder Pump	\$0.00	\$100,000.00	\$0.00
Police Details	\$0.00	\$1,700,000.00	\$0.00
Utility Coordination	\$0.00	\$824,574.00	\$0.00
Total:	\$6,502,700.00	\$53,958,000.00	\$42,000.00

Certificate Of Completion

Envelope Id: 0AE53A190D964361958BA04634CF82C9

Status: Sent

Subject: Complete with DocuSign: Mashpee CWP-21-16 Finance Agreement.pdf, Mashpee CWP-21-16-A Finance Ag...

Source Envelope:

Document Pages: 48

Signatures: 4

Certificate Pages: 5

Initials: 0

AutoNav: Enabled

EnvelopeId Stamping: Enabled

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:

Joanne Robinson

One Financial Center

Boston, MA 02111

jmrobinson@mintz.com

IP Address: 73.159.255.196

Record Tracking

Status: Original

Holder: Joanne Robinson

Location: DocuSign

10/6/2022 4:55:29 PM

jmrobinson@mintz.com

Signer Events**Signature****Timestamp**

Craig Mayen

cmayen@mashpeema.gov

Town Treasurer

Security Level: Email, Account Authentication
(None), Access Code

Sent: 10/6/2022 5:05:06 PM

Resent: 10/17/2022 3:57:49 PM

Viewed: 12/9/2022 8:49:16 AM

Electronic Record and Signature Disclosure:

Accepted: 12/9/2022 8:49:16 AM

ID: 15b63d9e-41d9-4d05-be55-2db721a11c0e

Robin McNamara

Robin.McNamara@mass.gov

Security Level: Email, Account Authentication
(None), Access Code

DocuSigned by:

Robin McNamara

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Signature Adoption: Pre-selected Style

Using IP Address: 75.68.111.51

Electronic Record and Signature Disclosure:

Accepted: 10/6/2022 5:09:20 PM

ID: bf9bc537-44ae-4bd5-8bf2-43e23792e07a

Rodney Collins

rccollins@mashpeema.gov

Security Level: Email, Account Authentication
(None), Access Code

Sent: 10/6/2022 5:05:06 PM

Resent: 10/17/2022 4:02:47 PM

Resent: 10/18/2022 3:46:34 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Susan Perez

Susan.perez@state.ma.us

Security Level: Email, Account Authentication
(None), Access Code

DocuSigned by:

Susan Perez

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Signed: 10/6/2022 6:39:38 PM

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Electronic Record and Signature Disclosure:

Accepted: 10/6/2022 6:39:23 PM

ID: 09e0ca7e-1f4c-470f-a840-632c982678f4

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp**

Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events Joanne Robinson jmrobinson@mintz.com Mintz Levin Cohn Ferris Glovsky Popeo PC Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 10/6/2022 5:05:03 PM
Joshua Derouen joshua.derouen@state.ma.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 10/6/2022 5:05:03 PM
Julian Honey julian.honey@tre.state.ma.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 10/6/2022 5:05:04 PM
Kailyn Fellmeth kailyn.n.fellmeth@tre.state.ma.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 10/6/2022 5:05:04 PM
Matt Page mpage@mintz.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 10/6/2022 5:05:05 PM

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/6/2022 5:05:06 PM
Certified Delivered	Security Checked	10/6/2022 6:39:23 PM
Signing Complete	Security Checked	10/6/2022 6:39:38 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure		
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Mintz Levin Cohn Ferris Glovsky Popeo PC (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

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Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

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To advise Mintz Levin Cohn Ferris Glovsky Popeo PC of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at jmleon@mintz.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

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- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to jmleon@mintz.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

**** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.**

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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

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- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
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"Serving with pride and integrity"



Scott W. Carline
Chief of Police

MASHPEE POLICE DEPARTMENT
19 Frank Hicks Drive
Mashpee, Massachusetts 02649

Emergency : Dial 911
Police Priority : (508) 477-1212
Patrol Services : (508) 539-1480
Detectives : (508) 539-1484
Records : (508) 539-1488
Administration : (508) 539-1486
Fax : (508) 539-1412
www.mashpeepd.com

MEMORANDUM

To: Town Manager Rodney Collins
From: Chief of Police Scott Carline
Re: Public Safety Police Dispatcher Candidate- Certification
Date: December 15, 2022

A public safety police dispatcher hiring process was initiated and posted on July 8, 2021 with a filing deadline of July 19, 2021. Candidates applying for the position of public safety police dispatcher were required to submit a town application to the Town of Mashpee Human Resources Department. The public safety police dispatcher process consisted of the following:

1. A resume review
2. A public safety police dispatcher oral board examination.
3. An appointing authority interview with the Chief of Police.

On August 4th & 11th, 2021 Oral Board Examinations were conducted at the Mashpee Police Department. The oral board examiners consisted of the following members; Captain Thomas Rose, Dispatch Supervisor Scott Halligan, Dispatcher Barry Good, and Human Resources Director Kimberly Landry.

The Candidates were asked a series of uniformed questions that focused on work ethic, dedication, competence, and past experience. Candidates were also rated on possessing knowledge, skills, and abilities consistent with the general duties and essential functions of the position of public safety police dispatcher. In specific, the candidates were rated on appearance, training, communication skills, judgement, poise, pride, motivation, responsibility, general knowledge, and overall fitness for the position.

On August 17, 2021 appointing authority interviews were conducted by myself, with the assistance of Lieutenant Robert Palermo.

On August 24, 2021 the eligibility list was finalized and the two candidates were ranked in order which was as follows:

1. Delaney Haisell
2. Shannon Lee

Dispatcher Delaney Haisell was subsequently hired off this list leaving Shannon Lee first on the eligibility list. With the retirement of Dispatch Supervisor Scott Halligan a vacancy was created for the position of Public Safety Dispatcher. Shannon Lee was provided a conditional offer of employment pending the

outcome of a background investigation, medical examination and psychological examination which were all passed successfully.

Dispatch Candidate Shannon Lee currently resides in Mashpee, MA and is a graduate of Mashpee High School. She is employed by the Mashpee Public Schools and possesses a Bachelor's Degree in Early Childhood Development from the University of Massachusetts Amherst.

Therefore, I affirm that all phases of the entry level selection process have been completed consistent with all policies and procedures established by the Town of Mashpee and its police department with the assistance of the Mashpee Department of Human Resources.

I respectfully request certification of the selection process with appointment of Shannon Lee to the position of public safety police dispatcher.

cc Assistant Town Manager Wayne Taylor
Human Resources Director Kim Landry

TOWN OF MASHPEE POSITION APPOINTMENT/REAPPOINTMENT REQUEST

Effective: September 1, 2016

JOB TITLE: Public Safety Dispatcher DEPARTMENT: Police
EMPLOYEE: Shamon Lee UNION/UNIT: SEIU 888 Clerical

STATUS: Regular Full-time ☒ Temporary Full-time ☐ Temporary Part-time ☐
Standard Part-time ☐ Non-Standard Part-time ☐ Seasonal ☐

LABOR GRADE: V STEP: 1 RATE OF PAY: \$24.11 Per Hour
\$964.40 Per Week \$50,148.80 Per Year/Base

I attest that this position was posted and/or advertised through the following:

Existing Eligibility List ☒ Town Posting ☐ Local Employment Opportunity ☐
Regional/State/National Opportunity ☐ Other Posting ☐

I also attest that all policies and procedures of the Town have been satisfied regarding this appointment, including: application review ☒ written examination ☐ oral interview ☒ appointing authority interview ☒
physical agility exam ☐ medical examination ☒ psychological examination ☒ comprehensive background investigation, including a CORI check ☒ or other _____.

I further attest that the search and initial screening for this position was based upon minimum requirements, knowledge, skills, abilities, essential functions and responsibilities outlined in a job description approved by the Town Manager. (Attach job description) I further attest that the employee's driver's license status, if applicable to the position, was verified.

Kim Jandry
Human Resources Director Signature

12-12-22
Date

I request this appointment/promotion to be effective on: January 3, 2023

[Signature]
Appointing Authority Signature

12.12.22
Date

This position may be filled upon confirmation and/or certification of this selection process, if a full-time new employee; or compliance with Town policies and procedures, if a promotion.

Town Manager Signature

Date

Chairman of Board of Selectmen (or Designee) Signature
Review of Appointment and Certification of Selection Process

Date

Copies To: White – Human Resources Canary – Town Clerk Pink – Town Manager



Town of Mashpee

Fire & Rescue Department

20 Frank Hicks Drive
Mashpee, MA 02649
V 508.539.1454
F 508.539.1453

Date: November 4, 2022
To: Rodney Collins, Town Manager
From: Fire Chief John F. Phelan
Re: Ambulance Billing Fees

Mr. Collins,

I want to request that the Town of Mashpee explore the possibility of increasing the Ambulance Transport fees for service. The last time the fees were assessed and raised was in 2016. In order to be responsive to the needs of the Town and the service we provide, a competitive assessment into our current fee structure was done.

Current Fee Structure for Ambulance Transports

Town of Mashpee (Current)

- BLS Emergency \$958.58
- ALS Emergency \$1,480.61
- Mileage \$20.00 per mile

Town of Dennis

- * BLS Emergency \$1,200.00
- * ALS Emergency \$1,800.00
- * Mileage \$30.00

Town of Sandwich

- BLS Emergency \$1,456.00
- ALS Emergency \$2,287.00
- Mileage \$35.97

Town of Harwich

- * BLS Emergency \$1,200.00
- * ALS Emergency \$1,800.00
- * Mileage \$29.76

Town of Falmouth

- BLS Emergency \$1,294.00
- ALS Emergency \$1,800.00
- Mileage \$34.00 per mile

Recommendation

Town of Mashpee (proposed rates)

- BLS Emergency \$1,200.00
- ALS Emergency \$1,800.00
- Mileage \$30.00 per mile

John F. Phelan
Fire Chief



Town of Mashpee

16 Great Neck Rd North
Mashpee, MA 02649

Conservation Commission

12-8-22

TO: David Weeden, Mashpee Select Board Chairman
FROM: Drew McManus, Conservation Agent
RE: Signatures for Chopchaque Bogs Conservation Restriction

Dear Chairman Weeden & Members of the Mashpee Select Board,

I am requesting the signatures of the Mashpee Select Board on recently finalized Conservation Restriction (CR) for the Chopchaque Bogs. The bogs were recently acquired as conservation land using CPA funding. The Native Land Conservancy (a local Mashpee based land trust) will be the holders of the Conservation Restriction. As part of the final process, the CR needs to be signed by the Select Board and the Native Land Trust. Conservation Commissioner signatures are not required; however, the Conservation Commission has reviewed and approved the CR language and endorses this final draft version. Additionally, the CR has been reviewed and approved by Town Counsel.

The Chopchaque bogs are currently undergoing planning and permitting for restoration to native wetlands. The signing and finalization of the Conservation Restriction is part of this process. The Conservation Department qualified for \$520,000 in grant funding from the MA State Division of Fish and Game and MA In Lieu fee Grant Program for this wetland restoration initiative, which we anticipate will cover all costs, including planning, permitting and construction.

Sincerely,

-Drew McManus
Conservation Agent
Town of Mashpee
amcmanus@mashpee.ma.gov

GRANTOR: Town of Mashpee

GRANTEE: Native Land Conservancy, Inc.

ADDRESS OF PREMISES: 0, 4, 10, 14 Cranberry Lane, Mashpee

FOR GRANTOR'S TITLE SEE:

Barnstable County Registry of Deeds Book 33264; Page 194. (0 Cranberry Lane)

Barnstable County Registry of Deeds Book 33264; Page 202. (4 Cranberry Lane)

Barnstable County Registry of Deeds Book 33264; Page 210. (10 Cranberry Lane)

Barnstable County Registry of Deeds Book 33264; Page 215. (14 Cranberry Lane)

FOR PLANS OF RECORD SEE:

Barnstable County Registry of Deeds Plan Book 455, Page 98. (0 Cranberry Lane)

Barnstable County Registry of Deeds Plan Book 400, Page 41. (4 Cranberry Lane)

Barnstable County Registry of Deeds Plan Book 249, Page 119. (10 Cranberry Lane)

Barnstable County Registry of Deeds Plan Book 455, Page 98. (14 Cranberry Lane)

Barnstable County Registry of Deeds Plan Book 27, Page 137. (0 Cranberry Lane)

CONSERVATION RESTRICTION

The **TOWN OF MASHPEE**, being the sole owner of the Premises as herein defined and constituting all of the owners of the Premises as herein defined and a Massachusetts municipal corporation, with a principal place of business at 16 Great Neck North, Mashpee, Barnstable County, Massachusetts 02649 acting by and through its Conservation Commission, by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, for its successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to the **NATIVE LAND CONSERVANCY, INC.** a Massachusetts charitable corporation with a mailing address of P.O. Box 974, Mashpee, Barnstable County, Massachusetts 02649 its permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in the Town of Mashpee, County of Barnstable containing the entirety of 11 parcels of land, totaling approximately 14.667 acres ("Premises") which Premises is more particularly described in Exhibit A and shown in the attached sketch plan in Exhibits B1-B5, both of which are incorporated herein and attached hereto.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction ("Conservation Purposes") are to ensure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, to ensure permanent protection of aquatic resources and upland buffers on the Premises, and to provide compensatory mitigation in accordance with the 2008 Federal Mitigation Rule as described below, and to prevent any use or change that would impair or interfere with its conservation and preservation values ("conservation values").

Community Preservation Act

The Premises were acquired using Chapter 44B of the Massachusetts General Laws Community Preservation Act funds, which funds were authorized for such purposes by a vote of the Town of Mashpee Special Town Meeting held on June 15, 2020, and an attested-to copy of the Town Meeting Vote authorizing the use of such funds for such purpose is attached hereto as Exhibit C (the "CPA Vote"). Pursuant to Section 12(b) of Chapter 44B of the Massachusetts General Laws, and pursuant to the CPA Vote, the fee interest in the Premises, and therefore the management of the Premises, is under the care, custody, and control of the Conservation Commission of the Town of Mashpee.

In-Lieu Fee Program. The ecological restoration of the bogs on the Premises will be accomplished through the use of Massachusetts Department of Fish and Game (DFG) In-Lieu Fee Program (ILFP) funding. Pursuant to the 2008 Federal Mitigation Rule as promulgated in the Code of Federal Regulations at 333 CFR § 332.3(h)(1)(v), this Conservation Restriction will permanently protect the restoration site. Restoration of the Premises will be conducted in accordance with a United States Army Corps of Engineers ("Army Corps")-approved Mitigation Plan consistent with the requirements of the Federal Mitigation Rule and any and all requirements of this Conservation Restriction. Stewardship of the Premises will be guided by an Army Corps-approved Long-Term Management (LTM) Plan consistent with the requirements of the Federal Mitigation Rule and any and all requirements of this Conservation Restriction. The Grantor shall consult with the DFG regarding the potential need for replacement mitigation if the expected mitigation outcome described in the Army Corps-approved Mitigation Plan is negatively affected by alteration or impairment of aquatic resource functions and values resulting from conduct of activities and/or uses on the Premises.

The conservation values include the following:

- **Open Space Protection.** The Premises contributes to the protection of the scenic and natural character of Mashpee and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises is adjacent to conserved Town of Mashpee Santuit Preserve, 287 acres to the northeast and south, with three miles of publicly accessible trails. The Premises will add another acre of trails bordering the former cranberry bogs and upland areas with 240 feet of shoreline on Santuit Pond, a Commonwealth Great Pond .
- **Soils.** The Premises includes 14.7± acres of Freetown coarse sand, 0-3% slopes, sanded surface. The state considers approximately 75% Farmland of Unique Importance and 25% as Farmland of Statewide Importance.

- Protection of Wildlife Habitat. The Premises contains over 95% or 13+ acres designated as “Priority Habitats of Rare Species” which is habitat that is home to state-listed rare plant and animal species, such as Eastern Box Turtles, and Spotted Turtles, which may be found in both dry and moist woodlands, and wetland areas.
- Public Access. Public access to the Premises will be allowed for passive outdoor recreation, educational programs, and local indigenous cultural practices, and nature study. The Premises, which has about one mile of trails on the perimeter and within the locus parcels, connects to the 287-acre Santuit Preserve with an additional three miles of trails. The Premises will provide close-to-home multi-use recreational opportunities for the Santuit Pond neighborhood, Mashpee residents, Native Land Conservancy Members, and the general public.
- BioMap2. The Premises consists of 14.7± acres of Critical Natural Landscape, Landscape Blocks, as defined by the Massachusetts Natural Heritage and Endangered Species Program. BioMap2, published in 2010, which was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. *BioMap2* is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan (SWAP). The Premise consists of seven-acres of recently active cranberry bogs being restored as wildlife habitat and seven-acres of upland pine-oak forest – a SWAP important Habitat for Species of Greatest Concern.
- Surface Water Quality Protection. Permanent protection of the Premises from development located on Santuit Pond, a 172-acre Great Pond (defined by the state as a pond larger than 10-acres in its natural state) -- glacially formed, kettle pond, fed by groundwater will help improve and maintain water quality of this important water body in the Town of Mashpee. The pond is home to Large Mouth Bass, Chain Pickerel, Golden Shiners, Sea-Run Alewife, White and Yellow Perch, Brown Bullhead, and American Eel. Due to the stress of development on the north side of Santuit Pond, the pond has experienced harmful algal bloom (cyanobacterial) events in recent years. The Conservation Restriction will allow 240 feet of shoreline to remain undeveloped and allow natural function of the wetlands and upland to filter any potential contaminants on the southern portion of the Pond, reducing total maximum daily load (Clean Water Act defined regulatory term for the maximum amount of pollutants allowed and still meet federal water quality standards) to this significant water body, which also serves as a spawning pond for anadromous fish entering from Santuit River.
- Public Water Supply Protection. The Premises is almost entirely (approximately 80%) within a Department of Environmental Protection Designated Zone 2 of Contribution to a Public Water Supply serving the Town of Mashpee. Preserving the Premises from residential development will enhance the quality of groundwater from these wells.
- Historical and Cultural Values. Permanent protection of the Premises with this Conservation Restriction will preserve the historical and cultural attributes of this land in perpetuity. The Grantor recognizes the impacts of human presence on this and neighboring lands, and seeks to preserve, and conserve in perpetuity the ecological, historic and cultural conservation values that this land possesses. Santuit Pond is an important cultural landmark for the Mashpee Wampanoag Tribe (see Exhibit D, Massachusetts Historical Commission letter). Locale and features of the

Premises are consistent with the purposes of the Native Land Conservancy, to protect traditional cultural landscapes, which include the flora and fauna that have a unique historical meaning and value to the Native American community.

- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan* (“RPP”), amended in 1996, 2002, 2009, 2012, and 2018, which provided, *inter alia* (references are to the 2018 RPP):
 - “To ... protect, preserve, or restore the ecological integrity of Cape Cod’s fresh and marine surface water resources” (Water Resources Goal, p. 54);
 - “To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers” (Wetland Resources Goal, p. 55);
 - “To protect, preserve, or restore wildlife and plant habitat to maintain the region’s natural diversity” (Wildlife and Plant Habitat Goal, p. 55).
 - In reference to this Wildlife and Plant Habitat Goal, the RPP states, “For many years’ habitat loss due to development has been the primary threat to the region’s habitats” (p. 32);
 - “To conserve, preserve, or enhance a network of open space that contributes to the region’s natural and community resources and systems” (Open Space Goal, p. 55).
 - In reference to this Open Space Goal, the RPP states, “[t]he open space of the Cape is critical to the health of the region’s natural systems, economy, and population. Open space provides habitat for the region’s diverse species and protection of the region’s drinking water supply” (p. 30); and,
 - “To protect and preserve the significant cultural, historic, and archaeological values and resources of Cape Cod” (Cultural Heritage Goal, p. 58).
- Consistency with Clearly Delineated Town of Mashpee Conservation Policy. The Town of Mashpee adopted an *Open Space Conservation and Recreation Plan* (2009), which identified the town’s natural resource needs and established goals, including:
 - GOAL A. To preserve at least 50% of Mashpee’s remaining open space in order to protect wildlife habitat and other natural resources, provide a variety of outdoor recreation opportunities and maintain the rural and scenic character of the town. (p. 8-1)
 - Objective 3. To ensure that the design and construction of any new development does not adversely impact significant or fragile areas of wildlife and plant habitat, lakes, rivers, wetlands and other water bodies, shorelands, groundwater quality, historic buildings and sites, cultural and archaeological resources, agricultural operations and significant scenic roads, views and landforms (p. 8-1);
 - Objective E.8 To ensure that public access to open space areas and water bodies is preserved where it will not adversely affect sensitive natural resources (p. 8-2);
 - GOAL K. To preserve the ecological integrity of Mashpee’s groundwater, wetlands and surface water bodies (p. 8-4);
 - Objective 27. To ensure that the wildlife habitat value and other natural functions of coastal and inland wetlands... are protected by maintaining adequate undisturbed buffer areas along their edges wherever possible (p. 8-4);

- Objective 38. To ensure that the preservation of wildlife habitat is a primary consideration in proposals for open space acquisition by the Town as well as in the location and development of Town facilities (p. 8-4)
- Objective 40. To maintain and enhance hunting and fishing opportunities while protecting public safety and private property rights (p. 8-4);

The preservation of the Premises in perpetuity satisfies each of these objectives enumerated above because the Premises:

1. contains valuable plant and wildlife habitat of upland forest and freshwater wetlands;
 2. is within an exemplary major wildlife habitat assemblage of rare species;
 3. is an important visual component for public water views on a Great Pond;
 4. adds 14.667 acres to the adjoining Santuit Pond Preserve; and
 5. is a substantial contributing element to the overall scenic character of the area by maintaining the land predominantly in its natural condition.
- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: protect the land for passive outdoor recreation by the general public; protect wildlife, wetland habitat, as well as upland forest plant habitat; and enhance water quality in a major freshwater body.
 - Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, water resource quality, watershed, and scenic values (collectively “Conservation Values”) of great importance to the Grantee and the people of Mashpee and the Commonwealth of Massachusetts, including but not limited to the participation of the Massachusetts Department of Fish and Game (DFG) In-Lieu Fee Program in the eco-restoration of the Premises.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report (“Baseline Report”) prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. The Grantor and Grantee will re-establish the baseline conditions following any ecological restoration on the Premises and amend the Baseline Report to include the post-construction report required by the 2008 Federal Mitigation Rule. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant or the restoration other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

A. Prohibited Acts and Uses

Subject to the exceptions set forth in Paragraph II(B), the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or historically, culturally significant or humanly created item, or naturally occurring formation, or otherwise making topographical changes to the area. These items include stone walls or fence posts, stone rows, stone alignments, stone groupings, and stone cairns, stone enclosures, standing stones, stone arrangements in geometric or animal form, or any stone structures consisting of stones or boulders of any quantity other than by natural occurrences on the Premises;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation,
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, plant habitat, historical and indigenous ceremonial landscape features;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or necessary for the mobility impaired;
- (7) 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 Grantor and Grantee;
- (8) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (9) The use of the Premises for business, residential, industrial or other municipal use, commercial forestry or agriculture;

- (10) Any other use of the Premises or activity which is inconsistent with the Conservation Purposes or which would impair its conservation values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the Conservation Purposes or conservation values of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows.
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Ecological restoration of the bog. With the prior written approval of Grantee, conducting or permitting others to conduct ecological restoration of the existing cranberry bogs as shown in the Baseline Report for the purposes of enhancing, restoring, or recreating the natural functions and values that the Premises provided before it was farmed. This includes but is not limited to removal of sand and berms, regrading, alteration of vegetation, and installation of temporary fencing and signage as public safety and erosion control measures during active construction. Construction equipment and vehicles, trailers, and portable restrooms may be used on the Premises solely for the purpose of ecological restoration. The restoration work permitted herein shall comply with a Mitigation Plan approved by the Army Corps and any applicable local, state, and/or federal regulations; such permit(s) to be kept on file at the office of the Grantor. With prior written approval of the Grantee, ILF Program Administrator, the Army Corps, and applicable regulators, adaptive management, including but not limited to modifications of drainage channels and additional plantings of native species, to further enhance the initial restoration of the bogs as needed.
- (4) Composting. The stockpiling and composting of stumps, trees, 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 impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (5) Restoration and Replanting. Digging on the Premises allowable for restoration, replanting, and invasive species management practices only.
- (6) Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, ILFP Administrator, and the Army Corps, conducting or permitting others to conduct 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 of native trees, shrubs and other vegetation;

- (7) Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior written approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails as described under an Army Corps-approved LTM Plan, provided that any construction, relocation, or alteration results in trails that are no wider than six feet, with care given to not disturb or cause potential harm to any historic, cultural or natural feature on the land, in the creation, maintenance and use of the trails, and that the footprint of the trails does not exceed the footprint of the trails documented in the Baseline Report or if restoration has occurred, does not exceed the footprint of trails approved by the Army Corps in a Mitigation Plan for restoration on the Premises. The footprint of trails shall be documented in a Baseline Report as may be amended in accordance with Section I.
- (8) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;
- (9) Outdoor Passive Recreational Activities. Fishing, boating, hunting (as agreed upon by the Grantor and Grantee), hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape or the aquatic resources and upland buffer areas on the Premises, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
- (10) Cultural Practices. The right for the Grantor and Grantee to allow access to the Premises to local indigenous groups for cultural land ceremonial uses that are consistent with the conservation values. Cultural practices are defined, for the purposes of this Conservation Restriction, as including traditional spiritual ceremonies, seasonal celebrations, offerings, and cultural/education/interpretation programs. With the written approval of Grantee, persons designated by Grantee may harvest plant-life using sustainable methods, including regrowth and replanting, for traditional cultural practices and non-commercial purposes. Harvesting may be conducted using only hand tools and only in traditionally customary quantities. Harvesting shall not be conducted in areas that have undergone ecological restoration until more than five years after restoration is completed.
- (11) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph II(B) shall seek to minimize disturbance to the conservation values, natural features, and historical and cultural values, within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. With the exception of work conducted under II(B)(3), upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph II(B), any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as may be amended in accordance with Section I as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report as may be amended in accordance with Section I.

- (12) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph II(B) shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits and the LTM Plan. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (13) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph II(B) shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.

1. Procedure for Notice and Approval. Whenever notice to or approval by Grantee the ILFP, and/or the Army Corps is required, Grantor shall notify Grantee, the ILFP, and/or the Army Corps by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question, including proposed modifications to an adopted Management Plan. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Conservation Purposes. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the Conservation Purposes.
2. Deemed Denial. Grantee agrees to use reasonable diligence to respond to Grantor's request within 60 days of delivery. Grantee's failure to respond within the sixty (60) calendar day period shall be deemed a denial of the request (hereinafter, a "Deemed Denial"). A Deemed Denial is not final or binding on Grantee, and Grantor may submit the same or a similar request for approval.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory, injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objected-to actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction. Prior to resorting to legal means to enforce any violations of this Conservation Restriction, the Grantee shall first notify the Grantor and request the Grantor to remedy the violation; if the violation is not remedied within sixty (60) days, then the parties shall make a good faith effort to mediate the dispute before litigation is commenced, provided that Grantor ceases the violation immediately upon receipt of notice of the violation and makes a good faith effort to remedy the violation.

Grantor shall have no liability to Grantee with respect to a violation of this Conservation Restriction by trespassers or other third persons whose entry on the Premises is not authorized or not voluntarily acquiesced in by Grantor; Grantor agrees that Grantor will not voluntarily acquiesce in any violation of this Conservation Restriction by trespassers or such other third persons; and Grantor further agrees that Grantor will make reasonable efforts to deter such activities and to remedy any such violations and will cooperate with Grantee to enforce their respective rights against trespassers and such other third persons. If the court in any judicial enforcement action, or the decision maker in any arbitration or other alternative dispute resolution enforcement proceeding, finds that the Grantor has violated this Conservation Restriction then, in addition to any other relief ordered, the Grantee may be awarded reasonable attorneys' fees and costs incurred in the action or proceeding.

In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

B. Non-Waiver.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee 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 Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor 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 Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible. In the event of any such occurrence, the Grantor and Grantee will cooperate in an adaptive management process with the ILFP and the Army Corps, as described in the Mitigation Plan, to determine how to proceed.

IV. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises (i) after reasonable notice and at reasonable times, and in a reasonable manner, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction; and (2) after sixty (60) days prior written notice, except in an emergency in which case notice shall be given as soon as practicable, to take any or all actions with respect to the Premises as may be necessary or appropriate, with or without order of the court, to remedy, abate or enforce any violation hereof, unless the Grantor has prior to the expiration of said sixty (60) days given written notice to the

Grantee reasonably addressing all alleged violations and setting forth a reasonable plan to remedy any such alleged violation and has ceased the activity and made reasonable efforts to begin remediation.

The Grantor hereby grants to the Army Corps and ILFP staff, including their respective designees, the right to enter the Premises, upon reasonable notice and at reasonable times, to determine compliance with ILFP requirements.

On-foot access to and use of the Premises by the general public is permitted, but only for daytime use and only as described in Section II(B)(9) and subject to the Grantor'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 of this Conservation Restriction, as expressed and agreed to by the Management Plan. Grantee's board, staff, or Indigenous persons designated by Grantee may access the property on foot to exercise reserved rights.

Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Section II(B)(9). The Grantor's right to grant public access across the Premises is subject to the restrictions described in this Conservation Restriction. Any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use the Premises for purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantee hereto benefit from exculpation from liability to the extent provided in such section. The Grantee may require the Grantor to post the Premises against any use that may result in rutting or erosion or other damage to the natural resources of the Premises.

V. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. The Grantor shall provide 60 days notice to the ILFP and the Army Corps prior to seeking a court determination to extinguish this Conservation Restriction. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Section V(B), subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements, including providing replacement mitigation or restoring funds to the ILFP. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein, which shall include use of recovered proceeds to provide replacement mitigation to meet the requirements of the ILFP.

B. Proceeds. Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to ten percent (10%) of the fair market value of the unrestricted Premises determined at the time of the gift. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements, including the Cape Cod Open Space Land Acquisition Program and In-Lieu Fee Program funding requirements.

C. Grantor/Grantee 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 Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Section V(B), after complying with the terms of any law, gift, grant, or funding requirements, including providing replacement mitigation or restoring funds to the ILFP. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

VI. DURATION & ASSIGNABILITY

A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the Conservation Purposes of this Conservation Restriction continue to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a done eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction 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 Grantee, ILFP, and the Army Corps not less than thirty (30) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor 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 Conservation Restriction shall survive the transfer. 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 Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee must notify the Army Corps and the ILFP no less than sixty (60) days prior to the intended recording date of any amendment as described herein. The Grantor and Grantee may jointly amend this Conservation Restriction in consultation with the ILFP and the Army Corps; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Barnstable County Registry of Deeds.

XI. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in a timely manner in the Barnstable Registry of Deeds.

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 Grantor: Town of Mashpee Conservation Commission
16 Great Neck North
Mashpee MA 02649

To Grantee: Native Land Conservancy, Inc.
P.O. Box 974
Mashpee MA 02649

To: Army Corps:
Army Corps of Engineers
Mitigation Program Manager
U.S. Army Corps of Engineers, New England District
696 Virginia Road
Concord, MA 01742

To: ILFP:
In-Lieu Fee Program Administrator
MA Department of Fish and Game
251 Causeway Street, Suite 400
Boston, MA 02114

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 Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XIV. MISCELLANEOUS

A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy

and Environmental Affairs 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 Conservation Restriction.

B. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any 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.

C. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Approval: Town of Mashpee Conservation Commission

Grantee Acceptance: Native Land Conservancy, Inc.

Approval by Mashpee Board of Selectmen

Approval of the Secretary of Energy and Environmental Affairs

Exhibits:

Exhibit A: Legal Description of Premises

Exhibit B1: Town of Mashpee Assessor's Map

Exhibit B2: Sketch Plans of Premises

Exhibit B3: Sketch Plans of Premises

Exhibit B4: Reduced Copy of Plan of Premises

Exhibit B5: Reduced Copy of Plan of Premises

Exhibit C: Town Meeting Vote

Exhibit D: Review by Massachusetts Historical Commission

We, the undersigned, being a majority of the Conservation Commission of the Town of Mashpee, Massachusetts, hereby certify that at a public meeting duly held on _____, 2022, the Conservation Commission voted to approve in the public interest and grant the foregoing Conservation Restriction to the Native Land Conservancy, Inc. pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby approve in the public interest the foregoing Conservation Restriction.

**TOWN OF MASHPEE
CONSERVATION COMMISSION**

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2022, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

This Conservation Restriction from the Town of Mashpee, acting by and through its Conservation Commission, was accepted by the Native Land Conservancy, Inc. this _____ day of _____, 2022.

Native Land Conservancy, Inc.

By: _____
Ramona L. Peters

Its: President, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared Ramona L. Peters, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose on behalf of the corporation.

Mark H. Robinson, Notary Public
My Commission Expires: 8 July 2027

CERTIFICATE OF VOTE

I, Sharman Brown, duly elected Clerk of the Native Land Conservancy, Inc., hereby certify at a meeting of the Board of Directors duly called on the ____ day of ____ 2022, at which meeting, acting throughout upon motion duly made and seconded, a quorum being present, it was unanimously

VOTED: that Ramona L. Peters, President of Native Land Conservancy, Inc., be and hereby is authorized in the name of Native Land Conservancy, Inc., to accept a conservation restriction on 14.667 acres at Chop Chaque Bog in Mashpee, as more particularly described in a document termed a conservation restriction and recorded herewith, her execution thereof shall be sufficient evidence of the Board of Directors' approval.

I further certify that Ramona L. Peters is the duly elected President of Native Land Conservancy, Inc., and that I am the duly elected Clerk and that said vote is still in full force and effect.

A true copy.

Attest:

Sharman Brown, Clerk
Native Land Conservancy, Inc. Date: _____ 2022

APPROVAL OF BOARD OF SELECTMEN TOWN OF MASHPEE

We, the undersigned, being a majority of the Board of Selectmen of the Town of Mashpee, hereby certify that at a public meeting duly held on _____, 2022, the Board of Selectmen voted to approve in the public interest and grant the foregoing Conservation Restriction from the Town of Mashpee, Conservation Commission to the Native Land Conservancy, Inc pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws do hereby approve in the public interest and grant the foregoing Conservation Restriction.

BOARD OF SELECTMEN:

COMMONWEALTH OF MASSACHUSETTS

Barnstable County, ss:

On this _____ day of _____, 2022, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the Town of Mashpee to the Native Land Conservancy, Inc. has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2022

Bethany A. Card
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared Bethany A. Card, 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 she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Description of the Premises

The Premises subject to this Conservation Restriction is the entirety of various parcels of land located east of Santuit Pond in the Town of Mashpee, County of Barnstable, Commonwealth of Massachusetts, containing a total of 14± acres:

Parcel 1 – [0 Cranberry Lane]

The following triangular shaped portion of Parcel B as shown on a plan of land entitled “Plan of Land in Mashpee, Mass. Prepared for Chop Chaque Cranberries Incorporated, The BSC Group – Cape Cod Inc. Madaket Place B12 Route 28 Mashpee, MA 02649, Scale 1” = 30’, Date February 9, 1988” and recorded with the Barnstable County Registry of Deeds (the “Registry”) in Plan Book 455, Page 98 being bound and described as follows:

NORTHWESTERLY by Lot 164 as shown on Plan of Land entitled “Plan of Land located in Mashpee – Mass. Prepared for Donald B. Blakeman, Scale: 1’ = 30 FT., Date: June 19, 1985” recorded with the Registry in Plan Book 400, Page 41, Seventy and 00/100 (70.00) feet:

NORTHEASTERLY again by said Lot 164, One Hundred Thirty-three and 75/100 (133.75) feet;

SOUTHWESTERLY by the remaining portion of Parcel B as shown on the above-mentioned plan of land prepared for Chop Chaque Cranberries Incorporated.

Being the same parcel conveyed in a deed dated December 10, 1991 from Andrea Haynes Perry a/k/a Andrea Lee Haynes to Chop Chaque Cranberries, Inc. and recorded with the Registry in Book 7789, Page 142.

Parcels 2-7 – [60 Abbotsford Road, 0 Bracket Street, 29 Brackett Street, 38 Brackett Street, and 0 Coolidge Street]

Lots 108 – 111, 114, 115, 161 – 168, 206 – 211, 215 – 233, 247 – 265, 269 – 276, and 279 – 291 as shown on a plan of land of “Santuit Park” owned by C.E. Lawrence, SCALE 60 Ft. = 1 in., Surveyed by F.O. SMITH & SUBDIVIDED BY A.S.N. ESTES, Civil engineer, August 1912 and recorded with plans of lots of land with the Registry at Book 27, Page 137.

Being the same parcel conveyed in a deed dated February 5, 1996 from Josephine D. Mills to Chop Chaque Cranberries, Inc. and recorded with the Registry in Book 10044, Page 261.

Parcel 8 – [46 Brackett Street]

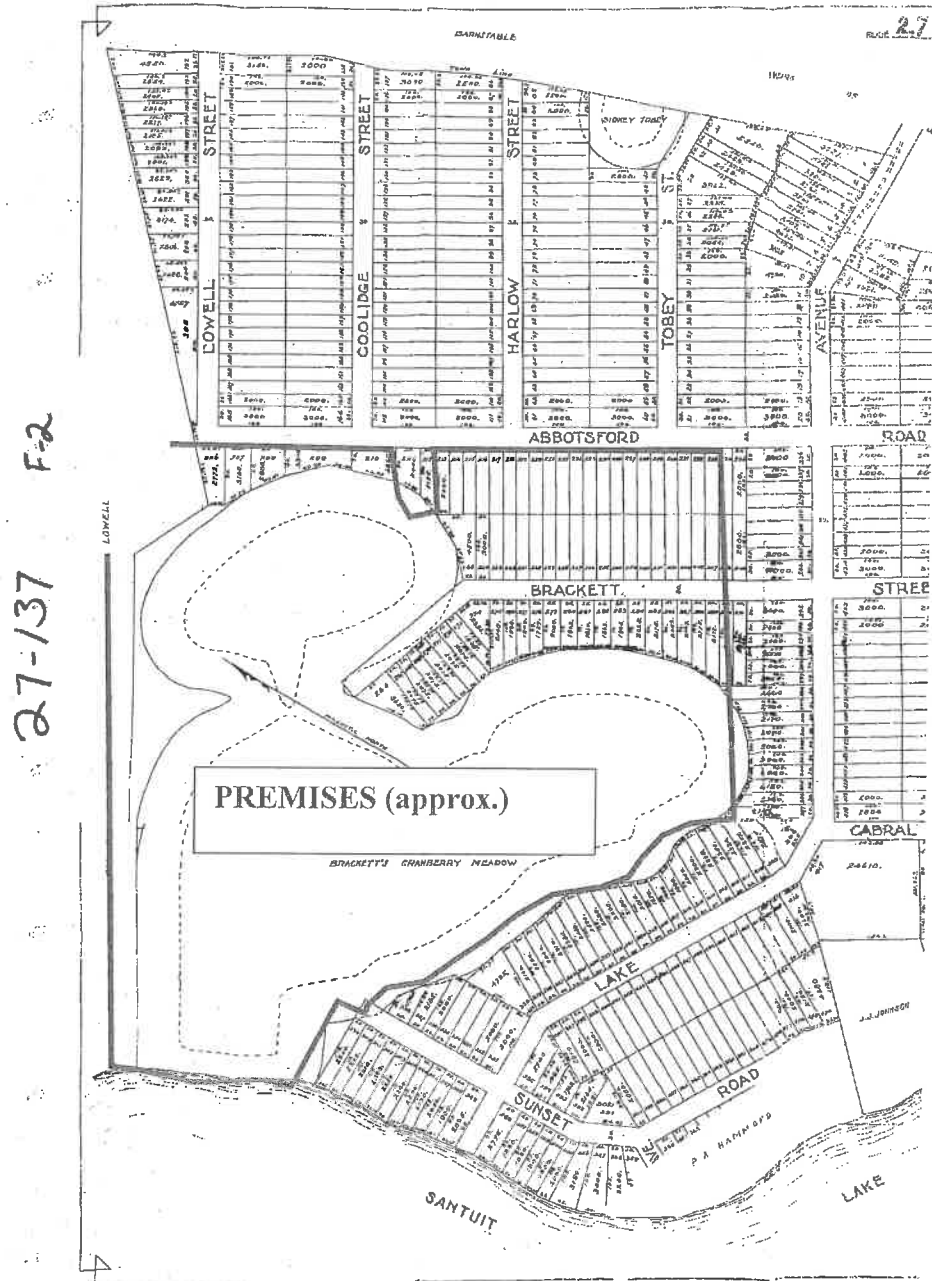
Three certain lots of land located in Mashpee, Barnstable County, Massachusetts. Said lots being a portion of the Santuit Park Tract and being LOTS NO. 266, 267 and 268 as shown on plan of land entitled “Plan of SANTUIT PARK situated in the Town of Santuit, Mass. Owned by C.E. Lawrence, Scale, 60 ft. = 1 in., Surveyed by P.O. Smith & Subdivided by A.S.N. Estes, August, 1912,” which said plan is duly recorded with the Registry in Book 27, Page 137.

Being Parcel 1 conveyed in a deed dated April 10, 1987 from Philip G. Brackett and Alma W. Brackett to Chop Chaque Cranberries, Inc. and recorded with the Registry in Book 5659, Page 13.

For Grantor’s title, see deed dated 10 September 2020 from Chop Chaque Cranberries, Inc. to the Town of Mashpee recorded with the Barnstable County Registry of Deeds in Book 33264 Page 194.

EXHIBIT B2

For official full size plan see Barnstable Registry of Deeds
Plan Book 27, Page 137 (0 Cranberry Lane: Lots 108-111, 114, 115, 161-168, 206-211, 215-233, 247-265, 269-276, and 279-291)



27-137-2

EXHIBIT B4

Reduced Copy of Plan of Premises

For official full size plan, see Barnstable Registry of Deeds
Plan Book 400, Page 41 (4 Cranberry Lane – Lot 164)

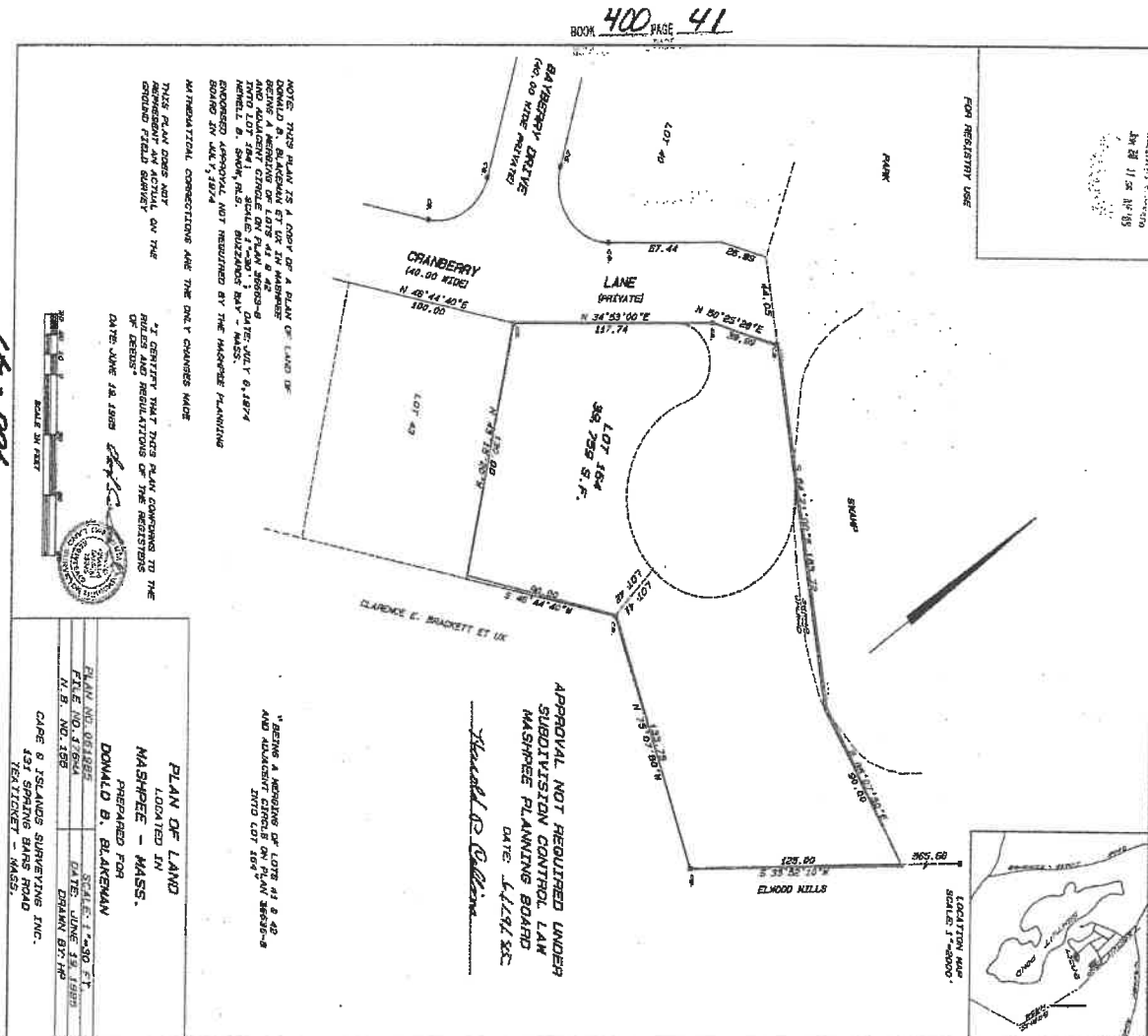


EXHIBIT B5

Reduced Copy of Plan of Premises

For official full size plan see Barnstable Registry of Deeds
Plan Book 249, Page 119 (10 Cranberry Lane- Lot 43)

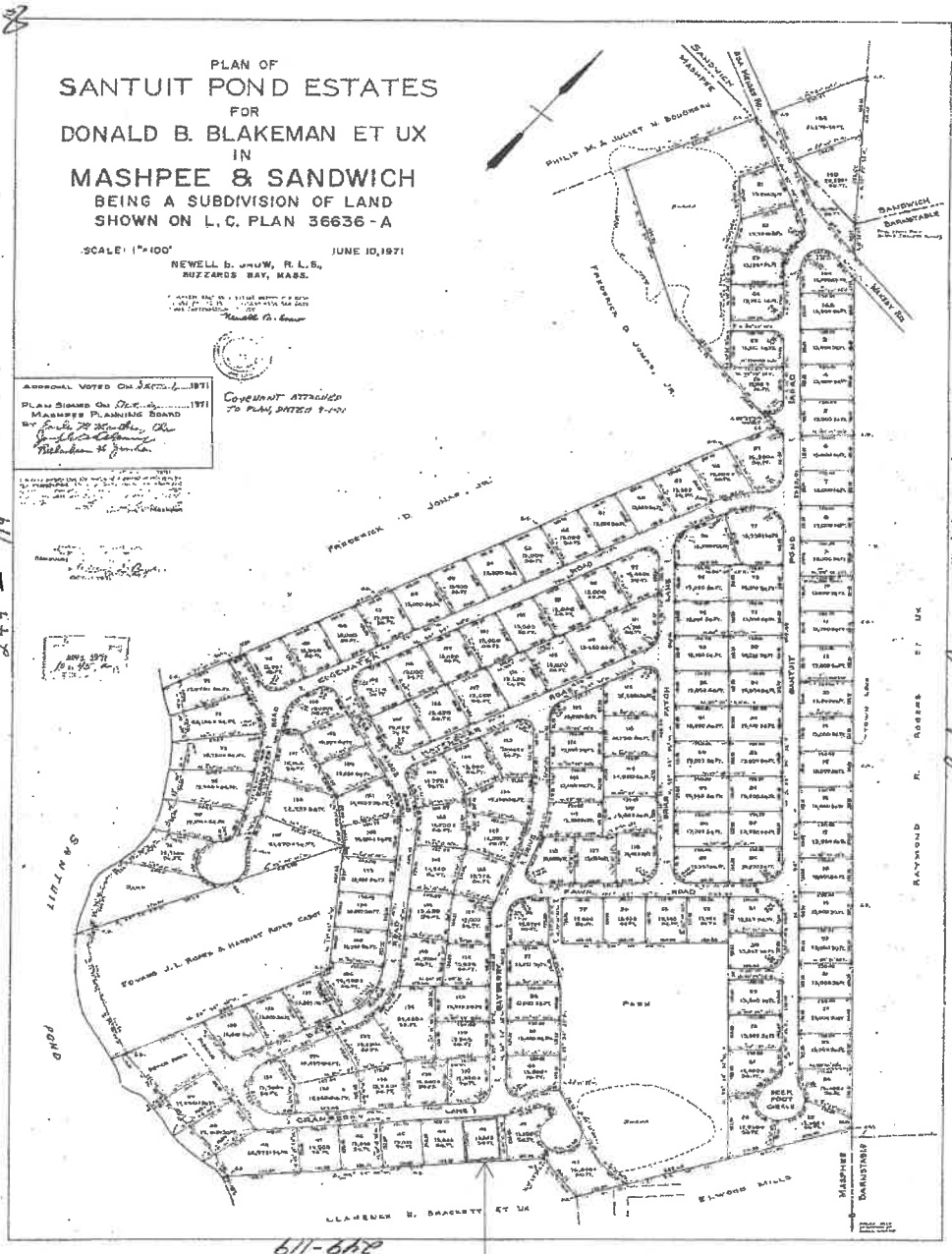


EXHIBIT C

**Special Town Meeting
June 15, 2020
Article 9 Vote**

Motion Made By Selectman Weeden

Motion: I move that the Town vote that Article 8 be approved as printed in the Warrant, with the exception of the phrase "or take any other action relating thereto." and, with respect to Article 9, moved that the Town vote to appropriate and transfer the sum of \$599,000 from the Community Preservation Fund Budgeted for Appropriation Reserve for the purpose of funding the Purchase of the Chopchaque Bog property; 0 Cranberry Lane 11.71 acres (Assessors Map/Parcel 23-2) to include Surrounding Upland; Undeveloped Lots identified as 4 Cranberry Lane 0.91 acres (Assessors Map/Parcel 23-70), 10 Cranberry Lane 0.30 acres (Assessors Map/Parcel 23-71) and 14 Cranberry Lane 1.06 acres (Assessors Map/Parcel 23-208) Project for Freshwater Wetland Restoration and the Water Quality Improvement of Santuit Pond, including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, and to authorize the Board of Selectmen to acquire the fee interest in said real property by purchase, gift or eminent domain taking and to execute all agreements, deeds, orders or other instruments necessary to complete said acquisition, and, further, to authorize the Selectmen to grant a restriction with respect to the subject property in accordance with G.L. c. 44B, §12, and with the exception of the phrase "or take any other action relating thereto."

A hold was called and questions discussed. The hold was released collectively

A motion was made to approve Article 9

Motion passes by 2/3 vote 7:22 pm

A TRUE COPY, ATTEST

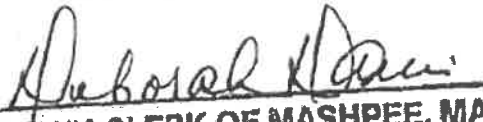
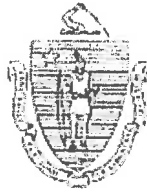

TOWN CLERK OF MASHPEE, MA

EXHIBIT D
Review by Massachusetts Historical Commission



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

November 15, 2021

Tom Anderson
Division of Conservation Services
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Chop Chaque Conservation Restriction, 0, 4, 10, and, 14 Cranberry Lane, Mashpee, MA. MHC #RC.70614.

Dear Mr. Anderson:

Staff of the Massachusetts Historical Commission (MHC) have reviewed the Project Notification Form (PNF) for the proposed acquisition of a Conservation Restriction (CR, M.G.L. c. 184, ss. 31-33) on the property referenced above in Mashpee. The project may include bog restoration and demolition of the existing cranberry bog pumphouse.


Review of the Inventory of Historic and Archaeological Assets of the Commonwealth indicates that there are no recorded historic or archaeological resources within the CR property. However, archaeological sites are recorded in proximity elsewhere along the shoreline of Santuit Pond within similar environmental settings. Undisturbed upland portions of the property that have not been disturbed by earth movement and/or grading associated with the cranberry bog operations are archaeologically sensitive.

This archaeological sensitivity is primarily due to proximity to environmental setting, with proximity to the wetlands and water resources of Santuit Pond, favorable for ancient and historical period land use and occupation. Types of archaeological resources that could be present within the property could include artifacts, subsurface soil deposits, and features associated with ancient and/or historical period Native American occupations or with other uses of the property associated with historical cranberry bog operations.

Acquisition of the CR for the property will assist to protect and preserve significant historic and archaeological resources that may be present. MHC staff recommend further consultation with this office and the Mashpee Wampanoag Tribe regarding any cranberry bog restoration activities that include ground impacts as project planning proceeds.

These comments are provided to assist in compliance with Massachusetts General Laws Chapter 9, Sections 26-27C (950 CMR 71). If you have questions or require additional information, please contact me at this office.

Sincerely,


Jonathan K. Patton
Staff Archaeologist/Preservation Planner
Massachusetts Historical Commission

cc: Julia Early, Compact of Cape Cod Conservation Trusts
David Weeden, Mashpee Wampanoag Tribe
Mashpee Historical Commission

220 Morrissey Boulevard, Boston, Massachusetts 02125
(617) 727-8470 • Fax: (617) 727-5128
www.sec.state.ma.us/mhc



TOWN OF MASHPEE
DEPARTMENT OF NATURAL RESOURCES
31 Mercantile Way Unit 6/7
Mashpee, Massachusetts 02649
Telephone – (508) 539-1410



MEMORANDUM

DATE: December 5, 2022
TO: Rodney C. Collins, Town Manager and Mashpee Select Board
FROM: Department of Natural Resources
RE: Mooring Regulation Fee Changes and Additions to Waterway Regulations Ch. 170

Description

The Harbormaster Division is seeking approval from the Select Board to enact late fee changes to the Mooring Regulations as put forth below:

- 1.) Mooring Bills will be sent out each year after January 1st via email or mail.
- 2.) Mooring renewal payments must be received on or before March 15th of the same calendar year.
 - a. Mooring renewals received after March 15st (March 16th) through March 31st will be charged a late fee charge of \$100.00 in addition to the applicable mooring fee as outlined in the mooring regulations. This additional invoice will be sent out via e-mail or mail.
 - b. Any Mooring not paid in full by March 31st will be revoked due to non-payment for the current year.
 - c. Renewal and late fee notices are sent as a courtesy only, Non-receipt of an annual mooring permit bill is not an excuse or justification for late payment.

The Division is also seeking approval for the following additions to the Waterways Regulations:

- 1.) All vessels, when operating, must follow the Rules of the Road. VIOLATION \$50
- 2.) Operation of a vessel in a negligent manner. VIOLATION: \$300.00 and MA State Summons. The following are considered negligent operation:
 - a. Jumping the wake of another vessel
 - b. Following a vessel too closely that is towing a person on any water sport device.

- c. Weaving through congested waterway traffic at speed.
- d. Intentionally operating a vessel in such a violent manner, that the operator and or passenger(s) are thrown into the water
- e. Operating at speed with passengers sitting on the bow or gunwales.

3.) Operation of a Personal Watercraft (PWC) with a modified exhaust system. VIOLATION \$300 and Voyage Termination: \$300 MAX Penalty per noncriminal disposition: MGL C. 40, §21D, (this mirrors 323CMR 4.03:7B 08)

Explanation

Mooring Late Fees and Revocation Term Recommendations:

The fee structure for mooring payments received late will allow the Harbormaster Division to end payment processing after March 31st of each year. These changes will improve the operating efficiency of the Division and allow the Harbormaster to begin mooring field organization by using the recommendations made throughout the Harbor Management Planning process.

Additions to the Waterways Regulations:

The current Mashpee Waterways Regulations do not cover general boat operation or the “Rules of the Road”. The “Rules of the Road” cover vessel operation in regards to USCG COLREGS, see <https://www.navcen.uscg.gov/sites/default/files/pdf/navRules/navrules.pdf>. These regulations cover offshore and inland bodies of water with regard to safe vessel operation. The Harbormaster Division is also proposing to add Negligent Operation and Personal Watercraft (PWC) Exhaust Modification to the Waterway Regulations to mirror current Massachusetts CMRs.

Background

Mooring Late Fees and Revocation Term Recommendations:

Late mooring renewals continue to plague the Harbormaster’s office year after year, with some renewals being received 3 months past the current deadline of March 31st. As of now, there is no late fee structure in place to incentivize payment prior to the deadline. It is the recommendation of the Department of Natural Resources to enact a penalty late fee to insure prompt payment in the future.

Currently, the waitlist for mooring permits in the Town Mashpee is at least 2-3 years and in some areas they are in excess of 7 -10 years. It is hoped that a new fee structure and renewal timeline will entice mooring holders to pay on time to secure their mooring for the year. Mooring holders who choose not to pay in a timely manner will incur a nominal fee. Others who don’t pay after the grace period will have their mooring permit/s revoked indefinitely. This will allow the Harbormaster to identify non renewals in April, and thus issue new moorings to people on the waitlist outside of the department’s high season. The new fee structure and renewal timeline will be fully communicated well in advance of the New Year if adopted via mail, email, traditional (mooring info), and social and town based web pages.

Additions to the Waterways Regulations:

Rules of the Road:

The Rules state that every vessel shall use all available means appropriate to the prevailing conditions to determine if a risk of collision exists. If there is any doubt, such risk shall be deemed to exist. The Rules are designed to tell the operator what to do when operating a vessel near other vessels. The purpose of the Rules of the Road is to help the operator avoid an accident, not to establish responsibility or liability if the operator gets into an accident.

Frequent misuse of Mashpee's waterways has resulted in cases of severe injury and property loss. In order to effectively enforce boat handling and operation, this violation is necessary for education and safety purposes.

Negligent Operation:

Negligent and reckless operation is covered under MGL Ch.90B, but not currently present in Mashpee's Waterways Bylaws. In order for the DNR to effectively enforce this violation a Bylaw must be created. Negligent operation includes jumping the wake of other vessels, following too closely to other vessels, weaving through congested waterway traffic, intentionally operating a vessel in an erratic manner, and bow riding. Generally this type of operation does not merit a verbal warning. However, if that is all that is issued, the violator may continue that behavior since there was no penalty involved with the interaction with DNR personnel.

PWC Exhaust Modifications:

Massachusetts currently restricts Personal Watercrafts (PWC) from modifying their exhaust systems (see 323 CMR 4.03; 7A+B 08): (7) Modification. Except as otherwise provided in 323 CMR 4.03(9), no person shall: (a) Remove or modify the exhaust or muffler system of a personal watercraft, or (b) Operate a personal watercraft so modified.

Mashpee is requesting that this be added as a bylaw for enforcement purposes, as no fee structure is associated with CMR Ch.323. Over the last 2 years we have seen an increase of PWCs (Jet Skis) with modified exhaust systems. This in turn has also increased the number of noise complaints from residents, primarily in the Mashpee Wakeby lake area. Adding this proposed Bylaw should increase compliance and reduce the noise pollution in the area.

Respectfully Submitted,

Department of Natural Resources



TOWN OF MASHPEE

DEPARTMENT OF NATURAL RESOURCES

31 Mercantile Way Unit 6/7
Mashpee, Massachusetts 02649
Telephone – (508) 539-1410



MEMORANDUM

DATE: December 12, 2022
TO: Rodney C. Collins, Town Manager
FROM: Department of Natural Resources
RE: Santuit Pond - Public Outreach Events and Project Updates

Description

The Department of Natural Resources is planning a series of public outreach events to seek public input on topics that relate to ongoing efforts for Santuit Pond water quality improvements. More specifically we will be seeking public input on the following:

- 1.) Santuit Pond potential waterways bylaw amendments - Proposed horsepower and speed restrictions to appear on the May town meeting warrant.
- 2.) Stormwater improvement concept design drafting for the Santuit Pond Town Landing as outline as an action item in this year's Municipal Vulnerability Preparedness (MVP) Program grant award.
- 3.) Review of the completed Santuit Pond Watershed Based Plan drafted through the Southeast New England Program (SNEP) / DEP; EPA / Mashpee Natural Resources and Mashpee Wampanoag Natural Resources Partnership.
- 4.) Phosphorous management opportunities and options for Santuit Pond: Dredging feasibility study, Aluminum Sulfate feasibility study, and aquatic plant harvesting feasibility.

Explanation

Ongoing efforts for restoration of Santuit Pond have become challenging due to the lack of public participation seen at past community events held by the DNR. As a result, the DNR will be working closely with our partners from the SNEP Program and MVP to expand our community engagement efforts to ensure that our findings and recommendations are available to and supported by the towns people.

- 1.) The DNR intends to resubmit an article for the May Town Meeting warrant to restrict vessel use on Santuit Pond. The recommendation is to only allow electric trolling motors up to 5hp to enter the pond. Fuss & O'Neill (MVP) and our SNEP Program partners intend to explain the importance of this article to the community at the first public hearing or outreach event. Fuss & O'Neill can be present at the January 9th Select Board meeting if recommended. This venue is preferred due to recording availability and lack of public engagement seen at past outreach events.

See draft article below:

"To see if the Town will vote to approve an amendment to the Use of Waterways Bylaw, Chapter 170, by adding §170-19 to prohibit the use of internal combustion engines and electric engines in excess of 5 horsepower within Santuit Pond to limit potential disturbance and resuspension of sediment into the water column, to preserve water quality in the Pond that will support other forms of recreation, and be protective of public health and safety.

§170-19 Santuit Pond Prohibited Uses

- A. Use of internal combustion engines and electric engines in excess of 5 horsepower within Santuit Pond is prohibited except for vessels owned or operated by an agency of the United States Government, Tribal Government, or by a State, County, City, or Town. This prohibition is intended to limit potential disturbance and resuspension of sediment into the water column resulting from use of motorized boats to protect and preserve water quality in the Pond, facilitate other forms of recreational use and preserve public health and safety.
- B. For purposes of this Bylaw, the term "Internal combustion engine" shall be defined as an engine in which air enters a combustion chamber, is mixed with fuel, compressed in the chamber, and combusted."
- 2.) As part of this year's MVP Grant Award, our consultants from Fuss & O'Neill will be seeking additional input on their drafted stormwater concept designs for the Santuit Pond Town Landing. This will be the second opportunity for the community voice their opinions on how they envision the Town Landing in the future, considering there is a need for additional stormwater improvements in the area. The first was held on Nov.19th and did not receive enough public participation or input. An online survey is also underway and is available on the DNR website. Fuss & O'Neill hope to have draft concept designs available for Select Board review in late January or early February.
- 3.) Last year the DNR and the Mashpee Wampanoag NRD completed a draft Watershed Based Plan for Santuit pond with the help of our partners from the SNEP Network and MVP: Fuss & O'Neill. Mass. Department of Environmental Protection has reviewed the document and made initial comments and recommendations. Now we would like to release the first draft to the public for a period of comment and review. Action items outlined throughout the plan will be explained further in the final public engagement sessions. The DNR is awaiting DEP approval prior to holding this public outreach event. In the meantime the SNEP Network is currently creating a website for the project which will be launched in the next month or so.
- 4.) Multiple projects are underway to address existing phosphorus and phosphorous input within the Santuit Pond Watershed. The DNR and our partners would like to hold a series of public engagement sessions to go over these efforts and findings. A total of three sessions will include : Santuit Pond Dredging Feasibility Study (Army Corps of Engineers), Aluminum Sulfate Treatment Feasibility Study (ESS Engineering, SNEP Program Partners, UMass Dartmouth), and Aquatic Plant Harvesting Feasibility, Phosphorous Removal, and Permitting (Mashpee Ponds Coalition, Brewster Ponds Coalition, Brewster Department of Natural Resources). Dredging Feasibility / Army Corps of Engineers are prepared to present to the Select Board at an agreed upon date and time. The DNR is still coordinating with the other parties to schedule future outreach events.

Recommendations

The DNR recommends that these efforts be supported by town management and the Mashpee Select Board.

It is also recommended that these public engagement sessions be recorded and available for Mashpee taxpayers who are unable to attend in person or via zoom. Select Board meeting attendance may be preferred.

Respectfully Submitted,



Ashley K. Fisher | Director
Department of Natural Resources
Office: 508.539.1410 | Cell: 774.327.0037
Email: afisher@mashpeema.gov

SUBLIME CANNABIS

Town of Mashpee
Mr. David Weeden, Chair
The Honorable Members of the Select Board
16 Great Neck Road N
Mashpee, MA 02649

Re: CatDogg LLC. d/b/a Sublime Cannabis Letter of Intent - Host Community Agreement for
Marijuana Retail and Product Manufacturing Establishment

November 28, 2022

Dear Chair Weeden and the Honorable Members of the Mashpee Select Board,

As local community members who have paid attention to the local and statewide regulatory landscape of the Adult Use Recreational Cannabis Industry and as professionals who have developed expertise in that industry, CatDogg LLC is an entity the Select Board and Town of Mashpee at-large can have confidence in. We are writing to notify the Town of Mashpee Select Board of our intent to seek local licensure from the Select Board for the purposes of obtaining provisional-licensure from the Massachusetts Cannabis Control Commission to sell adult-use recreational cannabis at retail as well as for marijuana product manufacturing. We humbly request the Select Board consider entering into a Host Community Agreement (HCA) with CatDogg LLC consistent with the "Local Control" provisions of M.G. L. c. 94G, § 3 and particularly Chapter 180 of the Acts of 2022 if the Select Board opts not to waive the HCA as allowed. As such, we request an appearance before the Mashpee Select Board on an upcoming agenda to further demonstrate our commitment to the Town of Mashpee as meaningful and productive partners and as capable and honest business people.

We have sought and obtained site control of real property located at 800 Falmouth Road, Unit 102A, by the property owner, Kevin P. Andrade, Trustee of the Summerfield Park Realty Trust. As such, we are in a position to seek approval of a Host Community Agreement from the Select Board as well as a special permit from the Zoning Board of Appeals pursuant to Mashpee Zoning Bylaw Section 174-24 K: Marijuana Establishments. As you know, the Town of Mashpee limits the number of Marijuana Retailers within town-limits to "the number fewer than 20% of the licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138 Sec. 15." There are 10 off-premise retail liquor licenses (package licenses) available for issuance in the Town as such, there is 1 additional retail cannabis license available to be issued.

As supplemental submissions for your consideration we are providing the following documents for your review:

1. Business Plan Overview and Process Summary
2. Executive Profiles / Resumes
3. Site Control Authorization

Thank you for your thoughtful consideration,

Rob Catania, Chief Executive Officer

Evan R. Lehrer, President

2022

SUBLIME CANNABIS

CAPE COD LOCALS SERVING CAPE COD LOCALS

SEEKING TO ELEVATE THE RETAIL CANNABIS
EXPERIENCE FOR BOTH OLDER AND YOUNGER CONSUMERS BY
CURATING AND HAND SELECTING ONLY THE HIGHEST QUALITY,
LABORATORY TESTED, CANNABIS PRODUCTS AVAILABLE
IN THE MARKETPLACE FOR SALE TO OUR CUSTOMERS AND
FURTHER BY PROVIDING IN DEPTH AND INDIVIDUALIZED
CUSTOMER SERVICE TO EVERY GUEST WHETHER THEY BE AN
EXPERIENCED CANNABIS USER OR
AN INEXPERIENCED CANNABIS USER.

ROBERT V. CATANIA AND EVAN R. LEHRER

BUSINESS PLAN OVERVIEW

SUBLIME CANNABIS SEEKS TO SECURE AN APPROXIMATELY 2,500 SQ. FT RETAIL SPACE AND AN ADDITIONAL 1,500 SQ. FT. MANUFACTURING SPACE FOR FUTURE PHASES. THE COMPANY WILL CONTRACT WITH A HIGHLY QUALIFIED AND BRAND COMPATIBLE ARCHITECT/DESIGNER TO CREATE A ONE-OF-A-KIND CANNABIS RETAIL EXPERIENCE THAT FOCUS ON HIGH QUALITY MATERIALS, LIGHTING, DISPLAYS, AND LAYOUT THAT COMPLEMENTS THE QUALITY OF PRODUCTS WE ARE SEEKING TO BRING TO RETAIL IN MASHPEE.

ADDITIONALLY THE COMPANY WILL BE WORKING WITH OUR CONSULTING FIRM WHO SPECIALIZES IN THE CANNABIS SPACE BOTH IN TERMS OF PERMITTING AND OPERATIONS. WE HAVE AN ONGOING RELATIONSHIP WITH THESE CONSULTANTS.



MARKET TRENDS

SUBLIME CANNABIS SEEKS TO ESTABLISH ITSELF AFTER BENEFITTING FROM THE EXPERIENCES OF OTHER RETAIL CANNABIS ESTABLISHMENTS OPENING UP ACROSS CAPE COD. THESE RETAILERS HAVE DEMONSTRATED STEADY GROWTH WITH MASHPEE'S ONLY LOCAL STORE DOING \$9M IN SALES IN THE MOST RECENT FISCAL YEAR (FY2022).

NATIONWIDE STATISTICS TOUTED IN TRADE MAGAZINES AND OUR CONVERSATIONS WITH INDUSTRY PROFESSIONALS HAVE SOLIDIFIED A FEW OBVIOUS TRENDS THAT SUBLIME CANNABIS WILL SEEK TO RELY ON WHEN CURATING ITS MIX OF PRODUCTS FOR SALE. WHILE DRIED CANNABIS FLOWER HOLDS THE LARGEST SHARE OF THE MARKET REPRESENTING NEARLY 50% OF ALL DISPENSARY SALES, THEIR SALES NUMBERS ARE SLOWLY DECLINING AS CONSUMERS BECOME MORE EDUCATED REGARDING THE ALTERNATIVE PRODUCTS AVAILABLE ON THE MARKET. CANNABIS CONCENTRATES ARE GROWING IN POPULARITY ACROSS DEMOGRAPHIC GROUPS AS WELL AS "E-PENS" AND DISTILLATE VAPORIZER CARTRIDGES. IN ADDITION TO DRIED FLOWER, CONCENTRATES, AND VAPORIZER CARTRIDGES WE WISH TO CURATE A ROTATING MENU OF CANNABIS EDIBLE PRODUCTS.

PRODUCTS IN THE MARKET



DRIED FLOWER

- STILL THE LEADER IN SALES AND IS MOST IN-DEMAND PRODUCT
- GENERALLY SOLD IN 1/8 OUNCE OR 1/4 OUNCE SIZES
- CAN BE PROCESSED INTO PRE-ROLLED JOINTS AS A 'HIGHER END' LOW VOLUME ITEM.



TINCTURES AND TOPICALS

- MANY ACCESS CANNABIS' MEDICAL BENEFITS THROUGH TINCTURES AND TOPICALS: LOTIONS, SALVES, AND OILS
- TINCTURES ARE LIQUIDS TAKEN ORALLY.
- CAN REDUCE INFLAMMATION, PAIN AND ITCHING, ASSIST WITH WOUND CARE, REDUCE ANXIETY, ETC.



PURE CONCENTRATES

- ACCOUNTS FOR APPROXIMATELY 20% OF THE RETAIL CANNABIS MARKETPLACE
- GROWING MARKETSHARE
- CURRENTLY LICENSED MANUFACTURERS CAN SELL ALREADY PROCESSED CONCENTRATES AT WHOLESALERS TO OTHER MANUFACTURERS



E-PENS AND VAPE CARTRIDGES

- ALSO EXPERIENCING GROWTH IN USER BASE AS CONSUMER KNOWLEDGE INCREASES
- PROVIDES OPPORTUNITY TO SELL THE INDUSTRY'S BEST BATTERIES AND ACCESSORIES TO ACCOMMODATE THE MARKET



CANNABIS INFUSED EDIBLES

- ACCOUNTS FOR ANOTHER 20% OF THE PRODUCT MARKET
- VARIETY AND DIVERSITY OF EDIBLES IS EVER-EXPANDING

TIMELINE AND PROCESS

1. SUBMIT FOR APPROVAL OF HOST COMMUNITY AGREEMENT
2. PETITION ZONING BOARD OF APPEALS FOR SPECIAL PERMIT
3. APPLY FOR PROVISIONAL LICENSE WITH THE CANNABIS CONTROL COMMISSION CONGRUENTLY WITH ZBA SUBMISSION
4. IMPROVE STOREFRONT IN ACCORDANCE WITH DESIGN PLANS AND CANNABIS CONTROL COMMISSION REGULATIONS
5. HIRE PERSONNEL
6. PURCHASE INVENTORY
7. FINAL WALKTHROUGHS AND APPROVALS
8. OPEN FOR BUSINESS

BENEFITS TO MASHPEE

COMPETITION ANNUAL SALES FIGURES

• TRIPLE M MASHPEE	FY22 \$9, 250, 633
• PIPING PLOVER WELLFLEET	FY22 \$6, 804, 156

SUBLIME CANNABIS SALES PROJECTIONS

YEAR 1 GROSS SALES - \$5,662,800

YEAR 2 GROSS SALES - \$6,085,560

YEAR 3 GROSS SALES - \$6,085,560*

*PROJECTING SALES INTO YEAR 3 BECOMES DIFFICULT AS SHIFTS IN WHOLESAL MARKET PRICES FOR CANNABIS PRODUCTS ARE DIFFICULT TO ANTICIPATE MORE THAN A FEW YEARS OUT. SHOWING YEAR THREE SALES CONSISTENT WITH YEAR 2 WITH THE CAVEAT THAT AS OPERATING COSTS INCREASE OR DECREASE THIS FIGURE MAY SHIFT ALSO

AVERAGE GROSS SALES OVER THE FIRST THREE YEARS = \$5,874,180

PROJECTED POTENTIAL 3% COMMUNITY IMPACT FEE
\$176,225.40

PROJECTED 3% LOCAL SALES TAX PAYOUTS
\$176,225.40

\$352,450.80
PROJECTED ANNUAL TOTAL

THE FACILITY - 800 FALMOUTH RD

PROPERTY ADDRESS: 800 FALMOUTH ROAD, UNIT 102A (ASSESSORS MAP 88 PARCEL 2)

ZONING DISTRICT: INDUSTRIAL (I-1)

PARKING AVAILABLE: 126 PARKING SPACES THROUGHOUT ENTIRE COMPLEX
24 SPACES PROVIDED IMMEDIATELY IN FRONT OF UNIT 103A

PARKING NEEDS: MASHPEE ZONING BYLAW SECTION 174-39: REQUIRED NUMBER OF SPACES
MANDATES 1 SPACE PER 150 SQ. FT OF GROSS FLOOR AREA

RETAIL PORTION OF THIS FACILITY TOTALS 2,500 SQ. FEET
 $2,500 / 150 = 16.66$

MANUFACTURING PORTION OF THIS FACILITY TOTALS 1,500 SQ. FEET
MANDATES 1.5 SPACES PER 1,000 S.F. OF GROSS FLOOR AREA OR 2 SPACES

REQUIRED PARKING = 19 SPACES (24 PROVIDED)

USES: RECREATIONAL MARIJUANA RETAIL SALES ALLOWED BY SPECIAL
PERMIT PURSUANT TO 174-24(K) AND 174-25 (E)(16) OF ZONING BY
LAW (PHASE 1)

RECREATIONAL MARIJUANA PRODUCT MANUFACTURING ALLOWED BY
SPECIAL PERMIT PURSUANT TO 174-24(K) AND 174-25 (E)(16) OF ZONING BY
LAW (PHASE II)

DESIGN AESTHETIC AND BRANDING:

SUBLIME CANNABIS INTENDS ON ESTABLISHING A WELCOMING ENVIRONMENT. OUR STOREFRONT WILL BE CLEAN AND MODERN WITH A FOCUS ON NATURAL ELEMENTS AND A DIVERSITY OF MATERIAL CHOICES THAT FEELS HARMONIOUS WITH MASHPEE'S IDENTITY AND CONSISTENT WITH THE BRAND WE ARE SEEKING TO ESTABLISH.

WITH FRONTAGE ON ROUTE 28 IT IS OUR INTENTION TO CREATE A SIGNAGE PROGRAM THAT IS DISTINCT, UNIQUE AND IDENTIFIABLE, BUT IN NO WAY REPRESENTS THE TYPICAL CLICHES ASSOCIATED WITH CANNABIS E.G. POTLEAFS AND OTHER PARA-FERIALIA AND SYMBOLOGY ON DISPLAY

WE WILL BE WORKING WITH LOCAL ARCHITECTS AND OTHER CONSULTANTS TO ACHIEVE THIS .

SUBLIME'S GUIDING PRINCIPLES

1. BE COMMUNITY LEADERS BY ACTIVELY PARTICIPATING IN CIVIC LIFE
2. BE EDUCATORS IN THE CANNABIS SPACE BY FOCUSING ON CONSUMER EDUCATION
3. EXUDE HONESTY AND INTEGRITY IN ALL THAT WE DO
4. CURATE ONLY THE HIGHEST QUALITY PRODUCTS FOR SALE TO OUR CUSTOMERS
5. TRAIN, HIRE, AND PROMOTE FROM WITHIN AND LOCALLY
6. FOLLOW CANNABIS CONTROL COMMISSION REGULATIONS STRICTLY AND STAY INFORMED OF REGULATORY CHANGES AS THEY ARE ADOPTED.
7. PRIORITIZE SAFETY AND SECURITY OF EMPLOYEES AND CUSTOMERS AT ALL TIMES BY INVESTING IN STATE OF THE ART SECURITY AND SURVEILLANCE TECHNOLOGY.

Robert V. Catania

Entrepreneur, Chef, Customer Service Specialist, Business Owner



Phone

[REDACTED]



Email

rcatania@wickedrestaurants.com



Website

www.wickedrestaurant.com

PROFILE



Competent and professional business owner with decades of experience in the hospitality industry. Professionally trained chef with a passion for curating the highest quality products and ingredients to enhance the customer experience. Seeking to translate the broad skillset developed and earned over years as a restaurant owner into the emerging cannabis industry. Expert in purchasing, inventory management, scheduling, staff training, and menu/concept creation.

PROFESSIONAL EXPERIENCE

FOUNDER AND PRESIDENT

Wicked Restaurant and Wine Bar, 2008-Present

- Created and built the Wicked Restaurant brand
- Oversees all restaurant operations including menu development
- Manages a year-round staff averaging a total of around 43 employees.
- Employed hundreds of local workers since opening in 2008

PARTNER

CATANIA HOSPITALITY GROUP, 1979-2006

- Began service as a cook in the Hearth N'Kettle System at Hearth N'Kettle Restaurants and the Dan'l Webster Inn
- Founded DW Aquafarm in 1990 and served as its General Manager until 1995
- Served as the Executive Chef and Assistant General Manager of the Dan'l Webster Inn overseeing all departments and providing assistance to the General Manager from 1985 to 1999.
- Promoted to Vice-president and General Manager of the Dan'l Webster Inn in 2000 and held that position until 2006 when opened Wicked in Mashpee.
- Served as Food and Beverage Director for the Cape Codder Resort and Spa from 2000 to 2006.

BUSINESS OWNERSHIP PROFILE

- Catania Wine Enhancer, President and Founder, 2006-2009
- Wicked Restaurant and Wine Bar Mashpee, President and Founder, 2008-Present
- Wicked Restaurant and Wine Bar Dedham, President and Founder, 2010-2017 (Sold 2017)

EDUCATION

CULINARY INSTITUTE OF AMERICA, ASSOCIATES DEGREE, 1985

Evan R. Lehrer

Aspiring Entrepreneur, Urban Planner, Public Policy Professional



Phone



Email



Website
www.linkedin.com/in/ELeherer

PROFILE



Pragmatic and efficient leader prepared for the leap into municipal management/administration. Interested in entrepreneurship and establishing local small businesses. Uniquely adept at team-building with a unique and inspiring style. Effective communicator with years of experience navigating affordable housing, climate resilience, zoning overhaul, municipal procurement, and new and emerging uses such as solar energy systems and recreational cannabis. Interested in developing and launching businesses that add value to communities.

PROFESSIONAL EXPERIENCE

TOWN PLANNER

TOWN OF MASHPEE, FEBRUARY 2018 - PRESENT

- Advises Planning Board, Zoning Board, Select Board on land use related matters: primarily support to the Planning Board regarding subdivision proposals and development projects requiring special permit.
- Staff lead on all affordable housing projects in coordination with the Affordable Housing Committee and Affordable Housing Trust
- Responsible for updating the Town's Local Comprehensive Plan, first update since 1998 expected 2023.
- Prepares annual budget request to the Town Manager annually as well as any Capital Improvement Program requests as needed. Implements said budget.
- Project Manager for the Municipal Vulnerability Preparedness Program (MVP). Successfully got Mashpee certified with multiple successful action grant projects underway in support of community resilience goals.
- Conducts significant community engagement efforts to keep the community involved and educated on all matters of public interest particularly pertaining to land use regulations and long term planning efforts.

ECONOMIC DEVELOPMENT & LONG TERM PLANNER

TOWN OF BROOKLINE, SEPTEMBER 2016 - SEPTEMBER 2017

- Staff support to Economic Development Advisory Board drafting agendas, minutes, and support memoranda
- Manager of all applications for signage and facade changes in commercial districts. Guided applicants through regulatory process.
- Department lead on the regulatory planning for recreational marijuana facilities
- Managed external consultants on planning studies and initiatives, primarily a visioning study that sought to identify priority sites for development and redevelopment.
- Tracked, managed, and responded to shifts in public policy that impacted the small business community and economic outlook of the community.

Evan R. Lehrer

Urban Planner, Public Policy Professional, Municipal Leader

EXPERIENCE CONTINUED

PRINCIPAL PLANNER

CITY OF CENTRAL FALLS, AUGUST 2016 - SEPTEMBER 2017

- Administrator of the Community Development Block Grant (CDBG) Program. Responsible for the largest allocation of funds in the City's program history. Wrote successful grants to federal, state, and local programs.
- Developed an urban agriculture initiative by cultivating relationships with community organizations and local residents. Responsible for the construction of a new community garden developed in partnership with local nonprofit organization Southside Community Land Trust. This relationship has been continued to this day and the program expanded.
- Data collection and analysis of social and economic trends in the City and the region to inform updates to the City's Local Comprehensive Plan (LCP)

OTHER RELEVANT EXPERIENCE

- Pawtucket Foundation - Interim Project Specialist, August 2015 - November 2015
- Cape Cod Foundation - Youth Initiative Coordinator, June 2015 - November 2015
- Municipality of Quito, Ecuador (consultant) - Masters Capstone, September 2014 - May 2015

SKILLS

ADMINISTRATION

- Procurement
- Budgeting
- Personnel Management
- Communications
- Project Management

LAND USE

- Master Planning
- Zoning / Form Based Code
- Site Plan Review
- Affordable Housing Develop.
- Climate Resilience Planning
- Open Space Preservation
- Historic Preservation

QUALITIES

- Honest
- Accessible
- Dynamic
- Polished public speaker
- Big-picture thinker
- Innovative
- Responsive Listener

AWARDS AND ACCOLADES

- Mashpee Historical Commission Historical Preservation Award - 2021
- Cape & Plymouth Business Magazine 40 Under 40 Honoree - 2019

EDUCATION

BROWN UNIVERSITY, MASTER OF PUBLIC AFFAIRS

PROVIDENCE, RHODE ISLAND / 2014 - 2015

ITHACA COLLEGE, POLITICAL SCIENCE AND FRENCH B.A. (DUAL)

ITHACA, NEW YORK / 2008-2012

TABOR ACADEMY, HIGH SCHOOL DIPLOMA

MARION, MA / 2004-2008

Summerfield Park Realty Trust
800 Falmouth Road
Mashpee, MA 02649

November 28, 2022

Town of Mashpee
Rodney C. Collins, Town Manager
16 Great Neck Road
North Mashpee, MA 02649

Re: Letter of intent to lease space to Robert Cantania DBA Cat Dogg LLC

Dear Interested Officials:

As the and trustee of Summerfield Park Realty Trust I hereby acknowledge that I have entered into an agreement with Cat Dogg LLC to rent Units 102A and B1A. For the purposes of retail sales and manufacturing of cannabis products.

Signed on this day of November 28, 2022.

A handwritten signature in cursive script, appearing to read "Kevin P. Andrade", followed by the word "trustee" written in a similar cursive style.

Kevin P. Andrade Trustee

SUMMERFIELD PARK REALTY TRUST

December __, 2022

Board of Selectmen
Town of Sandwich
Town Hall
100 Route 6A
Sandwich, MA 02563

Re: NSG Village Green-1 Project

Dear Chairman Hctor and Members of the Board of Selectmen:

On behalf of the Town of Mashpee Select Board ("Board") I submit this correspondence to highlight the Board's concerns relative to the anticipated environmental and other development impacts upon the Town of Mashpee and its residents which would result from the NSG Village Green-1 housing development project in Forestdale (the "Project"), as presently proposed. We certainly understand the Town of Sandwich's desire to support affordable and attainable housing development on Cape Cod. We, as a Board, likewise, recognize the critical need for such housing; however, we believe that any such development proposal must carefully consider, analyze and, to the fullest extent possible, mitigate project related environmental impacts, particularly those relating to the Upper Cape's fragile water and aquifer resources, as well as other impacts on public infrastructure and existing residences in the development area.

We have been closely following developments relative to the design and permitting of the Project and the two proposed additional phases of the overall development of this site, given its proposed scale and proximity to the Town of Mashpee and its water resources. It is clear that this proposed development will have significant regional impacts, including, but not limited to, those resulting from Project wastewater discharges into groundwater which would further impair the environmental qualities of nearby receptor water bodies (notably Peters Pond and Popponesset Bay), potential threats to Mashpee's down-gradient public water supply wells, and significantly increased traffic on Route 130. We know that your Board has previously expressed similar concerns on these issues, and we believe that an open and joint dialogue regarding said impacts will greatly enhance our respective abilities to advance and protect the interests of both Sandwich and Mashpee.

Because public sewer is not available to the subject development site, and detailed plans for the treatment and disposal of the wastewater to be generated by the initial 144 residential unit phase of the development are not yet available, we are concerned relative to the Project's likely wastewater discharge impacts on groundwater quality, nitrogen levels, and the resulting deteriorating effects on local water resources and Mashpee's public water supply wells. The overall effects of development of the entire 64-acre site will undoubtedly have regional impacts in this regard; accordingly, it is imperative that all stakeholders and their representatives be involved in the permitting processes so that their issues and concerns can be duly heard and addressed.

As you know, in November 2017, Mashpee, Sandwich and Barnstable entered into an Intermunicipal Agreement whereby each Town committed to a regional watershed-based approach to addressing the impacts of increased loads of nitrogen delivered to the estuaries and embayments of the Popponesset Bay system. The Towns agreed to establish a joint Work Group, to share and develop engineering studies and evaluations, and to implement a plan to achieve the Total Maximum Daily Load ("TMDL") limits developed by DEP for nitrogen discharges into the Bay pursuant to a joint watershed permit. Significant efforts have been undertaken, to date, by all participating Towns to implement the objective of the IMA. However, we believe that the proposed Project will undermine the Towns' TMDL compliance objective and should not be considered or approved at any level without implementation of advanced wastewater treatment at a nutrient discharge for nitrogen of no greater than 3 mg/L. We trust that you share Mashpee's commitment to these nitrogen management goals and will advocate for the implementation of such wastewater treatment measures during the Project permitting process.

Further, with a primary Project point of entry/egress on Route 130, we are concerned about potential significant increases in traffic volumes and related safety issues, particularly during the peak traffic summer season. Route 130 is a major thoroughfare in the Town of Mashpee. Accordingly, we believe that a comprehensive study of traffic volumes, controls, and other public safety measures, as well as a detailed analysis of any proposed alterations to the Route 130 layout and any related infrastructure impacts be conducted as an integral component of the Project permit review process.

In summary, there are multiple potential regional impacts foreseeable in the proposed Village Green and related Sandwich Green projects which the Select Board, as steward for the Mashpee community, will be monitoring throughout the projects' review and permitting processes. We are hopeful that we and other Mashpee officers will be afforded the opportunity to engage in a constructive and mutually beneficial dialogue on the issues noted herein as well as other Project issues of regional impact as they arise during the myriad permit review/approval processes ahead.

Thank you for your attention to and anticipated cooperation in this regard. Please feel free to contact the Board or Town Manager Collins if you have any questions or comments relative to this matter.

Very truly yours,

David Weeden
Chair, Select Board

Cc: