



**AGENDA  
SELECT BOARD  
TUESDAY, FEBRUARY 20, 2024  
WAQUOIT MEETING ROOM  
MASHPEE TOWN HALL  
16 GREAT NECK ROAD NORTH  
MASHPEE, MA 02649**

**\*Broadcast Live on Local Cable Channel 8\***

**Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-8>**

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

**PLEDGE OF ALLEGIANCE**

**MOMENT OF SILENCE**

**MINUTES**

Discussion and Approval of the Following Minutes: Monday, February 12, 2024 Regular Session

**APPOINTMENTS & HEARINGS**

- 6:35 pm Public Hearing: Private to Public Road Conversion, Christopher Lane
- 6:45 pm Public Hearing: Alcoholic Beverages License Application: Transfer of License: Mashpee Fresh Market LLC, 32 Market Street, Mashpee, MA 02649, Megan A. Burdick, Manager
- Presentation, Discussion and Possible Approval of the Veterans Banner Proposal for Mashpee Community Park: *Richard DeSorgher*
- Discussion and Approval of Authorizing the Town Manager to Sign Community Development Block Grant Documents on Behalf of the Select Board
- Public Comment

**COMMUNICATIONS & CORRESPONDENCE**

**NEW BUSINESS**

- Discussion, Action and Approval of Draft #1 of the May 6, 2024 Special and Annual Town Meeting Warrant Articles

**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**

**ADJOURNMENT**

**MASHPEE TOWN CLERK  
FEB 15 '24 PM 2:19**



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

Pursuant to Town of Mashpee General Bylaw §150-6.D., the Select Board will conduct a public hearing on Tuesday, February 20, 2024 at 6:35 p.m., to address the private to public road conversion of Christopher Lane in Mashpee MA, as shown on plans entitled "Road Taking Plan Christopher Lane" dated January 26, 2024, and prepared by Cape & Islands Engineering.

Said hearing will take place in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA 02649.

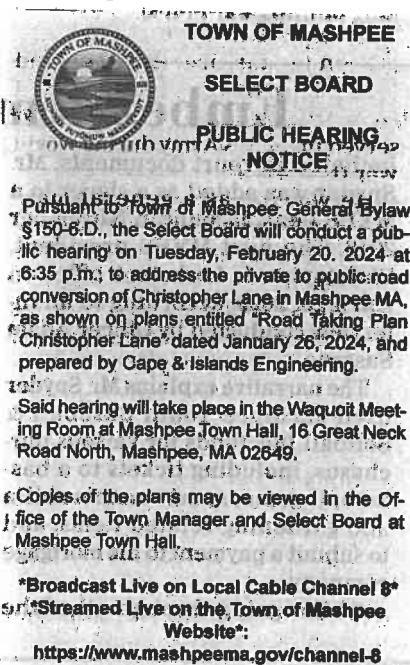
Copies of the plans may be viewed in the Office of the Town Manager and Select Board at Mashpee Town Hall.

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**<https://www.mashpeema.gov/channel-8>**

You can submit comments and questions via email to **[bos@marshpeema.gov](mailto:bos@marshpeema.gov)** prior to the meeting date and time.



Per order of  
**The Mashpee Select Board**

John J. Cotton, *Chair*  
Thomas F. O'Hara, *Vice Chair*  
Carol A. Sherman, *Clerk*  
David W. Weeden  
Michaela Wyman-Colombo

Per order of  
**The Mashpee Select Board**  
John J. Cotton, *Chair*  
Thomas F. O'Hara, *Vice Chair*  
Carol A. Sherman, *Clerk*  
David W. Weeden  
Michaela Wyman-Colombo

February 9, 2024



# TOWN OF MASHPEE

## OFFICE OF THE SELECT BOARD

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

### MEMORANDUM

Date: February 15, 2024

To: Rodney C. Collins, Town Manager and  
Honorable Members of the Select Board

From: Stephanie A. Coleman, Administrative Secretary

Re: Public Hearing: Christopher Lane Road Conversion

#### Description

Pursuant to Town of Mashpee General Bylaw §150-6.D., the Select Board will conduct a public hearing on Tuesday, February 20, 2024 at 6:35 p.m., to address the private to public road conversion of Christopher Lane in Mashpee, MA, as shown on plans entitled "Road Taking Plan Christopher Lane" dated January 26, 2024, and prepared by Cape & Islands Engineering.

The property owners have been notified via certified mail of the public hearing. If 50% + 1 of the property owners decide to move forward with petition #2 the Select Board will need to submit this article in lieu of the lead petitioner for inclusion in the May 2024 Town Meeting Warrant.

Furthermore if the article is approved at May Town Meeting the road conversion will occur in conjunction with the Sewer Project and a portion of the cost will be offset as noted in the construction estimate.

#### **Christopher Lane Estimated Betterment:**

**Construction \$ 119,355**

**Processing \$ 865**

**Total \$ 120,220 = \$ 17,174.29 per seven (7) property owners**



# TOWN OF MASHPEE

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[bos@mashpeema.gov](mailto:bos@mashpeema.gov)

**SENT BY CERTIFIED MAIL FEBRUARY 8, 2024**

February 6, 2024

Mashpee, MA 02649

Dear Property Owner:

Pursuant to Town of Mashpee General Bylaw §150-6.D., the Select Board will conduct a public hearing on Tuesday, February 20, 2024 at 6:35 p.m., to address the private to public road conversion of Christopher Lane in Mashpee MA, as shown on plans entitled "Road Taking Plan Christopher Lane" dated January 26, 2024, and prepared by Cape & Islands Engineering. The hearing will take place at Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA 02649. The Department of Public Works Director and the Select Board will be available to address any questions relating to the road taking process and the enclosed estimate.

Please note that if Petition #2 is presented to and accepted by the Select Board for inclusion in the May 2024 Town Meeting Warrant, the road conversion will occur in conjunction with the Sewer Project and a portion of the cost will be offset as noted in the estimate for the construction cost. If property owners plan to move forward and petition the Select Board to submit an article accepting the road layout for insertion in the May Town Meeting Warrant, Petition #2 must be signed by at least 50% + 1 of the owners of record and must be received in this office no later than **March 6, 2024**.

If Town Meeting approves the road taking and after completion of all related road work, a final betterment amount will be calculated, apportioned equally to each property owner, and assessed on an upcoming tax bill. The total betterment assessment cannot exceed the amount of the attached estimate. Residents may choose to pay in full within 30 days interest free, or make payments over a period of up to 20 years at 5% interest. For assistance determining the amortized betterment amount as it would appear on your tax bill, you may contact the Assessor's Office at 508-539-1404.

You can submit comments and questions via email to [scoleman@mashpeema.gov](mailto:scoleman@mashpeema.gov) prior to the meeting date and time. Please direct any other questions to this office at 508-539-1401.

Sincerely,

Stephanie A. Coleman

Administrative Secretary

Office of the Town Manager and Select Board

| <b>CHRISTOPHER LANE</b>   |               |
|---|---------------|
| <b>ROAD CONVERSION</b>  |               |
| <b>ESTIMATED BETTERMENT COST</b>                                |               |
|   |               |
| <b>CONSTRUCTION</b>   | \$ 119,355.00 |
| <b>\$500 PROCESSING AND RECORDING FEES \$365 RECORDING FEES</b> | \$ 865.00     |
| <b>SUBTOTAL</b>   | \$ 120,220.00 |
|   |               |
| <b>TOTAL</b>  | \$ 120,220.00 |
|   |               |
| <b>COST PER SEVEN (7) PROPERTY OWNERS</b>                       | \$ 17,174.29  |
| <b>PROPERTY OWNERS</b>  | 7             |
|   |               |

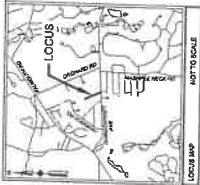
## ESTIMATE FOR CONVERSION (FY25 COORDINATED WITH SEWER WORK)

TITLE: Christopher Lane

22 width  
900 length

|   | Quantity  | Unit | Unit Price Estimate | \$\$ Amount      |
|---|-----------|------|---------------------|------------------|
| ORIGINAL ENGINEERING/SURVEYING<br>(preparation of taking plans) | 1         | LS   | \$8,880.00          | \$8,880          |
| <b>SUBTOTAL</b>   |           |      |                     | <b>\$8,880</b>   |
| <b>CONSTRUCTION COST ESTIMATE</b>                               |           |      |                     |                  |
| EXCAVATION/ROAD BASE  | 0         | LS   | \$0.00              | \$0              |
| TREE WORK   | 1         | DAY  | \$7,500.00          | \$7,500          |
| REBUILD DRAINAGE STRUCTURES                                     | 5         | EACH | \$1,000.00          | \$5,000          |
| MILL  | BY OTHERS |      |                     |                  |
| BITUMINOUS CONCRETE CLASS 1,<br>COMPLETE IN PLACE               | BY OTHERS |      |                     |                  |
| ADJUST FRAMES   | 0         | EACH | \$500.00            | \$0              |
| PAVED APRONS/DRIVEWAYS  | 0         | EACH | \$1,000.00          | \$0              |
| CATCH BASIN/PIPE, CLEANING                                      | 1         | LS   | \$3,000.00          | \$3,000          |
| BIOSWALE MATERIAL   | 185       | CY   | \$50.00             | \$9,300          |
| HYDROSEED   | 10,000    | SF   | \$0.50              | \$5,000          |
| EXCAVATOR   | 40        | HR   | \$310.00            | \$12,400         |
| TRUCK   | 80        | HR   | \$140.00            | \$11,200         |
| LABORER   | 40        | HR   | \$160.00            | \$6,400          |
| ENGINEERING/SURVEYING   | 1         | LS   | \$2,500.00          | \$2,500          |
| FENCE   | 500       | LF   | \$70.00             | \$35,000         |
| SIGNS   | 3         | EACH | \$150.00            | \$450            |
| POSTS   | 1         | EACH | \$125.00            | \$125            |
| MISCELLANEOUS/CONTINGENCY (10%)                                 | 1         | LS   | \$12,600.00         | \$12,600         |
| <b>SUBTOTAL</b>   |           |      |                     | <b>\$110,475</b> |
| <b>GRAND TOTAL</b>  |           |      |                     | <b>\$119,355</b> |

Prepared 2/1/24 by CEL



PLAN MAP FOR RECORD PURPOSES  
UNLESS OTHERWISE NOTED ON  
DATE

PLAN MAP FOR RECORD PURPOSES  
UNLESS OTHERWISE NOTED ON  
DATE

MASHPEE SELECT BOARD  
VOTED UNDER ARTICLE OF THE TOWN MEETING

MASHPEE TOWN CLERK DATE

PLAN PURPOSE  
TO BE RECORDED FOR RECORD PURPOSES  
UNLESS OTHERWISE NOTED ON  
DATE

GENERAL NOTES  
LOCATIONS ARE BASED ON THE DISCREET INSTRUMENT SURVEY  
PLAN REFERENCE PLAN BOOK 286 PAGE 17 AND PLAN BOOK 286 PAGE 19

PLAN PURPOSE  
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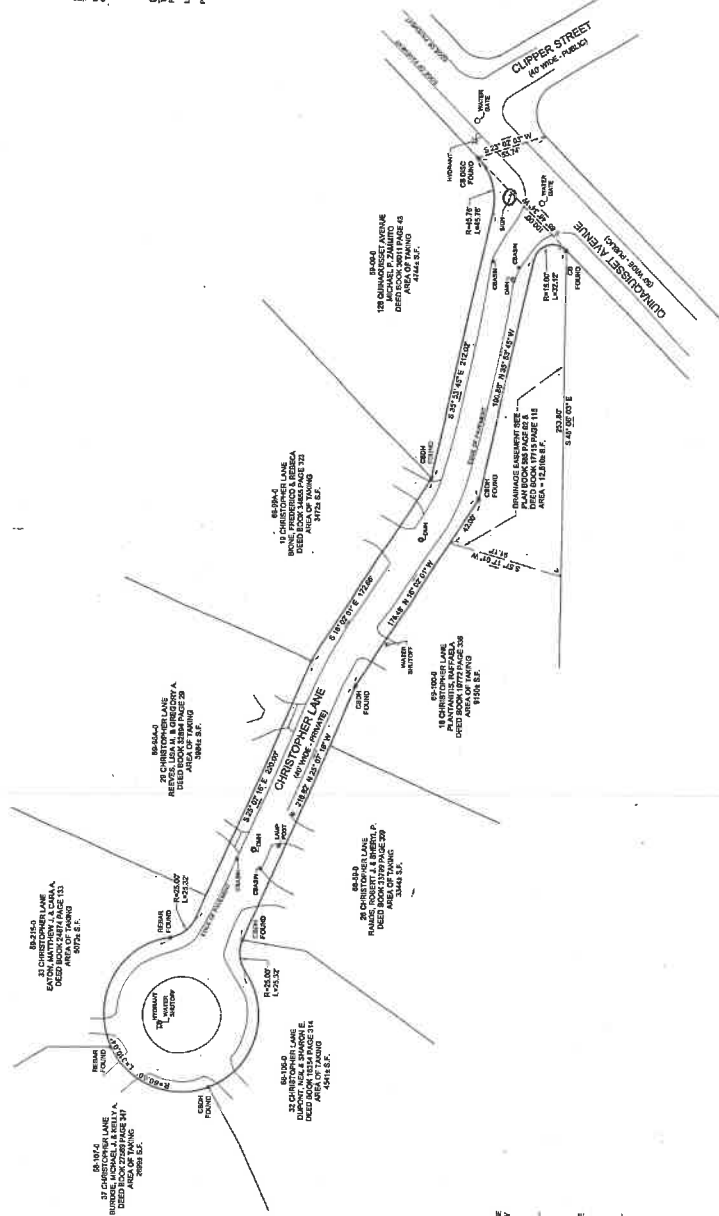
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I HEREBY CERTIFY THAT THE PLANNING SERVICE CONFORMS WITH THE  
PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF  
MASSACHUSETTS.

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PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF  
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LEGEND  
CONVEYANCE BOUNDARY  
ROAD  
PROPERTY LINE  
EASEMENT  
UTILITY  
DRAINAGE  
WATER BODY  
UNDEVELOPED LAND  
OTHER

CAPE & ISLANDS  
ENGINEERING  
1000 STATE STREET  
MASSACHUSETTS 01901  
TEL: 508-335-1100  
FAX: 508-335-1101  
WWW.CAPEANDISLANDS.COM

ROAD TAKING PLAN



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

Pursuant to Massachusetts General Laws Chapter 138, § 16A, the Select Board, acting as the Local Licensing Authority for the Town of Mashpee, will conduct a public hearing on the Alcoholic Beverages License Application of Mashpee Fresh Market LLC, 32 Market Street, Mashpee, MA 02649, Megan A. Burdick, manager, for a Transfer of License #00085-PK-0670

Said hearing will be held on Tuesday, February 20, 2024 at 6:45 p.m. in the Waquoit Meeting Room at Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA 02649.

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Per order of  
The Mashpee Select Board

John J. Cotton, Chair  
Thomas F. O'Hara, Vice Chair  
Carol A. Sherman, Clerk  
David W. Weeden  
Michaela Wyman-Colombo

February 9, 2024

Per order of

The Mashpee Select Board

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# TOWN OF MASHPEE

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### MEMORANDUM

Date: February 15, 2024

To: Rodney C. Collins, Town Manager and  
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From: Stephanie A. Coleman, Administrative Secretary 

Re: Public Hearing: Christopher Lane Road Conversion

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#### Description

Pursuant to Massachusetts General Laws Chapter 138, § 16A, the Select Board, acting as the Local Licensing Authority for the Town of Mashpee, will conduct a public hearing on the Alcoholic Beverages License Application of Mashpee Fresh Market LLC, 32 Market Street, Mashpee, MA 02649, Megan A. Burdick, manager, for a Transfer of License #00085-PK-0670.

The license being transferred is Darby's Natural Market LLC dba Rory's. Attached is the application for the Select Board's review.

## Christopher Kirrane

**From:** customerservice@nCourt.com  
**Sent:** Wednesday, February 7, 2024 10:07 AM  
**To:** Christopher Kirrane  
**Subject:** Receipt from nCourt

### YOUR RECEIPT >>

Please include the payment receipt with your application. Thank you.

#### Paid To

Name: Massachusetts Alcoholic Beverages Control Commission - Retail  
Address 1: 95 Fourth Street, Suite 3  
City: Chelsea  
State: Massachusetts  
Zip: 02150

#### Payment On Behalf Of

First Name: Megan Last Name: Burdick  
Address  
City: Cotuit State/Territory: MA Zip: 02635  
Phone: "

| Description        | ID            | Service Fee | Amount   |
|--------------------|---------------|-------------|----------|
| FILING FEES-RETAIL | 00085-PK-0670 | \$4.70      | \$200.00 |

**Receipt Date:** 2/7/2024 10:06:33 AM EST

**Invoice Number:** af1fdb4d-1f29-4e49-a982-1a49afc18e02

**Total Amount Paid:** \$204.70

#### Billing Information

First Name Christopher  
Last Name Kirrane  
Address 1 133 Falmouth Road  
City Mashpee  
State/Territory MA  
Zip 02649  
Email ckirrane@dunningkirkane.com

#### Credit / Debit Card Information

Card Type American Express  
Card Number \*\*\*\*\*

### IMPORTANT INFORMATION >>

Please include the payment receipt with your application. Thank you.

Please verify the information shown above. Your payment has been submitted to the location listed above.



*The Commonwealth of Massachusetts*  
*Alcoholic Beverages Control Commission*  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

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

**APPLICATION FOR A TRANSFER OF LICENSE**

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

**ECRT CODE: RETA**

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE  
PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

00085-PK-0670

ENTITY/ LICENSEE NAME Mashpee Fresh Market, LLC

ADDRESS 32 Market Street

CITY/TOWN Mashpee

STATE MA

ZIP CODE 02649

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License                | <input type="checkbox"/> Alteration of Licensed Premises  | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other  |   | <input type="checkbox"/> Change of DBA                                |

THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS  
APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL

**Alcoholic Beverages Control Commission**  
**95 Fourth Street, Suite 3**  
**Chelsea, MA 02150-2358**



*The Commonwealth of Massachusetts*  
**Alcoholic Beverages Control Commission**  
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
[www.mass.gov/abcc](http://www.mass.gov/abcc)

RECEIVED

FEB 7 2024

**APPLICATION FOR A TRANSFER OF LICENSE**

Municipality

By: *Stephanie A. Cleman*  
Time:

**1. TRANSACTION INFORMATION**

- ☒ Transfer of License  
☐ Alteration of Premises  
☐ Change of Location  
☐ Management/Operating Agreement
- ☐ Pledge of Inventory  
☐ Pledge of License  
☐ Pledge of Stock  
☐ Other
- ☐ Change of Class  
☐ Change of Category  
☐ Change of License Type  
(§12 ONLY, e.g. "club" to "restaurant")

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Organic Natural Foods retail store

**2. LICENSE CLASSIFICATION INFORMATION**

ON/OFF-PREMISES

TYPE

CATEGORY

CLASS

Off-Premises-15

\$15 Package Store

Wines and Malt Beverages

Annual

**3. BUSINESS ENTITY INFORMATION**

The entity that will be issued the license and have operational control of the premises.

Current or Seller's License Number

FEIN

Entity Name

DBA

Manager of Record

Street Address

Phone

Email

Add'l Phone

Website

**4. DESCRIPTION OF PREMISES**

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. If this application alters the current premises, provide the specific changes from the last approved description. You must also submit a floor plan.

Premises is 4,000 sq ft. It is a one story retail building with one store room, one office and one restroom. There are three main entrances and exits with one additional loading dock entrance/exit.

Total Sq. Footage

Seating Capacity

Occupancy Number

Number of Entrances

Number of Exits

Number of Floors

## APPLICATION FOR A TRANSFER OF LICENSE

### 5. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

Transferor Entity Name  By what means is the license being transferred?  ▼

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

| Name of Principal                       | Title/Position                                 | Percentage of Ownership           |
|---|--|-----------------------------------|
| <input type="text" value="Rory Eames"/> | <input type="text" value="Manager and Owner"/> | <input type="text" value="100%"/> |
| <input type="text"/>                    | <input type="text"/>                           | <input type="text"/>              |
| <input type="text"/>                    | <input type="text"/>                           | <input type="text"/>              |
| <input type="text"/>                    | <input type="text"/>                           | <input type="text"/>              |
| <input type="text"/>                    | <input type="text"/>                           | <input type="text"/>              |

### 6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

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

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.

- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises (Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.

- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

|  |                                   |   |   |
|--|-----------------------------------|---|---|
| Name of Principal                                      | Residential Address               | SSN   | DOB   |
| <input type="text" value="Megan A. Burdick"/>          | <input type="text"/>              | <input type="text"/>  | <input type="text"/>  |
| Title and or Position                                  | Percentage of Ownership           | Director/ LLC Manager US Citizen                              | MA Resident   |
| <input type="text" value="Member, Manager and Owner"/> | <input type="text" value="100%"/> | <input checked="" type="radio"/> Yes <input type="radio"/> No | <input checked="" type="radio"/> Yes <input type="radio"/> No |
| Name of Principal                                      | Residential Address               | SSN   | DOB   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="text"/>  | <input type="text"/>  |
| Title and or Position                                  | Percentage of Ownership           | Director/ LLC Manager US Citizen                              | MA Resident   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="radio"/> Yes <input type="radio"/> No            | <input type="radio"/> Yes <input type="radio"/> No            |
| Name of Principal                                      | Residential Address               | SSN   | DOB   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="text"/>  | <input type="text"/>  |
| Title and or Position                                  | Percentage of Ownership           | Director/ LLC Manager US Citizen                              | MA Resident   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="radio"/> Yes <input type="radio"/> No            | <input type="radio"/> Yes <input type="radio"/> No            |
| Name of Principal                                      | Residential Address               | SSN   | DOB   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="text"/>  | <input type="text"/>  |
| Title and or Position                                  | Percentage of Ownership           | Director/ LLC Manager US Citizen                              | MA Resident   |
| <input type="text"/>                                   | <input type="text"/>              | <input type="radio"/> Yes <input type="radio"/> No            | <input type="radio"/> Yes <input type="radio"/> No            |

## APPLICATION FOR A TRANSFER OF LICENSE

### 6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST (Continued...)

|  |  |  |  |
|--|--|--|--|
| Name of Principal                        | Residential Address                      | SSN  | DOB  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/>           | <input style="width: 90%;" type="text"/>           |
| Title and or Position                    | Percentage of Ownership                  | Director/ LLC Manager US Citizen                   | MA Resident  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

|  |  |  |  |
|--|--|--|--|
| Name of Principal                        | Residential Address                      | SSN  | DOB  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/>           | <input style="width: 90%;" type="text"/>           |
| Title and or Position                    | Percentage of Ownership                  | Director/ LLC Manager US Citizen                   | MA Resident  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

|  |  |  |  |
|--|--|--|--|
| Name of Principal                        | Residential Address                      | SSN  | DOB  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/>           | <input style="width: 90%;" type="text"/>           |
| Title and or Position                    | Percentage of Ownership                  | Director/ LLC Manager US Citizen                   | MA Resident  |
| <input style="width: 90%;" type="text"/> | <input style="width: 90%;" type="text"/> | <input type="radio"/> Yes <input type="radio"/> No | <input type="radio"/> Yes <input type="radio"/> No |

Additional pages attached? ☐ Yes ☒ No

#### CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☒ No

#### 6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☒ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

| Name             | License Type         | License Name                  | Municipality |
|------------------|----------------------|-------------------------------|--------------|
| Megan A. Burdick | Annual Wine and Malt | Cotuit Fresh Market, LLC      | Barnstable   |
| Megan A. Burdick | Seasonal All Alcohol | Popponesset Fresh Market, LLC | Mashpee      |
|                  |                      |                               |              |

#### 6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

| Name | License Type | License Name |  |
|------|--------------|--------------|--|
|      |              |              |  |
|      |              |              |  |
|      |              |              |  |

## APPLICATION FOR A TRANSFER OF LICENSE

### 6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?

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

| Date of Action | Name of License | City | Reason for suspension, revocation or cancellation |
|----------------|-----------------|------|---|
|                |                 |      |   |
|                |                 |      |   |
|                |                 |      |   |

### 7. CORPORATE STRUCTURE

Entity Legal Structure

Date of Incorporation

State of Incorporation

Is the Corporation publicly traded? ☐ Yes ☒ No

### 8. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises.

- If the applicant entity owns the premises, a deed is required.
- If leasing or renting the premises, a signed copy of the lease is required.
- If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.
- If the real estate and business are owned by the same individuals listed in question 6, either individually or through separate business entities, a signed copy of a lease between the two entities is required.

Please indicate by what means the applicant will occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales? ☒ Yes ☐ No

Landlord receives 3.5% of all Gross Sales over certain thresholds.

### 9. APPLICATION CONTACT

The application contact is the person who the licensing authorities should contact regarding this application.

Name:

Phone:

Title:

Email:

## APPLICATION FOR A TRANSFER OF LICENSE

### 10. FINANCIAL DISCLOSURE

|                                       |             |
|---------------------------------------|-------------|
| A. Purchase Price for Real Estate     |             |
| B. Purchase Price for Business Assets |             |
| C. Other* (Please specify)            | \$80,000.00 |
| D. Total Cost                         | \$80,000.00 |

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

#### SOURCE OF CASH CONTRIBUTION

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

| Name of Contributor | Amount of Contribution |
|---------------------|------------------------|
|                     |                        |
|                     |                        |
|                     |                        |
|                     |                        |
|                     |                        |
| Total               |                        |

#### SOURCE OF FINANCING

Please provide signed financing documentation.

| Name of Lender               | Amount      | Type of Financing | Is the lender a licensee pursuant to M.G.L. Ch. 138.          |
|------------------------------|-------------|-------------------|---|
| Cooperative Bank of Cape Cod | \$10,000.00 | Term Loan         | <input type="radio"/> Yes <input checked="" type="radio"/> No |
| Cooperative Bank of Cape Cod | \$75,000.00 | Line of Credit    | <input type="radio"/> Yes <input checked="" type="radio"/> No |
|                              |             |                   | <input type="radio"/> Yes <input type="radio"/> No            |
|                              |             |                   | <input type="radio"/> Yes <input type="radio"/> No            |

#### FINANCIAL INFORMATION

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

|  |
|--|
|  |
|--|

### 11. PLEDGE INFORMATION

Please provide signed pledge documentation.

Are you seeking approval for a pledge? ☐ Yes ☒ No

Please indicate what you are seeking to pledge (check all that apply) ☐ License ☐ Stock ☐ Inventory

To whom is the pledge being made?

|  |
|--|
|  |
|--|



## 12. MANAGER APPLICATION

### A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name  Date of Birth  IN

Residential Address

Email  Phone

Please indicate how many hours per week you intend to be on the licensed premises

### B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?\*

☒ Yes ☐ No \*Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime?

☐ Yes ☒ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

| Date | Municipality | Charge | Disposition |
|------|--------------|--------|-------------|
|      |              |        |             |
|      |              |        |             |
|      |              |        |             |

### C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

| Start Date | End Date  | Position            | Employer                 | Supervisor Name  |
|------------|-----------|---------------------|--------------------------|------------------|
| 11/1/2019  | Current   | Manager/Owner       | Cotuit Fresh Market, LLC | N/A              |
| 05/2010    | 11/1/2019 | Clerk/Store Manager | Cotuit Fresh Market, LLC | Richard Pimental |
| 05/2009    | 04/2010   | Waitress            | Libby's Chow Hound       | Anrold Richter   |
| 10/2008    | 05/2009   | Teacher Assistant   | A Child's World          | Theresa Mithcell |

### D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ☐ Yes ☒ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

| Date of Action | Name of License | State | City | Reason for suspension, revocation or cancellation |
|----------------|-----------------|-------|------|---|
|                |                 |       |      |   |
|                |                 |       |      |   |
|                |                 |       |      |   |

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature  Date

### 13. MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?  
If yes, please fill out section 13.

☐ Yes ☒ No

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

**IMPORTANT NOTE:** A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does not pertain to a liquor license manager that is employed directly by the entity.*

#### 13A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name

Address

Phone

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership Director

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership Director

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership Director

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Name of Principal

Residential Address

SSN

DOB

Title and or Position

Percentage of Ownership Director

US Citizen

MA Resident

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

#### CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?

If yes, attach an affidavit providing the details of any and all convictions.

☐ Yes ☐ No

### 13B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 13A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

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

| Name | License Type | License Name | Municipality |
|------|--------------|--------------|--------------|
|      |              |              |              |
|      |              |              |              |
|      |              |              |              |

### 13C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 13A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

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

| Name | License Type | License Name | Municipality |
|------|--------------|--------------|--------------|
|      |              |              |              |
|      |              |              |              |
|      |              |              |              |

### 13D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 13A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

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

| Licensee Name | License Type | Municipality | Date(s) of Agreement |
|---------------|--------------|--------------|----------------------|
|               |              |              |                      |
|               |              |              |                      |
|               |              |              |                      |

### 13E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question section 13B, 13C, 13D ever been suspended, revoked or cancelled?

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

| Date of Action | Name of License | City | Reason for suspension, revocation or cancellation |
|----------------|-----------------|------|---|
|                |                 |      |   |
|                |                 |      |   |
|                |                 |      |   |

### 13F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee?

Yes ☐ No ☐

b. Will the licensee retain control of the business finances?

Yes ☐ No ☐

c. Does the management entity handle the payroll for the business?

Yes ☐ No ☐

d. Management Term Begin Date

e. Management Term End Date

f. How will the management company be compensated by the licensee? (check all that apply)

☐ \$ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☐ % of overall sales (indicate percentage)

☐ other (please explain)

**ABCC Licensee Officer/LLC Manager**

Signature:

Title:

Date:

**Management Agreement Entity Officer/LLC Manager**

Signature:

Title:

Date:

### **ADDITIONAL INFORMATION**

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

Section 5 - The existing license holder is closing its business. The applicant is taking over the existing space and assuming the current lease of the existing license holder. The existing business and applicant's business are both retail food and drink businesses.

## APPLICANT'S STATEMENT

I, Megan A. Burdick the: ☐ sole proprietor; ☐ partner; ☐ corporate principal; ☒ LLC/LLP manager  
Authorized Signatory

of Mashpee Fresh Market, LLC  
Name of the Entity/Corporation

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

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

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

Signature: 

Date: 1/12/2024

Title: Manager / Owner

## CORPORATE VOTE

The Board of Directors or LLC Managers of

Mashpee Fresh Market, LLC

Entity Name

duly voted to apply to the Licensing Authority of

Mashpee

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

1/12/2024

Date of Meeting

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License                | <input type="checkbox"/> Alteration of Licensed Premises  | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other  |   | <input type="checkbox"/> Change of DBA                                |

"VOTED: To authorize

Megan A. Burdick

Name of Person

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

"VOTED: To appoint

Megan A. Burdick

Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

For Corporations ONLY

A true copy attest,

  
Corporate Officer /LLC Manager Signature

\_\_\_\_\_  
Corporation Clerk's Signature

Megan A. Burdick  
(Print Name)

\_\_\_\_\_  
(Print Name)



JEAN M. LORIZIO, ESQ.  
CHAIRMAN

Commonwealth of Massachusetts  
Alcoholic Beverages Control Commission  
95 Fourth Street, Suite 3  
Chelsea, MA 02150

CORI REQUEST FORM

The Alcoholic Beverages Control Commission ("ABCC") has been certified by the Criminal History Systems Board to access conviction and pending Criminal Offender Record Information ("CORI"). For the purpose of approving each shareholder, owner, licensee or applicant for an alcoholic beverages license, I understand that a criminal record check will be conducted on me, pursuant to the above. The information below is correct to the best of my knowledge.

**ABCC LICENSE INFORMATION**

|  |               |                |  |            |         |
|--|---------------|----------------|--|------------|---------|
| ABCC NUMBER:<br>(IF EXISTING LICENSEE) | 00085-PK-0670 | LICENSEE NAME: |  | CITY/TOWN: | Mashpee |
|--|---------------|----------------|--|------------|---------|

**APPLICANT INFORMATION**

|                                       |         |                     |       |                                     |               |
|---------------------------------------|---------|---------------------|-------|-------------------------------------|---------------|
| LAST NAME:                            | Burdick | FIRST NAME:         | Megan | MIDDLE NAME:                        | Ann           |
| MAIDEN NAME OR ALIAS (IF APPLICABLE): |         | PLACE OF BIRTH:     |       |                                     |               |
| DATE OF BIRTH:                        |         | SSN:                |       | ID THEFT INDEX PIN (IF APPLICABLE): |               |
| MOTHER'S MAIDEN NAME:                 | Herman  | DRIVER'S LICENSE #: |       | STATE LIC. ISSUED:                  | Massachusetts |
| GENDER:                               | FEMALE  | HEIGHT:             |       | WEIGHT:                             |               |
| EYE COLOR:                            |         |                     |       |                                     |               |
| CURRENT ADDRESS:                      |         |                     |       |                                     |               |
| CITY/TOWN:                            | Cotuit  | STATE:              | MA    | ZIP:                                | 02635         |
| FORMER ADDRESS:                       |         |                     |       |                                     |               |
| CITY/TOWN:                            | Cotuit  | STATE:              | MA    | ZIP:                                | 02635         |

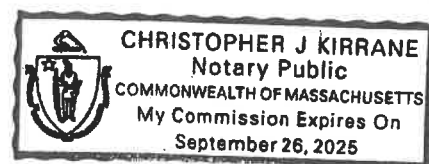
**PRINT AND SIGN**

|               |                   |                               |  |
|---------------|-------------------|-------------------------------|--|
| PRINTED NAME: | Megan Ann Burdick | APPLICANT/EMPLOYEE SIGNATURE: |  |
|---------------|-------------------|-------------------------------|--|

**NOTARY INFORMATION**

On this 12th day of January, 2024 before me, the undersigned notary public, personally appeared Megan Ann Burdick (name of document signer), proved to me through satisfactory evidence of identification, which were Massachusetts Driver's License to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

NOTARY



**DIVISION USE ONLY**

|                                       |  |
|---------------------------------------|--|
| REQUESTED BY:                         |  |
| SIGNATURE OF CORI-AUTHORIZED EMPLOYEE |  |

The DCJ Identify Theft Index PIN Number is to be completed by those applicants that have been issued an Identify Theft PIN Number by the DCJ. Certified agencies are required to provide all applicants the opportunity to include this information to ensure the accuracy of the CORI request process. All CORI request forms that include this field are required to be submitted to the DCJ via mail or by fax to (617) 660-4614.

**The Commonwealth of Massachusetts, William Francis Galvin  
Corporations Division**

One Ashburton Place - Floor 17, Boston MA 02108-1512 | Phone: 617-727-9640

**Certificate of Organization**

(General Laws, Chapter 156C, Section 12)

Filing Fee: \$500.00

Identification Number: 001732793 (number will be assigned)

1. The exact name of the limited liability company is:

MASHPEE FRESH MARKET, LLC

2. The address in the Commonwealth where the records will be maintained:

Number and  
street:

Address 2:

City or town: COTUIT State: MA Zip code: 02635

Country: UNITED STATES

3. The general character of business (If the limited liability company is organized to render professional service, this form must be filed by fax, mail or in person):

THE GENERAL CHARACTER OF THE BUSINESS OF THE LLC IS TO ENGAGE IN THE BUSINESS OF OPERATING A MARKET, TO SELL, OFFER FOR SALE AND DISTRIBUTE, AT WHOLESALE AND RETAIL, FOODS AND FOODSTUFFS, GROCERIES AND GROCERY PRODUCTS; TO ENGAGE IN ANY LAWFUL ACTIVITIES DIRECTLY OR INDIRECTLY RELATED OR INCIDENTAL TO ANY OF THE FORGOING (INCLUDING, SUBJECT TO THE PROVISIONS OF THE LLC'S OPERATING AGREEMENT, THE BORROWING OF MONEY); AND SUBJECT TO THE PROVISIONS OF THE LLC'S OPERATING AGREEMENT, TO ENGAGE IN ANY OTHER ACTIVITY IN WHICH A LIMITED LIABILITY COMPANY ORGANIZED UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS MAY LAWFULLY ENGAGE.

4. The latest date of dissolution, if specified: (mm/dd/yyyy)

5. The name and address of the Resident Agent:

Agent name: MEGAN A. BURDICK

Number and  
street:

Address 2:

City or town: COTUIT State: MA Zip code: 02635

I MEGAN A. BURDICK,



agent of the above limited liability company pursuant to G. L. Chapter 156C Section 12.

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

| Title   | Name             | Address |
|---------|------------------|---------|
| MANAGER | MEGAN A. BURDICK |         |

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

| Title         | Name             | Address   |
|---------------|------------------|-----------|
| SOC SIGNATORY | MEGAN A. BURDICK | 02635 USA |

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

| Title         | Name             | Address   |
|---------------|------------------|-----------|
| REAL PROPERTY | MEGAN A. BURDICK | 02635 USA |

9. Additional matters:

10. This certificate is effective at the time and on the date approved by the Division, unless a later effective date not more than ninety (90) days from the date of filing is specified:

Later Effective Date (mm/dd/yyyy): Time (HH:MM)

SIGNED UNDER THE PENALTIES OF PERJURY, this 13 Day of December, 2023,

MEGAN A. BURDICK

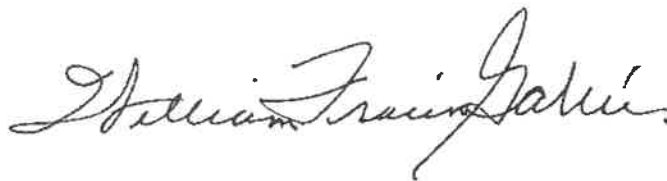
, Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

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

deemed to have been filed with me on:

December 13, 2023 10:49 AM

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

WILLIAM FRANCIS GALVIN

*Secretary of the Commonwealth*



**Certificate of Compliance**

Date: February 5, 2024

Letter ID: L0001625869

Employer ID (FEIN): XX-XXX1393

DARBYS NATURAL MARKET LLC

Certificate ID: L0001625869

The Department of Unemployment Assistance certifies that as of 02-Feb-2024, DARBYS NATURAL MARKET LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c. 149, §189.

This certificate expires on 03-Mar-2024 .

Sincerely,

Katie Dishnica, Director  
Department of Unemployment Assistance

**Questions?**

Revenue Enforcement Unit  
Department of Unemployment Assistance  
Email us: Revenue.Enforcement@detma.org  
Call us: (617) 626-5750



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

mass.gov/dor

Letter ID: L1423861920  
Notice Date: February 6, 2024  
Case ID: 0-002-307-908



## CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



DARBY'S NATURAL MARKETS LLC

116

### ***Why did I receive this notice?***

The Commissioner of Revenue certifies that, as of the date of this certificate, DARBY'S NATURAL MARKETS LLC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

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

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

### ***What if I have questions?***

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

### ***Visit us online!***

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

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

Edward W. Coyle, Jr., Chief  
Collections Bureau

ASSIGNMENT AND AMENDMENT OF LEASE AND LANDLORD CONSENT

THIS ASSIGNMENT AND AMENDMENT OF LEASE AND LANDLORD CONSENT (this "Assignment"), dated as of December 4, 2023 (the "Effective Date"), is an assignment of lease and an amendment and landlord consent thereto, entered into by and among **DARBY'S NATURAL MARKETS LLC [OF CAPE COD]**, a Massachusetts limited liability company d/b/a Rory's Organic Market at Mashpee Commons, having an address at 1218 Main Street, Chatham, MA 02633 ("Assignor"), **MASHPEE FRESH MARKET LLC**, a Massachusetts limited liability company, with a mailing address at 737 Main Street, Cotuit, Massachusetts 02635 (the "Assignee"), and **MASHPEE COMMONS II, LLC**, a Delaware limited liability company, having an office at Mashpee Commons, P.O. Box 1530, Mashpee, Massachusetts 02649 (the "Landlord").

Reference is made to the following facts:

- A. Landlord, as "Landlord", and Assignor, as "Tenant", entered into a certain Retail Lease Agreement dated as of November 15, 2019 (as amended, the "Lease") (a true and complete copy of the Lease, and all amendments thereto, is attached hereto as **EXHIBIT A**, and all capitalized terms used but not defined herein shall have the respective meanings ascribed to them in the Lease), for approximately 4,000 square feet of retail space (the "Premises") in the Shopping Center known as Mashpee Commons located in Mashpee, Massachusetts, all as shown in Exhibit "A" to the Lease;
- B. Assignor desires to hereby assign all of its right, title and interest in, to and under the Lease to Assignee, and Assignee is willing to assume the same, subject to the terms, conditions and amendments hereinafter set forth;
- C. Landlord agrees to consent to such assignment, subject to the terms, conditions and amendments hereinafter set forth; and
- D. Landlord, Assignor, and Assignee also agree to amend the Lease in certain respects, all as set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

- 1. Assignment and Assumption. Assignor assigns to Assignee and Assignee accepts from Assignor all of Assignor's rights and obligations in, to and under the Lease. Assignee further agrees with Landlord to perform all of the obligations of the Tenant under the Lease, including, without limitation, the obligation to comply with the use clause contained in Section 1.1(h) of the Lease, the obligations to pay minimum rent, percentage rent, and all other additional rent and other charges payable by the Tenant under the Lease, and the covenant against further assignment, except as otherwise provided in Section 10.3 of the Lease. Any references hereinafter to the "Tenant" shall be deemed to refer to the Assignee.
- 2. Consent. Landlord hereby consents to the assignment of Assignor's interest in the Lease effected by this Agreement for the purpose of securing the agreement of Assignee to perform all of the obligations of the Tenant under the Lease. Without limiting the generality of the foregoing, Landlord hereby acknowledges and agrees

that all outstanding amounts of Rental (including Minimum Rent, Percentage Rent and Additional Rent) otherwise due from Assignor as of the Effective Date is hereby waived by Landlord, and neither Assignor nor Assignee shall have any obligations to pay to Landlord such amounts arising from the period of Assignor's tenancy prior to the Effective Date.

3. Amendments to Section 1 ("Basic Lease Terms"). Section 1 of the Lease is hereby amended, as of the Effective Date, as follows:

8. Minimum Rent: This subsection of the Lease is deleted in its entirety and replaced with the following:

|                  |   |
|------------------|---|
| Lease Year 1     | 3.5% of Gross Sales (plus Extra Charges)  |
| Lease Years 2-10 | 90% of prior Lease Year's effective rent (i.e., Percentage Rent and Minimum Rent), but in no event less than the prior Lease Year's effective rent. |
| Minimum Rent     | Beginning in Lease Year 2, \$2.95/SF or \$983.50/month (\$11,802.00 annually).  |

11. Percentage Rent: This section of the Lease is hereby deleted in its entirety and replaced with the following:

|                 |  |
|-----------------|--|
| Lease Year 1    | 3.5% of Gross Sales  |
| Lease Year 2-10 | 3.5% of Gross Sales in excess of the breakpoints set forth herein. |

15. Termination Right: A new subsection 15 is added to Section 1 of the Lease, as follows: "After the expiration of the first (1<sup>st</sup>) Lease Year of the Term, either Landlord or Tenant may terminate this Lease by providing not less than sixty (60) days' prior written notice thereof to the non-terminating party. Said right to terminate the Lease shall be subject to and in accordance with the applicable provisions of this Lease."

4. Amendment to Section 6.1. Repair and Maintenance. The following sentence is added at the end of the paragraph constituting said Section 6.1: "Without limiting the generality of the foregoing, Tenant shall maintain service and preventative maintenance contracts with reputable contractors and/or the manufacturers, as applicable, during the Term for those items of equipment identified in Exhibit C attached hereto. Landlord agrees to cooperate with Tenant in connection with any warranties that Landlord may have on said equipment."

5. No Personal Guaranty. Landlord hereby releases Assignor from any further obligations under the Lease as of the Effective Date. Landlord hereby agrees that

there shall no longer be a personal guaranty associated with the Lease as of the Effective Date, and all references in the Lease, including the personal guaranty exhibit thereto, shall hereby be deleted therefrom.

6. Notice Address. The notice address of Assignee shall be as above written, unless otherwise furnished in writing by Assignee to Landlord.
7. No Brokerage. Assignor and Assignee each warrants and represents that neither of them has dealt with a broker in connection with the consummation of this Agreement, and in the event of any brokerage claims against the Landlord predicated upon prior dealings with the Assignor or Assignee named herein, the Assignor and Assignee each agrees to defend the same and indemnify the Landlord against any such claim.
8. In Full Force. The parties agree that the Lease shall remain in full force and effect, except as expressly modified hereby. In the event of any inconsistency or conflict between the provisions of the Lease and this Amendment, the provisions of this Amendment shall control.

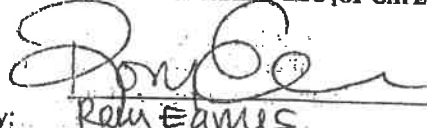
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IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal as of the date first above written.

ASSIGNOR:

DARBY'S NATURAL MARKETS LLC [OF CAPE COD]

By:

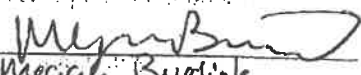
  
Kelly Eames  
manager

Hereunto duly authorized

ASSIGNEE:

MASHPEE FRESH MARKET LLC

By:

  
Megan Burdick  
manager

Hereunto duly authorized

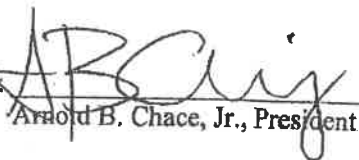
LANDLORD:

MASHPEE COMMONS II, LLC

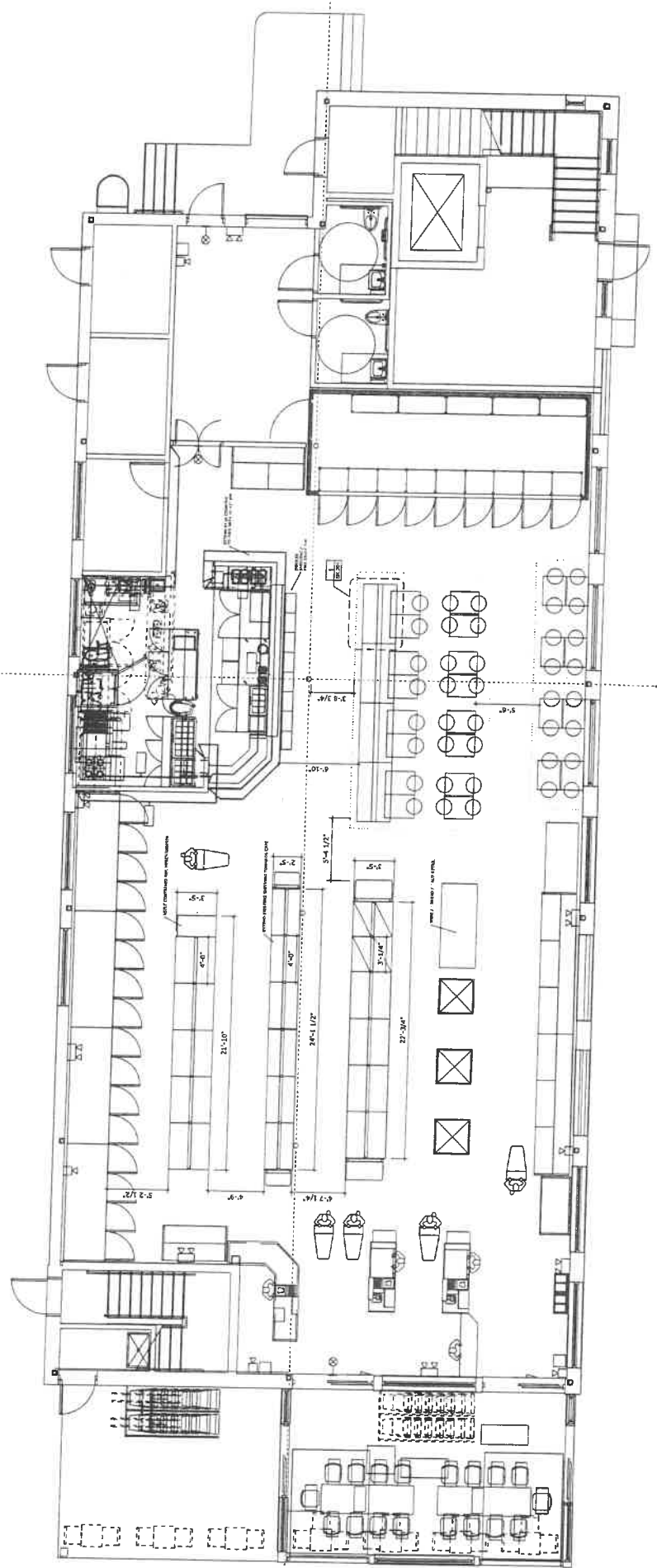
By: MASHPEE COMMONS LIMITED  
PARTNERSHIP, its Manager

By: NMS Associates, Inc., its General  
Partner

By:

  
Arnold B. Chace, Jr., President





**RORY'S MARKET & KITCHEN  
MASHPEE MA**

SK 1.0

## RETAIL LEASE AGREEMENT

This Retail Lease Agreement ("Lease") is made as of the "Execution Date" set forth on the signature page hereto, by and between Mashpee Commons II, LLC having a notice address of c/o Mashpee Commons Limited Partnership, Mashpee Commons, P.O. Box 1530, Mashpee, Massachusetts 02649 ("Landlord") and Darby's Natural Markets LLC of Cape Cod, having a notice address of 1218 Main Street, Chatham, MA 02633 ("Tenant"). Tenant's Trade name is Rory's Organic Market at Mashpee Commons ("Trade Name").

**Section 1. Basic Lease Terms.** As used in this Lease, the following terms shall have the following meanings:

1. **Shopping Center:** The shopping center known as "Mashpee Commons", located at 38 Nathan Ellis Highway, Mashpee, Massachusetts.
2. **Premises:** The 4,000 square feet of space (measured from exterior faces of exterior walls and from the center lines of party or partition walls) within the Shopping Center, located on the first floor of Building #31 located along Market Street, and identified as Space 31.101 on Exhibit A to this Lease. The ceiling, and the floor, are all excluded from the "Premises", except for the inner surfaces thereof. In addition, while the exterior walls and the space to the center lines of party or partition walls are included within the measurement of the Premises, Landlord shall have exclusive management and control over such walls, except for the interior surfaces thereof.
3. **Term Commencement Date:** The earlier of (a) 90 Days after the Tenant Possession Date, and (b) the date that Tenant opens for business.
- 3.A **Tenant Possession Date:** The date that Landlord delivers the Premises to Tenant with the work described on Exhibit E attached hereto (the "Landlord's Work") substantially complete, meaning that such work is complete except for so-called "punch list" items that can be completed later without materially interfering with Tenant's use and occupancy of the work. Landlord shall create a list of such punch list items and shall complete them within thirty (30) days after the Tenant Possession Date. It is presently anticipated that the Tenant Possession Date will occur in the spring of 2014 (most likely in April or May). Landlord will keep Tenant reasonably informed of any revisions to such estimate, and, as the Tenant Possession Date draws nearer, of the estimate of the particular date that will be the Tenant Possession Date.
4. **Rent Commencement Date:** The same date as the Term Commencement Date.
5. **Lease Year:** The first Lease Year shall be the period beginning on the Term Commencement Date and ending on the last day of the twelfth (12<sup>th</sup>) full calendar month thereafter. The following Lease Years shall be the successive twelve (12) full calendar month periods thereafter.
6. **Term:** Five (5) Lease Years, beginning on the Term Commencement Date.
7. **Extension Option:** Tenant shall have the option to extend the Term for one (1) "Extension Term(s)" of five (5) Lease Year(s) per option, provided Tenant gives at least twelve (12) months advance written notice of its exercise of the option, and provided Tenant is not in default.

8. Permitted Use:

As an "Organic Market", which shall mean a health food store/natural food store that includes among its offerings many organic products, so-called "health food" or at least "healthier" products, etc., and for no other purpose. Not more than 50% of the retail sales area of the Premises shall be used for groceries. To be clear, paper products, health and beauty aids, vitamins and minerals, cleaning supplies, pet supplies, and products similar to any of the foregoing shall not be deemed "grocery" products for the purposes of this limitation. Notwithstanding anything in the foregoing to the contrary, Tenant may not use the Premises for any of the existing/contemplated exclusive uses/restricted uses described on Exhibit J attached hereto.

9. Minimum Rent:

*Initial Term*

*Minimum Rent*

Lease Years 1 to 3

\$21.16/ sf (\$7053.33 per month plus extra charges)

Year 4

\$23/sf (\$7666.67 per month plus extra charges)

Year 5

\$25/sf (\$8333.33 per month plus extra charges)

*Extension Term*

*Minimum Rent*

Lease Years 6 thru 10

\$27.41/sf (\$9136.67 per month plus extra charges)

10. Extra Charges:

Tenant will pay its full Tenant's Pro-rata Share (defined in Section 3.1 below) of extra charges, including Common Area Maintenance Expenses, Taxes, Marketing Fund, and waste water. The 2013 estimate is \$10.09/sf or \$3363.33 month.

11. Marketing Fund:

Charges for the Marketing Fund (included in the estimate above) for 2013 shall be \$1.00 per square foot and shall be considered Extra Charges. Marketing Fund charges shall increase annually in accordance with a CPI formula reasonably administered by Landlord.

12. Percentage Rent:

*Initial Term:*

Lease Year 1

1.5% of Gross Sales in excess of \$2,500,000 per year

Lease Year 2

1.5% of Gross Sales in excess of \$3,333,333 per year

Lease Year 3

1.5% of Gross Sales in excess of \$4,166,667 per year

Lease Year 4

1.5% of Gross Sales in excess of \$4,412,000 per year

Lease Year 5

1.5% of Gross Sales in excess of \$4,678,667 per year

*Extension Terms:*

Lease Years 6 thru 10

1.5% of Gross Sales in excess of \$5,000,000 per year.

13. Security Deposit:

None.

14. Guaranty: The guaranty of this Lease that is attached hereto as Exhibit C. The guarantor under the Guaranty is referred to as the "Guarantor".
15. Radius Restriction: Because of the importance of the Percentage Rent, Tenant agrees that during the Term of this Lease neither Tenant, nor any affiliate of Tenant, nor any principal of Tenant, shall operate another similar store within eight (8) miles of the Shopping Center.
16. Tenant Allowance. Landlord shall give Tenant \$75,000.00 to be used toward tenant improvements in the Premises. To be paid as follows: \$50,000 upon store opening and \$25,000 on the first anniversary after store opening.

**Section 2. Premises.** Landlord hereby leases the Premises to Tenant, for the Term, beginning on the Term Commencement Date. In connection with its use of the Premises, Tenant may use, on a non-exclusive basis, such "common areas" as are from time to time available for the common use of Tenant and other tenants. Landlord is delivering the Premises to Tenant in its "as-is" condition (except for the Landlord's Work), without any representation or warranty from Landlord with regard to the condition of the Premises. There are no known defects. Landlord shall not be required to perform any work to the Premises or the Shopping Center to prepare for Tenant's occupancy, except for the Landlord's Work. Tenant shall perform all work to prepare the Premises for the operation of Tenant's business, such work to be performed in accordance with the provisions of Section 6.2 hereof.

**Section 3. Rent.**

**Section 3.1 General.** Tenant shall pay the Minimum Rent and Percentage Rent as well as all Extra Charges. The rents and charges that are in addition to the Minimum Rent are referred to as the "Additional Rent". The Minimum Rent, together with the Additional Rent, is referred to as the "Rent". Beginning on the Rent Commencement Date, Tenant shall pay the Rent in monthly installments, in advance on the first (1st) day of each month. Notwithstanding the foregoing, (a) any items of Additional Rent that are not payable on a regular monthly basis shall be paid to Landlord within fifteen (15) days after demand, and (b) Percentage Rent shall be due on the fifteenth (15<sup>th</sup>) day of every month after the breakpoint for the applicable year has been reached. The Rent shall commence on the Rent Commencement Date. The Rent for any partial calendar month at the beginning or end of the Term of the Lease shall be prorated on a daily basis.

The Rent shall be payable to Landlord or, if Landlord shall so direct in writing, to Landlord's agent or nominee, at the office of Landlord or such place as Landlord may designate. Rent and any other sums due hereunder not paid when due shall bear interest at the lesser of: (i) four percent (4%) per annum above the base rate announced from time to time by Bank of America or its successor; or (ii) the highest lawful rate of interest permitted at the time in The Commonwealth of Massachusetts, from the due date until paid. Tenant shall also pay to Landlord a late fee of \$50.00 for any delinquent payment. Tenant shall pay the Rent without abatement, deduction, or setoff. The Minimum Rent payable by Tenant hereunder is intended to be "triple net" to Landlord, meaning that Tenant shall pay as Additional Rent all expenses associated with the maintenance, ownership and operation of the Premises, except only as otherwise expressly provided herein to the contrary, yielding to Landlord the Minimum Rent hereunder in its entirety, net of such expenses. As used in this Lease, the term "Tenant's Pro-rata Share" means the percentage obtained by dividing the square footage of the Premises by the leasable square footage of the retail space in the Shopping Center (the "Leasable Space"). To be clear, the Leasable Space shall take into account the tenant operating a bowling alley in the Shopping Center (the "Bowling Alley Tenant"), and any successor tenant of the space being leased to the Bowling Alley Tenant, such that the Leasable Space shall not include fifty (50%) percent of the space being used for bowling alleys, it being expressly understood that only fifty (50%) percent of the bowling lane area shall qualify as retail space, and the remaining fifty (50%) percent shall be deemed non-retail space, in calculating Tenant's Pro-rata Share.

Section 3.2. Percentage Rent. The Percentage Rent shall be payable in arrears on or before the fifteenth (15<sup>th</sup>) day of the month after which Gross Sales exceed the breakpoint as outlined in Section 1 above. The Term "Gross Sales" means the entire amount of the sales price, whether for cash or otherwise, of all sales of merchandise, services and other receipts whatsoever of all business conducted at the Premises (and also including all internet orders placed on any website where Tenant sells goods or services), but excluding the following: any sums collected and paid out for any sales tax; returns to shippers and manufacturers; and the exchange of merchandise between stores of the Tenant where such exchanges are made solely for the convenient operation of the Tenant's business and not for the purpose of consummating a sale which as therefore been made at, in, on or from the Premises and/or for the purpose of depriving the Landlord of the benefit of a sale which otherwise would have been made at, in, on or from the Premises. Tenant shall deliver to Landlord, within ten (10) days after the end of each month, a complete statement signed by an executive officer of Tenant, showing Gross Sales for the preceding month. In addition to Landlord's other rights and remedies, Tenant shall pay to Landlord a late fee of \$50.00 for any delinquency in meeting the foregoing reporting requirement, time being of the essence. Tenant agrees to maintain accounting controls and books of account, in form adequate for auditing purposes, in accordance with generally accepted accounting principles to assure the proper recording of all Gross Sales. In addition, Tenant agrees to use, if so required by Landlord, such cash registers and/or software systems as shall ensure the proper recording of all Gross Sales. Landlord shall have the right to audit all of the documents, materials, and files of Tenant relating to Gross Sales for any year. If Landlord shall have such an audit made for any lease-year, and the Gross Sales shown by the Tenant's statement for such lease-year shall be found to be understated by more than two percent (2%), then Tenant shall pay to Landlord the cost of such audit. In any event, Tenant shall promptly pay to Landlord any deficiency in Percentage Rent plus interest at the rate set forth in Section 3.1 from the date such payment should have been made to the date of payment. In the event the Gross Sales shown by the Tenant's statement for any two (2) lease-years, whether or not consecutive, of the Term shall be found to have been understated by more than two percent (2%) in each instance, or for any one (1) lease-year of the Term shall be found to have been understated by more than four percent (4%), then Landlord, in addition to all other remedies available at law or in equity or pursuant to the other provisions of this Lease, shall have the right to terminate this Lease upon written notice to Tenant. Such examination and audit may be made by any accountant designated in writing by the Landlord from time to time.

Section 3.3. Taxes. The term "Taxes" means all real estate taxes and assessments levied by any lawful authority against the Shopping Center or any portion thereof. In the event Landlord shall elect to contest any proposed increase in Taxes, any expense incurred in such contest, including reasonable attorneys' fees, shall be considered as tax expenses under the terms of this paragraph and shall be borne by Tenant in accordance with Tenant's Pro-rata Share. In the event the method of taxation applicable to rental property shall be adjusted or modified, a modification agreement with respect to this paragraph shall be entered into to accurately apply the principal hereof to said revised tax system. Tenant shall pay to Landlord the Tenant's Pro-rata Share of the annual Taxes. Specifically, Tenant shall make monthly tax deposits with Landlord on the first day of every month in an amount equal to what Landlord reasonably estimates to be one-twelfth (1/12th) of Tenant's Pro-rata Share of the annual Taxes, with a final adjustment to be made between the parties as soon as the actual dollar amount owed by Tenant for its Tenant's Pro-rata Share of Taxes for the applicable year has been determined. Landlord may re-estimate such monthly amount from time to time. Alternatively, Landlord may invoice Tenant from time to time as Landlord receives the applicable tax bills. In addition to paying its Tenant's Pro-rata Share of Taxes, Tenant shall pay all taxes relating to its fixtures, equipment and personal property.

Section 3.4. Common Area Maintenance Expenses. The term "Common Area Maintenance Expenses" means all costs and expenses of every kind and nature paid or incurred by Landlord (including reasonable and appropriate reserves) in operating, managing (including management fees and/or administrative fees), equipping, insuring, lighting, repairing, replacing and maintaining the Shopping Center. Tenant shall pay to Landlord the Tenant's Pro-rata Share of the annual Common Area Maintenance Expenses. Specifically, Tenant shall make monthly Common Area Maintenance Expenses deposits with Landlord on the first day of every month in an amount equal to what Landlord reasonably estimates to be one-twelfth (1/12th) of Tenant's Pro-rata Share of the annual Common Area Maintenance Expenses, with a final adjustment to be made between the parties as soon as the actual dollar amount owed by Tenant for Tenant's Pro-rata Share of Common Area Maintenance

Expenses for the applicable year has been determined. Landlord may re-estimate such monthly amount from time to time.

Landlord shall allow Tenant reasonable access to Landlord's books and records pertaining to Common Area Maintenance Expenses for the applicable calendar year, subject to and upon the following terms and conditions: (i) Landlord's books and records pertaining to such expenses shall be made available to Tenant at the offices where Landlord keeps such records during normal business hours within a reasonable time after Landlord receives a written request from Tenant to make such examination; (ii) Tenant shall have the right to examine Landlord's books and records relating to such expenses for the applicable calendar year no more than once, after the end of the applicable calendar year; (iii) any request for examination in respect of any calendar year must be made no more than ninety (90) days after Landlord provides to Tenant the final expense statement for such calendar year; and (iv) such examination may be made by an independent certified public accounting firm and/or real estate firm approved by Landlord, which approval shall not be unreasonably withheld, delayed, or conditioned, but in no event shall such examination be made by any firm or other entity being compensated on a percentage basis or otherwise based on the results or findings of its examination or representing any other tenants or occupants in the shopping center. If it turns out that Landlord had overcharged Tenant by 5% or more for the applicable calendar year, then Landlord shall reimburse the reasonable, documented costs of Tenant's audit. In any event, any overcharge (or undercharge, as the case may be) shall be reconciled between the parties.

**Section 4. Utilities and Trash Service.** Landlord shall supply electric current, water, sewer, and other utilities to the Premises as presently provided, and Tenant shall pay for all such utility services serving the Premises as part of the Additional Rent, pursuant to separate meter for each of the utilities. Landlord shall not be liable or responsible to Tenant for any loss, damage or expense which Tenant may sustain or incur: (i) if the quantity, character, or supply of utilities is changed or is no longer available or suitable for Tenant's requirements, or (ii) due to interruption of utilities, provided, however, that Landlord will use good faith efforts to cause the applicable utility service to be restored following any such interruption. Landlord reserves the right to interrupt, curtail, stop or suspend the furnishing of the services described herein, when necessary by reason of accident or emergency, or for repairs, alterations, replacements or improvements which are, in the reasonable judgment of Landlord, desirable or necessary to be made.

Provisions have been made by the Landlord for trash removal by a contractor, and Tenant agrees to use said contractor for its trash removal and to pay when due all charges at the rate established therefor from time to time, (at a current monthly rate of 8.9 Cents (\$0.089) per square foot [per month] for retail establishments.) If the Tenant fails so to pay for trash removal, the Landlord shall have the same remedies (even if such payment is due to such contractor and not to the Landlord) as the Landlord has for nonpayment of rent hereunder. Cavosa Disposal is currently the trash disposal company and will bill directly. All trash, refuse, and the like, shall be kept in covered containers, either within the Premises or in one of the Shopping Center dumpsters, at all times, and in no event stored outside of the same.

**Section 5. Operation of Premises; Hazardous Materials; Compliance with Laws; Assignment and Subletting.**

**Section 5.1 General Requirements Regarding Operation of Premises.** Tenant's use of the Premises is subject to the following: (a) Tenant shall conduct its operations in the Premises under its Trade Name specified herein, or the trade name of any permitted transferee in accordance with the provisions of Section 5.5 below, unless the Landlord shall otherwise consent in writing; (b) no auction, fire, going out of business sale, "lost our lease", or bankruptcy sales may be conducted within the Premises; (c) Tenant shall not use sidewalks adjacent to the Premises for any business purposes unless Tenant first obtains prior written consent from Landlord (and, in all events, any use of sidewalks areas shall conform to the terms of Section 5.6 below and Exhibit D); (d) Tenant shall receive and deliver goods and merchandise only in the manner, at such times, and in such areas, as may be designated by the Landlord and in all events in such a manner so as to not unreasonably interfere with the business and operations of the other tenants or occupants in the Shopping Center; (e) Tenant shall not allow any noises or

odors to be emitted from the Premises, and, without limiting the foregoing, in no event shall the Premises or Tenant's use thereof constitute a nuisance or menace to any other occupant or other persons on the Shopping Center or in the area; (f) Tenant shall abide by all reasonable rules and regulations from time to time established by Landlord by written notice to Tenant with respect to the Shopping Center (Tenant acknowledges receipt of the rules and regulations currently in effect, which are incorporated herein by this reference); (g) Tenant shall not do or permit anything to be done in or upon the Premises, which shall increase the rate of insurance on the Premises or on the Shopping Center above the standard rate on said Premises and Shopping Center; and Tenant further agrees that in the event it shall do any of the foregoing, it will promptly pay to Landlord on demand any such increase resulting therefrom; (j) Tenant shall use the Premises for the Permitted Use, and no other purpose; (k) Tenant shall keep the display windows of the Premises clean and shall keep the same electrically lighted during such periods of time as the Shopping Center shall be open and, in addition, during such other periods of time as shall be determined by Landlord, provided windows throughout a major portion of the Shopping Center are kept lighted during such additional periods, and for this purpose Tenant shall install and maintain a mechanical time-clock; (l) no vending or video machines shall be installed at the Premises; (m) upon the request of Landlord, Tenant shall contract with a licensed pest control company acceptable to Landlord for regular pest inspections and termination services to be provided at the Premises; (n) Tenant shall at all times fully and adequately heat and/or air-condition (as the circumstances require) the Premises; (o) Tenant shall use best efforts to advertise in a wide range of internet social media, including, at a minimum, Facebook; and (p) Tenant shall use the Mashpee Commons logo in all of Tenant's print advertising.

Section 5.2 Continuous Operations. Tenant shall continuously operate its business in the Premises (fully stocked and staffed, using the maximum amount of floor space possible for retail sales), during all "Hours of Operation", which means the business hours for the Shopping Center that are set forth on Exhibit B attached hereto. Landlord may make reasonable modifications to such Hours of Operation from time to time. In addition to any other remedies available to Landlord pursuant to provisions of Section 10.2 hereof, Tenant shall pay to Landlord the sum of Fifty Dollars (\$50.00) for each occasion in which Tenant shall fail to maintain operating hours as provided herein. How are the hours determined, is this determined by majority of tenant approval?

Section 5.3 Hazardous Materials. Tenant shall not use, handle, store or dispose of any oil, petroleum products, or any other hazardous or toxic materials or wastes that pose a danger to health or property and are regulated by any laws (collectively, "Hazardous Materials") in or about the Premises or the Shopping Center, and Tenant hereby indemnifies and holds harmless Landlord from any and costs, losses, and damages of any nature whatsoever arising from Tenant's breach of the foregoing (this provision shall survive the termination of this Lease).

Section 5.4 Compliance with Laws. Tenant shall comply with all legal requirements related to the Premises and Tenant's use thereof. Without limiting the foregoing, Tenant shall comply with the Americans with Disabilities Act and any similar state or municipal legal requirements.

Section 5.5 Assignment and Subletting. Tenant shall not sublease, assign, transfer, mortgage, or otherwise encumber this Lease or the Premises in any manner, or allow any other person or entity to occupy the Premises or any portion thereof, or transfer more than 50% of the voting control of Tenant in one or more transactions (separately and collectively the foregoing are referred to as a "Transfer"), without the prior written consent of Landlord in its sole discretion. Without limiting the foregoing, in no event may Tenant assign, sublet, or otherwise transfer this Lease while Tenant is in an Event of Default under this Lease. No Transfer shall relieve Tenant or Guarantor of direct and primary, joint and several liability for the tenant obligations under this Lease, nor shall Landlord's consent to any Transfer operate as a consent to any further Transfer. No assignee, subtenant, or other transferee shall use the Premises for anything other than the Permitted Use. Without limiting the first sentence of this Section, Landlord may condition its consent to any assignment, sublease, or other form of transfer upon the satisfaction of all or any of the following conditions: (i) the transferee shall be creditworthy in the judgment of Landlord; (ii) such transferee shall have a track record of responsible and reputable business dealings related to the conduct of the Permitted Use; (iii) if such transferee is an assignee then it shall assume in writing,



in form acceptable to Landlord, all of Tenant's obligations hereunder and Tenant shall provide Landlord with a copy of such assumption/assignment document (but no such assumption shall relieve Tenant and Guarantor of their direct and primary, joint and several liability under this Lease); (iv) Tenant shall pay to Landlord, immediately upon receipt thereof, 100% of the additional compensation received by Tenant for such transfer; and (v) such other terms and provisions as Landlord deems appropriate.

Section 5.6 Use of Sidewalk Area and Patio. If Tenant is granted permission by Landlord, in writing, to use the sidewalk area in front of the Premises (the "Sidewalk Area") for selling purposes (see Section 5.1(c) above), or, if there is a patio area appurtenant to the Premises which Landlord intends to be used by Tenant for outdoor cafe seating in connection with the use of the Premises (a "Patio"), then any such use shall comply with the terms and standards set forth in Exhibit D attached hereto.

## **Section 6. Repair and Maintenance; Alterations; Surrender**

Section 6.1. Repair and Maintenance. Tenant agrees to maintain the Premises in the same condition as they are at the commencement of this Lease or as they may be put in during the Term of this Lease, reasonable wear and tear, damage by fire and other casualty only excepted, and whenever necessary, to replace plate glass (and other glass) and doors therein, and Tenant acknowledges that the Premises are now in good order and the glass whole and Tenant accepts the Premises in "as is" condition without any warranty or representation from Landlord. Additionally, Tenant shall, at the Tenant's expense, repaint, refurbish, and remodel the demised premises and any part and portion thereof from time to time to assure that the same are kept in a first class, tenantable, and attractive condition throughout the term of this Lease. Tenant hereby acknowledges that it has examined the Premises. Tenant shall be responsible for the repair and maintenance (including replacement as and when necessary) of the HVAC system serving the Premises. Without limiting the foregoing, Tenant agrees to maintain a service contract with a reputable HVAC contractor, which contract shall provide for regular inspections of the HVAC system (at least twice annually). Tenant agrees to provide Landlord with copies of such contract. The Tenant shall not permit the Premises to be overloaded, damaged, stripped, or defaced, nor to suffer any waste. Landlord shall be responsible for the maintenance and repair of exterior walls, the roof of the Building, and the common areas of the Shopping Center.

Section 6.2. Alterations. Tenant shall not make any alterations or additions to the Premises, without the prior written consent of the Landlord. Any such allowed alterations shall be at Tenant's expense and shall be performed in a first class professional workmanlike manner in compliance with all applicable law. Any alterations or improvements made by the Tenant shall become the property of the Landlord at the termination of occupancy as provided herein. Where furnished by or at the expense of Tenant, all movable property, furniture, furnishings and trade fixtures shall remain the property of Tenant and may be removed by Tenant prior to the expiration of the term or any earlier termination of the Lease. Notwithstanding anything to the contrary contained herein, Tenant shall, at the direction of Landlord, remove all or any portion of such alterations, furniture, fixtures or equipment added by Tenant, and Tenant shall repair any damage to the Premises arising from Tenant's removal of such items. In the event of the Tenant's failure to remove any of Tenant's property from the Premises, Landlord is hereby authorized, without liability to Tenant for loss or damage thereto, and at the sole risk of Tenant, and without notice to Tenant, to remove and store any of the property at Tenant's expense, and/or to sell the property not so removed and to apply the net proceeds of such sale to the payment of any sums due hereunder, or to destroy such property. This Section shall survive the termination of this Lease. Landlord hereby pre-approves the initial Tenant alterations described in Exhibit F attached hereto.

Section 6.3. Surrender. Upon the expiration or other termination of the Term of this Lease, Tenant shall peaceably quit and surrender to Landlord the Premises, in the condition required by this Lease, including without limitation Sections 6.1 and 6.2. This Section shall survive the termination of this Lease.

## **Section 7. Indemnity and Insurance**

Section 7.1. Indemnity. To the maximum extent this agreement may be made effective according to law, and subject to Section 7.4 below, each party agrees to indemnify and save harmless the other from and against



all third party claims for bodily injury or damage to personal property arising from any negligence or willful misconduct of the first party, or the first party's contractors, licensees, agents, servants, or employees. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. This provision shall survive the termination of this Lease.

**Section 7.2. Assumption of Risk.** Landlord will keep the common areas in good and safe condition, but Tenant shall use and occupy the Premises and the common areas at its own risk. Landlord shall have no responsibility for any damage to Tenant's leasehold improvements, fixtures or other personal property except in the event that said loss or damage is directly and immediately caused by Landlord's gross negligence or willful misconduct. Without limiting the foregoing, in no event shall Landlord be responsible for any damage to, or loss of, Tenant's property due to burglary or theft (Tenant shall be solely responsible, at Tenant's sole cost and expense, for security for the Premises); nor shall Landlord be responsible for any damage, nuisance, interference or loss that may be occasioned by third parties, including persons occupying any other part of the Shopping Center or the area.

**Section 7.3. Tenant's Insurance.** Tenant shall maintain at its expense: (a) commercial general liability insurance with respect to the Premises and the business operated by Tenant at the Shopping Center, having limits of not less than \$2,000,000 on a combined single limit per occurrence with a general aggregate limit of \$3,000,000, and containing a contractual liability endorsement; (b) special form casualty insurance for the full replacement value of Tenant's fixtures, merchandise, equipment and other personal property, and all leasehold improvements made by Tenant; (c) worker's compensation insurance (in statutorily required amounts); (d) plate-glass/glass breakage insurance in commercially reasonable amounts; and (e) such other insurance, and such other amounts, as may be reasonably required by Landlord or its lender from time to time. Landlord, its lender, and Landlord's designees, shall be named as additional insureds under each insurance policy. Each policy shall include an endorsement stating that coverage cannot be terminated or reduced for any reason without at least thirty (30) days' prior written notice to Landlord. Prior to Tenant entering upon the Premises, and thereafter from time to time upon request from Landlord, Tenant shall provide Landlord with certificates of such insurance, and Tenant shall also provide Landlord with certificates of renewed or replacement insurance at least sixty (60) days prior to any expiration of its then current insurance. All insurance required of Tenant hereunder shall be effected under valid and enforceable policies issued by insurers of recognized responsibility.

**Section 7.4. Waiver of Subrogation.** Landlord and Tenant and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from, or caused by any hazard covered by insurance on the Premises, regardless of the cause of the damage or loss. Each party shall obtain from their insurers any waivers or special endorsements, if required by their insurer to evidence compliance with the aforementioned release.

**Section 8. Landlord's Reserved Rights.** Following reasonable prior notice to Tenant (except in the event of emergency), Landlord and its agents may enter the Premises at reasonable times to make repairs and alterations and to show the Premises to prospective buyers, lenders, investors, or similar people with a reasonable business purpose to inspect the Premises, and, during the last twelve months of the term of this Lease, to show the Premises to prospective future tenants. In connection with such entries and work, Landlord shall use good faith efforts to minimize interference with Tenant's use of the Premises. Landlord may erect, use and maintain pipes, wires, ducts and conduits in and through the Premises, provided the same do not materially reduce the floor area or materially adversely affect the appearance thereof. In addition to the foregoing, Landlord reserves the right to make such changes, alterations, additions, improvements, repairs or replacements in or to the Shopping Center (including the Premises) as it may deem necessary or desirable; provided, however, such work and such alterations shall not, except in case of emergency repairs, permanently materially adversely affect Tenant's use of the Premises.

**Section 9. Casualty and Condemnation.** If any portion of the Premises or any portion of the Shopping Center shall be damaged or destroyed by fire or other casualty, Landlord shall have the right to terminate

this Lease upon notice to Tenant. If said right of termination is exercised, this Lease shall terminate as of the date of such damage or destruction. If the Premises are damaged by fire or other casualty and the Landlord cannot reasonably be expected to restore the premises within one hundred twenty (120) days of receipt of damage insurance proceeds therefor, Tenant shall have the right to terminate this Agreement upon twenty (20) days notice to Landlord. If neither Landlord nor Tenant terminates this Lease pursuant to the foregoing terms, then Landlord shall restore or repair the Premises to its condition before the casualty or better (to be clear, Landlord shall not be responsible for restoring the Tenant build out work or any subsequent alterations made by Tenant), provided that sufficient insurance proceeds are made available to Landlord, and the rental otherwise payable under this Lease will abate in whole or in part proportionate to the space within the Premises which is unusable by Tenant from the date of the casualty to the completion of the restoration or repairs, provided that the Tenant's business is not open. In all cases of damage or destruction by fire or other casualty during the Term of this Lease, Tenant shall be liable and responsible for the removal of any remains of its property or other debris from the Premises. In the event of a condemnation, or deed in lieu thereof, of so much of the Premises as to render the Premises untenable, this Lease shall automatically terminate. If such condemnation or deed in lieu thereof does not render the Premises untenable, then this Lease shall continue, but Rent shall be abated in proportion to the space within the Premises that was rendered unusable. Landlord shall be entitled to the full amount of any condemnation proceeds, except to the extent of any separate award that may be made to Tenant, provided that such separate award does not diminish the amount made to Landlord.

#### **Section 10. Event of Default; Landlord's Remedies.**

**Section 10.1. Tenant's Event of Default.** Any one of the following shall be deemed to be an "Event of Default": (a) Tenant's failure to pay any monetary amount on the date due; (b) with respect to a non-monetary default under this Lease not otherwise addressed in this Section, failure of Tenant to cure the same within fifteen (15) days of Landlord's delivery of notice of such default (or such longer period which, by the nature of such default, may be necessary, provided Tenant shall have commenced the curing of such default within ten days of delivery of such default notice and shall be diligently prosecuting the same to completion, but in no event shall the cure period, including such extended cure period, exceed a total of forty five (45) days); (c) the commencement of any bankruptcy, insolvency, receivership or similar type of proceeding with respect to either Tenant or Guarantor; (d) breach by the Tenant, after the Rent Commencement Date, of its obligations under Section 5.2 of this Lease for more than two (2) days in one year, or for more than an aggregate of five (5) such days during the Term hereof, or, without limiting the foregoing, if Tenant should abandon the Premises.

**Section 10.2. Landlord's Remedies.** Upon the occurrence of any Event of Default, Landlord shall have the right to exercise any one or more of the following remedies: (a) upon such advance written notice as may be required by law, Landlord may terminate this Lease, effective at such time as may be specified by notice to Tenant and recover possession of the Premises from Tenant, but, notwithstanding such termination, Tenant shall remain liable for any previously unpaid Rent and any other losses that Landlord may suffer by reason of such Event of Default, including without limitation the unamortized cost of performing the Landlord Work and of entering into this Lease (collectively, the foregoing losses and damages are referred to as the "Current Damages"), as well as the difference, discounted to present value at the prime rate, of all future Rent (including Percentage Rent) over the amount (net of reasonably anticipated reletting costs) that Landlord can reasonably expect to obtain from reletting for the same period, as reasonably determined by Landlord; (b) upon such advance written notice as may be required by law, Landlord may terminate Tenant's right to possession of the Premises without terminating this Lease, and, in addition to collecting from Tenant the Current Damages, thereafter bring separate actions against Tenant from time to time to collect any one or more future delinquent installments or payments of Rent due under this Lease, such collections to be offset by the amount (net of reletting costs) that Landlord actually collects from any replacement tenant (Landlord shall use reasonable efforts to relet the Premises; however, Landlord shall not be obligated to relet the Premises before leasing other portions of the Shopping Center or Landlord's other buildings, and Landlord shall only be obligated to relet the Premises on commercially reasonable terms and conditions; furthermore, the excess, if any, of such net rent from replacement tenants over the Rent due hereunder shall belong to Landlord); (c) Landlord may perform any act or pay any sum,

the nonperformance or nonpayment of which is or would be an Event of Default, and Tenant shall reimburse Landlord upon demand for any cost or expense incurred by Landlord in performing such act or paying such sum.

Exercise of any of the foregoing remedies shall not prevent the concurrent or subsequent exercise of any other remedy provided for herein or otherwise available to Landlord at law or in equity. In any action to enforce any provision of this Lease, Landlord shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred in connection with such action. Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises by Tenant, whether by agreement or by operation of law, it being understood that such surrender can be effected only by the written agreement of Landlord and Tenant. For the purposes of this Section, it shall be deemed that Percentage Rent, for any period after any such default and entry by Landlord, would have been at a monthly rate thereafter equal to the average monthly Percentage Rent which Tenant was obligated to pay to Landlord under this Lease either: (i) from the commencement hereof to the date of such default; or (ii) during the last three (3) years prior to the date of such default, whichever is the greater.

**Section 10.3. Landlord's Event of Default.** Landlord shall not be in an "event of default" in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within sixty (60) days (or such additional time as is reasonably required to correct any such failure to perform) after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation. In no event whatsoever shall any such failure to perform or "event of default" of Landlord entitle Tenant to terminate this Lease, or set off or withhold Rent, it being understood and agreed that the covenants of Tenant and Landlord are independent of one another, notwithstanding any caselaw to the contrary, and therefore Tenant's sole and exclusive remedy shall be to bring a suit for money damages against Landlord.

**Section 11. Subordination.** Tenant hereby agrees that this Lease and all of Tenant's right, title and interest hereunder shall be subject, subordinate and inferior to the lien of any and all mortgages of the Premises now on or hereafter to be placed on the Premises, and to any and all terms and conditions thereof. The subordination of this Lease to any such mortgage shall be automatic and self-operative, and no special instrument of subordination shall be necessary. Without limiting the foregoing, if Landlord requests that Tenant execute any document evidencing such subordination then Tenant shall do so within ten (10) days of such request, and any breach of such obligation shall be an automatic Event of Default hereunder. Tenant agrees that upon request by Landlord, it will execute such amendments to this Lease as Landlord's lender may reasonably require, provided hereunder no change shall be made to the Rent, the Term of the Lease, Tenant's Pro-rata Share or description of Premises. Tenant agrees to subordinate its lease to a mortgagee if the mortgagee agrees not to disturb the tenancy (provided that Tenant is not in default beyond applicable notice and cure periods). More specifically, Tenant agrees to the form of subordination, non-disturbance and attornment agreement attached hereto as Exhibit H..

**Section 12. Security Deposit.** Landlord may, from time to time and without prejudice to any other remedy, use all or a part of the Security Deposit to perform any obligation Tenant fails to perform hereunder. In such event, Tenant shall replenish the full amount of the Security Deposit upon demand. If Landlord transfers the Security Deposit to Landlord's successor in interest hereunder, then Landlord thereafter shall have no further liability for the return of the Security Deposit. The Security Deposit shall be returned to Tenant thirty (30) days after the date Tenant has vacated the Premises and surrendered possession thereof to Landlord at the expiration of the Term or any extension thereof as provided herein and has paid Landlord all sums due and owing under this Lease. Tenant shall not be entitled to any interest on the Security Deposit.

**Section 13. No Waiver.** Failure on the part of Landlord to complain of any action or non-action on the part of Tenant, no matter how long the same may continue, shall never be deemed to be a waiver by Landlord of any of its rights hereunder. Landlord's consent to a particular action does not waive the requirement for consent to the same action, or a similar action, in the future. No payment by Tenant, or acceptance by the Landlord, of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any

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

**Section 14. Notices.** Notices under this Lease shall be in writing and shall be sent by certified mail, return receipt requested, or shall be delivered by reputable overnight courier (in the case of notices to Landlord, by reputable overnight courier that can deliver to a P.O. Box, or, if the courier cannot deliver to a P.O. Box, then to Mashpee Commons II, LLC c/o Mashpee Commons Limited Partnership, 22 Steeple Street, Mashpee, Massachusetts 02649); (A) if intended for Landlord, at the address of Landlord set forth on the first page of this Lease (or to such other address or addresses as may from time to time hereafter be designated by the Landlord by like notice); and (B) if intended for Tenant, at the address of Tenant set forth on the first page of this Lease (or to such other address or addresses as may from time to time hereafter be designated by the Tenant by like notice). All such notices shall be effective when received (or receipt is refused) at the address stated herein.

**Section 15. Limitation of Landlord's Liability.** The covenants of Landlord contained in this Lease shall be binding upon Landlord (and Landlord's successors) only with respect to breaches occurring during Landlord's (and Landlord's successors') respective ownership of Landlord's interest hereunder. In addition, Tenant specifically agrees to look solely to Landlord's interest in the Shopping Center for recovery of any judgment from Landlord; it being specifically agreed that neither Landlord nor any officer, employee, owner, affiliate, person or party claiming by, through, or under Landlord shall ever be personally liable for any such judgment. In no event shall Landlord ever be liable to Tenant for any indirect or consequential damages.

**Section 16. Covenant of Quiet Enjoyment.** Subject to Landlord's rights and remedies provided in this Lease in the event of any default by Tenant, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

**Section 17. Force Majeure.** Neither Landlord nor Tenant shall be liable for failure to perform any obligation under this Lease (other than failure to pay a monetary amount) in the event such party is prevented from so performing by strike, extraordinarily inclement weather or because of war or other emergency, or for any other such cause beyond such party's reasonable control (except that financial inability shall never be deemed to be beyond such party's reasonable control).

**Section 18. Estoppel Certificate.** From time to time, Tenant shall furnish to Landlord and any party designated by Landlord, within ten (10) days after Landlord has made a request therefor, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Lease as Landlord may reasonably request in writing, and Landlord and such designee shall be entitled to reply upon such certification. Failure to provide such certificate within such time period, time being of the essence, shall be an immediate Event of Default.

**Section 19. Mechanics' Liens.** Tenant shall immediately discharge of record (either by payment or by filing of the necessary bond, or otherwise) any mechanics', materialmen's, or other lien against the Premises or the Shopping Center, which liens may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies, or equipment alleged to have been furnished to or for Tenant on or around the Premises.

**Section 20. Brokerage.** Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, and other liability for commissions or other compensation claimed by any broker or agent claiming the same by, through, or under the indemnifying party.

**Section 21. Landlord's Review Fees.** If Tenant shall request the Landlord's consent or approval for any matter under this Lease, or request Landlord's joinder in any instrument pertaining to this Lease, Tenant shall promptly reimburse Landlord for the reasonable legal, engineering, and other applicable third party fees incurred

by Landlord in processing such request, whether or not the Landlord grants such consent or agrees to join in such instrument.

**Section 22. Holding-Over.** If Tenant holds over after the expiration of the Term of this Lease, then Tenant shall be deemed to be a tenant at sufferance, at a monthly Rent equal to two (2) times the Rent for the final month of the Term, and subject to all of the other provisions of this Lease. The foregoing shall not constitute consent for post-Term occupancy by Tenant, nor shall the acceptance of Rent under this Section be deemed a waiver of any rights of Landlord to remove Tenant from the Premises and/or obtain further damages.

**Section 23. Parking.** Landlord agrees that Tenant may during the Term hereof, with others, have the non-exclusive right to use the parking facilities of the Shopping Center for the accommodation and parking of the automobiles of the Tenant, its officers, agents and employees, and its customers while shopping in the Shopping Center, but Landlord shall have the right, to be exercised reasonably, to designate from time to time and to change from time to time, the location and direction of such parking lanes and facilities. Tenant agrees to cause its officers, agents, employees, contractors, licensees and concessionaires to park their cars only on such areas as the Landlord may from time to time designate as employee parking areas, and such employee parking areas may be located outside of the entire Shopping Center, provided the same shall be within a reasonable distance of the Shopping Center. The Tenant shall furnish to the Landlord, within five (5) days following the request of the Landlord therefor, the automobile license numbers of the vehicles customarily used by the Tenant and the Tenant's officers, agents, employees, contractors, licensees and concessionaires. If the Tenant or any officer, agent, employee, contractor, licensee or concessionaire of the Tenant shall park his or her car other than in designated employee parking areas, the Landlord shall have the right and privilege to have any such car towed away at the Tenant's expense and Tenant shall pay to Landlord the sum of Fifty Dollars (\$50.00) within five (5) days of submission of a bill therefor. Tenant shall have a parking spot by the delivery door for its delivery van, such parking space to be located as shown on the plan attached hereto as Exhibit I. There shall also be a parking area designated as short drop off/pick up parking (but not designated as being for any one particular tenant), in the located labeled on said plan attached hereto as Exhibit I.

**Section 24. Intentionally Deleted.** the event that .

**Section 25. Signage.** Tenant shall not place on the exterior or interior of the Premises (including, but without limitation, windows, doors, and entrance lobbies) any signs other than those signs (including the design, number and location of such signs and any replacements thereof) which shall first have been approved by the Landlord or the Landlord's architect. The signs desired by the Tenant shall be indicated in the Tenant's plans and specifications to be submitted to the Landlord's architect or engineer for approval; all interior signs must be professionally prepared and shall be limited in number. In addition to any other remedies available to Landlord pursuant to the provisions of Section 10.2 hereof, Tenant shall pay to Landlord the sum of Fifty Dollars (\$50.00) upon each violation by Tenant of the terms and provisions of this Section. All signage must comply with applicable legal requirements. Landlord hereby pre-approves the Tenant signage shown on Exhibit G attached hereto.

**Section 26. Gift Card Program.** Tenant agrees that it will participate in the Mashpee Commons gift card program and will instruct its employees how to participate in such program, pursuant to the instruction sheet previously provided by Landlord to Tenant. Tenant will also pay the nominal participation fee associated with the program.

**Section 27. Miscellaneous Provisions.** If any provision of this Lease or portion of such provision or the application thereof to any person or circumstance is for any reason held invalid or unenforceable, the remainder of the Lease (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease nor the intent of any provisions hereof. This Lease is made pursuant to, and shall be governed by, and construed in accordance with, the laws of the State in which the Premises is located. Tenant shall not record this Lease, nor any short form memorandum of this Lease, and any such recording shall constitute an automatic Event of Default under this Lease. Nothing herein

contained shall be interpreted as creating a partnership or joint venture relationship between Landlord and Tenant, or any other legal relationship other than as Landlord and Tenant. If Tenant consists of more than one person or entity, then all covenants, obligations, and liabilities hereunder shall be the joint and several covenants, obligations, and liabilities of each such person and/or entity. Tenant shall keep the terms of this Lease confidential, except for disclosure to its attorneys, accountants, and other parties with a reasonable business purpose to know such information. The submission of any draft of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless and until it has signed a copy of this Lease and delivered it to Landlord, and Landlord has signed a copy of this Lease and delivered it to Tenant. Any consent required of Landlord in any provision of this Lease may be withheld by Landlord in its sole discretion unless the provision requiring such consent specifically states that the Landlord shall not withhold such consent unreasonably. Subject to the terms of this Lease, this Lease shall be binding upon and inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant. This Lease may be executed in counterparts. Delivery of an executed counterpart of this Lease by telecopier or by ".pdf" e-mail shall be effective as delivery of an original executed counterpart.

**Section 28. Exhibits.** The following Exhibits are attached to this Lease and by this reference are incorporated herein: Exhibit A – Floor Plan of Premises; Exhibit B – Mashpee Commons Operating Hours; Exhibit C – Guaranty; Exhibit D – Provisions Regarding Use of Sidewalk Area and Patio; Exhibit E – Description of Landlord's Work; Exhibit F – Description of Tenant's Build-Out; Exhibit G – Approved Signage for Tenant; Exhibit H – Approved Form of Subordination, Non-disturbance and Attornment Agreement; Exhibit I – Plan Depicting Parking Space for Delivery Van, and Short Term Drop Off/Pick Up Parking Spaces; Exhibit J – Existing Exclusives at the Shopping Center.

(Signatures on next page)

Executed as an instrument under seal as of November 15, 2013 (the "Effective Date").

**WITNESS:**

Name: \_\_\_\_\_

**WITNESS:**

Name: \_\_\_\_\_

**LANDLORD:**

Mashpee Commons II, LLC


By: Mashpee Commons Limited Partnership,  
its sole member

By: NMS Associates, Inc., its general partner

By: \_\_\_\_\_  
Name: Arnold B. Chace, Jr.  
Title: President

**TENANT:**

Darby's Natural Markets LLC of Cape Cod

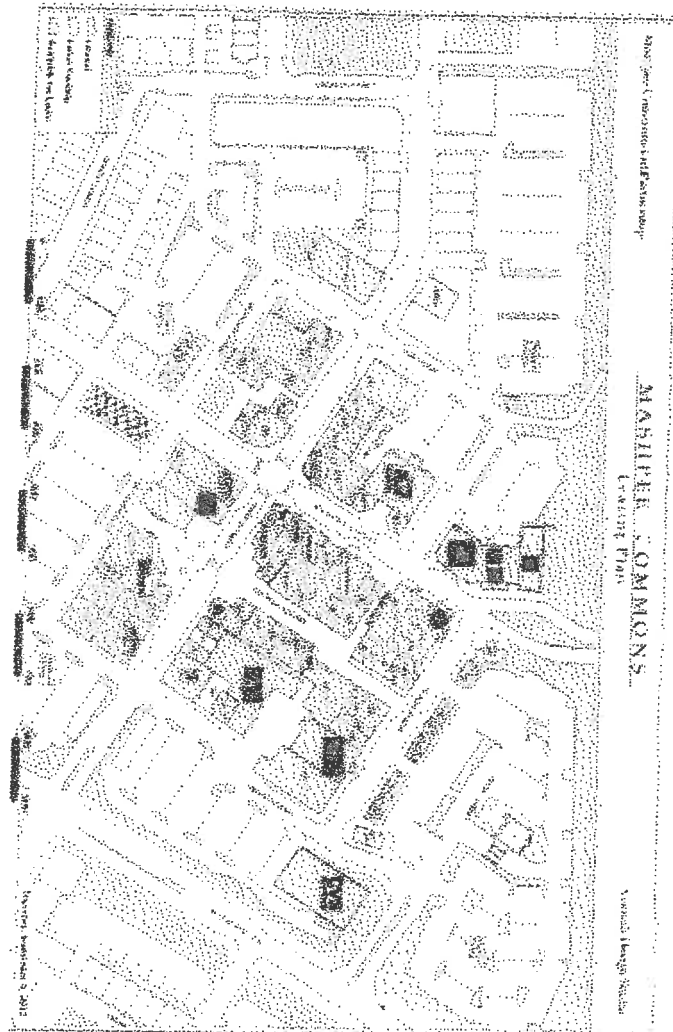
By:   
Name: Darby Zircul  
Title: President

**EXHIBIT A**

**FLOOR PLAN OF PREMISES**

The location of the Premises within the Shopping Center is shown on the attached plan. For a floor plan of the Premises itself, see Exhibit F.





**EXHIBIT B**

**MASPHEE COMMONS OPERATING HOURS**

(See next page)

***NOTE: LANDLORD MAY REVISE THESE OPERATING HOURS  
EACH YEAR, BY GIVING TENANT WRITTEN NOTICE OF  
THE REVISED OPERATING HOURS.***

## **2013 Hours of Operation**

**Regular Hours of Operation:**  
Monday – Saturday 10am-6pm  
Sunday 11am-5pm

**Easter Sunday**  
Sunday, March 31, 2013  
Open Optional

**Summer Hours (Begin Memorial Day Weekend; End Labor Day Weekend)**  
Saturday, May 25, 2013 – Monday, September 2, 2013  
Monday – Friday 10am – 6pm  
Saturday 11am – 5pm

**Thanksgiving Day**  
November 28, 2013  
Closed

**Holiday Hours (Begin Black Friday; End December 23)**  
November 29, 2013 – December 23, 2013  
Monday – Saturday 10:00am – 6:00pm  
Sunday 11:00am – 5:00pm

**Christmas Eve**  
December 24, 2013  
10:00am – 6:00pm

**Christmas Day**  
December 25, 2013  
Closed

**New Years Day**  
January 1, 2014  
10:00am – 6:00pm

*Events and classes are subject to change without notice. Please check our website for the latest information.*

EXHIBIT C

**GUARANTY**

Darby Ziruk, having an address of 616 Aulic Rd E. Dennis Ma (the "Guarantor"), in consideration of the execution and delivery of, and to induce Mashpee Commons II, LLC (the "Landlord") to enter into, the lease dated as of the date hereof (the "Lease") with Darby's Natural Markets LLC of Cape Cod (the "Tenant"), for the premises located in the building known as Building #31, which building is located on Market Street within the Mashpee Commons Shopping Center in Mashpee, Massachusetts, does hereby guaranty to Landlord, its successors and assigns, the payment of all monies which may become due Landlord from Tenant under said Lease and the performance of all other obligations due Landlord thereunder, as and when due, in accordance with the terms of said Lease.

Guarantor hereby expressly waives demand and/or notices of any default under said Lease, acknowledging that Landlord's notices to Tenant under said Lease shall be sufficient notice to Guarantor. Guarantor hereby expressly waives all suretyship defenses. Guarantor hereby consents to, without notice or demand and without affecting Guarantor's liability hereunder, any modification or amendment of said Lease (including, but not limited to, any modifications or amendments which may increase Tenant's obligations under the Lease), and any renewal thereof, and the assignment or subletting of the Leased Premises, and any indulgences shown to and any release of Tenant by Landlord, and any dealings mutually agreed upon between Tenant and Landlord, from time to time, and Guarantor further agrees that its liability shall not be discharged by any such actions. Guarantor agrees to pay any and all costs of collection incurred by Landlord in enforcing the terms and provisions of this Guaranty, including, but not limited to, attorneys' fees, if an attorney is employed to enforce this Guaranty. This Guaranty, its terms and provisions, shall inure to the benefit of the Landlord, its heirs, legal representatives, successors and assigns, and shall be binding on the Guarantor and its heirs, legal representatives, executors, successors and assigns. The death or disability of any person, including but not limited to the undersigned, shall in no way impair or affect this Guaranty.

This Guaranty is an absolute, primary, and continuing guaranty of payment and performance and is independent of Tenant's obligations under the Lease. Guarantor waives any right to require Landlord to (a) join Tenant with Guarantor in any suit arising under this Guaranty, (b) proceed against or exhaust any security given to secure Tenant's obligations under the Lease, or (c) pursue or exhaust any other remedy in Landlord's power. Guarantor hereby waives all demands for performance, notices of performance, and notices of acceptance of this Guaranty. The liability of Guarantor under this Guaranty will not be affected by (1) the release or discharge of Tenant from, or impairment, limitation or modification of, Tenant's obligations under the Lease in any bankruptcy, receivership, or other debtor relief proceeding, whether state or federal and whether voluntary or involuntary; (2) the rejection or disaffirmance of the Lease in any such proceeding; or (3) the cessation from any cause whatsoever of the liability of Tenant under the Lease.

Executed as an instrument under seal as of 11-13, 2013.

WITNESS:

\_\_\_\_\_  
Name: \_\_\_\_\_

GUARANTOR:

  
\_\_\_\_\_  
Name: Darby Ziruk

## EXHIBIT D

### PROVISIONS REGARDING USE OF SIDEWALK AREA AND PATIO

If Tenant is granted permission by Landlord, in writing, to use the sidewalk area in front of the Premises (the "Sidewalk Area") for selling purposes (see Section 5.1(c) above), or, if there is a patio area appurtenant to the Premises which Landlord intends to be used by Tenant for outdoor cafe seating in connection with the use of the Premises (a "Patio"), then any such use shall comply with the terms and standards set forth below.

*Use of Sidewalk Area.* Tenant's use of the Sidewalk Area shall be subject to the following terms and conditions:

- (a) The Sidewalk Area may be used only for the purpose of sidewalk sales up to four (4) times per calendar year, not to exceed four (4) days per event. Prior to each sidewalk sale, Tenant shall secure Landlord's prior approval as to the dates of such sale.
- (b) Tenant shall, at its sole cost and expense, obtain any permits and approvals necessary for the use of the Sidewalk Area for such sidewalk sales.
- (c) Tenant's maintenance, repair, insurance and indemnification obligations set forth in this Lease with respect to the Premises shall apply, in full, to Tenant's use of the Sidewalk Area, just as though the Sidewalk Area were also part of the Premises.
- (d) Tenant's right to use the Sidewalk Area shall be subject to reasonable rules and regulations established by Landlord with respect thereto and Tenant's failure to comply with such rules and regulations shall constitute a default under this Lease.
- (e) The Sidewalk Area shall be maintained by Tenant in a neat, clean and orderly condition and all litter and other debris shall be removed promptly therefrom.
- (f) The use by Tenant of the Sidewalk Area shall not result in any material and adverse interference with the operation of the Shopping Center. In no event shall Tenant obstruct pedestrian traffic on, over or across the sidewalk. Furthermore, in the event Tenant's use of the sidewalks becomes a nuisance or detriment to the Shopping Center or in the event a third party tenant should complain of Tenant's use of the sidewalks, then Landlord may require Tenant to remove all of its merchandise promptly upon written notice, and thereafter Tenant shall have no further right to use any portion of the Sidewalk Area for its outdoor sales.

*Use of Patio Area.* Tenant's use of the Patio shall be subject to the following terms and conditions:

- (a) Tenant shall, at its sole cost and expense, obtain any permits and approvals necessary for the use of the Patio;
- (b) Tenant's maintenance, repair, insurance and indemnification obligations set forth in this Lease with respect to the Premises shall apply, in full, to Tenant's use of the Patio, just as though the Patio were part of the Premises;
- (c) Tenant's right to use the Patio shall be subject to reasonable rules and regulations established by Landlord with respect thereto and Tenant's failure to comply with such rules and regulations shall constitute a default under this Lease;
- (d) The Patio shall be maintained by Tenant in a neat, clean and orderly condition and all litter and other debris shall be removed promptly therefrom; and
- (e) The use by Tenant of the Patio shall not result in any material and adverse interference with the operation of the Shopping Center.

### **Exhibit E**

**Landlord's Work:** Landlord will deliver the Premises with the following work substantially completed (i.e., completed except for minor punch list work, as described in the definition of "Tenant Possession Date" above in this Lease) in conformance with all State and local building codes.

**Walls:** All perimeter walls will be constructed with a layer of drywall, taped, sanded and painted.

**Ceiling:** Exposed structure ceiling with spray insulation and painted.

**Flooring:** concrete ready for staining

**HVAC:** Install HVAC as shown on the building permit application plan previously submitted to the Town.

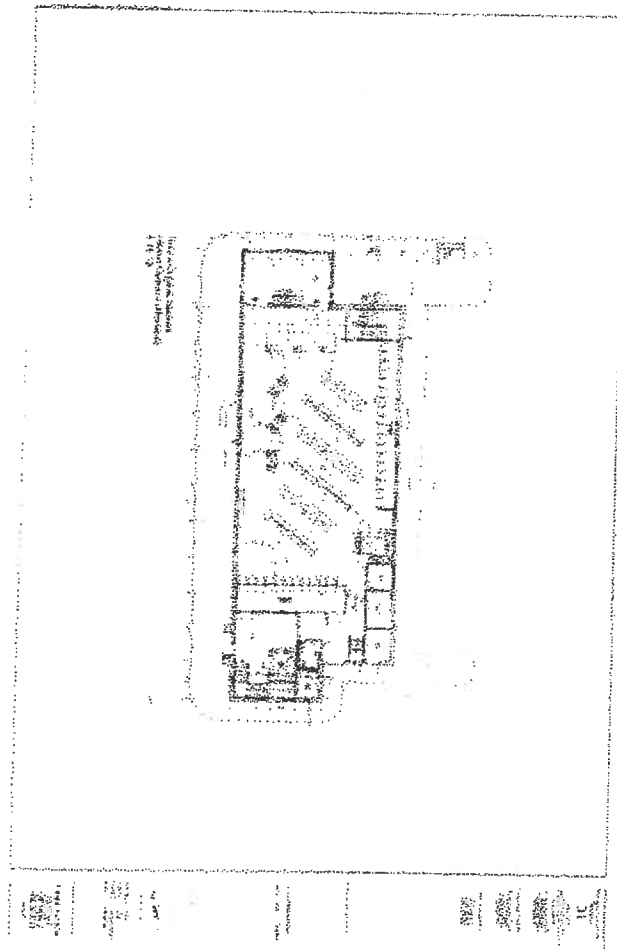
**Electric:** Separately metered electrical service, Convenience power on all perimeter walls.

**Track Lighting:** Landlord shall give Tenant an allowance of Sixteen Thousand Dollars (\$16,000) to be used toward Tenant's reasonable, documented out of pocket costs incurred to install general track lighting approximately 3' from perimeter walls. Such allowance shall be paid to Tenant within thirty (30) days after Tenant opens for business and has commenced paying rent, based on an invoice to be provided from Tenant to Landlord providing paid receipts evidencing such costs.

**Plumbing:** Provide plumbing and restrooms as shown on the building permit application plan previously submitted to the Town.

**Life Safety:** Complete Sprinkler and Fire alarm systems as required by code.

**Exhibit F – Description of Tenant's Build-Out**



**Exhibit G – Approved Signage for Tenant**

Signage to be approved by Landlord, consent not to be unreasonably withheld.



**Exhibit H – Approved Form of SNDA**

(starts on next page)

LEASE SUBORDINATION, NON-DISTURBANCE  
OF POSSESSION AND ATTORNMEN AGREEMENT

This Lease Subordination, Non-Disturbance of Possession and Attornment Agreement (hereinafter, the "Subordination, Non-Disturbance and Attornment Agreement" or "Agreement") is made as of the 12<sup>th</sup> day of November, 2013, among Cape Cod Five Cents Savings Bank, as Lender, having its principal place of business at 171 Falmouth Road, Hyannis, Massachusetts 02601 (the "Lender"), Mashpee Commons II LLC (hereinafter, the "Landlord" or the "Borrower"), and Darby's Natural Markets LLC of Cape Cod, a MA LLC (hereinafter, the "Tenant").

Introductory Provisions

A. The Lender is relying on this Agreement as an inducement to Lender in making and maintaining a loan (hereinafter, the "Loan") established in accordance with that certain Loan Agreement dated as of March 11, 2011 (the "Loan Agreement") between Lender and the Landlord and to be secured by, among other things, a certain Mortgage and Security Agreement dated as of March 11, 2011 (hereinafter, the "Mortgage") granted by Borrower to the Lender covering the property described in the Mortgage (hereinafter, the "Property"). The Lender is also the "Assignee" under a Collateral Assignment of Leases and Rents (hereinafter, the "Assignment") dated as of March 11, 2011 from Landlord with respect to the Property.

B. Tenant is the tenant under that certain lease (hereinafter, the "Lease") dated November 15, 2013, made with Landlord, or Landlord's predecessor in interest, covering certain premises (hereinafter, the "Premises") at the Property as more particularly described in the Lease.

C. Lender requires, as a condition to the making and maintaining of the Loan, that the Mortgage be and remain superior to the Lease and that its rights under the Assignment be recognized.

D. Tenant requires as a condition to the Lease being subordinate to the Mortgage that its rights under the Lease be recognized.

E. Lender, Landlord, and Tenant desire to confirm their understanding with respect to the Mortgage and the Lease.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, and with the understanding by Tenant that the Lender shall rely hereon in making and maintaining the Loan, the Lender, the Landlord, and the Tenant agree as follows:

1. Subordination. The Lease and the rights of Tenant thereunder are subordinate and inferior to the lien of the Mortgage and any amendment, renewal, substitution, extension or replacement thereof and each advance made thereunder as though the Mortgage, and each such amendment, renewal, substitution, extension or replacement were executed and recorded, and the advance made, before the execution of the Lease.
2. Non-Disturbance. So long as Tenant is not in default (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed or observed, (i) Tenant's occupancy of the Premises shall not be disturbed by Lender in the exercise of any of its rights under the Mortgage during the term of the Lease, or any extension or renewal thereof made in accordance with the terms of the Lease, and (ii) Lender will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease because of any default under the Mortgage.

3. Attornment and Certificates. In the event Lender succeeds to the interests of the Landlord under the Lease, or if the Property or the Premises are sold pursuant to the power of sale under the Mortgage, Tenant shall attorn to Lender, or a purchaser upon any such foreclosure sale, and shall recognize Lender, or such purchaser, thereafter as the Landlord under the Lease. Such attornment shall be effective and self-operative without the execution of any further instrument. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of any holder(s) of any of the indebtedness or other obligations secured by the Mortgage, or upon request of any such purchaser, (a) any instrument or certificate which, in the reasonable judgment of such holder (s) , or such purchaser, may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment, and (b) an instrument or certificate regarding the status of the Lease, consisting of statements, if true (and if not true, specifying in what respect), (i) that the Lease is in full force and effect, (ii) the date through which rentals have been paid, (iii) the duration and date of the commencement of the term of the Lease, (iv) the nature of any amendments or modifications to the Lease, (v) that no default, or state of facts, which with the passage of time, or notice, or both, would constitute a default, exists on the part of either party to the Lease, and (vi) the dates on which payments of additional rent, if any, are due under the Lease.
4. Limitations. If Lender exercises any of its rights under the Assignment or the Mortgage, or if Lender shall succeed to the interest of Landlord under the Lease in any manner, or if any purchaser acquires the Property, or the Premises, upon or after any foreclosure of the Mortgage, or any deed in lieu thereof, Lender or such purchaser, as the case may be, shall have the same remedies by entry, action or otherwise in the event of any default by Tenant (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants and conditions of the Lease on Tenant's part to be paid, performed or observed that the Landlord had or would have had if Lender or such purchaser had not succeeded to the interest of the present Landlord. From and after any such attornment, Lender or such purchaser shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, from and after such attornment to Lender, or to such purchaser, have the same remedies against Lender, or such purchaser, for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord, if Lender or such purchaser had not succeeded to the interest of Landlord; provided, however, that Lender or such purchaser shall only be bound during the period of its ownership, and that in the case of the exercise by Lender of its rights under the Mortgage, or the Assignment, or any combination thereof, or a foreclosure, or deed in lieu of foreclosure, all Tenant claims shall be satisfied only out of the interest, if any, of Lender, or such purchaser, in the Property, and Lender and such purchaser shall not be (a) liable for any act or omission of any prior landlord (including the Landlord); or (b) liable for or incur any obligation with respect to the construction of the Property or any improvements of the Premises or the Property; or (c) subject to any offsets or defenses which Tenant might have against any prior landlord (including the Landlord); or (d) bound by any rent or additional rent which Tenant might have paid for more than the then current rental period to any prior landlord (including the Landlord); or (e) bound by any amendment or modification of the Lease, made without Lender's prior written consent; or (f) except any assignment or sublet permitted under the Lease as to which Landlord's consent is not required, bound by any assignment or sublet, made without Lender's prior written consent; or (g) bound by or responsible for any security deposit not actually received by Lender; or (h) liable for or incur any obligation with respect to any breach of warranties or representations of any nature under the Lease or otherwise including without limitation any warranties or representations respecting use, compliance with zoning, landlord's title, landlord's authority, habitability and/or fitness for any purpose, or possession; or (i) liable for the payment of any tenant allowance; or (j) liable for consequential damages.
5. Rights Reserved. Nothing herein contained is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of : (a) the Landlord under the Lease, or any subsequent Landlord, against the Tenant in the event of any default by Tenant (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed or observed; or (b) the Tenant under the Lease against the original or any prior Landlord in the event of any default by the original

Landlord to pursue claims against such original or prior Landlord whether or not such claim is barred against Lender or a subsequent purchaser.

6. Notice and Right to Cure. Tenant agrees to provide Lender with a copy of each notice of default under the Lease or failure of Landlord to satisfy a condition precedent to Tenant's obligations under the Lease, at the same time as Tenant provides Landlord with such notice, and that in the event of any default or failure by the Landlord under the Lease, Tenant will take no action to terminate the Lease (a) if the default or failure is not curable by Lender (so long as the default does not interfere with Tenant's use and occupation of the Premises), or (b) if the default or failure is curable by Lender, unless the default or failure remains uncured for a period of thirty (30) days after written notice thereof shall have been given, postage prepaid, to Landlord at Landlord's address, and to Lender at the address provided in Section 7 below; provided, however, that if any such default or failure is such that it reasonably cannot be cured within such thirty (30) day period, such period shall be extended for such additional period of time as shall be reasonably necessary (including, without limitation, a reasonable period of time to obtain possession of the Property and to foreclose the Mortgage), if Lender gives Tenant written notice within such thirty (30) day period of Lender's election to undertake the cure of the default or failure and if curative action (including, without limitation, action to obtain possession and foreclose) is instituted within a reasonable period of time and is thereafter diligently pursued. Lender shall have no obligation to cure any default or failure under the Lease.
7. Notices. Any notice or communication required or permitted hereunder shall be in writing, and shall be given or delivered: (i) by United States mail, registered or certified, postage fully prepaid, return receipt requested, or (ii) by recognized courier service or recognized overnight delivery service; and in any event addressed to the party for which it is intended at its address set forth below:

To Lender:

Cape Cod Five Cents Savings Bank  
171 Falmouth Road  
Hyannis, Massachusetts 02601  
Attention: Mr. Robert Reisner  
Fax Number: (508) 790-9216

with copies by regular mail or such hand delivery or facsimile transmission to:

Riemer & Braunstein LLP  
Three Center Plaza  
Boston, Massachusetts 02108  
FAX Number: 617-880-3456  
Attention: Kevin J. Lyons

If to the Landlord:

Mashpee Commons Mgmt. Office  
P.O. Box, 1530, 22 Steeple Street, Mashpee MA 02649  
FAX Number: 508-477-4306  
Attention: Rose Fahey-Burlingame

If to Tenant:

Rory's Organic Market  
1218 Main Street  
Chatham, MA 02633  
FAX Number: (508) 945-6073  
Attention: Darby Ziruk

or such other address as such party may have previously specified by notice given or delivered in accordance with the foregoing. Any such notice shall be deemed to have been given and received on the date delivered or tendered for delivery during normal business hours as herein provided.

8. No Oral Change. This Agreement may not be modified orally or in any manner than by an agreement in writing signed by the parties hereto or their respective successors in interest.
9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, personal representatives, successors and assigns, and any purchaser or purchasers at foreclosure of the Property or any portion thereof, and their respective heirs, personal representatives, successors and assigns.
10. Payment of Rent To Lender. Tenant acknowledges that it has notice that the Lease and the rent and all sums due thereunder have been assigned to Lender as part of the security for the obligations secured by the mortgage. In the event Lender notifies Tenant of a default under the Loan and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant agrees that it will honor such demand and pay its rent and all other sums due under the Lease to Lender, or Lender's designated agent, until otherwise notified in writing by Lender. Landlord unconditionally authorizes and directs Tenant to make rental payments directly to Lender following receipt of such notice and further agrees that Tenant may rely upon such notice without any obligation to further inquire as to whether or not any default exists under the Mortgage or the Assignment, and that Landlord shall have no right or claim against Tenant for or by reason of any payments of rent or other charges made by Tenant to Lender following receipt of such notice.
11. No Amendment or Cancellation of Lease. So long as the Mortgage remains undischarged of record, Tenant shall not amend, modify, cancel or terminate the Lease, or consent to an amendment, modification, cancellation or termination of the Lease, or agree to subordinate the Lease to any other mortgage, without Lender's prior written consent in each instance.
12. Options. With respect to any options for additional space provided to Tenant under the Lease, Lender agrees to recognize the same if Tenant is entitled thereto under the Lease after the date on which Lender succeeds as Landlord under the Lease by virtue of foreclosure or deed in lieu of foreclosure or Lender takes possession of the Premises; provided, however, Lender shall not be responsible for any acts of any prior landlord under the lease, or the act of any tenant, subtenant or other party which prevents Lender from complying with the provisions hereof and Tenant shall have no right to cancel the Lease or to make any claims against Lender on account thereof.
13. Captions. Captions and headings of sections are not parts of this Agreement and shall not be deemed to affect the meaning or construction of any of the provisions of this Agreement.
14. Counterparts. This Agreement may be executed in several counterparts each of which when executed and delivered is an original, but all of which together shall constitute one instrument.
15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

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

16. Parties Bound. The provisions of this Agreement shall be binding upon and inure to the benefit of Tenant, Lender and Landlord and their respective successors and assigns; provided, however, reference to successors and assigns of Tenant shall not constitute a consent by Landlord to an assignment or sublet by Tenant, but has reference only to those instances in which such consent is not required pursuant to the Lease or for which such consent has been given.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

LENDER:

CAPE COD FIVE CENTS SAVINGS BANK

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TENANT:

Darby's Natural Markets LLC of Cape Cod

By: \_\_\_\_\_

Name: Darby Ziruk

Title: President

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this date, \_\_\_\_\_, 2013, before me, the undersigned notary public, personally appeared \_\_\_\_\_, as \_\_\_\_\_ of Cape Cod Five Cents Savings Bank, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

\_\_\_\_\_, ss. \_\_\_\_\_ OF \_\_\_\_\_

On this date, November 15, 2013, before me, the undersigned notary public, personally appeared Darby Ziruk, as President of Darby's Natural Markets LLC of Cape Cod, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Mashpee Commons II LLC, as Landlord under the Lease and a Borrower under the Mortgage, the Loan Agreement and the other Loan Documents, agrees for itself and its successors and assigns that:

1. The above agreement does not:
  - a. constitute a waiver by Lender of any of its rights under the Mortgage or any of the other Loan Documents; or
  - b. in any way release Landlord from its obligations to comply with the terms, provisions, conditions, covenants and agreements and clauses of the Mortgage and other Loan Documents;
2. The provisions of the Mortgage remain in full force and effect and must be complied with by Landlord;
3. Tenant shall have the right to rely on any notice or request from Lender which directs Tenant to pay rent to Lender without any obligation to inquire as to whether or not a default exists and notwithstanding any notice from or claim of Landlord to the contrary. Landlord shall have no right or claim against Tenant for rent paid to Lender after Lender so notifies Tenant to make payment of rent to Lender; and
4. The Landlord shall be bound by all of the terms, conditions and provisions of the foregoing Agreement in all respects.

Executed and delivered as a sealed instrument as of the 15th day of November, 2013.

LANDLORD:

Mashpee Commons II LLC.  
By NMS Associates Inc., General Partner  
Arnold B. Chace Jr. as President

By: \_\_\_\_\_  
Name: Arnold B. Chace, Jr.

Barnstable, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned notary public, personally appeared Arnold B. Chace Jr., the President of NMS Associates Inc., the General Partner of Mashpee Commons II LLC proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

**Exhibit I**  
**Plan Depicting Parking Space for Delivery Van, and Short Term Drop Off/Pick Up Parking Spaces**



## EXHIBIT J

### EXISTING/CONTEMPLATED USE EXCLUSIVES/RESTRICTIONS

- Restriction prohibiting “a retail store doing business as ‘The Children’s Place’”.
- Restriction prohibiting “a tenant whose primary business is the retail sale of all natural fruit, vegan, or juice-based smoothies”.
- Restriction prohibiting “operation of a retail store doing business as ‘Z Gallerie’”.
- Exclusive for “the sale of (a) espresso or espresso-based coffee drinks, (b) whole or freshly ground coffee beans, or (c) gourmet, brand-identified brewed coffee. Notwithstanding anything to the contrary set forth herein, this provision shall not apply to: (i) existing tenants; (ii) any grocery space; (iii) full service restaurants; and (iv) with respect to any other occupants of the Shopping Center, the sale of such restricted items provided such sales do not amount to more than ten per cent (10%) of the aggregate gross sales of such occupant.”
- Restriction prohibiting; “a pharmacy or pharmacy prescription department (“Pharmacy”) and/or a retail store principally and primarily (as hereinafter defined) for Restricted Use (as hereinafter defined).” “For the purposes of this Section 21.27, the term “Restricted Use” shall mean the display and sale of health and beauty aids. For the purposes hereof, the term “principally and primarily” shall mean any space in the Shopping Center or in North Market Street devoted to the Restricted Use in excess of twenty-five percent (25%) of the selling area.”
- Restriction prohibiting “a bakery-café type/style restaurant” subject to the area restrictions as identified in the controlling lease.
- Exclusive use for “(a) the production, retail and delivery of floral shaped and sculpted fruit arrangements (to be clear, this exclusive covers only fruit arrangements that are both floral shaped and sculpted), and (b) the sale of gourmet chocolate (or other flavors) dipped fruit provided, however, that . . . the exclusive for such dipped fruit shall not apply to any tenant whose gross sales from the sale of such dipped fruit is less than 10% of such tenant’s total gross sales”.

AMENDMENT NO. 1 TO INDENTURE OF LEASE

THIS AGREEMENT, made as of the 5th day of June 2013, by and between MASHPEE COMMONS II, LLC, A Delaware limited partnership, having an office at Mashpee Commons, P.O. Box 1530, Mashpee, Massachusetts 02649 (hereinafter referred to as the "Landlord"), and, Darby's Natural Markets LLC d/b/a Organic Market having a mailing address at 1218 Main Street, Chatham, MA 02633 (hereinafter referred to as the "Tenant").

WITNESSETH


WHEREAS, Landlord and Tenant have entered into a rental agreement dated as of November 15, 2013 (the "Agreement"), relating to certain premises in the commercial development commonly referred to as Mashpee Commons, on a tract of land located primarily in the Town of Mashpee, County of Barnstable, Commonwealth of Massachusetts more particularly shown on Exhibit "A" annexed to the Agreement; and

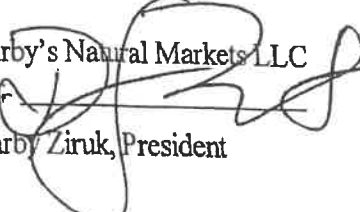
WHEREAS, the parties hereto desire to amend and modify the Agreement as set forth below.

NOW, THEREFORE, in consideration of the foregoing and for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Section 1.9 Minimum Rent:  
Year 3, 4, & 5 \$13/sf  
*To begin April 1, 2016 AR*
2. Section 1.12 Percentage Rent:  
Years 3, 4, & 5 1.5% of gross sales in excess of \$2,200,000
3. Section 1.16 Tenant Allowance:  
Landlord shall give an additional \$20,000 to be used toward tenant improvements in the premises, per attached plan. Tenant shall submit paid invoice/invoices to Landlord and Landlord shall reimburse Tenant \$20,000.00 within 30 days of receipt of invoice.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 of lease as a sealed instrument in any number of counterpart copies, each of which counterpart copied shall be deemed an original for all purposes as of the day and year first above written.

Mashpee Commons II LLC.  
By NMS Associates Inc., General Partner  
By:   
Arnold B. Chace Jr. as President

Darby's Natural Markets LLC  
By:   
Darby Ziruk, President

**AMENDMENT TO RETAIL LEASE AGREEMENT**

**DATED NOVEMBER 15, 2013**

***Premises: 4,000 sq. ft. First Floor Building #31, along Market Street  
Mashpee Commons, Mashpee, MA 02649***

WHEREAS, a Retail Lease Agreement (the "Lease") was made between Mashpee Commons II, LLC ("Landlord") and Darby's Natural Markets LLC of Cape Cod ("Tenant") and Tenant's Trade name is Rory's Organic Market at Mashpee Commons ("Trade Name");

NOW THEREFORE, for consideration paid, it is hereby agreed by and between the undersigned parties that said Retail Lease Agreement is hereby amended as follows:

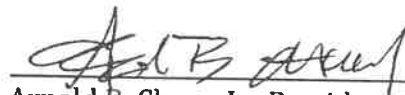
Striking out "of Cape Cod" from the entity listed as the Tenant; and striking out "Rory's" and "at Mashpee Commons" from the Trade Name wherever the same may appear throughout the Retail Lease Agreement, so that the Lease will now read as if it were originally drawn with DARBY'S NATURAL MARKETS LLC, d/b/a Organic Market as Tenant.

The parties hereto do further ratify and confirm that all of the other terms and conditions of said Retail Lease Agreement remain and shall be treated as if the above named Tenant had executed and delivered the same when the original Retail Lease Agreement was signed.

WITNESS our hands and seals this 23<sup>rd</sup> day of APRIL, 2014.

**LANDLORD:** Mashpee Commons II, LLC  
By Mashpee Commons Limited Partnership, its sole member  
By: NMS Associates, Inc., its general partner

By:

  
Arnold B. Chace, Jr., President

**TENANT:** Darby's Natural Markets LLC, d/b/a Organic Market

By:

\_\_\_\_\_  
Darby Ziruk, Manager

AMENDMENT NO. 2 TO INDENTURE OF LEASE

THIS AGREEMENT, made as of the 26th day of June 2018, by and between MASHPEE COMMONS II, LLC, A Delaware limited partnership, having an office at Mashpee Commons, P.O. Box 1530, Mashpee, Massachusetts 02649 (hereinafter referred to as the "Landlord"), and, Darby's Natural Markets LLC d/b/a Organic Market having a mailing address at 1218 Main Street, Chatham, MA 02633 (hereinafter referred to as the "Tenant"),

WITNESSETH

WHEREAS, Landlord and Tenant have entered into a rental agreement dated as of November 15, 2013 (the "Agreement"), and amended by Amendment NO. 1 dated June 5, 2013 (Amendment NO. 1) relating to certain premises in the commercial development commonly referred to as Mashpee Commons, on a tract of land located primarily in the Town of Mashpee, County of Barnstable, Commonwealth of Massachusetts, more particularly shown on Exhibit "A" annexed to the Agreement; and

WHEREAS, the parties hereto desire to amend and add to the Agreement as set forth below.

Section 2. The hood and all its components are the property of the landlord and shall remain when the tenant vacates the premises.

NOW, THEREFORE, in consideration of the foregoing and for One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 of lease as a sealed instrument in any number of counterpart copies, each of which counterpart copied shall be deemed an original for all purposes as of the day and year first above written.

Mashpee Commons II, LLC  
By NMS Associates, Inc., General Partner

*[Signature]*  
Amor B. Chace, Jr. as President

Darby's Natural Markets LLC  
By *[Signature]*

### AMENDMENT NO. 3 TO INDENTURE OF LEASE

THIS AMENDMENT NO. 3 TO INDENTURE OF LEASE (this "Amendment") is entered into on this 30<sup>th</sup> day of August, 2019 (the "Effective Date"), by and between **Mashpee Commons II, LLC** ("Landlord"), and **Darby's Natural Markets LLC d/b/a RORY'S** ("Tenant").

WHEREAS, Landlord and Tenant did enter into that certain lease dated as of November 15, 2013 (as amended, the "Lease") concerning approximately 4,000 square feet of space (the "Premises") within the shopping center known as "Mashpee Commons", all as more particularly described in the Lease; and

WHEREAS, Landlord and Tenant desire to amend the Lease on the terms set forth below;

NOW THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the parties hereby agree as follows:

1. Definitions. Unless otherwise specifically set forth herein, all initial capitalized terms used herein shall have the same meaning as set forth in the Lease.
2. Term. The Initial Term is hereby extended from June 1, 2019 to May 31, 2029. Tenant shall have one (1) Extension Term of five (5) Lease Years, provided Tenant gives at least twelve (12) months advance written notice of its exercise of the option, and provided Tenant is not in default.
3. Minimum Rent. Effective as of June 1, 2019, the Minimum Rent shall be as set forth below.

| <i><b>Time Period</b></i>    | <i><b>Minimum<br/>Rent</b></i> | <i><b>Annual Minimum<br/>Rent</b></i> | <i><b>Monthly Installment</b></i> |
|------------------------------|--------------------------------|---------------------------------------|-----------------------------------|
| June 1, 2019 – May 31, 2020  | \$15.50/sf                     | \$62,000.00                           | \$5,166.67                        |
| June 1, 2020 – May 31, 2021  | \$15.97/sf                     | \$63,880.00                           | \$5,323.33                        |
| June 1, 2021 – May 31, 2022  | \$16.44/sf                     | \$65,760.00                           | \$5,480.00                        |
| June 1, 2022 – May 31, 2023  | \$16.94/sf                     | \$67,760.00                           | \$5,646.67                        |
| June 1, 2023 – May 31, 2024  | \$17.45/sf                     | \$69,800.00                           | \$5,816.67                        |
| June 1, 2024 – May 31, 2025  | \$17.97/sf                     | \$71,880.00                           | \$5,990.00                        |
| June 1, 2025 – May 31, 2026  | \$18.51/sf                     | \$74,040.00                           | \$6,170.00                        |
| June 1, 2026 – May 31, 2027  | \$19.06/sf                     | \$76,240.00                           | \$6,353.33                        |
| June 1, 2027 – May 31, 2028  | \$19.63/sf                     | \$78,520.00                           | \$6,543.33                        |
| June 1, 2028 – May 31, 2029  | \$20.22/sf                     | \$80,880.00                           | \$6,740.00                        |
| <i><b>Extension Term</b></i> |                                |                                       |                                   |
| June 1, 2029 – May 31, 2030  | \$20.83/sf                     | \$83,320.00                           | \$6,943.33                        |
| June 1, 2030 – May 31, 2031  | \$21.46/sf                     | \$85,840.00                           | \$7,153.33                        |

|                             |            |             |            |
|-----------------------------|------------|-------------|------------|
| June 1, 2031 – May 31, 2032 | \$22.10/sf | \$88,400.00 | \$7,366.67 |
| June 1, 2032 – May 31, 2033 | \$22.76/sf | \$91,040.00 | \$7,586.67 |
| June 1, 2033 – May 31, 2034 | \$23.45/sf | \$93,800.00 | \$7,816.67 |

4. Percentage Rent. Commencing as of June 1, 2019, the Percentage Rent shall be as follows:

| <i>Time Period</i>          | <i>Percentage Rent</i>                                   |
|-----------------------------|--|
| June 1, 2019 – May 31, 2020 | 1.5% of Gross Sales in excess of \$2,200,000 per year    |
| June 1, 2020 – May 31, 2021 | 1.5% of Gross Sales in excess of \$2,200,000 per year    |
| June 1, 2021 – May 31, 2022 | 1.5% of Gross Sales in excess of \$2,266,000.00 per year |
| June 1, 2022 – May 31, 2023 | 1.5% of Gross Sales in excess of \$2,333,980.00 per year |
| June 1, 2023 – May 31, 2024 | 1.5% of Gross Sales in excess of \$2,403,999.40 per year |
| June 1, 2024 – May 31, 2025 | 1.5% of Gross Sales in excess of \$2,476,119.38 per year |
| June 1, 2025 – May 31, 2026 | 1.5% of Gross Sales in excess of \$2,550,402.96 per year |
| June 1, 2026 – May 31, 2027 | 1.5% of Gross Sales in excess of \$2,626,915.05 per year |
| June 1, 2027 – May 31, 2028 | 1.5% of Gross Sales in excess of \$2,705,722.50 per year |
| June 1, 2028 – May 31, 2029 | 1.5% of Gross Sales in excess of \$2,786,894.18 per year |

***Extension Term***

|                             |  |
|-----------------------------|--|
| June 1, 2029 – May 31, 2030 | 1.5% of Gross Sales in excess of \$2,870,501.00 per year |
| June 1, 2030 – May 31, 2031 | 1.5% of Gross Sales in excess of \$2,956,616.03 per year |
| June 1, 2031 – May 31, 2032 | 1.5% of Gross Sales in excess of \$3,045,314.52 per year |
| June 1, 2032 – May 31, 2033 | 1.5% of Gross Sales in excess of \$3,136,673.95 per year |
| June 1, 2033 – May 31, 2034 | 1.5% of Gross Sales in excess of \$3,230,774.17 per year |

5. Permitted Use. The Permitted Use, as set forth in Section 1.8 of the Lease, is hereby deleted in its entirety and replaced with the following:

As an "Organic Market", which shall mean a health food store/natural food store that includes among its offerings many organic products, so-called "health food" or at least "healthier" products, and a natural & organic focused quick serve casual café similar to the existing Rory's Kitchen Café. Tenant shall have the right to sell CBD and Cannabis products. Not more than 50% of the retail sales area of the Premises shall be used for groceries. To be clear, paper products, health and beauty aids, vitamins and minerals, cleaning supplies, pet supplies, and products similar to any of the foregoing shall not be deemed "grocery" products for the purposes of this limitation.

Notwithstanding anything in the foregoing to the contrary, Tenant may not use the Premises for any of the existing/contemplated exclusive uses/restricted uses described on Exhibit A attached to this Amendment. Furthering, nothing in the foregoing shall be construed as Landlord's consent to Tenant's use of the Premises for any of the Prohibited Uses set forth in Exhibit B attached hereto, all of which are expressly prohibited.

6. Tenant's Trade Name. Landlord hereby consents to the change of Tenant's Trade Name and d/b/a to "Rory's".

7. Guaranty. Effective as of the date hereof, Darby Ziruk is hereby released from any liability under the Guaranty.

8. Notices. Tenant's address for notice purposes has been changed to: 640 Main Street, Dennisport, MA 02639.

9. Exclusive. Excluding currently existing leases in the Shopping Center (as the same may be assigned, subleased or amended) or on any adjacent property owned or controlled by Landlord, for so long as Tenant is open and operating continuously and without default as a natural health food and organic grocery store, Landlord shall not hereafter, during the Term of the Lease, lease, rent, occupy or permit to be occupied or used, any space in the Shopping Center or on any adjacent property owned or controlled by Landlord whose primary use is for a natural health food and organic grocery store.

10. Miscellaneous. Except as otherwise specifically modified herein, all other terms and conditions of the Lease shall remain in full force and effect. Additionally, Tenant further confirms and ratifies that, as of the date hereof, (a) Tenant is and remains in good standing and the Lease is in full force and effect, and (b) Tenant has no claims, counterclaims, set-offs, or defenses against Landlord arising out of the Lease or in any way relating thereto or arising out of any other transaction between Landlord and Tenant. This Amendment may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. The parties may sign this Amendment by .pdf (via electronic mail) copies, and any such .pdf copy shall be deemed to be an original.

(Signatures on next page)

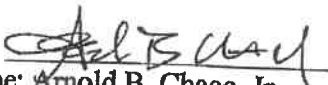
IN WITNESS WHEREOF, the parties have signed this Amendment as an instrument under seal as of the date first written above.

**LANDLORD:**

Mashpee Commons II, LLC

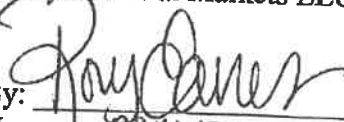
By: Mashpee Commons Limited  
Partnership,  
its sole member

By: NMS Associates, Inc., its general  
partner

By:   
Name: Arnold B. Chace, Jr.  
Title: President

**TENANT:**

Darby's Natural Markets LLC

By:   
Name: ROY EAMES  
Title: CEO



## EXHIBIT A

### EXISTING EXCLUSIVES

While any portion of the Shopping Center is leased to a tenant with an exclusive use right in its lease for any of the following uses, the Premises shall not be used for:

- Restriction prohibiting "a retail store doing business as 'The Children's Place.'"
- Restriction prohibiting "a tenant whose primary business is the retail sale of all natural fruit, vegan, or juice-based smoothies."
- Restriction prohibiting "operation of a retail store doing business as 'Z Gallerie.'"
- Exclusive for "the sale of (a) expresso or expresso-based coffee drinks, (b) whole or freshly ground coffee beans, or (c) gourmet, brand-identified brewed coffee. Notwithstanding anything to the contrary set forth herein, this provision shall not apply to: (i) existing tenants; (ii) any grocery space; (iii) full service restaurants; and (iv) with respect to any other occupants of the Shopping Center, the sale of such restricted items provided such sales do not amount to more than ten per cent (10%) of the aggregate gross sales of such occupant."
- Restriction prohibiting; "a pharmacy or pharmacy prescription department ("Pharmacy") and/or a retail store principally and primarily (as hereinafter defined) for Restricted Use (as hereinafter defined)." "For the purposes of this Section 21.27, the term "Restricted Use" shall mean the display and sale of health and beauty aids. For the purposes hereof, the term "principally and primarily" shall mean any space in the Shopping Center or in North Market Street devoted to the Restricted Use in excess of twenty-five percent (25%) of the selling area."
- Restriction prohibiting "a bakery-café type/style restaurant" subject to the area restrictions as identified in the controlling lease.
- Exclusive use for "(a) the production, retail and delivery of floral shaped and sculpted fruit arrangements (to be clear, this exclusive covers only fruit arrangements that are both floral shaped and sculpted), and (b) the sale of gourmet chocolate (or other flavors) dipped fruit provided, however, that . . . . the exclusive for such dipped fruit shall not apply to any tenant whose gross sales from the sale of such dipped fruit is less than 10% of such tenant's total gross sales."
- Exclusive use for: "a massage therapist, massage therapy, muscle therapy, or customized facials, such as but not limited to: Elements, Massage Heights, etc."
- Restriction prohibiting "another tenant or occupant in the Shopping Center whose primary use is the sale of apparel, footwear or sporting goods, using a marketing strategy which emphasizes outdoor lifestyle or outdoor recreational activities, examples of which include Bass Pro Shops, Cabela's, Campmor, Dick's Sporting Goods, Eastern Mountain Sports, Gander Mountain, Lands' End, Orvis, Patagonia, Recreational Equipment, Inc. and The North Face."
- Exclusive use "for the operation of a business offering group fitness high-intensity interval training (HIIT) such as indoor cycling, spin classes and boot camp-style fitness classes."

## **EXHIBIT B**

### **PROHIBITED USES**

1. Any noise, litter, odor or other activity which may constitute a public or private nuisance.
2. Any unusual firing, explosion or other damaging or dangerous hazard
3. Any assembly, manufacturing, distillation, refining, smelting, industrial, agriculture, drilling or mining operation
4. Any trailer court, mobile home park, lot for sale of new or used motor vehicles, labor camp, junk yard, stock yard or animal raising
5. Any dumping, disposal, incineration or reduction of garbage or refuse (other than by handling or reducing waste produced on the premises from authorized uses, if handled in a reasonably clean and sanitary manner)
6. Warehouse
7. Processing or rendering plant
8. Flea market
9. Massage parlor
10. Off-track betting
11. Bowling alley
12. Sporting event or other sports facility
13. Any public or private nuisance
14. Any noxious, toxic, caustic, or corrosive fuel or gas
15. Any dust, dirt or fly ash in excessive quantities
16. Auction or bankruptcy sale
17. Pawn shop, second-hand store or fire sale
18. Pool or billiard establishment
19. Shooting gallery or gun range, if using live ammunition, or gun shop
20. Emission of any substance, gas, particulate matter, audio, radio or infrared electromagnetic wave frequency or other form of radiation that interferes with the business of any Occupant
21. A so-called neighborhood or "dive" bar predominantly serving alcoholic beverages

22. The sale, distribution or display of any drug paraphernalia primarily used in the use or ingestion of illicit drugs
23. Any purpose prohibited by Legal Requirements, unless Landlord has obtained an exception from the Legal Requirements. For the purposes hereof, the term "Legal Requirements" means, to the extent generally applicable to retail tenants, all present or future laws, statutes and ordinances, including building codes and zoning regulations and ordinances ordinary and extraordinary, foreseen or unforeseen and the orders, rules, regulations, directives, recommendations and requirements of all federal, state, county, city and borough departments, bureaus, boards, agencies, offices, commissions and other subdivisions, or of any official, or of any other governmental, public or quasi-public authority, or of the National Board of Fire Underwriters or other body having similar functions, or of any insurance company having policies outstanding with respect to the Premises or Shopping Center, whether now or in the future in force; and all requirements of any insurance policy covering or applicable to the Premises or the Shopping Center.
24. A tattoo or piercing parlor
25. Adult bookstore or facility selling or displaying pornographic books, literature or videotapes (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality)

## Veteran Banner presentation to Select Board

Richard DeSorgher

Wed 12/27/2023 2:17 PM

To: Wayne E. Taylor <wtaylor@mashpeeema.gov>

Cc: Terrie Cook <tmcook@mashpeeema.gov>

📎 1 attachments (14 KB)

Vet banner fundraising letter.docx;

**Attention!:** Links contained herein may not be what they appear to be. Please verify the link before clicking! Ask IT if you're not sure.

Hi Wayne,

Happy New Year!

Carol Sherman suggested I contact you concerning the Veterans Banner Program. I attached an outline of the program we are proposing. The attached fundraising letter should provide the detailed information. Banners containing a photo of the veteran, their name, branch of service and dates served will be hung from the lamp poles in Community Park. There are 20 lamp poles and each would contain two veteran banners or a total of 40 veteran banners. The banners would be attached to the lamp poles by our DPW and would be up for a specified time period. We are thinking from the end of August to Thanksgiving time frame.

We are requesting an appointment at the select board meeting on February 20. Once we have received approval from the Board we will spend the month of March getting our publicity out about the project through the newspaper, Senior Center, Library, Tribe, Mashpee TV and the Mashpee Men's Club among other outlets. We will then place a "Veterans Box" in the town library for veterans to fill out a form of interest and provide a photo. In the event more than 40 veterans apply, a lottery will be held.

We anticipate sending in the veteran names and photos in May and having the finished banners received by July 4.

We look forward to meeting with the Board on February 20 to explain the program.

Sincerely,

Richard DeSorgher

PS Terrie; A reminder you were going to check on the Historical Commission email

Thanks,

Richard

**Town of Mashpee  
Mashpee High School  
500 Old Barnstable Road  
Mashpee, MA 02649  
Special Town Meeting  
Monday, May 6, 2024**

*\*ALL ARTICLE NUMBERS ARE SUBJECT TO CHANGE\**

Barnstable, ss:

Greetings to the Constables of the Town,

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and summon the inhabitants of the Town of Mashpee who are qualified to vote in the elections to meet at the Mashpee High School on Monday, the 6th day of May 2024 at 7:00 p.m. for the following purposes:

To act on the articles contained in the following Warrant:

**Article 1**

To see if the Town will vote to appropriate and transfer the sum of \$\_\_\_\_\_ from revenue available for appropriation to the Snow & Ice Account, or take any other action relating thereto.

Submitted by the Department of Public Works

**Explanation:** This article is necessary to fund a deficit in the Snow & Ice Account.

**The Select Board recommends approval of Article 1 by a vote of**  
**The Finance Committee recommends approval of Article 1 by a vote of**

**Article 2**

To see if the Town will vote to appropriate and transfer the sum of \$864.05 from revenue available for appropriation to pay the previous fiscal year's unpaid bill as follows:

Algonquin Acquisition Company LLC/Boston Globe Media Partners, LLC    \$864.05

or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** This article is necessary to pay a bill received after the end of a previous fiscal year.

**The Select Board recommends approval of Article 2 by a vote of**  
**The Finance Committee recommends approval of Article 2 by a vote of**

**Article 3**

To see if the Town will vote to appropriate and transfer the sum of \$2,629,134 from revenue available for appropriation, to be deposited into the Capital Stabilization Fund, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** As per Select Board Policy #072, "Capital Improvement Policy", this article will set aside funds in the amount of fifteen percent (15%) of the "Certified Free Cash" into the Capital Stabilization account for future capital expenditures in an effort to ensure the Town will maintain its assets at a level adequate to protect the Town's capital investment and to minimize future maintenance and replacement costs.

**The Select Board recommends approval of Article 3 by a vote of**

**The Finance Committee recommends approval of Article 3 by a vote of**

#### **Article 4**

To see if the Town will vote to appropriate and transfer the sum of \$370,000 from revenue available for appropriation to the Human Resources Accrued Benefit Account, or take any other action relating thereto.

**Explanation:** This article is necessary to replenish the Human Resources Accrued Benefits Account.

**The Select Board recommends approval of Article 4 by a vote of**

**The Finance Committee recommends approval of Article 4 by a vote of**

#### **Article 5**

To see if the Town will vote to appropriate and transfer the sum of \$1,400,000 (amount to be determined) from the Wastewater Stabilization Fund to the Temporary borrowing outside 2 ½, or take any other action relating thereto.

Submitted by the Town Treasurer

**Explanation:** This article, along with the following article is for the purpose of paying the Phase 2 planning to avoid interest to be paid.

**The Select Board recommends approval of Article 5 by a vote of**

**The Finance Committee recommends approval of Article 5 by a vote of**

#### **Article 6**

To see if the Town will vote to appropriate and transfer the sum of \$1,600,000 (amount to be determined) from the Wastewater Infrastructure Investment Fund (WIIF) to the Temporary borrowing outside 2 ½, or take any other action relating thereto.

Submitted by the Town Treasurer

**Explanation:** This article, along with the previous article is for the purpose of paying the Phase 2 planning to avoid interest to be paid.

**The Select Board recommends approval of Article 6 by a vote of**

**The Finance Committee recommends approval of Article 6 by a vote of**

## **Article 7**

To see if the Town will vote to appropriate and transfer pursuant to the provisions of M.G.L. Chapter 44B, §6 to reserve from the Community Preservation Fund Budget for Appropriation Reserve, the following amounts:

\$1,096          10% Open Space/Recreation Purposes

\$1,096          10% Historic Purposes

\$1,096          10% Affordable Housing Purposes

or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** This is a “cleanup” article to meet the requirement of reserving funds from the CPA FY 2024 Trust Fund distribution. The amount of the FY 2024 state reimbursement received by the Town of Mashpee was higher than the initial estimate. The CPC is required to set aside 10% of those excess funds and deposit them into each of the CPA 10% reserves. Funding shall derive from the Community Preservation Budgeted for Appropriation Reserve.

The Community Preservation Committee recommends approval of Article 7 by a vote of 7-0.

**The Select Board recommends approval of Article 7 by a vote of**  
**The Finance Committee recommends approval of Article 7 by a vote of**

## **Article 8**

To see if the Town will vote to appropriate and transfer the sum not to exceed \$100,000 from the Community Preservation Fund Budget for Appropriation Reserve in accordance with the provisions of M.G.L. Chapter 44B §5, for the purpose of funding the Open Space and Recreation Plan including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The goal of this project is to update the Town’s Open Space and Recreation Plan (OSRP). The OSRP Plan has not been updated since 2009. With an approved OSRP, the Town would be eligible to receive and leverage grant funding that has not been previously available. The Plan is also essential for the success of conservation and recreation efforts supported by the Planning Department and approved Town plans as applicable. Broad-based support and collaboration in the planning process would provide the fundamental framework to identify the needs of open space, and recreational areas to ensure alignment with the community’s vision. Unexpended funds would return to the coffers of the Community Preservation Committee.

The Community Preservation Committee recommends approval of Article 8 by a vote of 7-0.

**The Select Board recommends approval of Article 8 by a vote of**  
**The Finance Committee recommends approval of Article 8 by a vote of**

#### **Article 9**

To see if the Town will vote to appropriate and transfer the sum of \$550,000 from the Community Preservation Fund 10% Open Space/Recreation Reserve in accordance with the provisions of M.G.L. Chapter 44B §5, for the purpose of funding the Ashumet Pond Restoration & Rehabilitation project including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, and to apply for, accept and expend any reimbursement funds which are anticipated from Joint Base Cape Cod; 50% through an Environmental Services Agreement to defray the costs. All reimbursement funds would return to the coffers of the Community Preservation Committee. And further, to authorize the Select Board and/or Community Preservation Committee to enter into all agreements and execute any and all instruments on behalf of the Town as may be necessary to effect this purchase and obtain reimbursement funding in the best interest of the Town, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The goal of this project is to reduce public health risks associated with cyanobacteria blooms by completing the third aluminum sulfate (alum) treatment to Ashumet Pond to reduce the phosphorus release from bottom sediments. This is three-year project and a strong initiative for clean waters. Phase I includes permitting, engineering, and monitoring by a hired consultant to conduct the aluminum sulfate dosage assessment. A structured work plan would be required in Phase II with a contractor conducting the treatment application with a buffer solution. In Year III an expanded monitoring program would be created to track improvements. The success of the treatment will be measured by future phosphorus release and the treatment longevity lasting 10-15 years, as well as best management practices.

Joint Base Cape Cod (JBCC) fully funded the alum treatment on Ashumet Pond in 2001 and in 2010. JBCC has shown a willingness to contribute 50% of the cost of this treatment, to include the permitting and monitoring. Cost sharing funds would be submitted to the Town and deposited into the coffers of the Community Preservation Committee.

Aluminum sulfate is a water-soluble salt used in the purification of drinking water and wastewater facilities. Alum has a high capacity to absorb phosphates and it is the recommended treatment by the federal government. Alum has been used in several Cape Ponds including Mystic Lake, Hamblin Pond, Lovells Pond, Long Pond, Cliff Pond, Lovers Lake, Stillwater Pond, Herring Pond and Great Pond.

The Community Preservation Committee recommends approval of Article 9 by a vote of

**The Select Board recommends approval of Article 9 by a vote of**  
**The Finance Committee recommends approval of Article 9 by a vote of**



## **Article 10**

To see if the Town will vote to appropriate and transfer the sum of \$\_\_\_\_\_ from the Community Preservation Fund Undesignated Fund Balance in accordance with the provisions of M.G.L. Chapter 44B §5, for the purpose of funding the Pickerel Cove Road/Pickerel Cove Circle project to acquire nine (9) parcels of land consisting of seventeen and twenty-seven-one-hundredths (17.27) acres, more or less, designated on Mashpee Assessors Maps as;

9 Pickerel Cove Road, 1.84 acres; Map 13 Parcel 53  
17 Pickerel Cove Road, 1.91 acres; Map 13 Parcel 54  
25 Pickerel Cove Road, 1.92 acres; Map 13 Parcel 55  
33 Pickerel Cove Road, 1.99 acres; Map 13 Parcel 56  
87 Pickerel Cove Road, 2.5 acres; Map 13 Parcel 1  
7 Pickerel Cove Circle, 2.03 acres; Map 13 Parcel 57  
21 Pickerel Cove Circle, 2.20 acres; Map 14 Parcel 14  
25 Pickerel Cove Circle, 2.02 acres; Map 14 Parcel 4  
O-Rear Pickerel Cove Road, 0.86 acres; Map 14, Parcel 3

More accurately described in deeds recorded in the Barnstable County Registry of Deeds in Book 17851 Page 164, Plan Book 127, Page 101 and Plan Book 186, Page 139 and ANR plan of land in Plan Book 577, Page 29 for the approximate 17-Acre parcel which are appurtenant to any of said parcels and to acquire said parcels with the consent of the owners under M.G.L. Chapter 79, or any other enabling authority acquiring said land for open space, conservation and passive recreation purposes subject to a Conservation Restriction as required by the Community Preservation Act.

And further, to authorize the Select Board and/or Community Preservation Committee to enter into all agreements and execute any and all instruments on behalf of the Town as may be necessary to effect this purchase and obtain reimbursement funding, provided, that the Grantors be required to certify good and marketable title to the subject properties, free and clear of any liens, encumbrances, easements, clouds, and other third party rights or claims, upon such terms and conditions are deemed to be in the best interest of the Town, including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The main goal of this project is to acquire a collection of contiguous parcels located between Main Street (Route 130) and the western shore of Mashpee-Wakeby Pond along Pickerel Cove Road and Pickerel Cove Circle maximizing publicly owned and protected lands within the acquisition boundaries of the Mashpee National Wildlife Refuge (MNWR). The 2007 Open Space Plan identifies these parcels as privately held lands of conservation interest. The project would protect drinking water quantity and quality, permanently protect wildlife habitat including rare species on the shoreline and expand the opportunities for passive recreation.

The Community Preservation Committee recommends approval of Article 10 by a vote of 8-0.

**The Select Board recommends approval of Article 10 by a vote of**

**The Finance Committee recommends approval of Article 10 by a vote of**

**THIS CONCLUDES THE BUSINESS OF THE SPECIAL TOWN MEETING**

And you are hereby directed to serve this Warrant by posting up attested copies thereof, one at the Town Hall, one at the Post Office, and one each on the bulletin boards, thirty days at least before said meeting.

Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 18th day of March in the year two thousand and twenty-four.

Per Order of,  
**Select Board**

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John J. Cotton, Chair

---

Thomas F. O'Hara, Vice Chair

---

Carol A. Sherman, Clerk

---

David W. Weeden

---

Michaela Wyman-Colombo

**Town of Mashpee  
Mashpee High School  
500 Old Barnstable Road  
Mashpee, MA 02649  
Annual Town Meeting  
Monday, May 6, 2024**

*\*ALL ARTICLE NUMBERS ARE SUBJECT TO CHANGE\**

Barnstable, ss:

Greetings to the Constables of the Town,

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and summon the inhabitants of the Town of Mashpee who are qualified to vote in the elections to meet at the Mashpee High School on Monday, the 6<sup>th</sup> day of May 2024 at 7:00 p.m. for the following purposes:

To act on the articles contained in the following Warrant:

**Article 1**

To see if the Town will vote to accept the reports of the Town officers, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** The 2023 Annual Town Report in which the reports of Town officers are presented is available at the Town Meeting and at the Town Hall.

**The Select Board recommends approval of Article 1 by a vote of**  
**The Finance Committee recommends approval of Article 1 by a vote of**

**Article 2**

To see if the Town will vote to fix the salaries of the following elected officers as provided in Chapter 41, Section 108, of the Massachusetts General Laws for the period of July 1, 2024 to June 30, 2025, and further, to see if the Town will vote to appropriate, raise, and/or transfer a sum of money to defray the Town's expenses for the ensuing fiscal year, according to the following line item budget, with the maximum amount to be appropriated as shown in the column entitled "FY 2025 Department Request" (see Omnibus Budget), or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** This article seeks to fund the annual operating budgets for the various Town Departments.

**The Select Board recommends approval of Article 2 by a vote of**  
**The Finance Committee recommends approval of Article 2 by a vote of**

*Numbers will be inserted in the table on the following pages*

| DEPARTMENT                     |    | FY 2024<br>BUDGET | FY 2025<br>DEPARTMENT<br>REQUEST | FY 2025<br>FINANCE<br>COMMITTEE<br>RECOMMEND | FY 2025<br>TOWN MGR<br>RECOMMEND |
|--------------------------------|----|-------------------|----------------------------------|--|----------------------------------|
| <b>MODERATOR</b>               |    |                   |                                  |  |                                  |
| SALARY                         | 1  |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>SELECT BOARD</b>            |    |                   |                                  |  |                                  |
| SALARY-ELECTED                 | 2  |                   |                                  |  |                                  |
| SALARY/WAGE                    | 3  |                   |                                  |  |                                  |
| EXPENSE                        | 4  |                   |                                  |  |                                  |
| LEG/ENG/CONSULTING             | 5  |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>FINANCE COMMITTEE</b>       |    |                   |                                  |  |                                  |
| RESERVE FUND                   | 6  |                   |                                  |  |                                  |
| EXPENSE                        | 7  |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>TOWN ACCOUNTANT</b>         |    |                   |                                  |  |                                  |
| SALARY/WAGE                    | 8  |                   |                                  |  |                                  |
| EXPENSE                        | 9  |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>ASSESSORS</b>               |    |                   |                                  |  |                                  |
| SALARY-APPOINTED               | 10 |                   |                                  |  |                                  |
| SALARY/WAGE                    | 11 |                   |                                  |  |                                  |
| EXPENSE                        | 12 |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>TREASURER/TAX COLLECTOR</b> |    |                   |                                  |  |                                  |
| SALARY/WAGE                    | 13 |                   |                                  |  |                                  |
| EXPENSE                        | 14 |                   |                                  |  |                                  |
| DEBT SERVICE                   | 15 |                   |                                  |  |                                  |
| FORECLOSURE                    | 16 |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |
| <b>HUMAN RESOURCES</b>         |    |                   |                                  |  |                                  |
| SALARY/WAGE                    | 17 |                   |                                  |  |                                  |
| EXPENSE                        | 18 |                   |                                  |  |                                  |
| <b>TOTAL</b>                   |    |                   |                                  |  |                                  |

| DEPARTMENT                           |    | FY 2024<br>BUDGET | FY 2025<br>DEPARTMENT<br>REQUEST | FY 2025<br>FINANCE<br>COMMITTEE<br>RECOMMEND | FY 2025<br>TOWN MGR<br>RECOMMEND |
|--------------------------------------|----|-------------------|----------------------------------|--|----------------------------------|
| <b>INFORMATION TECHNOLOGY</b>        |    |                   |                                  |  |                                  |
| SALARY/WAGE                          | 19 |                   |                                  |  |                                  |
| EXPENSE                              | 20 |                   |                                  |  |                                  |
| EQUIPMENT REPLACEMENT                | 21 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>TOWN CLERK</b>                    |    |                   |                                  |  |                                  |
| SALARY-ELECTED                       | 22 |                   |                                  |  |                                  |
| SALARY/WAGE                          | 23 |                   |                                  |  |                                  |
| EXPENSE                              | 24 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>ELECTIONS &amp; REGISTRATIONS</b> |    |                   |                                  |  |                                  |
| SALARY/WAGE                          | 25 |                   |                                  |  |                                  |
| EXPENSE                              | 26 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>CONSERVATION</b>                  |    |                   |                                  |  |                                  |
| SALARY/WAGE                          | 27 |                   |                                  |  |                                  |
| EXPENSE                              | 28 |                   |                                  |  |                                  |
| HERRING EXPENSE                      | 29 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>NATURAL RESOURCES</b>             |    |                   |                                  |  |                                  |
| SALARY/WAGE                          | 30 |                   |                                  |  |                                  |
| EXPENSE                              | 31 |                   |                                  |  |                                  |
| PROPAGATION                          | 32 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>PLANNING BOARD</b>                |    |                   |                                  |  |                                  |
| EXPENSE                              | 33 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>PLANNING DEPARTMENT</b>           |    |                   |                                  |  |                                  |
| SALARY/WAGE                          | 34 |                   |                                  |  |                                  |
| EXPENSE                              | 35 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |
| <b>TOWN HALL</b>                     |    |                   |                                  |  |                                  |
| EXPENSE                              | 36 |                   |                                  |  |                                  |
| <b>TOTAL</b>                         |    |                   |                                  |  |                                  |

| DEPARTMENT                |                         |    | FY 2024<br>BUDGET | FY 2025<br>DEPARTMENT<br>REQUEST | FY 2025<br>FINANCE<br>COMMITTEE<br>RECOMMEND | FY 2025<br>TOWN MGR<br>RECOMMEND |
|---------------------------|-------------------------|----|-------------------|----------------------------------|--|----------------------------------|
| <b>POLICE</b>             |                         |    |                   |                                  |  |                                  |
|                           | SALARY/WAGE             | 37 |                   |                                  |  |                                  |
|                           | EXPENSE                 | 38 |                   |                                  |  |                                  |
|                           | DISPATCHERS SALARY/WAGE | 39 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
| <b>FIRE</b>               |                         |    |                   |                                  |  |                                  |
|                           | SALARY/WAGE             | 40 |                   |                                  |  |                                  |
|                           | EXPENSE                 | 41 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
| <b>BUILDING INSPECTOR</b> |                         |    |                   |                                  |  |                                  |
|                           | SALARY/WAGE             | 42 |                   |                                  |  |                                  |
|                           | EXPENSE                 | 43 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
| <b>SCHOOL</b>             |                         |    |                   |                                  |  |                                  |
|                           | BUDGET                  | 44 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
|                           |                         |    |                   |                                  |  |                                  |
|                           | SALARY/WAGE             | 45 |                   |                                  |  |                                  |
|                           | EXPENSE                 | 46 |                   |                                  |  |                                  |
|                           | BUILDINGS & GROUNDS     | 47 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
| <b>SNOW &amp; ICE</b>     |                         |    |                   |                                  |  |                                  |
|                           | EXPENSE                 | 48 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
|                           |                         |    |                   |                                  |  |                                  |
|                           | EXPENSE                 | 49 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |
| <b>TRANSFER STATION</b>   |                         |    |                   |                                  |  |                                  |
|                           | EXPENSE                 | 50 |                   |                                  |  |                                  |
| <b>TOTAL</b>              |                         |    |                   |                                  |  |                                  |

| DEPARTMENT              | FY 2024<br>BUDGET | FY 2025<br>DEPARTMENT<br>REQUEST | FY 2025<br>FINANCE<br>COMMITTEE<br>RECOMMEND | FY 2025<br>TOWN MGR<br>RECOMMEND |
|-------------------------|-------------------|----------------------------------|--|----------------------------------|
| <b>WASTEWATER</b>       |                   |                                  |  |                                  |
| SALARY                  | 51                |                                  |  |                                  |
| EXPENSE                 | 52                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>CEMETERY</b>         |                   |                                  |  |                                  |
| EXPENSE                 | 53                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>HEALTH</b>           |                   |                                  |  |                                  |
| SALARY-APPOINTED        | 54                |                                  |  |                                  |
| SALARY/WAGE             | 55                |                                  |  |                                  |
| EXPENSE                 | 56                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>COUNCIL ON AGING</b> |                   |                                  |  |                                  |
| SALARY/WAGE             | 57                |                                  |  |                                  |
| EXPENSE                 | 58                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>VETERANS</b>         |                   |                                  |  |                                  |
| EXPENSE                 | 59                |                                  |  |                                  |
| MEMBERSHIP              | 60                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>HUMAN SERVICES</b>   |                   |                                  |  |                                  |
| SALARY/WAGE             | 61                |                                  |  |                                  |
| EXPENSE                 | 62                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>LIBRARY</b>          |                   |                                  |  |                                  |
| SALARY/WAGE             | 63                |                                  |  |                                  |
| EXPENSE                 | 64                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |
| <b>RECREATION</b>       |                   |                                  |  |                                  |
| SALARY/WAGE             | 65                |                                  |  |                                  |
| EXPENSE                 | 66                |                                  |  |                                  |
| <b>TOTAL</b>            |                   |                                  |  |                                  |

| DEPARTMENT                       | FY 2024<br>BUDGET | FY 2025<br>DEPARTMENT<br>REQUEST | FY 2025<br>FINANCE<br>COMMITTEE<br>RECOMMEND | FY 2025<br>TOWN MGR<br>RECOMMEND |
|----------------------------------|-------------------|----------------------------------|--|----------------------------------|
| <b>HISTORICAL</b>                |                   |                                  |  |                                  |
| TEMP WAGE                        | 67                |                                  |  |                                  |
| EXPENSE                          | 68                |                                  |  |                                  |
| <b>TOTAL</b>                     |                   |                                  |  |                                  |
| <b>CULTURAL COUNCIL</b>          |                   |                                  |  |                                  |
| EXPENSE                          | 69                |                                  |  |                                  |
| <b>TOTAL</b>                     |                   |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>PRINCIPAL INSIDE 2 1/2</b>    | 70                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>PRINCIPAL OUTSIDE 2 1/2</b>   | 71                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>INTEREST INSIDE 2 1/2</b>     | 72                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>INTEREST OUTSIDE 2 1/2</b>    | 73                |                                  |  |                                  |
| Principal & Interest             |                   |                                  |  |                                  |
| <b>TEMP BORROW INSIDE 2 1/2</b>  | 74                |                                  |  |                                  |
| Principal & Interest             |                   |                                  |  |                                  |
| <b>TEMP BORROW OUTSIDE 2 1/2</b> | 75                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>RETIREMENT EXPENSE</b>        | 76                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>UNEMPLOYMENT</b>              | 77                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>MEDICAL INSURANCE</b>         | 78                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>GROUP INSURANCE</b>           | 79                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>MEDICARE</b>                  | 80                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>TOWN INSURANCE</b>            | 81                |                                  |  |                                  |
|                                  |                   |                                  |  |                                  |
| <b>TOTAL</b>                     |                   |                                  |  |                                  |



**Article 3 (PLACEHOLDER-AS SOME OF THE ITEMS IN THE TABLE BELOW AND ON THE FOLLOWING PAGES WILL APPEAR AS SEPARATE ARTICLES IN THE WARRANT-HIGHLIGHTED)**

To see if the Town will vote to appropriate and transfer the sum of \$4,270,634 from available funds to various department Capital Accounts, as specified in the chart accompanying this Article, or take any other action relating thereto.

Submitted by the Select Board, Finance Committee and the Capital Improvement Program (CIP) Committee

CIP COMMITTEE  
RECOMMENDATION

**DEPARTMENT****AMOUNT****DPW:**

|   |           |                |
|---|-----------|----------------|
| Loader (Year 3 of 3 year lease)                     | \$        | 90,127         |
| 2015 International with 10 Wheel Dump (Year 2 of 3) | \$        | 121,000        |
| Purchase Mini Excavator                             | \$        | 92,000         |
| Replace 2015 International Lease (Year 1 of 3)      | \$        | 110,000        |
| Replace 2016 Ford F550                              | \$        | 145,000        |
| Replace 2016 Ford F550                              | \$        | 145,000        |
| <b>Total DPW</b>                                    | <b>\$</b> | <b>703,127</b> |

**Transfer Station**

|  |           |               |
|--|-----------|---------------|
| Transfer Station Recycling Compactor replacement | \$        | 26,000        |
| <b>Total Transfer Station</b>                    | <b>\$</b> | <b>26,000</b> |

**Fire Dept:**

|  |           |                |
|--|-----------|----------------|
| Purchase of Ambulance                  | \$        | 475,000        |
| Replace Utility Vehicle 350            | \$        | 85,000         |
| Replace E-351 Hurst Tools/Jaws of Life | \$        | 55,000         |
| <b>Total Fire</b>                      | <b>\$</b> | <b>615,000</b> |

**I.T.:**

|                                   |           |                |
|-----------------------------------|-----------|----------------|
| Palo Alto Firewall Replacement    | \$        | 40,000         |
| Desktop PC Replacements (75/year) | \$        | 60,000         |
| <b>Total I.T.</b>                 | <b>\$</b> | <b>100,000</b> |

**Department of Natural Resources:**

|  |           |                |
|--|-----------|----------------|
| Boat Motor Replacements                      | \$        | 27,849         |
| Boat Replacements                            | \$        | 310,158        |
| <b>Total Department of Natural Resources</b> | <b>\$</b> | <b>338,007</b> |

**Planning & Construction:**

|  |           |                  |
|--|-----------|------------------|
| School Window Film/Radio Repeaters                   | \$        | 100,000          |
| Flooring Replacement                                 | \$        | 47,500           |
| Security Camera/DVR Replacement                      | \$        | 25,000           |
| DPW Masonry Wall Restoration                         | \$        | 80,000*          |
| PD Station Renovation/Replacement Design/Engineering | \$        | 2,700,000*       |
| DPW Facility Design/Engineering                      | \$        | 1,600,000        |
| MMHS Parking Lot Reconstruction                      | \$        | 350,000*         |
| Fire Alarm System Upgrades                           | \$        | 128,000          |
| Heritage Park Improvements                           | \$        | 70,000*          |
| DNR Boat/Equipment Storage                           | \$        | 130,000*         |
| DNR Shellfish Propagation Upgrades                   | \$        | 70,000           |
| <b>Total Planning &amp; Construction</b>             | <b>\$</b> | <b>5,300,500</b> |

**Police Dept:**

|                     |           |                |
|---------------------|-----------|----------------|
| Lease (9) Vehicles  | \$        | 168,000        |
| Police Vehicles     | \$        | 106,000        |
| Tasers (10)         | \$        | 169,000        |
| <b>Total Police</b> | <b>\$</b> | <b>443,000</b> |

**School**

|                            |           |               |
|----------------------------|-----------|---------------|
| Kitchen Equipment Upgrades | \$        | 25,000        |
| Chromebook Leases          | \$        | 50,000        |
| <b>Total School</b>        | <b>\$</b> | <b>75,000</b> |

|                      |           |                  |
|----------------------|-----------|------------------|
| <b>TOTAL CAPITAL</b> | <b>\$</b> | <b>7,600,634</b> |
|----------------------|-----------|------------------|

**TOTAL ARTICLE #3 (\$4,270,634)/**

**SEPARATE ARTICLES ARE NEEDED FOR THE REMAINDER  
(\$3,330,000) HIGHLIGHTED\***

**Explanation:** This article seeks to appropriate and transfer the sum of \$\_\_\_\_\_ from the Capital Stabilization Fund, Ambulance Receipts, DEP Grant and the Mashpee Cable and Advanced Technology Funds for the FY 2025 capital budget.

This article requires a 2/3rd vote.

**The Select Board recommends approval of Article 3 by a vote of**

**The Finance Committee recommends approval of Article 3 by a vote of**

**Article 4**

To see if the Town will vote to approve the annual regional school district budget for the Cape Cod Regional Technical High School District for the fiscal year beginning July 1, 2024, in the amount of **\$12,694,000**, and further, to see if the Town will vote to raise and appropriate the sum of **\$1,142,273**, to meet its share of the cost of operation and maintenance of the Cape Cod Regional Technical High School District for the fiscal year beginning July 1, 2024, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** Mashpee's share of the Cape Cod Regional Technical High School budget is **\$1,142,273**. There are currently 55 students from Mashpee at the Cape Cod Regional Technical High School, an increase of 5 students from the previous year.

**The Select Board recommends approval of Article 4 by a vote of**  
**The Finance Committee recommends approval of Article 4 by a vote of**

**Article 5**

To see if the Town will vote to approve the regional school district debt assessment for the Cape Cod Regional Technical High School District Building Project for the fiscal year beginning July 1, 2024, in the amount of, and further, to see if the Town will vote to raise and appropriate the sum of **\$476,292**, to meet its share of the cost of debt for the Cape Cod Regional Technical High School District Building Project for the fiscal year beginning July 1, 2024, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** Mashpee's share of the Cape Cod Regional Technical High School debt for the Cape Cod Regional Technical High School Building Project for Fiscal Year 2025 is **\$476,292**.

**The Select Board recommends approval of Article 5 by a vote of**  
**The Finance Committee recommends approval of Article 5 by a vote of**

**Article 6 (PLACEHOLDER- AMOUNT TO BE DETERMINED)**

To see if the town will appropriate the sum of \$ \_\_\_\_\_ to fund implementation and construction of Phase 2 of the Town's comprehensive nitrogen and wastewater management, treatment and disposal improvement plans, including expansion of the Water Resource Recovery Facility adjacent to the Town's solid waste Transfer Station, sewer mains, pump stations, and related sewer collection system improvements; and costs relating to the acquisition of necessary easements and other interests in real property conveying the right to locate, relocate, erect, construct, reconstruct, install, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove, piping, lift stations, low-pressure sewers, generators, odor controls, electrical and other necessary equipment and apparatus; including all expenses incidental and related thereto (the "Project"), to authorize the Treasurer, with the approval of the Select Board, to issue any bonds, notes or the assessment betterments that may be necessary for that purpose, and to apply the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bond or notes, to pay Project costs and reduce the amount authorized to be borrowed by the amount of the premium so applied, and, further, to authorize the Select Board and/or Town Manager to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein; provided, however, that this appropriation and debt authorization shall be contingent upon passage of a Proposition 2½ debt exclusion ballot question pursuant to General Law Chapter 59, § 21C(k), or take any other action relating thereto.

Submitted by the Select Board and Sewer Commission

**Explanation:** This article would provide funding to implement and construct Phase 2 of the Town's comprehensive wastewater management, treatment, and disposal improvement plan, including expansion of the Water Resource Recovery Facility located adjacent to the Town's solid waste transfer station and related Phase 2 sewer collection system improvements to be connected to the wastewater treatment facility. This project is one of the initial essential steps in implementing the Town's Watershed Nitrogen Management Plan/CWMP.

The Sewer Commission voted to recommend Article 6 by a vote of

**The Select Board recommends approval of Article 6 by a vote of**

**The Finance Committee recommends approval of Article 6 by a vote of**

#### **Article 7**

To see if the Town will vote to appropriate and transfer the sum of \$250,000 from revenue available for appropriation to the Other Postemployment Benefits Irrevocable Trust Fund, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** This article will add funds to the OPEB Irrevocable Trust Fund which was established in FY 2013 to assist the Town with meeting its potential post-employment benefits obligation.

**The Select Board recommends approval of Article 7 by a vote of**

**The Finance Committee recommends approval of Article 7 by a vote of**

#### **Article 8**

To see if the Town will vote to appropriate and transfer the sum of \$250,000 from revenue available for appropriation, to be deposited into special injury leave indemnity fund, (Injured on Duty Fund), in accordance with the provisions of General Law Chapter 41, Section 111F for the purposes of funding injury leave compensation or medical bills incurred under said law, or take any other action relating thereto.

Submitted by the Finance Director

**Explanation:** This article would deposit \$250,000 into the special injury leave indemnity fund (Injured on Duty Fund).

**The Select Board recommends approval of Article 8 by a vote of**

**The Finance Committee recommends approval of Article 8 by a vote of**

#### **Article 9**

To see if the Town will vote to create a permanent full time employment position within the Information Technology Department entitled Public Safety Technician, pursuant to the Personnel Administrative Plan, Grade 9, Step 3, General Bylaw Section 5-7 as recommended by the Town Manager, the duties and responsibilities of which shall include, without limitation, supporting public safety departments with their information technology needs, and, further, to appropriate, raise and/or transfer the sum of \$127,711 from revenue available for appropriation, with said funds to be distributed as follows: \$77,591 to the Information Technology Department Salary/Wage account, \$30,113 to the Medical insurance account, \$35 to the Group Life Insurance account, \$1,126 to the Medicare expense account, and \$18,846 to the Barnstable County Retirement expense account, or take any other action relating thereto.

Submitted by the Department of Information Technology

**Explanation:** This article will create and fund a full time Public Safety Technician within the Information Technology Department. This position is necessary for Information Technology support within the public safety departments.

**The Select Board recommends approval of Article 9 by a vote of**  
**The Finance Committee recommends approval of Article 9 by a vote of**

#### **Article 10**

To see if the Town will vote to create a permanent full time employment position within the Department of Wastewater Management entitled Wastewater Executive Assistant, Grade 9, Step 3, pursuant to the Personnel Administrative Plan, General Bylaw Section 5-7 as recommended by the Town Manager, the duties and responsibilities of which shall include, without limitation, performing advanced administrative, technical, inspection and investigative work related to the operation of the Town's Water Resource Recovery Facility (WRRF) and the collection system in accordance with federal, state, and local laws and regulation in the Town of Mashpee; and, further, to appropriate, raise and/or transfer the sum of \$127,711 from revenue available for appropriation, with said funds to be distributed as follows: \$77,591 to the Information Technology Department Salary/Wage account, \$30,113 to the Medical insurance account, \$35 to the Group Life Insurance account, \$1,126 to the Medicare expense account, and \$18,846 to the Barnstable County Retirement expense account, or take any other action relating thereto.

Submitted by the Wastewater Management Department

**Explanation:** This article will create and fund a full time Wastewater Executive Assistant within the Department of Wastewater Management. This position is necessary in order to ensure accurate tracking of permits, regulation compliance, accurate billing of rate users, enforcement, and tracking of current and future capital projects as outlined in the Town's Comprehensive Wastewater Management Plan.

**The Select Board recommends approval of Article 10 by a vote of**  
**The Finance Committee recommends approval of Article 10 by a vote of**

#### **Article 11**

To see if the Town will vote to create a permanent full-time Police Officer position within the Mashpee Police Department (40 hours per week) with said position to be classified under the MASS C.O.P. Local 324, Unit A (Patrol Officers and Detectives) Step 1, to be effective July 1, 2024, and to appropriate and transfer the sum of \$132,544 from revenue available for appropriation with said funds to be distributed as follows: \$81,435 to the Mashpee Police Department Police Salaries Account; \$1,181 to the Medicare Account; \$30,113 for the Town's portion of health insurance; \$35 for the Town's portion of life insurance; and \$19,780 to Barnstable County Retirement or take any other action relating thereto.

Submitted by the Police Department

**Explanation:** This article will create and fund a full-time Police Officer within the Police Department. Due to increased population, increased call volume, and patrol workload, additional staffing is required.

**The Select Board recommends approval of Article 11 by a vote of**  
**The Finance Committee recommends approval of Article 11 by a vote of**

## **Article 12**

To see if the Town will vote to upgrade one part-time Administrative Clerk position (18 hours/week without benefits) to a full-time Administrative Secretary position within the Mashpee Police Department with said position to remain classified under the Personnel Administrative Plan Grade 6, Step 3, to be effective July 1, 2024, and to appropriate and transfer the sum of \$91,986 from revenue available for appropriation with said funds to be distributed as follows: \$45,058 to the Mashpee Police Department Police Full-Time Salary Account; \$946 to the Medicare Account; \$30,113 for the Town's portion of health insurance; \$35 for the Town's portion of life insurance; and \$15,834 to Barnstable County Retirement or take any other action relating thereto.

Submitted by the Police Department

**Explanation:** The existing and funded Part-Time Administrative Clerk position (18 hours per week) as listed above will be eliminated and replaced with one new Full-Time Administrative Secretary position (40 hours per week). This position is needed to assist with the Department's billing and invoicing, firearms licensing, payroll processing, administrative duties, and public affairs.

**The Select Board recommends approval of Article 12 by a vote of**

**The Finance Committee recommends approval of Article 12 by a vote of**

## **Article 13**

To see if the Town will vote to create one full-time Maintainer I position at the Department of Public Works (40 hours per week) in SEIU Local 888 DPW Unit B, to be effective July 1, 2024, and to appropriate and transfer the sum of \$102,859 from revenue available for appropriation with said funds to be distributed as follows: \$57,190 to the DPW Full-Time Local Salary Account; \$800 to the DPW Operating (Uniform) Account; \$30,113 to Medical Insurance Account; \$35 to the Group Life Insurance Account; \$830 to the Medicare Account; \$13,891 to the Pension Reserve Account, or take any other action relating thereto.

Submitted by the Department of Public Works

**Explanation:** The DPW is responsible for maintaining all of the Town infrastructure - roads, bike paths/sidewalks, athletic fields, Town buildings and grounds (including the schools), playgrounds, Transfer Station, Town beaches, cemeteries, parks, landscape areas, boat ramps, conservation lands, and dams. A new position has not been added since FY13. Since that time, the Town has accepted 11 more miles of road, constructed 5 more miles of bike paths/sidewalks, and built the new Community Park and Veterans Memorial, the Dog Park, the Pickleball Park, Splash Pad, and Community Gardens. Another laborer position is needed to help perform the essential functions required to maintain the Town's infrastructure to the expected level of service/condition.

**The Select Board recommends approval of Article 13 by a vote of**

**The Finance Committee recommends approval of Article 13 by a vote of**

## **Article 14**

To see if the Town will vote to raise, borrow or transfer from available funds and appropriate the sum of \$\_\_\_\_\_ to provide for road improvement projects under the Chapter 90 program, or take any other action relating thereto.

Submitted by the Department of Public Works

**Explanation:** This article authorizes use of funds which will be 100% reimbursed by the Commonwealth of Massachusetts. The budget approved each fiscal year by the Legislature and Governor establishes the total funding available for Chapter 90 local transportation aid for that year. These funds are then apportioned to the 351 Massachusetts towns and cities. The funding authorized by this article is the maximum anticipated Town's share of the FY25 Chapter 90 program.

**The Select Board recommends approval of Article 14 by a vote of**  
**The Finance Committee recommends approval of Article 14 by a vote of**

**Article 15**

To see if the Town will vote to appropriate \$636,113 to establish a budget for the PEG Access and Cable Related fund for fiscal year 2025, with said appropriation to be funded through the current balance of the fund, or take any other action relating thereto.

Submitted by the Finance Director

**Explanation:** The Department of Revenue requires the Town to establish and appropriate a yearly budget based on estimated expenditures from the fund for the next fiscal year. The total budget voted may not exceed the current balance within the fund.

**The Select Board recommends approval of Article 15 by a vote of**  
**The Finance Committee recommends approval of Article 15 by a vote of**

**Article 16**

To see if the Town will vote to authorize the total expenditures for the following revolving funds pursuant G.L. c.44 Section 53E ½ for the fiscal year beginning July 1, 2024, to be expended in accordance with the Bylaw establishing said revolving funds, heretofore approved, or take any other action relating thereto.

| FUND                  | FY 2025 AUTHORIZATION |
|-----------------------|-----------------------|
| Recreation            | \$625,000             |
| Library               | \$20,000              |
| Senior Center         | \$25,000              |
| Historical Commission | \$2,500               |

Submitted by the Finance Director

**Explanation:** This article establishes the FY 2025 expenditure limits for departmental revolving funds.

**The Select Board recommends approval of Article 16 by a vote of**  
**The Finance Committee recommends approval of Article 16 by a vote of**

**Article 17**

To see if the Town will vote to appropriate \$532,125 for the operation of the Kids Klub Enterprise Fund for Fiscal Year 2025; such sums to be raised from \$532,125 in receipts of the Enterprise, or take any other action relating thereto.

Submitted by the Recreation Department

**Estimated Revenues**

|                               |                   |
|-------------------------------|-------------------|
| Registration Fees             | \$ 3,500          |
| Tuition                       | \$ 528,000        |
| Investment Income             | \$ 625            |
| <b>Total Budgeted Revenue</b> | <b>\$ 532,125</b> |

**Estimated Expenses**

|                                   |                   |
|-----------------------------------|-------------------|
| Salary (full-time; incl. long.)   | \$ 338,375        |
| Salary (part-time)                | \$ 55,000         |
| Benefits (Health, Life, Medicare) | \$ 70,000         |
| Building Expenses                 | \$ 68,750         |
| <b>Total Budgeted Expenses</b>    | <b>\$ 532,125</b> |
| <b>Net Profit/Loss</b>            | <b>\$ 0</b>       |

**Explanation:** The proposed Recreation Enterprise budget for fiscal year 2025 will authorize the Recreation Department to operate a toddler/pre-school program as a self-sufficient, self-funded operation. All costs related to this program are projected to be offset by the revenues of the program. Any monies in excess of the expenses are to remain in the account.

**The Select Board recommends approval of Article 17 by a vote of**

**The Finance Committee recommends approval of Article 17 by a vote of**

**Article 18**

To see if the Town will vote to appropriate and transfer the sum of \$40,000 from the Community Preservation Fund Budget for Appropriation Reserves, pursuant to the provisions of M.G.L. Chapter 44B, §5 to the Community Preservation Committee Administrative and Operating Expense Account, including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** To provide annual funding in FY 2025 for the administrative and operational costs of the Community Preservation Committee which includes project costs associated with and incidental to the Community Preservation Committee. Under the CPA Act, up to 5% of the annual CPA funds may be spent on the operation and administrative costs of the Community Preservation Committee. Funding supports legal and professional fees, technical reviews, appraisal costs, signage, annual Community Preservation Coalition dues, administrative wages, office supplies and similar costs associated with and incidental to the development of a CPA project.

The Community Preservation Committee recommends approval of Article 18 by a vote of 7-0

**The Select Board recommends approval of Article 18 by a vote of**

**The Finance Committee recommends approval of Article 18 by a vote of**



## Article 19

To see if the Town will vote to appropriate and transfer the sum of \$74,160 from the Community Preservation Fund 10% Open Space/Recreation Reserves in accordance with the provisions of M.G.L. Chapter 44B §5, for the purpose of funding the Heritage Park Improvements Phase II project; 520 Main Street, Parcel 27 including necessary costs and expenses related thereto, as recommended by the Community Preservation Committee, or take any other action relating thereto.

Submitted by the Community Preservation Committee

**Explanation:** The proposed project at the Heritage Park recreational facility includes the renovation of a storage unit within the mid-section of the existing picnic/restroom pavilion into a concession area. There is a need to upgrade concessions with improvements including refrigeration. The former concession building is in poor condition and would be demolished. A new pre-manufactured storage/equipment building would be erected central to the Mashpee Youth Soccer, Baseball and Softball fields. Ancillary improvements include electrical service for a new batting cage, backstops, dugouts, and a new set of bleachers for Field 2. This project will directly benefit hundreds of children and their families, and become a source of pride for the community. Additional funding for the \$110,710 project would derive through sponsors, concession sales and rental fees collected from other users of Heritage Park as well as the Building and Grounds Operational budget. This project is part of the CIP program. The DPW will provide labor for the project.

The Community Preservation Committee recommends approval of Article 19 by a vote of 7-0.

**The Select Board recommends approval of Article 19 by a vote of**

**The Finance Committee recommends approval of Article 19 by a vote of**

## Article 20

To see if the Town will vote to continue participation in the Community Septic Management Program and the Massachusetts Clean Water Trust for the purpose of making loans to residents of the Town for repairing and/or upgrading residential septic systems pursuant to agreements between the Board of Health and residential property owners, including all costs incidental and related thereto, or to take any other action relating thereto.

Submitted by the Board of Health

**Explanation:** The Commonwealth of Massachusetts, through the Massachusetts Clean Water Trust, has provided approximately \$660,000.00 at 0% interest to the Town of Mashpee to assist homeowners in complying with failed Title V systems since 1998. The loans are available to homeowners at 5% interest, to cover any ongoing costs of the program. Loans must be secured by a betterment assessed by the Town on the property being improved by the loan. The repayment of the loans to the Town, with the 5% interest, is being repaid through previously issued property betterments. In order for the Town to be able to re-loan funds to future additional septic projects, the Town must annually reauthorize/re-approve participation in the Community Septic Management Program. Failure to reauthorize participation in the Program will restrict the Town from re-lending funds to homeowners with failed septic systems. The repaid monies will be held in an account with the principle amount repaid to the Massachusetts Clean Water Trust as scheduled.

**The Select Board recommends approval of Article 20 by a vote of**

**The Finance Committee recommends approval of Article 20 by a vote of**

## **Article 21**

To see if the Town will vote to authorize the Select Board to grant to Eversource Energy, its respective successors and assigns, a non-exclusive easement conveying the right to locate, relocate, erect, construct, reconstruct, install, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove primary wires, transformers, poles and conduits, together with service conductors and other necessary equipment and apparatus along, upon, under, across and over a certain parcel of land situated at 380 Asher's Path, Mashpee, as further described and shown on Mashpee Assessors Maps, Map 61, and as "Lot 3" on a plan of land recorded at the Barnstable County Registry of Deeds in Plan Book 161, Plan 39 and Plan Book 172, Page 87, and to authorize the Select Board to execute all instruments and do all things necessary to carry out the provisions of this article, or take any other action relating thereto.

Submitted by the Select Board

**Explanation:** This article will grant an easement to Eversource Energy to provide the 380 Asher's Path property with electric utilities.

**The Select Board recommends approval of Article 21 by a vote of**  
**The Finance Committee recommends approval of Article 21 by a vote of**

## **Article 22**

To see if the Town of Mashpee will accept the provisions of Chapter 44, § 53F½ of the Massachusetts General Laws establishing the Department of Wastewater Management as an enterprise fund effective fiscal year 2026, or take any action relative there to.

Submitted by the Select Board and Sewer Commission

**Explanation:** The proposed Utility Service Enterprise Fund will authorize the Department to operate a public utility as a self-sufficient, self-funded operation at the Water Resources Recovery Facility. All costs related to the operation of the utility are projected to be offset by revenues generated by user rates and service fees. All surpluses of this account at the end of the year will remain with the account as retained earnings.

The Sewer Commission voted to recommend Article 22 by a vote of  
**The Select Board recommends approval of Article 22 by a vote of**  
**The Finance Committee recommends approval of Article 22 by a vote of**

## **Article 23**

To see if the Town will vote to amend **Chapter 150, Streets and Sidewalks** of the Town of Mashpee General Bylaws by adding a new section as follows:

### **Article III Discharge of Water to Streets and Sidewalks Prohibited**

#### **§ 150- 11 Discharge of Water To Town Ways Prohibited.**

No person, owner of property, or person controlling property shall discharge or permit to be discharged any water into or upon any street, sidewalk, court, lane, or public roadway over which the Town exercises care, custody or control and to which the public has a right of use so as to create a public safety hazard by freezing or flooding of the way.

**§ 150- 12 Violations and Enforcement.**

Any violation of said §150- 14 shall be subject to a fine not exceeding \$300 for each offense, each day representing an independent violation. The provisions of this Section shall be enforced by the Mashpee Police Department, the Director of Public Works, or his/her designee. The provisions of MGL C. 40, §21D, providing for noncriminal disposition of violations shall be applicable and the person taking cognizance of any violation hereof may issue to the offender a written notice as provided for in said §21D as an alternative to District Court criminal proceedings or other available enforcement remedies.

or take any other action relating thereto.

**Explanation:** This article will require property owners to capture and manage stormwater runoff from the impervious surfaces on their properties such as roofs, parking lots, driveways, and similar. The more intensive rain storms that are occurring on a greater frequency are overwhelming the Town's road drainage infrastructure, resulting in isolated road flooding. The Town is responsible for addressing stormwater runoff from the road for a specific level of storm event and has been working to increase drainage capacity/install additional drainage infrastructure. But this capacity is not sufficient to also handle stormwater from adjacent properties. Property owners should be responsible for containing their own stormwater and not discharge or allow it to flow onto the Town roads.

**The Select Board recommends approval of Article 23 by a vote of**

**The Finance Committee recommends approval of Article 23 by a vote of**

**Article 24**

To see if the Town will vote to amend Section 174-25 (B)(18) of the Mashpee Zoning Bylaw Table of Use regulations by adding the letters "SP" in the column identified as I-1 as follows:

| (18) | Indoor recreation facilities such as bowling alleys, miniature golf, batting cages, computerized golf or similar simulated sports, video games, billiards, aerobics, health clubs, dance or gymnastics studios, skating rinks, indoor go kart facilities, swimming pools, tennis or racquet clubs etc. by Special Permit from the Planning Board. | Residential |     | Commercial |     |     | Industrial |
|------|---|-------------|-----|------------|-----|-----|------------|
|      |   | R-3         | R-5 | C-1        | C-2 | C-3 | I-1        |
|      |   | ---         | --- | SP         | SP  | SP  | SP         |

Submitted by the Planning Board

**Explanation:** This Article would authorize Indoor Recreational Facilities in the I-1 Zoning District by Special Permit. Currently, indoor recreation facilities are authorized in only the Commercial Zoning Districts.

**The Select Board recommends approval of Article 24 by a vote of**

**The Finance Committee recommends approval of Article 24 by a vote of**

## **Article 25**

To see if the Town will vote to appropriate and transfer the sum of \$\_\_\_\_\_ from the Waterways Improvement Fund to the Engineering/Permitting/Dredging and Associated Expenses Account, or take any other action related thereto.

Submitted by the Department of Natural Resources

**Explanation:** This Article provides funds to the Department of Natural Resources for projects such as the annual dredging of the Popponesset Approach Channel scheduled for next December/January (2024-2025 ) and other dredging projects currently in the permitting and design phase to include the Great River/Little River dredge project and any other dredge projects throughout Town. All dredging, permitting, and associated projects will be managed by the Harbormaster and the Department of Natural Resources.

**The Select Board recommends approval of Article 25 by a vote of**  
**The Finance Committee recommends approval of Article 25 by a vote of**

## **Article 26**

To see if the Town will vote to extend the duration of Article #20 voted at the May 2, 2022 Special Town Meeting for an additional three years, which was for Santuit Pond Resiliency projects and stormwater improvements within the Santuit Pond watershed and to appropriate and transfer the sum of \$67,120 from revenue available for appropriation to fund local match to the grant received for said project, or take any other action relating thereto.

Submitted by the Department of Natural Resources

**Explanation:** This article is necessary to continue efforts to address nutrient pollution and enhance reliance in Santuit Pond. These funds would provide local match to leverage additional grant funding available through the Massachusetts Municipal Vulnerability Preparedness Program (MVP) for the design and construction of stormwater improvements within the Santuit Pond watershed.

Previously allocated funds have helped to bring in over \$650,000 in grant funding to address stormwater issues within the Santuit pond watershed. Phase 1 – Stormwater Assessment within the Santuit Pond Watershed: \$131,691.00 awarded, \$19,050.00 local cash match. Phase 2 - Design and construction of one high priority phosphorous loading location and concept design of Santuit Town Landing: \$267,607.34 awarded, \$60,400.38 local cash match. Phase 3 – Design and permitting stormwater improvements at the Santuit Town Landing, the abutting parcels (95, 105, 111, 117, and 125 Timberlane Drive), and roadway: \$228,000 awarded, \$65,000 local cash match. 604/b grant award – Stormwater design and permitting at one location within Santuit Town Landing parcel at 117 Timberlane Drive: \$50,000 awarded, \$16,000 local cash match.

The remaining funds from Article #20 voted at the May 2, 2022 Special Town Meeting (\$307,880) and the additional requested funds (\$67,120) will be used as a local match necessary to fund the final construction phase of the project on the parcels identified in phase 3 of design and permitting. The final construction costs are estimated to be \$1.5 million, with a local cash match minimum of 25% (\$1.125 million in grant requests though MVP and \$375,000 in local cash match).

**The Select Board recommends approval of Article 26 by a vote of**  
**The Finance Committee recommends approval of Article 26 by a vote of**

**Article 27**

To see if the Town will vote to authorize the Town of Mashpee, acting through its School Committee, to enter into a Memorandum of Understanding (MOU) with the Massachusetts Executive Office of Health and Human Services (EOHHS), Massachusetts Department of Children and Families (DCF), and the Massachusetts Department of Elementary and Secondary Education (DESE) under the Every Student Succeeds Act (ESSA), in order to permit the School Department to submit claims for reimbursement of the transportation expenses incurred by the School Department for transporting students in foster care, whereby children in foster care are required to remain in their School of Origin if it is deemed to be in the best interest of the child. The reimbursed funds shall be deposited to the Town of Mashpee's General Fund, or take any other action relating thereto.

Submitted by the School Committee

**Explanation:** The School of Origin is responsible for funding the cost of foster care transportation. EOHHS, in partnership with the DCF and DESE, have developed a methodology that could reimburse a share of these costs through Title IV-E. The MOU is an agreement between the Town of Mashpee, EOHHS, DESE, and DCF to comply with the accuracy of the information being reported, maintenance of record requirements, and audit implications.

**The Select Board recommends approval of Article 27 by a vote of**  
**The Finance Committee recommends approval of Article 27 by a vote of**

**Article 28**

To see if the Town will vote to accept the layouts as public ways of CHICKADEE ROAD, DEBBIE LANE, MANITOBA ROAD, METACOMET ROAD, NEHOLDEN ROAD, NESHOBIE ROAD, PONTIAC ROAD, SAMOSET ROAD, WAMESIT ROAD and WHIPPOORWILL CIRCLE, as shown on plans entitled "SOUTH CAPE ESTATES ROAD TAKING PLAN," in Mashpee, MA (Barnstable County), dated May 31, 2023 and prepared by Cape & Islands Engineering, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$ 2,761,630.00 to the CHICKADEE ROAD, DEBBIE LANE, MANITOBA ROAD, METACOMET ROAD, NEHOLDEN ROAD, NESHOBIE ROAD, PONTIAC ROAD, SAMOSET ROAD, WAMESIT ROAD and WHIPPOORWILL CIRCLE Roadways Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for such purchase or taking and layout, including costs of constructing such ways, and legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

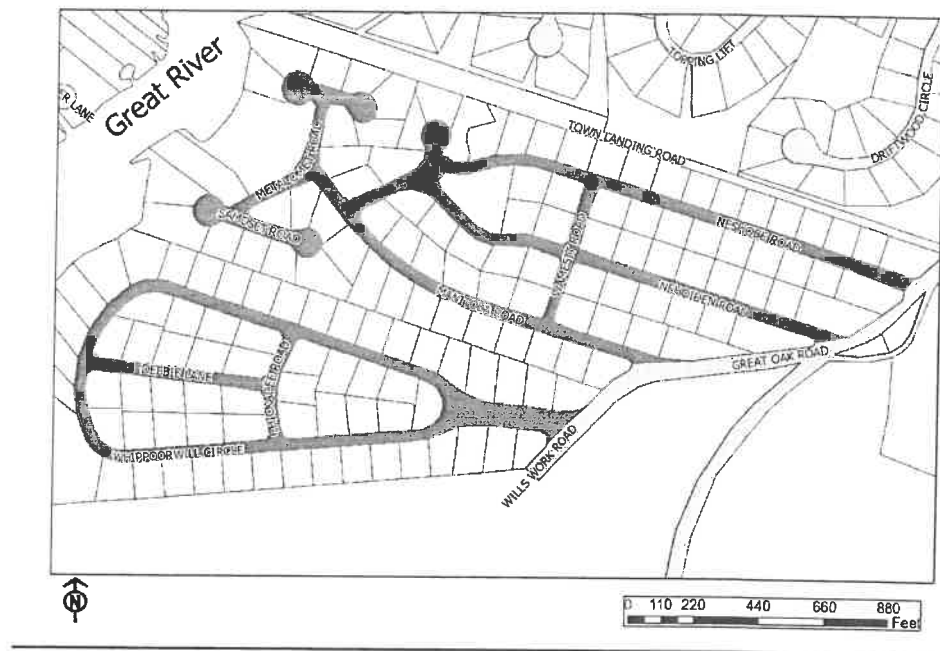
Submitted by Petition (Lead Petitioner – Darien Homer)

**Explanation:** This article authorizes the Town to complete the private to public road conversion process for CHICKADEE ROAD, DEBBIE LANE, MANITOBA ROAD, METACOMET ROAD, NEHOIDEN ROAD, NESHOBE ROAD, PONTIAC ROAD, SAMOSET ROAD, WAMESIT ROAD and WHIPPOORWILL CIRCLE,

**The Select Board recommends approval of Article 28 by a vote of**

**The Finance Committee recommends approval of Article 28 by a vote of**

MAP OF CHICKADEE ROAD, DEBBIE LANE, MANITOBA ROAD, METACOMET ROAD, NEHOIDEN ROAD, NESHOBE ROAD, PONTIAC ROAD, SAMOSET ROAD, WAMESIT ROAD and WHIPPOORWILL CIRCLE



**THIS CONCLUDES THE BUSINESS OF THE ANNUAL TOWN MEETING**

And you are hereby directed to serve this Warrant by posting up attested copies thereof, one at the Town Hall, one at the Post Office, and one each on the bulletin boards, thirty days at least before said meeting.

Hereof fail not and make return of this Warrant with your doings thereon to the Town Clerk at the time and place of said meeting.

Given under our hands this 18th day of March in the year two thousand and twenty-four.

Per Order of,  
**Select Board**

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John J. Cotton, Chair

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Thomas F. O'Hara, Vice Chair

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Carol A. Sherman, Clerk

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David W. Weeden

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Michaela Wyman-Colombo