

TOWN OF FALMOUTH

SELECT BOARD

AGENDA

MONDAY, JUNE 15, 2020 – 6:00 P.M.

SELECT BOARD MEETING ROOM

TOWN HALL

59 TOWN HALL SQUARE, FALMOUTH, MA 02540

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the June 15, 2020 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. *The meeting will be televised via Falmouth Community Television.*
2. *Real-time public comment can be addressed to the Select Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.*
 - a. *Zoom Login instructions:*
 - i. *Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/BOS>.*
 - ii. *Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.*
3. *Additionally public comments may be sent in advance of the meeting to selectboard@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.*
4. *Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Select Board's Office to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Town Manager's Office at townmanager@falmouthma.gov so they may be displayed for remote public access viewing.*

AGENDA

6:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Recognition
4. Announcements
5. Public Comment

6:15 p.m. JOINT MEETING – SELECT BOARD AND FINANCE COMMITTEE

1. Vote transfers within the FY20 budget
2. Vote amended FY21 budget

6:45 p.m. COMMITTEE INTERVIEWS AND APPOINTMENTS

1. Interview, Vote and Appoint/Re-Appoint Committee Members:
 - Regulatory Boards
 - a. Board of Health – Benjamin Van Mooy, Kevin Kroeger
 - b. Conservation Commission – Kevin O'Brien (alternate), Mark Gurnee, Stephen Patton
 - c. Zoning Board of Appeals – Edwin P. Zylinski II
 - Non-Regulatory Boards
 - d. Affirmative Action Committee – Susan O'Brien

- e. Commission on Substance Use – Maro Titus
- f. Cultural Council – Cathy Rozynek, Lance Norris
- g. Edward Marks Building Advisory Committee – Jean-Pierre Riu
- h. Golf Advisory Committee – Robert Pacheco
- i. Historical Commission – Lee Drescher
- j. Water Quality Management Committee – Stephen Rafferty

2. Vote Annual Committee Re-Appointments

7:30 p.m. PUBLIC HEARINGS

- 1. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license, retain and maintain existing two (2) 4' x 20' floats in and over the waters of Eel Pond Canal, located at 5 Canapitsit Drive, East Falmouth. Continued from March 9, 2020 and April 27, 2020.
- 2. Wetland/Dock Hearing – Scott and Nillah Lutz for permission to modify and maintain an existing dock, located at 109 Madeline Road, East Falmouth

7:45 p.m. SUMMARY OF ACTIONS

- 1. Licenses
 - a. Vote to approve application for Change of Manager of an All Alcoholic Club License – Falmouth Yacht Club, 290 Clinton Avenue, Falmouth
 - b. Vote to approve application for a New Common Victualler License – The Stand – 75 County Road, North Falmouth
- 2. Administrative Orders
 - a. Vote to approve application to the Division of Ecological Restoration (DER) for priority status for Upper Coonamessett River project
 - b. Vote to accept federal grant funds from the Department of Justice for the FY2020 Coronavirus Emergency Supplemental Funding (CESF) grant in the amount of \$36,698.00
 - c. Vote to authorize the New Silver Beach Improvement Association to file a Notice of Intent with the Conservation Commission for an Order of Conditions to rake/screen the town beach parcel 04A 41 000 098 on Moses Road in the New Silver Beach neighborhood
 - d. Vote to accept donation from the Teaticket Village Association in the amount of \$500.00 to the Veterans Services donation account
- 3. Special Events
 - a. Vote to approve request for variance with modified plan to include social distancing procedures – Sunday Worship Services – John Wesley United Methodist Church – Surf Drive Beach – Sundays, July 5, 2020 – September 6, 2020
 - b. Vote to approve application for special event – Food 4 Vets – food pickup for Veterans – reserved lot at Cape Cod Fairgrounds – Thursday, June 25, 2020

8:00 p.m. BUSINESS

- 1. Discussion/update on COVID-19 issues
 - a. Update on planned cancellation of traditional recreation summer camp and discussion of alternative programming
 - b. Status/update on expedited temporary permit/license process for outdoor restaurant seating
- 2. Discussion and consideration to approve proposed phase II solar at Falmouth landfill
- 3. Vote to affirm FY21 2% COLA for non-union employees
- 4. Minutes of meetings: Public session – June 1, 2020
- 5. Individual Select Board member's reports
- 6. Town Manager's report
 - a. Annual compensation adjustment for Sealer of Weights and Measures position
 - b. Update on Fire Chief retirement – Civil Service process

Megan English Braga, Chair
Select Board

FY 20 Budget Transfers

FY 21 Budget

FY 20 Budget Transfers

Replace Article 16 in the April TM Warrant

- Transferring funds between line items can be accomplished two different ways
 - Town Meeting Vote **or**
 - Vote of the BOS and Finance Committee
- Transfers within the FY 20 budget are updated due to COVID 19 related expenditures
- There are sufficient funds in the FY 20 budget to fund COVID expenditures
- The Town will seek reimbursement for those expenses through FEMA and the Federal CARES Act in the amount of \$600,000

VOTE #1

SELECT BOARD and FINANCE COMMITTEE

Move \$666,500 from Health Insurance to the following line items

LEGAL	01-151-5300	100,000.00
ELECTIONS	01-162-5120	6,000.00
ELECTIONS	01-162-5586	14,000.00
FIRE	01-220-5130	225,000.00
DISPATCH	01-230-5130	65,000.00
SOLID WASTE	01-433-5379	5,000.00
SOLID WASTE	01-433-5393	20,000.00
SOLID WASTE	01-433-5292	5,000.00
CLINICS & NURSES	01-522-5303	30,000.00
LIBRARY	01-610-5580	30,000.00
RECREATION	01-630-5319	20,000.00
PENSION	01-911-5182	1,500.00
UNEMPLOYMENT	01-913-5174	100,000.00
MEDICARE TAX	01-916-5179	45,000.00
	TOTAL	666,500.00

FY 21 Budget

- Reduce Revenue Estimates in the amount of \$3,012,260
 - Reduce Local Estimated Receipts in the amount of \$2,240,000
 - Motor Vehicle Excise - \$600,000
 - Meals and Hotel Motel Tax \$860,000
 - Other Charges for Services (Beach) \$400,000
 - Licenses and Permits \$55,000
 - Libraries - \$15,000
 - Recreation \$100,000
 - Investment Income \$210,000
- Reduce State Aid in the amount of \$772,260

FY 21 Budget Cont.

- Do not fund Reserves (Capital, OPEB and Workers Comp Trust) in the amount of \$1,672,079
- Use \$350,000 budget reduction from Cape Cod Technical High School Assessment
- Reduce Health Insurance Budget by \$500,000
- Use \$500,000 in Free Cash for One year Only-to partially offset reduction in State Aid

Vote #2

- **Select Board**
 - Move a recommendation of a total Operating Budget of \$139,231,499 to the Finance Committee
- **Finance Committee**
 - Move the reduction of line item 250 Health Insurance in the amount of \$500,000 for a Health Insurance Appropriation of \$15,085,305 and further move a total Fiscal Year 2021 Operating Budget of \$139,231,499.

Interview, vote and appoint new applicants for vacancies:**Non-Regulatory Boards:**

Committee	Applicant Name	Term Until
Affirmative Action Committee (1 position)	Susan O'Brien	6/30/23
Commission on Substance Use (1 position)	Maro Titus	6/30/22
Cultural Council (3 positions)	Cathy Rozynek Lance Norris	6/30/22, 6/30/23
Edward Marks Building Advisory Committee (2 positions)	Jean-Pierre Riu	12/31/20
Golf Advisory Committee (1 position)	Robert Pacheco	6/30/22
Historical Commission (1 full position, 1 alternate position)	Lee Drescher (currently an alternate)	6/30/21
Water Quality Management Committee (1 position)	Stephen Rafferty	6/30/23

Interview, vote and re-appoint incumbents on regulatory boards:**Regulatory Boards:**

Committee	Incumbent Name	Term
Board of Health (2 positions)	Benjamin Van Mooy	6/30/23
	Kevin Kroeger	6/30/23
Conservation Commission (3 positions)	Kevin F. O'Brien (alternate)	6/30/23
	Mark Gurnee	6/30/23
	Stephen Patton	6/30/23
Zoning Board of Appeals (1 position)	Edwin P. Zylinski II	6/30/25

Re-appoint.

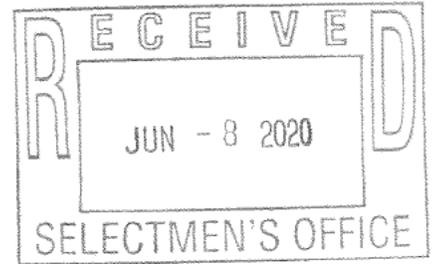
These are incumbents who have expressed interest in being reappointed.

None of these seats are contested.

Non-Regulatory Boards:

Committee	Incumbent for Reappointment	Term
Affordable Housing Committee (1 position)	Pamela Harting-Barrat	6/30/23
Agricultural Commission (3 positions)	Amy Vickers	6/30/23
	Heidi Walz	6/30/23
	Jane Vose	6/30/23
Beach Committee (1 position)	Paul Miskovsky	6/30/23
Bicycle & Pedestrian Committee (5 positions)	Scott Lindell	6/30/23
	Benjamin Harden	6/30/23
	Christopher McGuire	6/30/23
	Edward T. Rowan	6/30/23
	Pamela Rothstein	6/30/23
Building Code Board of Appeals (1 position)	Donald Devaney	6/30/25
Cape Cod Regional Transit Authority	Samuel H. Patterson	6/30/23
Commission on Disabilities (1 position)	Frances Dupuis	6/30/23
Commission on Substance Use (2 positions)	Kath Schilling	6/30/23
	Samantha Bauer	6/30/23
Community Preservation Committee (2 positions)	Russell Robbins	6/30/23
	Paul C. Glynn	6/30/23
Constable (1 position)	Thomas Zine	6/30/23
EDIC (2 positions)	Christopher Land	6/30/23
	Michael Galasso	6/30/23
Energy Committee (2 positions)	Alessandro Bocconcelli	6/30/23

	Matthew Patrick	6/30/23
Golf Advisory Committee (2 positions)	Barbara Dixon Christopher Inoue	6/30/23 6/30/23
Historical Commission (1 position)	Christian T. Valle	6/30/23
Human Services Committee (2 positions)	Lawrence Langler	6/30/23
Recreation Committee (3 positions)	Lori Dillon Sandra Cuny Scott Ghelfi	6/30/23 6/30/23 6/30/23
Shellfish Advisory Committee (3 positions)	Daniel Ward David Heffernan David Bailey	6/30/23 6/30/23 6/30/23
Solid Waste Advisory Committee (4 positions)	Alan Robinson Christopher Polloni Marc Finneran Ruth Brazier	6/30/23 6/30/23 6/30/23 6/30/23
Steamship Authority Port Council	Robert S.C. Munier	6/30/22
Veterans Council Committee (3 positions)	Kevin Casey Robert Foos Randy Collette	6/30/21 6/30/21 6/30/21
Water Quality Management Committee (3 positions)	Eric T. Turkington Matthew Charette	6/30/23 6/30/23
Waterways Committee (2 positions)	Jeffrey Thomas E. Kevin King	6/30/23 6/30/23
Certified Weighers – Cape Cod Aggregates	Linda DeVito Paul DeVito Ted Freeman Jennifer Quinn Edward Bousfield	6/30/21 6/30/21 6/30/21 6/30/21 6/30/21
Certified Weighers – Wastewater Treatment Facility	Charles Pires Kruser Keller Stephen Parsons Steven Devonis Cory Melemed Ronald MacLaughlin	6/30/21 6/30/21 6/30/21 6/30/21 6/30/21 6/30/21



TOWN OF FALMOUTH

**BOARD, COMMITTEE OR COMMISSION
APPLICATION FORM**

If you are interested in serving the Town of Falmouth in any capacity, please fill out this form and mail it to: The Board of Selectmen, Falmouth Town Hall, 59 Town Hall Square, Falmouth, MA 02540. Information received will be available to all Town Boards and Officials, although the filling out of this form does not assure appointment. If selected for an interview, you may wish to submit a resume or additional information. This form and a listing of all boards and committees can be found on the Falmouth website: www.falmouthmass.us.

Name: Susan E. O'Brien

Address: 23 Amie's Ave Village: Falmouth ZIP: 02540

Mailing Address: SAA Village: _____ ZIP: _____

Telephone: [REDACTED] Email: _____

How long have you been a Resident (date: 7/03) / Taxpayer (date: 7/04)

Amount of time you are available to give: As much as is required to see proposals and actions carried out.

Town Committee, Board or Commission you are interested in serving on:

1. Affirmative Action
2. _____
3. _____

Seeking: Permanent Position Alternate Position

Have you attended any meetings of the committee for which you are applying? Yes

Relevant affiliation and work and personal experiences I am one of directors of Racial Justice FALMOUTH, serve as co-advisor with the Falmouth High School Diversity Club, + advisor to the GAY STRAIGHT ALLIANCE @ FHS

Town offices held in Falmouth or elsewhere and dates of years served: 8

Susan E. O'Brien

23 Amvets Ave., Falmouth, MA 02540 ◆ [REDACTED] ◆ [REDACTED]

Objective

To obtain a position on the Falmouth Affirmative Action Committee. I will offer skill and strategy development, a positive, energetic style, excellent communication with colleagues and community members from all racial, ethnic and cultural groups, gender identities, religious and political backgrounds.

Experience

2016-present

FALMOUTH HIGH SCHOOL

Special Education Teacher/Case Manager

Falmouth, MA

- Demonstrated successful experience as a teacher of children with disabilities
- Experience with specialized teaching techniques used with special education students including assistive technology, and curriculum modification
- Co-teach in general education setting, and teach substantially separate math classes
- Develop and implement IEP's in concert with TEAM members, assess students for suspected disabilities
- Complete all required reports in a timely manner as required by local, state, and federal mandates
- Co-Advisor Diversity Club, Advisor Gay Straight Alliance

2003-2016

FALMOUTH HIGH SCHOOL

Teacher Assistant, Special Education

- Present lessons, support students and manage behavior a fast paced, team oriented academic environment.
- Independently set priorities to facilitate academic and instructional success for students and teachers.
- Manage a wide variety of personalities, often in highly charged situations.

2005-2017

TOWN OF FALMOUTH

Falmouth, MA

Supervisor, Beach Department

- Responsible for logistics of hiring, training, scheduling and supervision of 25 seasonal staff as well as the coordination of services at 10 ocean beaches.
- Facilitate project supervision and management, purchase/inventory equipment and supplies, compose portions of, proofread, update and maintain policy and procedure manual, internal and external correspondence.
- Financial management responsibilities include daily oversight and monitoring of beach parking revenue and experience with Excel payroll spreadsheets.
- Participate and troubleshoot in safety protocol meetings with town management.
- Manage the public, staff and superiors with tact and respect.

1999-2003

ABBY KELLEY FOSTER REGIONAL CHARTER SCHOOL

Worcester, MA

Long Term Substitute/Instructional Assistant

- Long term substitute teacher for 5th grade integrated classroom.
- Small group instruction included special education, ESL and gifted students.
- Implementation of teaching modalities appropriate to reach a variety of learners.
- Adhered to students' individual educational plans and actively supported students for success.

Education

2013 **UNIVERSITY OF MASSACHUSETTS**

Amherst, MA

Bachelor of Arts: American Studies with Focus on Social Justice and History of Public Education in America, Summa Cum Laude*

*Nominated for membership in National Society for Leadership and Success

Professional Development

- Strategic Frameworks for Educators, Community Day Charter School, 2001
- Skillful Teachers graduate course, Fitchburg State College, 2001
- Confidentiality in Medical Records, University of Massachusetts Medical Center, 1994
- CPR and AED certified (current)

**Lawrence, MA
Worcester, MA
Worcester, MA
Falmouth, MA**

Licensure

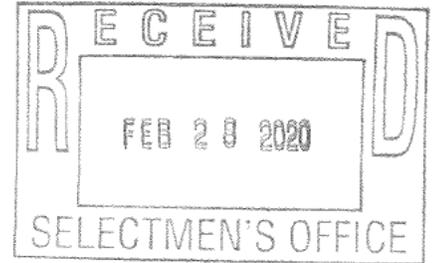
2016 **Massachusetts State Teaching Licensure: Health/Family and Consumer Sciences**

2017 **Moderate Disabilities, 5-12**

2018 **Sheltered English Immersion**

Community Leadership

2019 - Current **Racial Justice Falmouth**



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Name: Marco V. Titus

Address: 45 Old Shore Road Village: W. Falmouth ZIP: 02540

Mailing Address: PO Box 183 Village: W. Falmouth ZIP: 02574

Home Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 40+ (date: 1979) / Taxpayer 23 ^{years} (date: 1997)

Amount of time you are available to give: 5-10 hours/month ^{4 hrs - summers, now permanent since 2017}

Town Committee, Board or Commission you are interested in serving on:

1. Commission on Substance Use
2. _____
3. _____

Seeking: Permanent Position Alternate Position

Relevant affiliation & work & personal experiences _____

* please refer to attached page

Town offices held in Falmouth or elsewhere and dates of years served: _____

None

Briefly describe the particular skills you feel you will add to the committee or board: _____

* please refer to attached page

Town of Falmouth
Commission on Substance Use Board Application Form for Maro V. Titus
Response to Questions - - February 27, 2020

- Relevant Affiliation, Work, and Personal Experiences
- Town Offices Held in Falmouth or Elsewhere and Dates of Years Served
- Briefly Describe the Particular Skills You Feel Will Add to the Committee or Board

I first became aware of the vacancy on the Commission for Substance Use as an Observer Corps attendee for the League of Women Voters Falmouth, having attended the Commission's past two meetings. I am interested in serving on the Commission for Substance Use in order to offer my professional experience in healthcare administration to the Town of Falmouth. I have worked in government programs/managed care for more than 25 years, in a variety of capacities, most recently as Vice President of Account Partnerships for Beacon Health Options, the nation's largest behavioral health provider. In addition to my professional industry work, I am a member of and volunteer for NAMI Cape Cod & Islands, which is the local chapter of the National Alliance on Mental Illness. My passion for seeing others achieve and maintain their mental wellness really began as a teenager, when I served as a Peer Educator for my high school, teaching peers and others about the potentially harmful effects of drugs and alcohol. Over the years, my professional work has been enhanced by the support and awareness I've strived to offer friends and family.

A copy of my resume is attached for consideration, which highlights other important, though less applicable information. It's worth mentioning that I am a newly licensed real estate agent for the Commonwealth of MA, so I have successfully completed a CORI background check...not to mention a riveting half-day State exam! I am a graduate of Columbia University's School of International and Public Affairs, for which I serve on the Alumni Association's Executive Advisory Council, and where I studied health policy and law. My undergraduate degree is in American Studies from Smith College. I am dedicated to public policy and the democratic process, and would bring that sentiment to my work as a Falmouth Commissioner.

I have been a summer resident in Falmouth my entire life, and a year-round resident for the last three years. Though I have not previously held a Town Office, I've am actively engaged in our Community, seemingly picking up from where I left off as an Intern at The Falmouth Enterprise (summers 1988-1990), where I covered various stories as a Reporter. Among the skills, therefore, that I will bring to the Commission are strong written and verbal communication, networking and business development acumen and years of informal and formal event planning. I am also certified in Mental Health First Aid by the National Council for Behavioral Health. I hope the Board of Selectmen will look favorably upon my application, as I would welcome the opportunity to serve.

Respectfully submitted,


Maro V. Titus

Maro Virginia Titus

P.O. Box 183 | 45 Old Shore Road | West Falmouth, MA 02574

PROFILE

Innovative leader with demonstrated success in government programs (Medicare/Medicaid), business development, account management, PBM consulting and behavioral health. Managed care executive eager to utilize existing and newly developed skill sets, including mental health advocacy, freelance writing, volunteer management, and real estate sales.

EDUCATION

COLUMBIA UNIVERSITY, School of International and Public Affairs, New York, NY
Master of Public Administration (M.P.A.), Health Policy and Law Concentration

SMITH COLLEGE, Northampton, MA
Bachelors in American Studies

EXPERIENCE

LEADERSHIP AND VOLUNTEERISM, Falmouth, MA

July 2019 - Present

Exploring options for leveraging expertise in managed care, business development and program management into a fulfilling, lucrative and longstanding venture. Activities include:

- Columbia University School of International and Public Affairs, Alumni Association Executive Council
- League of Women Voters of Falmouth, Observer Corps
- Recently certified in Mental Health First Aid®
- Obtaining MA Real Estate Salesperson License (#9567623)
- Multiple volunteer engagements, including Council on Aging and National Alliance on Mental Illness

BEACON HEALTH OPTIONS, Boston, MA

2017 – 2019

Vice President – Account Partnerships

- Oversee four health plan accounts, representing 15% of Regional revenue for Beacon's Southeast market.
- Establish and lead a process for Quarterly Business Reviews for all accounts, focusing on strategic direction and continued growth opportunities.
- Increased account-driven annual revenue by 75% through renewal pricing and LOB expansion.
- Manage a team of Account Directors, and work collaboratively within a cross-functional (operational, clinical and account) regional structure.

VERISK HEALTH, Waltham, MA

2015 – 2016

Vice President – Strategic Accounts

- Managed the direct relationship of a national \$60M annual health plan account. Credited with account growth specific to Medicare retrieval, coding and encounter submissions for Organization's largest revenue cycle client, inclusive of Commercial, HEDIS, Medicare and Dually eligible markets.
- Worked with Verisk's C-suite team on strategic and escalated client issues.
- Directed client Medicare, Commercial and Duals client engagements that include the submission of nearly 33 million Medicare encounters to CMS, retrieval of more than 1.2M Commercial and Medicare medical records; and coding of 150,000 Commercial and 279,000 Medicare charts.

FOCUS CARE, INC., Woburn, MA

2011 – 2015

Vice President – Business Development and Operations

- Acquired and managed large-scale accounts with the Center for Medicare and Medicaid Services (CMS), Humana and other national MCOs.
- Increased client volume and monthly revenue, generating \$2.2M additional revenue in less than one year.
- Recruited network of more than 1,200 providers nationally for Medicare risk management projects.
- Restructured call center, member services, and provider relations divisions.
- Redesigned and wrote copy for company website (www.focuscares.com). Identified major deficiencies in Organization's brand image, and corrected using new logo, website and other marketing efforts.

MVT HEALTHCARE CONSULTING, LLC., Northeast Region

2004 – 2011

Principal - Client engagements included:

MedMetrics Health Partners, Inc.

- Coordinated Medicaid Rx cost savings study with Commonwealth of Virginia.
- Managed Medicaid Rx implementation for Health New England (an MHP client).

Blue Cross and Blue Shield of Vermont

- Served as Project Manager for BCBSVT's six-month PBM transition to Express Scripts, Inc. (ESI).
- Led project team of 30 BCBSVT associates to convert 130K BCBSVT covered lives to new PBM.

Senior Whole Health, Inc.

- Assisted client with health plan licensure and start up efforts in New England expansion efforts.
- Assessed existing marketing plan and sales strategy; advise client on marketing strategy.

Blue Cross Blue Shield NE Prescription Drug Plan (PDP)

- Contracted by four independent BCBS plans of the Central New England (CT, MA, RI and VT) regional PDP with 100K covered lives, to lead efforts for three-year, \$1B Medicare administrative and PBM contract.
- Coordinated operational activities, ongoing compliance, and resolution of issues between WellPoint, NextRx, and the plans. Managed competitive RFP process and implementation of a new PBM vendor.

State of Connecticut, Office of the Healthcare Advocate

- Handled reconciliation efforts resulting in care and revenue enhancement; responsible for more than \$200K savings for Connecticut residents within a six-month engagement.
- Educated consumers about rights and how to advocate about concerns of managed care plan.

Touchstone Health Partnership, Inc.

- Implemented Medicare Modernization Act (MMA/Part D), directed Plan's on-site federal regulatory audit as Interim Compliance Director, and drafted Special Needs Plan (SNP) and HMO license applications.

GROUP HEALTH, INC., New York, NY

2001 – 2004

Medicare Sales Director & Compliance Consultant

- Launched new Medicare Preferred Provider Organization (PPO) plan for statewide insurer.
- Subsequently hired full-time to direct its Medicare business, managing a \$4M budget, advertising and software expenses, and team of 20 union and management level staff.
- Directed sales efforts resulting in largest product in NYS, and among the fastest growing nationally.

AFFILIATIONS

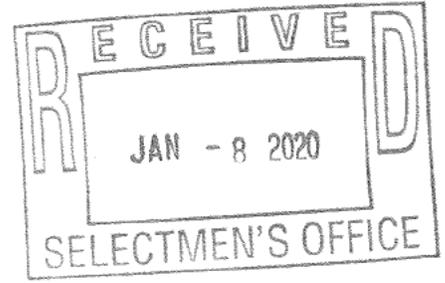
League of Women Voters® of Falmouth

Armenian Church of Cape Cod, Publicity Coordinator

Friends of Falmouth Public Library

Women Business Leaders of the U.S. Health Care Industry Foundation, Washington, DC

4/6



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BOARD, COMMITTEE OR COMMISSION APPLICATION FORM

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Name: Cathy Rozynek

Address: 42 Clipper Lane Village: Falmouth ZIP: 02540

Mailing Address: SAME Village: ZIP:

Telephone: [Redacted] Email: [Redacted]

How long have you been a Resident [checked] (date: 7/17) / Taxpayer [checked] (date: 7/17)

Amount of time you are available to give: Flexible

Town Committee, Board or Commission you are interested in serving on:

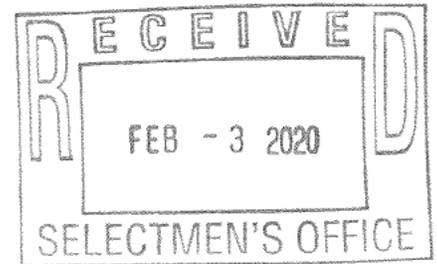
- 1. Falmouth Cultural Council
2.
3.

Seeking: Permanent Position [checked] Alternate Position

Relevant affiliation & work & personal experiences: advertising + marketing, event planning

Town offices held in Falmouth or elsewhere and dates of years served: NONE

Briefly describe the particular skills you feel you will add to the committee or board: marketing, event planning



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Name: Lance Noar

Address: 25 FAENE Ave Village: ZIP: 02536

Mailing Address: Same Village: ZIP:

Telephone: [Redacted] Email: [Redacted]

How long have you been a Resident 6 yrs (date: 2/2014) / Taxpayer 1 1/2 yrs (date: 10/10)

Amount of time you are available to give: open

Town Committee, Board or Commission you are interested in serving on:

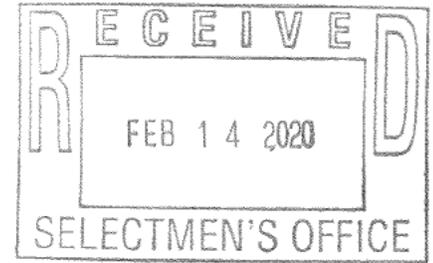
- 1. Cultural Council
2.
3.

Seeking: Permanent Position Alternate Position

Relevant affiliation & work & personal experiences SAB-ARTS Actor 30 yrs, 20 yrs dancing show host, Nominated for Emmy, 40 yrs Theatre Director 25 yrs Acting Teacher (College, High school & Private)

Town offices held in Falmouth or elsewhere and dates of years served: Dissaliter Commission in Cohasset, MA 2005-2008

Briefly describe the particular skills you feel you will add to the committee or board: I was the State Rep to the New England Drama Council, and have actively supported the Arts all of my adult life. I am a former Theatre owner, and have my own BMI music publishing firm.



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION
APPLICATION FORM

If you are interested in serving the Town of Falmouth in any capacity, please fill out this form and mail it to: The Board of Selectmen, Falmouth Town Hall, 59 Town Hall Square, Falmouth, MA 02540. Information received will be available to all Town Boards and Officials, although the filling out of this form does not assure appointment. If selected for an interview, you may wish to submit a resume or additional information. This form and a listing of all boards and committees can be found on the Falmouth website: www.falmouthmass.us.

Name: JEAN-PIERRE RIEU

Address: 26 Gunning Point Rd Village: _____ ZIP: 02540

Mailing Address: same Village: _____ ZIP: _____

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 1-1/2 years (date: 8/15) / Taxpayer 12 years (date: _____)

Amount of time you are available to give: flexible as needed, I am retired 1 year ago

Town Committee, Board or Commission you are interested in serving on:

1. Edward Marks Building Advisory Committee
2. _____
3. _____

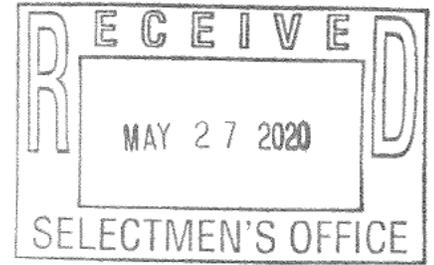
Seeking: Permanent Position Alternate Position

Relevant affiliation & work & personal experiences VP/Treasurer of manufacturing company for 35 years. Acted as general contractor on 2 homes I built for myself.

Town offices held in Falmouth or elsewhere and dates of years served: none

Briefly describe the particular skills you feel you will add to the committee or board: _____

Highly organized, basic knowledge of building systems. Used to working in a cooperative organization. I was president of a 140 unit condominium community



TOWN OF FALMOUTH
BOARD, COMMITTEE OR COMMISSION
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Name: Robert S Pacheco

Address: 78 Chase Rd Village: Falmouth ZIP: 02540

Mailing Address: same Village: _____ ZIP: _____

Home Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 1974 (date:) / Taxpayer _____ (date:)

Amount of time you are available to give: as needed

Town Committee, Board or Commission you are interested in serving on:

1. Golf Advisory
2. _____
3. _____

Seeking: Permanent Position Alternate Position

Relevant affiliation & work & personal experiences _____

Eight years at Woods Hole Golf Club as Director of Outside Operations

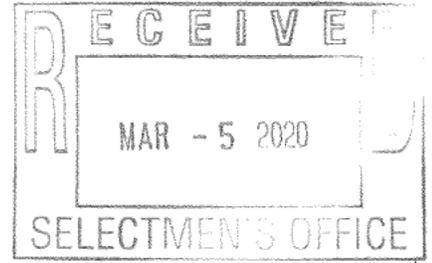
Golfer for 40 years. Retired chef / restaurateur

Town offices held in Falmouth or elsewhere and dates of years served: None

Briefly describe the particular skills you feel you will add to the committee or board: _____

My business career of 30 years along with my position at WHGC provide me with vast knowledge that I may call upon in support of the Town's effort to provide

a top notch facility, positive cash flow and a great golfing experience for all.



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION APPLICATION FORM

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Name: (Santha) Lee Drescher

Address: 141 Associates Rd Village: Wfal ZIP: 02574

Mailing Address: Box 381 Village: Wfal ZIP: 02574

Telephone: [Redacted] Email: _____

How long have you been a Resident 2003 (date: 1985) / Taxpayer yes (date: _____)

Amount of time you are available to give: attend meetings & site visits

Town Committee, Board or Commission you are interested in serving on:

1. Historic Commission
2. _____
3. _____

Seeking: Permanent Position Alternate Position _____

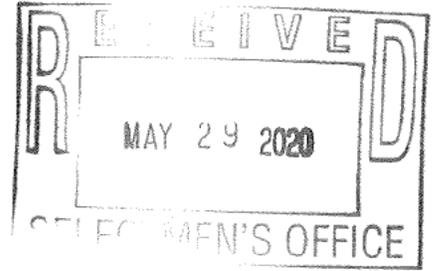
Relevant affiliation & work & personal experiences Save the Nuvrod

Antique & Decorating Business
5 years alternate on Historic Commission

Town offices held in Falmouth or elsewhere and dates of years served:

Falmouth Cultural Council - 6 years

Briefly describe the particular skills you feel you will add to the committee or board: Appreciate history & believe historic features of buildings should be preserved but feel we need to recognize new ^{buildings} products which hold up to weather
next page



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION APPLICATION FORM

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Name: STEPHEN RAFFERTY

Address: 34 KING STREET Village: ZIP: 02540

Mailing Address: SOME Village: ZIP:

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident [checked] (date: 2008) / Taxpayer [checked] (date: 2000) (Best guess)

Amount of time you are available to give:

Town Committee, Board or Commission you are interested in serving on:

- 1. Water Quality Management
2.
3.

Seeking: Permanent Position Alternate Position

Relevant affiliation & work & personal experiences

Was past member of committee. Experienced in water, wastewater engineering.

Town offices held in Falmouth or elsewhere and dates of years served:

Water Superintendent 2015-2020
Board of Health 2013-Present
WQMC 2011-2013?

Briefly describe the particular skills you feel you will add to the committee or board:

Good analytical skills, open to new concepts, decent communication skills, strong sense of ethical fairness.

Public Hearings

1. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license, retain and maintain existing two (2) 4' x 20' floats in and over the waters of Eel Pond Canal, located a 5 Canapitsit Drive, East Falmouth. Continued from March 9, 2020, April 27, 2020 and June 15, 2020.

Applicant request another continuance for one month.

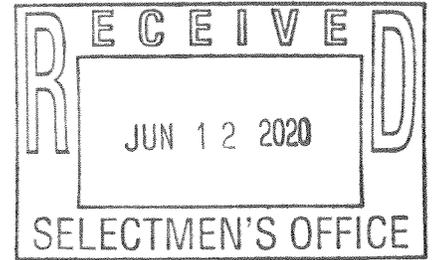
The Select Board meets in July on the following dates:

July 13

July 27



June 9, 2020



Office of the Town Manager and Selectmen
Town of Falmouth Board of Selectmen
59 Town Hall Square
Falmouth, MA 02540

RE: Request to Continue Public Hearing -- 5 Canapitsit Drive, East Falmouth, MA

Dear Chairman and Members of the Board:

This letter is in regard to the above referenced wetland/dock application. On behalf of the Applicant, we request the Board of Selectmen vote to continue the June 15, 2020 Public Hearing for one (1) month, to the next available date to provide additional time to continuing ongoing settlement efforts.

If you agree to continue the hearing, please forward an Agreement for Extension of Statutory Hearing, Decision and Filing Deadline for our execution.

Thank you in advance for your consideration.

If you have any questions, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Costa'.

Matthew C. Costa, P.L.S., R.S.
President

Cc: Attorney Glenn Wood
Nikolas J., John S. and Anthony P. Pentikis/James N. Pentikis Trust udt



TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

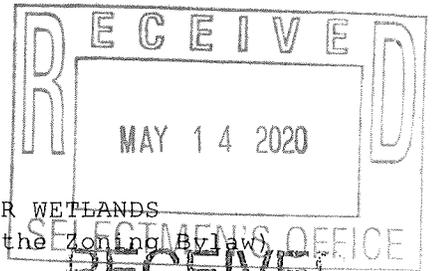
PUBLIC HEARING NOTICE

The Falmouth Board of Selectmen will hold a public hearing under Section 240-77 (Wetland Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, June 15, 2020 at 7:30 p.m. in the Selectmen's Meeting Room, Falmouth Town Hall, on the application of Scott and Nillah Lutz for permission to modify and maintain an existing dock, located at 109 Madeline Road, East Falmouth, MA, in and over the waters of Eel Pond. Interested parties may review the file on this hearing at the Board of Selectmen's Office.

Per Order of the
Board of Selectmen

Publication Dates: Friday, May 22 and Friday, May 29, 2020; Falmouth Enterprise

TOWN OF FALMOUTH
BOARD OF SELECTMEN



APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHER ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

RECEIVED

MAY 18 2020

To the Board of Selectmen
Falmouth, MA

FALMOUTH TOWN CLERK

Date: May 14, 2020

The undersigned hereby applies to the Board of Selectmen as required by Section 240-77 of the Zoning Bylaws, for a permit to alter, as indicated below, the following described premises:

OWNER: Scott and Nillah Lutz 109 Madeline Rd East Falmouth, MA 02536
(full name) (address)

AGENT: Wayne Tavares of Wet Tech Land Design PO Box 1580 Sagamore Beach, MA 02562
(full name) (address)

APPLICANT: Scott Lutz 6 Beaver Pond Rd Milford, MA 01757
(full name) (address)

1. Location of Property: Map 32 Section 06 Parcel 000 Lot 127

Street Name and House Number 109 Madeline Road

2. Body of water, marsh or stream affected: Eel Pond

3. Description of property and project site: Zone RC lot with single family dwelling

a. Dimensions, Acreage of total parcel: 0.28 acres, 81'*110'*140'*107'

b. Length of water marsh frontage: 140'

c. Dimensions of area to be dredged: NA Depth

d. Dimensions of area to be filled: NA

e. Volume of dredging spoil to be moved: NA

APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHERWISE ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

Disposition of Spoil: NA

f. Describe proposed riprap or bulkheading, if any: NA

g. Other (docks, piers and etc.) Displaced dock due to lack of maintenance

h. Method (equipment to be used) for proposed work: floating barge

4. Purpose of proposed work: Reconstruct and maintain pier in perpetuity

5. Zoning which governs area: Zone RC, FEMA VE14

6. Date of application for permit to dredge or fill from the Commonwealth of Mass. Army Engineers

7. Has a permit ever been approved or refused for this location by State, Federal or Local Authority? Yes. Interim Approval License #4273 (Jan-'95)

8. Remarks Please find attached documents as reference and addendum to this application

a. Approved Site Plan

b. Interim Approval License 4273

c. DEP Approval Letter: Minor Modification Approval to reconstruct Feb 19, 2020

d. DEP Extension to IA 4273: Modification approval extension beyond May 10, 2020

e. DEP Public Notification: May 1, 2020 public notification of license application

f. Falmouth Conservation Commission Order of Conditions (Jan 29, 2020)

g. Dock Plan View as submitted w DEP filing and Falmouth Building Dept

h. Dock Cross Section View, as submitted w DEP filing and Falmouth Building Dept

9. Project Summary for legal notice:

a. Public notice is hereby given of the application for permit from the Town of Falmouth by Scott and Nillah Lutz to modify and maintain an existing dock at 109 Madeline Rd, in the municipality of Falmouth, in and over the waters of Eel Pond. The proposed project has been determined to be subject to zoning bylaws Section 240-77.

Owner: Scott and Nillah Lutz
6 Beaver Pond Rd Milford, MA 01757
Email: 4scottlutz@gmail.com

Agent: Wayne Tavares of
Wet Tech Land Design Inc
Email: wettechlanddesign@gmail.com

Tel# 508-962-4987

508-642-7701

DO NOT WRITE BELOW THIS SPACE, FOR SELECMEN'S OFFICE USE ONLY

The Commonwealth of Massachusetts

No. 4273



INTERIM APPROVAL ONLY

Whereas,

Norman Darling and Minnie Darling

of Falmouth, in the County of Barnstable and Commonwealth aforesaid, has applied to the Department of Environmental Protection for Interim Approval to maintain an existing pier and rip rap-----

and has submitted plans of the same; and whereas due notice of said application has been given to the Board of Selectmen of the Town of Falmouth.

NOW, said Department, having fully considered said application, hereby, authorizes the said Norman Darling and Minnie Darling, subject to the provisions of 310 CMR 9.10, to maintain an existing pier and rip rap--

in and over the waters of Eel Pond in the Town of Falmouth and in accordance with the locations shown and details indicated on DEP Interim Approval Plan No. 4273 (2 sheets), original of which is on file in the office of said Department.

The structures hereby authorized shall be limited to the following use(s): noncommercial docking and boating access to navigable waters and shoreline stabilization for the protection of existing structures.

This Interim Approval is valid for 30 years from the date of issuance. If the affected property is transferred to a new owner, for valuable consideration, this approval shall expire one year from the date of transfer.

This Interim Approval shall be void unless the same is recorded within 60 days from the date hereof, in the Registry of Deeds for the County of Barnstable.

INTERIM APPROVAL ONLY

109 Madeline Rd E Falmouth STREET #

5

SPECIAL INTERIM APPROVAL CONDITIONS

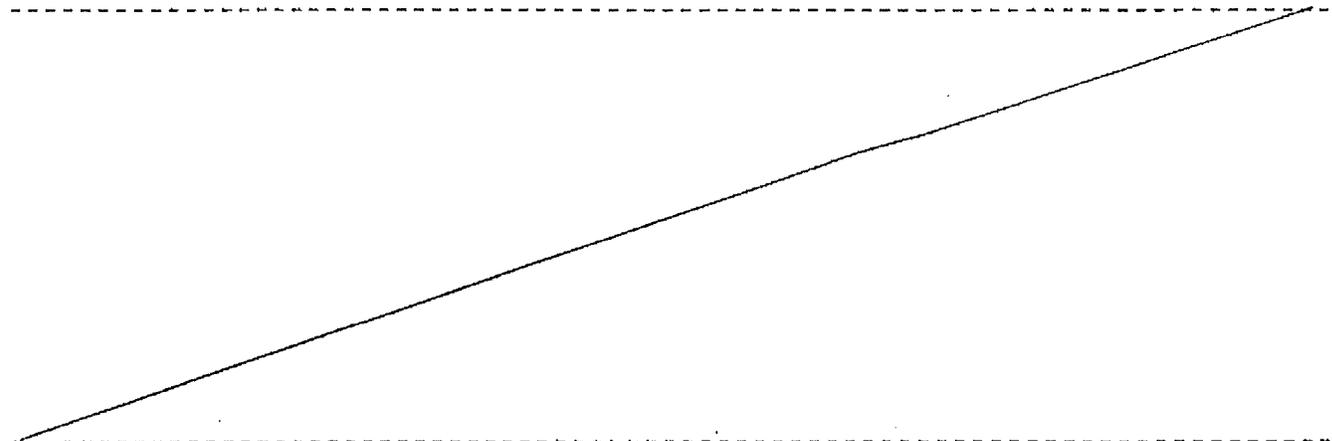
In accordance with any license condition, easement, or other public right of lateral passage that exists in the area of the subject property lying between the high and low water marks, the Licensee shall allow the public in the exercise of such rights to pass freely over all structures within such intertidal area.

Accordingly, the Licensee shall place and maintain, in good repair, a ladder and public access sign on both the northerly and southerly sides of the pier authorized herein, adjacent to the mean high water shoreline. The ladders be constructed of durable materials, shall be fixed to the pier in such a manner so as not to rest on the marsh, shall have a minimum width of 2.0 feet, and shall have adequate railings extending above the pier decking in order to facilitate safe passage.

The signs shall include any statement and/or logo specified by the Department and shall otherwise conform to the "Signage Specifications of the Waterways Regulation Program", as may be amended hereafter. A Licensee's copy of such written specifications is provided with this license, and an additional copy shall be kept in the Department's permanent license file (No. 4273). Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

If, at any time, pier reconstruction in excess of 50% is necessary, the Licensee shall raise the decking, within the intertidal zone, to provide a minimum clearance of 5.0 feet between the pier and the mean high water datum. Upon reconstruction, ladders and signage shall no longer be required. The Licensee shall notify the Department prior to any reconstruction.

The project authorized herein has been completed in conformance with the accompanying License Plan. The issuance of this License, therefore, fulfills the Licensee's obligation to obtain a Certificate of Compliance pursuant to 310 CMR 9.19.



Please see Page 3 for additional conditions to this Interim Approval.

STANDARD INTERIM APPROVAL CONDITIONS

- 1. Nothing in this Interim Approval shall be so construed as to impair the legal rights of any person.
- 2. Any change in use or any structural alteration of any structure or fill authorized herein shall require the issuance of a Waterways License. Any unauthorized change in use or unauthorized structural alteration of any structure or fill authorized herein shall render this Interim Approval void.

3. This Interim Approval authorizes structure(s) and/or fill on:

- Private Tidelands. In accordance with the public easement that exists by law on private tidelands, the licensee shall allow the public to use and to pass freely upon the area of the subject property lying between the high and low water marks, for the purposes of fishing, fowling, navigation, and the natural derivatives thereof.
- Commonwealth Tidelands. The Licensee shall not restrict the public's right to use and to pass freely, for any lawful purpose, upon lands lying seaward of the low water mark. Said lands are held in trust by the Commonwealth for the benefit of the public.
- a Great Pond of the Commonwealth. The Licensee shall not restrict the public's right to use and to pass freely upon lands lying seaward of the high water mark for any lawful purpose.

No restriction on the exercise of these public rights shall be imposed unless otherwise expressly provided in this Interim Approval.

4. Unless otherwise expressly provided by this Interim Approval, the licensee shall not limit the hours of availability of any areas of the subject property designated for public passage, nor place any gates, fences, or other structures on such areas in a manner that would impede or discourage the free flow of pedestrian movement thereon.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this second day of December in the year nineteen hundred and ninety-four.

Commissioner

Thomas B. Powers

Director

Carl F. Dierker

Department of
Environmental
Protection

Section Chief

[Signature]

On this 2nd day of December, 1994 before me personally appeared Thomas Powers, Carl Dierker, John [unclear] to me known to be the person described in and who executed this Interim Approval and acknowledged that he/she executed the same as his/her free act and deed.

Rosa M. [unclear]
Notary Public

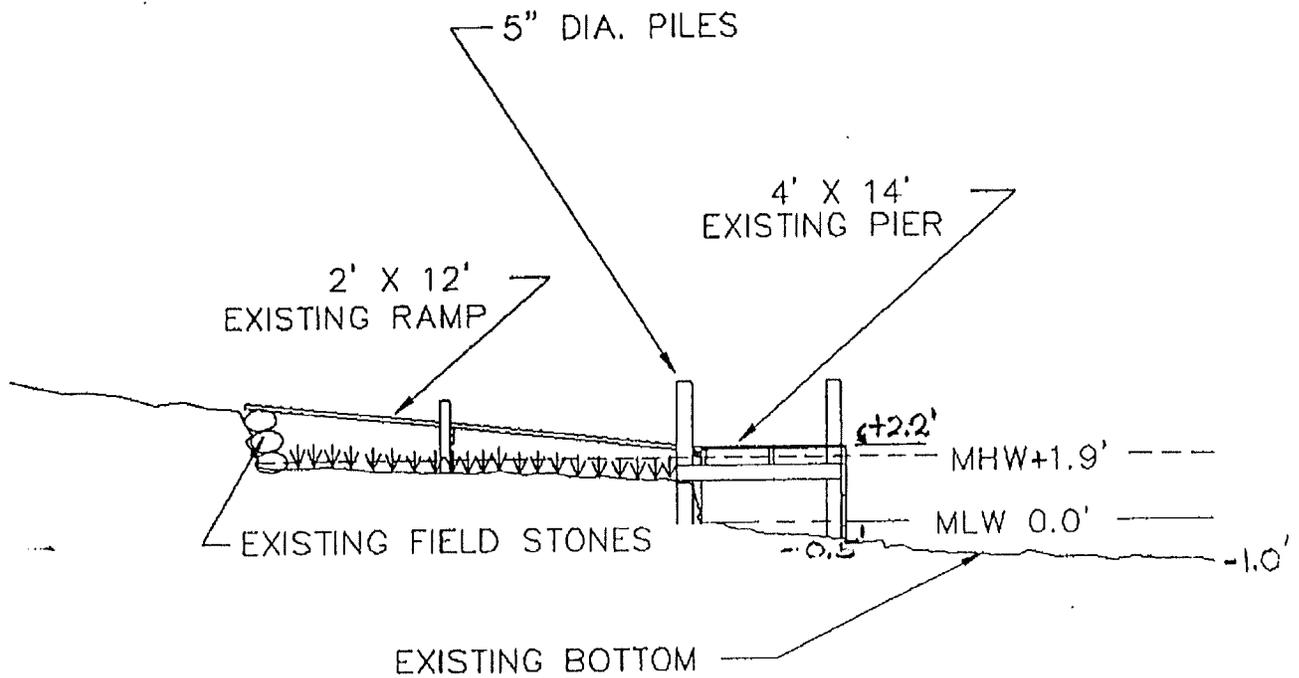
February 29, 1997
My commission expires on



INTERIM
APPROVAL
ONLY

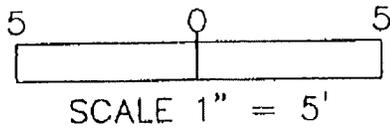
INTERIM APPROVAL

INTERIM APPROVAL 4273
Approved by Department of Environmental Protection
Date: **DEC 02 1994**



NOTES:

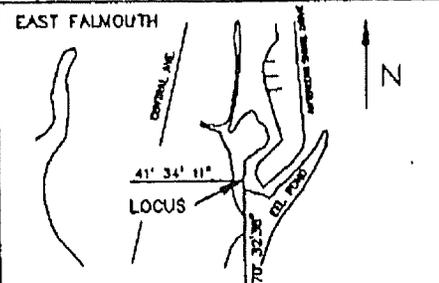
1. ELEV. IN FEET & TENTHS
2. 100 YR FLOOD ELEV. 11.0'



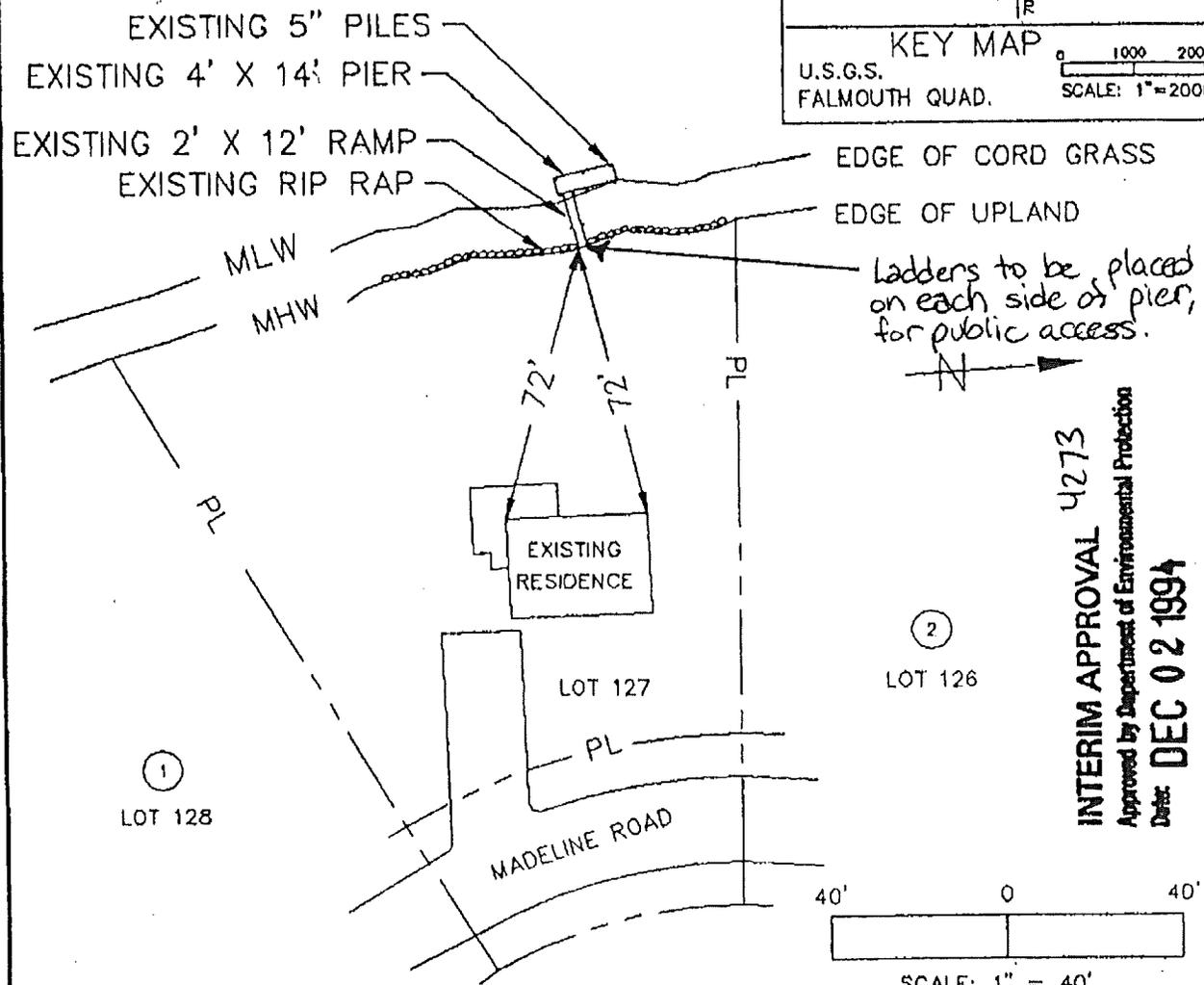
<p>PURPOSE: INTERIM APPROVAL DATUM</p> <p>ADJACENT PROPERTY OWNERS: NOBSKA REALTY TRUST 1 (R. PHILIP WORMELLE, TR.) 2 PETER HATSIANDROU 3</p>	<p>PROFILE VIEW <i>Norman Darling & Minnie Darling</i> 109 MADELINE ROAD E. FALMOUTH, MA 02536</p>	<p>PIER, RAMP & STONE IN EEL POND AT E. FALMOUTH COUNTY OF BARNSTABLE STATE MA APPLICATION BY NORMAN L. DARLING SHEET 2 OF 2 DATE 8/25/93</p>
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INTERIM APPROVAL

EEL POND

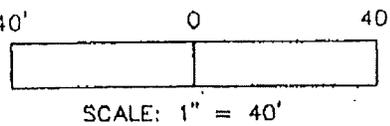


KEY MAP
U.S.G.S.
FALMOUTH QUAD.
SCALE: 1" = 2000'



Ladders to be placed on each side of pier, for public access.

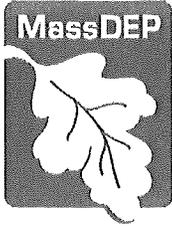
INTERIM APPROVAL 4273
Approved by Department of Environmental Protection
Date: **DEC 02 1994**



PURPOSE: INTERIM APPROVAL
DATUM
ADJACENT PROPERTY OWNERS:
1 NOBSKA REALTY TRUST
(F. PHILLIPS WORMELLE, TR.)
2 PETER HATSIANDROU
3

PROFILE VIEW
Norman Darling &
Minnie Darling
109 MADELINE ROAD
E. FALMOUTH, MA 02536

PIER, RAMP & STONE
IN EEL POND
AT E. FALMOUTH
COUNTY OF BARNSTABLE STATE MA
APPLICATION BY NORMAN L. DARLING
SHEET 1 OF 2 DATE 8/25/93



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

February 19, 2020

Scott Lutz
6 Beaver Pond Road
Milford, MA 01757

RE: Minor Project Modification to DEP Interim Approval No. 4273
Scott Lutz, Eel Pond, 109 Madeline Road, Falmouth

Dear Mr. Lutz:

The Department has reviewed your request to modify the above referenced Chapter 91 Interim Approval. The modifications include revised design components associated with the reconstruction of the pier in the authorized location. The modifications are necessary to address structural deficiencies of the existing pier and raise the decking within the intertidal zone as required by the Interim Approval, which states:

“If, at any time, pier reconstruction in excess of 50% is necessary, the Licensee shall raise the decking, within the intertidal zone, to provide a minimum clearance of 5.0 feet between the pier and the mean high water datum”

The ramp will be increased in width from two feet (2') to three feet (3') to provide safer access and the piles will be changed from five inch (5") to ten inch (10") to accommodate the raised height of the structure. The proposed modifications are shown on a plan titled, "Plan to Accompany Petition of: Scott & Nillah Lutz to Reconstruct an Existing Dock (Lic #4273) Eel Pond 109 Madeline Rd – East Falmouth, MA 02536", 2 Sheets, dated January 2020.

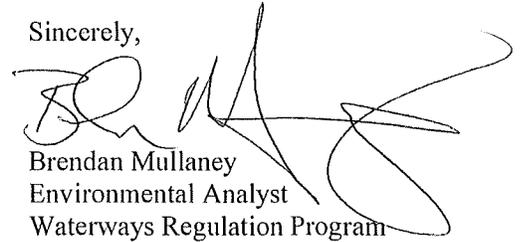
The Department has determined that pursuant to 310 CMR 9.22, the activity constitutes a minor project modification, which represents an insignificant deviation from the original specifications of the interim approval, and as such this activity does not require a new or amended authorization at this time. Please note that other local, state and federal requirements may apply.

Please be aware that Interim Approval No. 4273 will expire on May 10, 2020, which represents the end of the 1-year time period from the date of transfer of the property for valuable consideration. The Interim Approval cannot be renewed; further authorization from the Department must be obtained in the form of a license. The Department is in receipt of an application to authorize and license the proposed structure, which was received on January 28, 2020 (Transmittal #X285361) and the review, processing, and issuance of the license will be forthcoming.

Minor Project Modification to DEP Interim Approval No. 4273
Scott Lutz, Eel Pond, 109 Madeline Road, Falmouth

If you have any questions pertaining to this matter, please do not hesitate to contact me at (508) 946-2707
or brendan.mullaney@mass.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brendan Mullaney', with a large, sweeping flourish extending to the right.

Brendan Mullaney
Environmental Analyst
Waterways Regulation Program

cc: DEP, Waterways Regulation Program, Boston
Falmouth Conservation Commission
Falmouth Harbormaster



Scott Lutz <4scottlutz@gmail.com>

Minor Modification for Interim Approval #4273

Mullaney, Brendan (DEP) <brendan.mullaney@state.ma.us>
To: Scott Lutz <4scottlutz@gmail.com>

Tue, Apr 21, 2020 at 12:17 PM

Good Afternoon Scott,

Thank you for the notification regarding your dock project. Due to the current circumstances and rules that have been issued by the Commonwealth, you may continue past the May 10th deadline, if necessary, with the construction of your dock. We are currently processing your application for a new license which will provide authorization upon issuance.

In addition, we are operating under the attached Executive Order for permitting. The applicable section appears to be "e" which states the following:

e) Permit Tolling:

An approval issued by a state permitting agency valid as of March 10, 2020 shall not lapse or otherwise expire during the state of emergency and the expiration date of the approval shall toll during the state of emergency. To the extent that any such approval contains or is subject to other deadlines or conditions, the state permitting agency may extend such deadlines or waive such conditions if an approval holder is not able to abide by the deadlines or conditions due to the state of emergency. This section shall not apply to a holder of an approval who was in violation of the terms and conditions of the approval as of March 10, 2020.

This stipulation states that no state agency approval - valid as of March 10, 2020 - shall expire during the state of emergency. Therefore work may proceed as necessary as outlined in the Minor Modification letter issued on February 19, 2020 regarding Interim Approval #4273.

Please contact me with any questions.

Regards,

Brendan

Brendan Mullaney

5/10/2020

Gmail - Minor Modification for Interim Approval #4273

Environmental Analyst
MassDEP Wetlands & Waterways Program

Southeast Regional Office
20 Riverside Drive, Lakeville, MA 02347
Phone: (508) 946-2707

<https://www.mass.gov/waterways-program-chapter-91>



From: Scott Lutz <4scottlutz@gmail.com>
Sent: Tuesday, April 21, 2020 9:38 AM
To: Mullaney, Brendan (DEP)
Subject: Re: Minor Modification for Interim Approval #4273

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

 **EO-17_Permitting.pdf**
153K

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM

Notice of License Application Pursuant to M. G. L. Chapter 91
Waterways License Application Number W20-5729
Scott & Nillah Lutz

NOTIFICATION DATE: May 1, 2020

Public notice is hereby given of the waterways application by Scott & Nillah Lutz to reconstruct and maintain a dock at 109 Madeline Road, in the municipality of Falmouth, in and over the waters of Eel Pond. The proposed project has been determined to be water-dependent.

The Department will consider all written comments on this Waterways application received within 30 days subsequent to the "Notification Date". Failure of any aggrieved person or group of ten citizens or more, with at least five of the ten residents residing in the municipality(s) in which the license or permitted activity is located, to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

Additional information regarding this application may be obtained by contacting the Waterways Regulation Program at (508) 946-2707. Project plans and documents for this application are on file with the Waterways Regulation Program for public viewing, by appointment only, at the address below.

Written comments must be addressed to: Brendan Mullaney, Environmental Analyst, DEP Waterways Regulation Program, 20 Riverside Drive, Lakeville, MA 02347 or brendan.mullaney@mass.gov.



Falmouth Conservation Commission

59 TOWN HALL SQUARE, FALMOUTH, MASSACHUSETTS 02540
(508) 495-7445

January 29, 2020

Scott & Nillah Lutz
6 Beaver Pond Rd
Milford, MA 01757

RE: 109 Madeline Rd, Falmouth, MA
DEP# 25-4483

Dear Scott & Nillah Lutz:

Enclosed please find a copy of the *Amended* Order of Conditions for your approved project. This *Amended* Order expires on November 6, 2022. Proof of Recording must be submitted to the Conservation Commission office.

Please read the enclosed *Amended* Order of Conditions carefully and refer to them often. Your contractor must have a copy of the *Amended* Order of Conditions and Conservation Permit posted on-site throughout the duration of the project. As the property owner it is ultimately your responsibility to ensure that work be done according to all Standard and Special Conditions. I recommend that you file the *Amended* Order and for future reference. If you decide to sell your property, please transfer the *Amended* Order and to the new owner.

When all work under the approved permit, including landscaping, has been completed on the project, the proper procedure is for your representative (the engineer) to apply to the Conservation Commission for a Certificate of Compliance. The engineer must submit a signed statement that all work has been completed according to the Plan of Reference and noting any deviation from the plan. The representative (engineer) is the point of contact with the Conservation Commission and should coordinate with you throughout the duration of the project until a Certificate of Compliance is issued. Your representative will register the Certificate of Compliance in the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Thank you for taking the time to read this letter. By complying with the Wetland Protection Act and the Falmouth Wetland Bylaw and Regulations you are helping to maintain a high quality of life for yourself and others in the Town of Falmouth.

Sincerely,

Jennifer L. Lincoln, Conservation Administrator
Falmouth Conservation Commission

CC: Wet Tech Land Design, Inc.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #
 25-4483
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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

Bk 32655 Pg 174 #4786
 01-29-2020 @ 01:57p

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Barnstable
 a. County 32011 b. Certificate Number (if registered land) 2050 nk
 c. Book 1/29/2020 d. Page
7. Dates: 10/09/2019 01/08/2020
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
An Amended Site Development Plan
 a. Plan Title Wet Tech Land Design Wayne Tavares, R.L.A.
 b. Prepared By 12/19/2019 c. Signed and Stamped by
 d. Final Revision Date 1"=10' e. Scale
 f. Additional Plan or Document Title g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	<u>4.32 SF</u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input checked="" type="checkbox"/> Coastal Beaches	<u>12 SF</u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
15. <input checked="" type="checkbox"/> Coastal Banks	<u>1534.7 SF</u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input checked="" type="checkbox"/> Salt Marshes	<u>2.16 SF</u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	<u>2.16 SF</u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>600+1534+101=2236 SF</u>	<u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BWV) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BWV

b. square feet of salt marsh

24. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 25-4483 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

- 20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Falmouth hereby finds (check one that applies):
 Conservation Commission

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Falmouth Wetlands Bylaw 10.00
 1. Municipal Ordinance or Bylaw _____ 2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):
see attached



Falmouth Conservation Commission

59 TOWN HALL SQUARE, FALMOUTH, MASSACHUSETTS 02540
(508) 495-7445

Name: Scott & Nillah Lutz
Address: 109 Madeline Rd, Falmouth, MA
DEP #: 25-4483

AMENDED ORDER OF CONDITIONS

FINDINGS:

1. The applicant proposes to amend the existing Order of Conditions to redesign front stairway, move house ~ 4 feet to the south, relocated rear stairway, add outdoor shower, and add additional trees.

STANDARD CONDITIONS

1. Permission is granted to Scott and Nillah Lutz, 109 Madeline Rd, Falmouth MA to Amend the existing Order of Conditions (DEP #25-4483) to redesign front stairway, move house ~ 4 feet to the south, relocated rear stairway, add outdoor shower, and add additional trees according to the plan prepared by WetTech Land Design, Inc., dated June 10, 2019 with a final revised December 19, 2019 and entitled "An Amendment Site Development Plan" and subject to the following Standard and Special Conditions.
2. This Order applies to the Mass. General Laws, Chapter 131, sec. 40 and to the Wetland Protection Bylaw of the Town of Falmouth.
3. No work shall be undertaken until all administrative appeal periods from this Order have elapsed or, if such an appeal has been filed, until all proceedings before the Department have been completed.
4. The applicant shall use all means to effectively prevent erosion into the wetland or other Resource Area and to encourage the growth of protective vegetation on ground draining into the wetlands or other Resource Areas.
5. It is the applicant's responsibility to provide all contractors with a copy of this Order and to ensure that all workers are informed of the Conditions of this Order before they begin work at the site.
6. This Order of Conditions will not be fully complied with unless and until a duly executed Certificate of Compliance is recorded or registered, as appropriate, in Barnstable Registry of Deeds. If this Order is based on a professionally rendered drawing then a letter from an engineer or architect certifying full compliance and an "Existing Conditions" plan must accompany the Request for a Certificate of Compliance.
7. The Conservation Administrator shall be notified 10 days prior to the start of the work at the site and all work conditioned by this Order shall be done under his/her supervision. The Conservation Administrator has the authority to issue an Enforcement Order if work does not comply with the terms

or intent of these conditions. No work may begin until all permits, approvals and variances have been granted by the issuing authority.

8. By the acceptance and recording of this Order, the applicant hereby grants the commission and its duly authorized agents the right to enter onto the land governed by this Order to examine the project and ensure Compliance. Such visits shall be made in a reasonable manner.
9. The determinations of the Falmouth Conservation Commission are made solely to determine issues arising under the Massachusetts Wetlands Protection Act and the Town of Falmouth Wetlands Protection By-Law, and are therefore concerned exclusively with the question whether any proposed activity will have an adverse effect on the Wetlands Protection interests listed in the applicable statutes, regulations, by-laws and rules. Nothing contained in this determination is intended in any way to grant to any person any title, easement or other interest in lands, public or private, and the Falmouth Conservation Commission is without legal authority to make any grant of title, easement or other property interest, or to make any determination of property interests. See Tindley v. D.E.Q.E. 10 Mass. App. 623 (1980).
10. Prior to any work commencing, proof of recording of this Order of Conditions at the Barnstable County Registry of Deeds must be received by the Conservation Commission.
11. Prior to any work commencing, the DEP File Number shall be posted on a sign on the street side of the lot and maintained in a visible condition throughout the project.
12. Prior to any work commencing, a copy of this Order of Conditions is to be posted onsite, to be maintained in a visible location and condition throughout the project. Copies of this Order of Conditions are also to be provided to all outside contractors, to be kept onsite during work at all times.
13. Prior to any work commencing, at least 10 days advance **written** notification shall be provided to the Conservation Commission.
14. Prior to any work commencing, copies of necessary permits, licenses and approvals are to be submitted to the Conservation Commission.
15. The Order of Conditions expires three (3) years from the original date of issuance. Any Amendments to the Order of Conditions **do not** extend the Original Order. You may request an Extension to the original Order of Conditions, in writing, at least 30 days prior to the expiration.
16. Any other proposed activities (alteration, fill, excavation or removal of vegetation) within any Resource Area or within 100 feet of any Resource Area will require that the applicant obtain all necessary permits from the Conservation Commission.
17. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
18. Issuance of the Order of Conditions does not relieve the permittee from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.

19. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
20. Application for a Certificate of Compliance shall be made in writing immediately following completion of all work authorized under this Order of Conditions and Permit. If this Order is based on a professionally rendered drawing then a letter from an engineer or architect certifying full compliance and an "Existing Conditions" plan must accompany a Request for Compliance.
21. All cuttings/debris, etc. are to be kept out of the Resource Areas.
22. The construction site is to be cleaned daily to remove any loose debris.
23. Before work can begin the Town of Falmouth Conservation Commission Form(s) 1 and 2 are to be submitted to the Conservation Department, identifying the General Contractor (GC) and signed by the GC confirming that he/she has read and understands the Order of Conditions and that he/she take responsibility for compliance with the OOC on site during the life of the project. These documents shall be submitted with the ten (10) day start work notification required by Standard Condition #8(b).
24. Any changes to the plan of record noted in Standard Condition 1 above, no matter how minor in scope, including, but not restricted to, changes in the building footprint and appendages such as decks, addition and/or modification of accessory structures, changes in landscape features such as patios, retaining walls, plantings, removal of vegetation, the modification of finished grades, etc. require that the applicant obtain the permission of the Conservation Commission *before* undertaking the modified work. Depending on the scope of the change, said permission may be obtained by filing for an Administrative Approval, an amended Order of Conditions, or entirely new Notice of Intent. Failure to comply with this condition may subject the applicant to an enforcement order and/or fines.
25. All Findings, Standard, and Special Conditions from the original Conservation Commission Order of Conditions remain in full force and effect.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File #
 25-4483
 eDEP Transaction #
 Falmouth
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form. This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

1/29/2020

1. Date of Issuance

2. Number of Signers

Signatures:

Michael J. Palko
Kerrin F. O'Brien

James L. Walker
Elizabeth H. Goyette
Peter J. Cole
Joseph T. H...

by hand delivery on
Michael J. Palko 1/29/20
 Date

by certified mail, return receipt requested, on

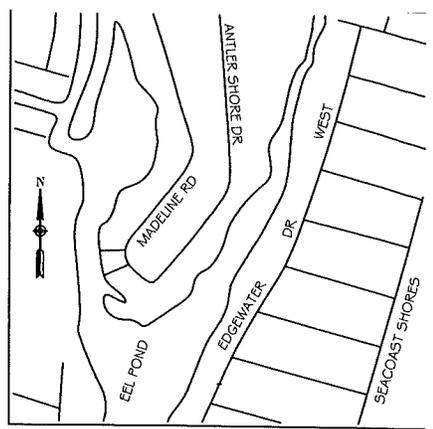
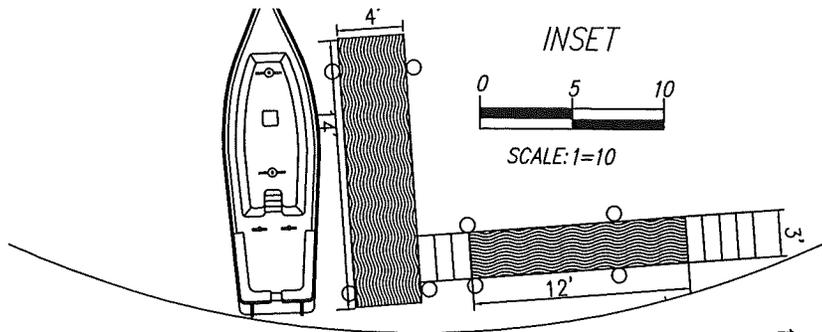
 Date

F. Appeals

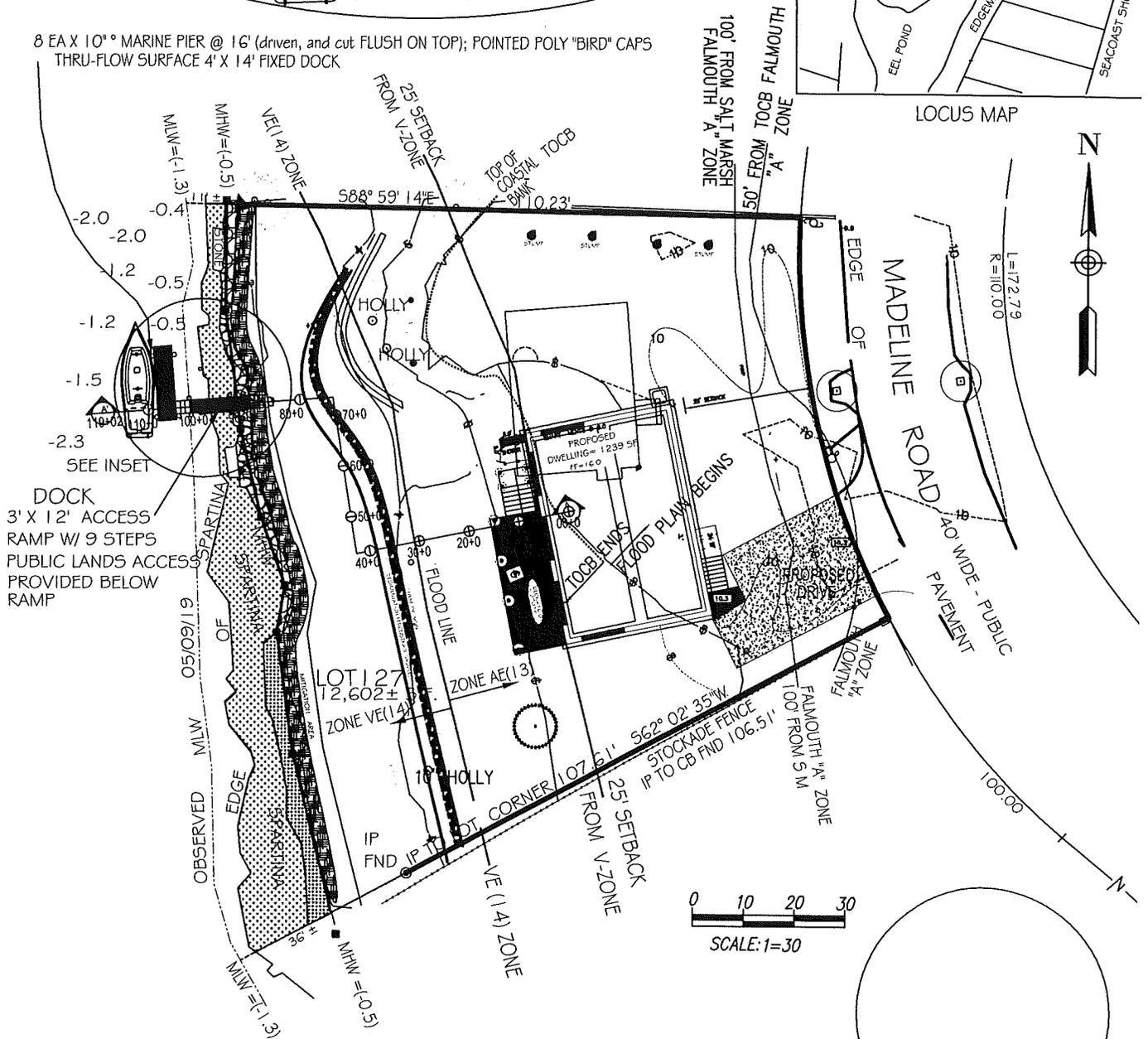
The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



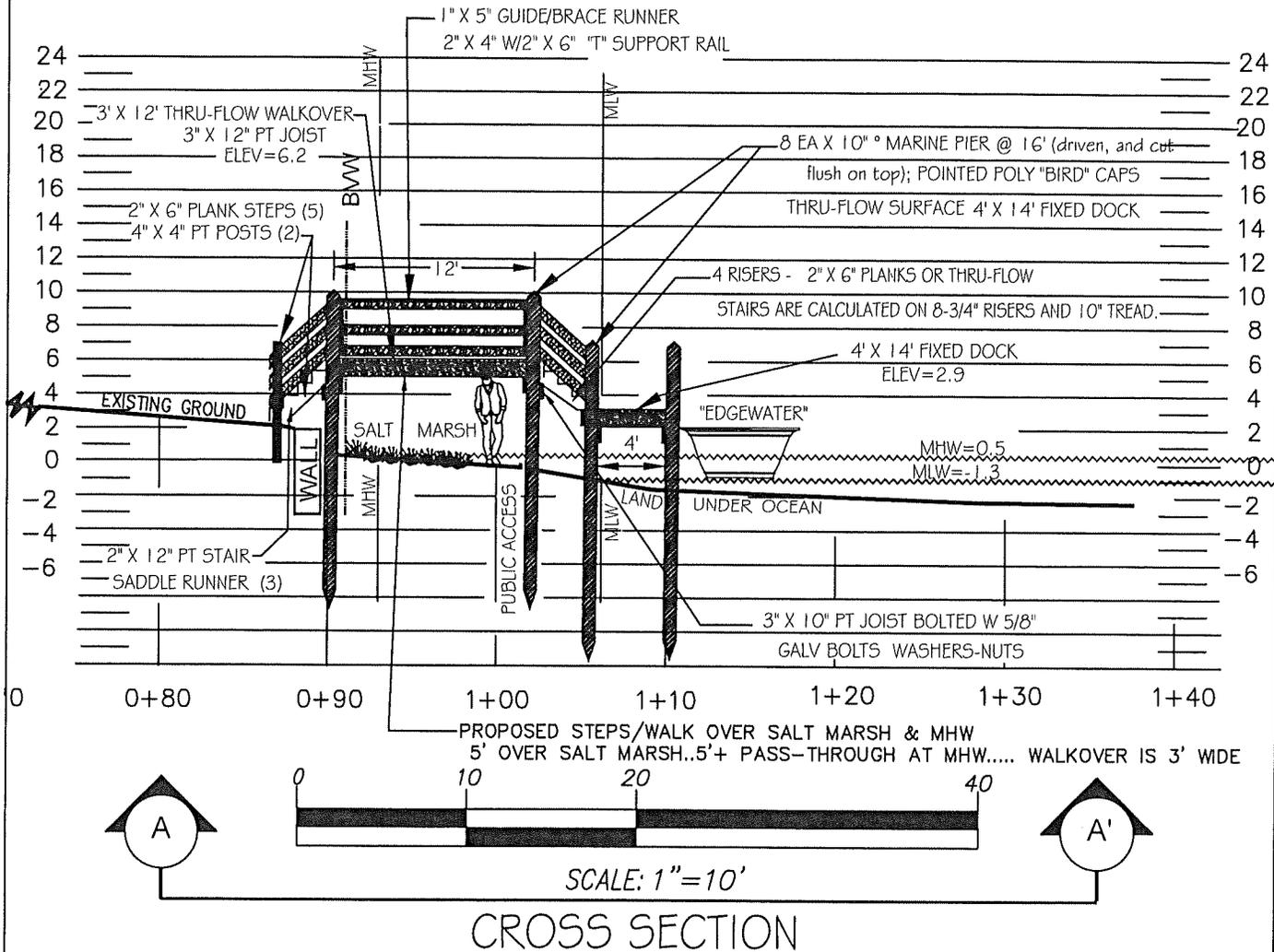
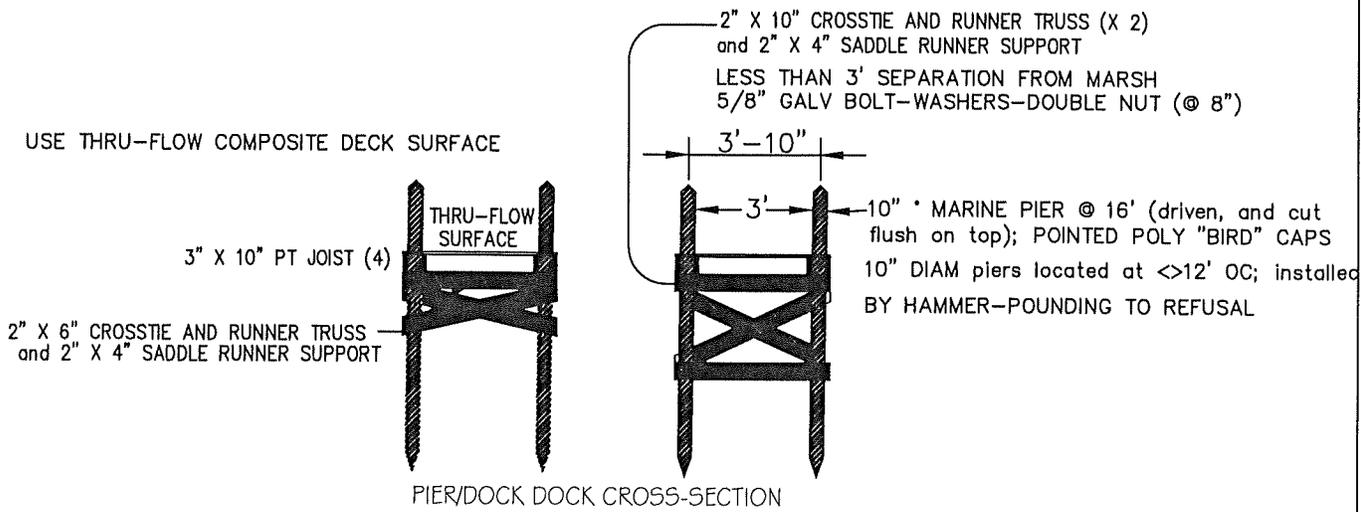
8 EA X 10' MARINE PIER @ 16' (driven, and cut FLUSH ON TOP); POINTED POLY "BIRD" CAPS THRU-FLOW SURFACE 4' X 14' FIXED DOCK



PLAN TO ACCOMPANY PETITION OF:
 Scott & Nillah Lutz

TO RECONSTRUCT AN EXISTING DOCK (LIC #4273) EEL POND

109 Madeline Rd-East Falmouth, MA 02536
 SCALE: AS NOTED JANUARY, 2020
 WET TECH LAND DESIGN, INC.
 SAGAMORE BEACH MA
 ENGINEER/CONSULTANT
 GUSTAVO RAPOSO PE



PLAN TO ACCOMPANY PETITION OF:
 Scott & Nillah Lutz
 TO RECONSTRUCT AN EXISTING DOCK (Interim Lic #4273) EEL POND
 109 Madeline Rd-East Falmouth, MA 02536

SCALE: AS NOTED
 WET TECH LAND DESIGN, INC. ENGINEER/CONSULTANT:
 JANUARY, 2020
 SAGAMORE BEACH MA
 GUSTAVO RAPOSO PE



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LICENSING AUTHORITY CERTIFICATION

Falmouth

City /Town

00006-CL-0390

ABCC License Number

TRANSACTION TYPE (Please check all relevant transactions):

The license applicant petitions the Licensing Authorities to approve the following transactions:

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

APPLICANT INFORMATION

Name of Licensee DBA

Street Address Zip Code

Manager

(i.e. restaurant, package store) (Annual or Seasonal) (i.e. Wines and Malts / All Alcohol)

Granted under Special Legislation? Yes No
 If Yes, Chapter
 of the Acts of (year)

DESCRIPTION OF PREMISES Complete description of the licensed premises

LOCAL LICENSING AUTHORITY INFORMATION

Application filed with the LLA: Date Time

Advertised Yes No Date Published Publication

Abutters Notified: Yes No Date of Notice

Date APPROVED by LLA Decision of the LLA

Additional remarks or conditions (E.g. Days and hours)

For Transfers ONLY:
 Seller License Number: Seller Name:

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

Phyllis Downey

From: Douglas DeCosta
Sent: Friday, June 12, 2020 3:47 PM
To: Phyllis Downey
Cc: Christie Tirrell; Janet Uttaro
Subject: Background Check- Jay Kehoe of the Falmouth Yacht Club

Background Check- Jay Kehoe of the Falmouth Yacht Club Manager of Alcoholic Beverage License

A temporary background check has been completed by the Falmouth Police Department of the municipal license applicant listed below:

Jay Kehoe of the Falmouth Yacht Club

The department did not locate anything that may disqualify this municipal license applicant.

(Due to circumstances involving COVID-19 a fingerprint-based background check has not been completed. However, a cursory background check has been completed until a fingerprint-based background check can be safely preformed.)

Sincerely,

Lieutenant Douglas DeCosta
Falmouth Police Department
750 Main Street
Falmouth, MA 02540
Office: 774-255-4527
Fax: 508-457-2566
douglas.decosta@falmouthpolicema.gov
www.falmouthpolice.us



-----NOTICE-----

This email is intended for professional and business purposes of the Falmouth Police Department. The contents of this email message and any attachments are confidential and are intended solely for the addressee. If you are not the intended recipient please notify the sender and delete this message.

Certificate of Completion

This Certificate of Completion of
eTIPS On Premise 3.0
For coursework completed on March 22, 2020
provided by Health Communications, Inc.
is hereby granted to:

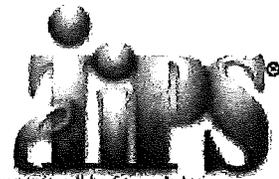
Jay Kehoe

Certification to be sent to:

**290 Clinton Ave
Falmouth MA, 02540-3808 USA**



HEALTH COMMUNICATIONS INC.



This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.



TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

Change of Manager Checklist

This application will be returned if the following documentation is not submitted:

- Monetary Transmittal Form from ABCC including EPAY Confirmation Number showing \$200.00 fee paid to the Commonwealth of Massachusetts
- Change of Manager application
- CORI Authorization form
- Vote of Corporate Board or LLC
- Proof of Citizenship (U.S. Passport, Voter's Certificate, Birth Certificate or Naturalization Papers)
- A \$50.00 Filing Fee made payable to the Town of Falmouth
- Fingerprint-based background check (performed at Central Records, Falmouth Police Department) \$30 cashier's check or money order payable to the Commonwealth of Massachusetts and a separate \$30 fee payable to the Town of Falmouth
- A hearing before the Board of Selectmen

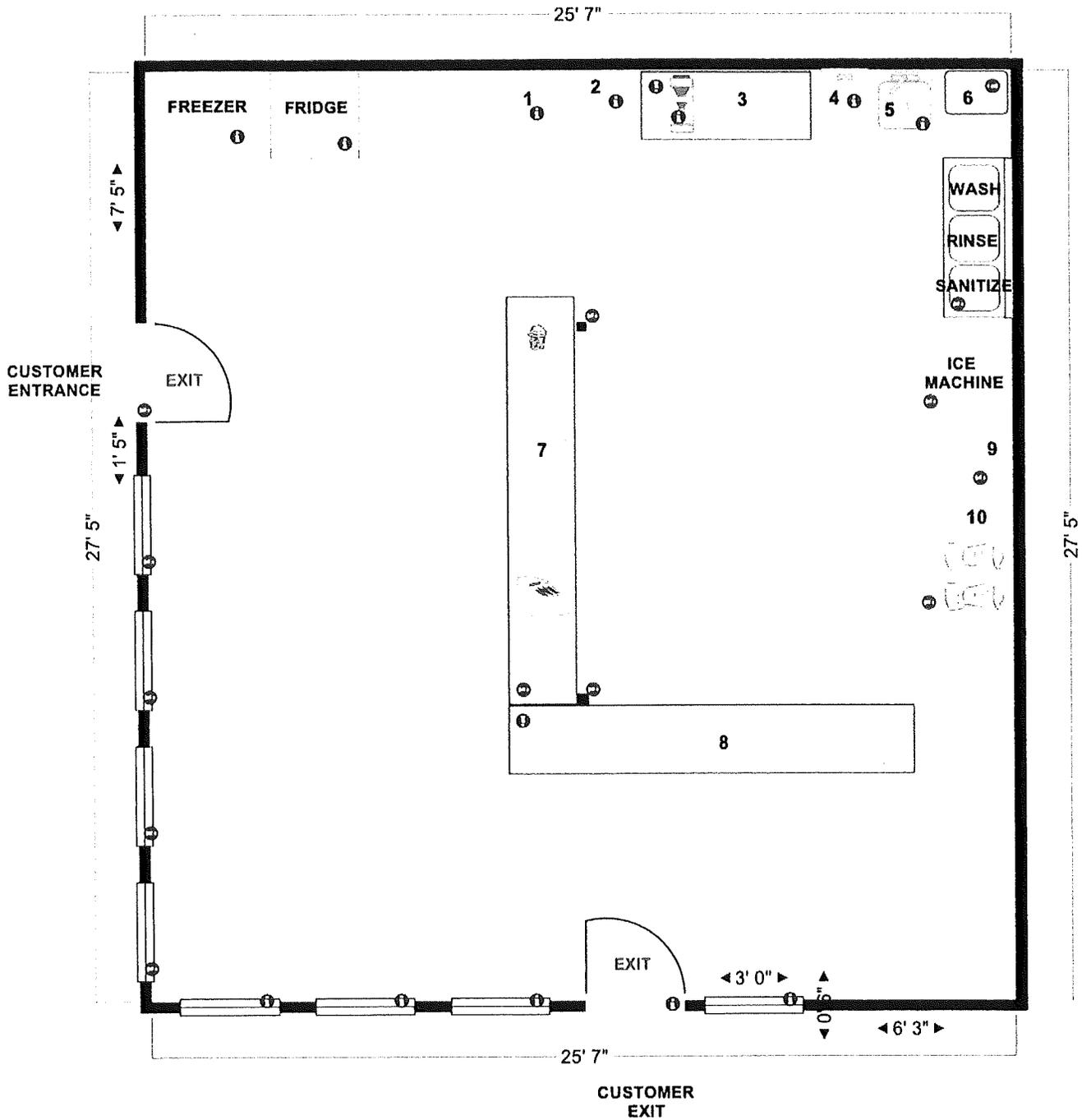
Please refer to website: www.mass.gov/abcc

1. Click on Alcoholic Beverages Retail Licenses
2. Click on Amend a Retail License
3. Click on Change of Manager
4. Click on Amend your Alcoholic Beverages Retail License: Change of Manager (ABCC)
5. Download the change of manager application and CORI authorization form
6. Complete the Application and CORI form
7. Save to your computer
8. Print out, sign and attach all required documents
9. Submit the entire package to Board of Selectmen's Office (Local Licensing Authority)



**DOCUMENTS FOR THE APPLICATION OF A
COMMON VICTUALLER LICENSE**

- ✓1. Application For License
- ✓2. Copy of Lease or Deed
- ✓3. Submission of a \$10.00 Filing Fee
- ✓4. Business Structure Documents:
 - ✓a. Copy of Articles of Organization (if corporation)
 - b. Copy of LLC Agreement (if limited liability company)
 - c. Copy of Partnership Agreement (if partnership)
 - d. Copy of Certificate of Doing Business (if sole proprietorship)
5. Copy of special zoning permits, if any
- ⑥ 6. Food Service Establishment Permit – Falmouth Health Department
7. Occupancy Permit – Building Department
- ✓8. Copy of Floor Plan
- ✓9. Copy of Menu
- ⑩ 10. Attend a hearing before the Board of Selectmen at a time and date designated 6/15/20
- ⑪ 11. Upon approval of the application a Certificate of Doing Business from the Town Clerk's Office and a fee of \$60.00 will be required ✓



1. MINI FRIDGE FOR DAIRY AND NON-DAIRY PRODUCTS FOR COFFEE
2. INSULATED COOLER FOR ICE FOR ICED COFFEE AND ICED TEA
3. COFFEE PREP STATION (ONE BREWER, ICED COFFEE DISPENSER, HOT COFFEE AIR POTS)
4. HAND WASH ONLY SINK
5. MOP SINK
6. GREASE TRAP
7. ORDERING COUNTER WITH CASH REGISTER (36" TALL)
 - a. BAKERY DISPLAY CASE WILL HOUSE PRE-PACKAGED GOODS
8. PICKUP COUNTER (36" TALL)
9. INSULATED COOLER FOR ICE FOR SMOOTHIES
10. REFRIGERATED SMOOTHIE PREP STATION (2 BLENDERS)

*Shared restroom available for employees

THE STAND

DRINKS

hot coffee
iced coffee
polar products

BAKED GOODS

coffee cake
yogurt muffins

SMOOTHIES

berry healthy - strawberry, blackberry, raspberry, blueberry
jolly mon - strawberry, banana
green monstah - almond milk, spinach, banana, peanut butter
chocolate monkey - chocolate, banana, peanut butter
island breeze - coconut, pineapple, banana
just ducky - strawberry, coconut, pineapple
creamsicle - orange & vanilla
pb&j - strawberry, banana, peanut butter
up & at em - oatmeal, banana, raisins

BOWLS

OLD MAIN BOWL

acai topped with strawberries, bananas, granola, peanut butter

BATES BOWL

acai topped with blueberries, strawberries, banana

MAKE YOUR OWN

smoothie or acai base with 3 toppings

Phyllis Downey

From: Noreen Stockman
Sent: Thursday, May 28, 2020 12:55 PM
To: Phyllis Downey
Subject: RE: New Common Victualler application

All good for the ZBA.

Noreen

Noreen H. Stockman
Zoning Administrator
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
508-495-7462

From: Phyllis Downey <phyllis.downey@falmouthma.gov>
Sent: Thursday, May 28, 2020 12:04 PM
To: Scott McGann <scott.mcgann@falmouthma.gov>; Rod Palmer <rod.palmer@falmouthma.gov>; Noreen Stockman <noreen.stockman@falmouthma.gov>; Tracey Cecil <tracey.cecil@falmouthma.gov>; Timothy Smith <timothy.smith@falmouthfirema.gov>; Falmouth Planning <planning@falmouthma.gov>
Cc: Linda Kinchla <linda.kinchla@falmouthma.gov>; Faith Marion <faith.marion@falmouthma.gov>; Sari Budrow <sari.budrow@falmouthma.gov>
Subject: New Common Victualler application

To all,

We have received an application for a new Common Victualler License by Meganset Circle, Inc. dba The Stand to be located at 75 County Road, North Falmouth, Manager, Kathryn Hickey. Application details are attached. If you have any recommendations or comments please send them to me by Friday, June 12th. The application is scheduled for review at the Select Board meeting June 12th.

Thank you,
Phyllis

Phyllis Downey
Administrative Assistant
Town Administration
508-495-7325

Phyllis Downey

From: Tracey Cecil
Sent: Friday, May 29, 2020 8:32 AM
To: Phyllis Downey
Subject: RE: New Common Victualler application

Good morning,

Taxes are paid for this address.

Tracey EP Cecil
Assistant Collector/Assistant Parking Clerk
Town of Falmouth

From: Phyllis Downey
Sent: Thursday, May 28, 2020 12:04 PM
To: Scott McGann <scott.mcgann@falmouthma.gov>; Rod Palmer <rod.palmer@falmouthma.gov>; Noreen Stockman <noreen.stockman@falmouthma.gov>; Tracey Cecil <tracey.cecil@falmouthma.gov>; Timothy Smith <timothy.smith@falmouthfirema.gov>; Falmouth Planning <planning@falmouthma.gov>
Cc: Linda Kinchla <linda.kinchla@falmouthma.gov>; Faith Marion <faith.marion@falmouthma.gov>; Sari Budrow <sari.budrow@falmouthma.gov>
Subject: New Common Victualler application

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Thank you,
Phyllis

Phyllis Downey
Administrative Assistant
Town Administration
508-495-7325

Diane Davidson

From: Julian Suso
Sent: Monday, June 1, 2020 11:11 AM
To: Diane Davidson
Subject: FW: Application for Priority Status for upper Coonamessett from Div Ecol Restoration

Diane,
FYI. For Board draft agenda for June 15. Thanks.
Julian

-----Original Message-----

From: Julian Suso
Sent: Monday, June 1, 2020 9:53 AM
To: Elizabeth Gladfelter <egladfelter@who.edu>; Megan English Braga <attymeb@gmail.com>; Megan English Braga <megan.english-braga@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>
Subject: RE: Application for Priority Status for upper Coonamessett from Div Ecol Restoration

Betsy,
Happy to explore. Next scheduled Board meeting is June 15.
Julian

-----Original Message-----

From: Elizabeth Gladfelter <egladfelter@who.edu>
Sent: Friday, May 29, 2020 5:09 PM
To: Megan English Braga <attymeb@gmail.com>; Megan English Braga <megan.english-braga@falmouthma.gov>; Julian Suso <julian.suso@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>
Subject: Application for Priority Status for upper Coonamessett from Div Ecol Restoration

Dear Megan, Julian and Peter

Division of Ecological Restoration has issued an RFR for Priority Status for projects on retired cranberry bogs. The priority status we had for the CRRP gave us access to technical advice; allowed DER to hire consultants to do parts of the project for us (e.g., documentation needed for Mass Historical; sec. 106); and awarded us direct grants. However, it only covered the lower Coonamessett (the mile we restored). DERs contribution to the CRRP was absolutely key to its success.

We would request Priority Status for the upper Coonamessett River (2 miles from the dam at Pond 14 north to Coonamessett Pond). Obtaining priority status can benefit the town in many ways, and allow us to begin to tackle some of the remaining issues along the river. Not only will this help ecologically, but it will also reduce maintenance costs as we move toward a more natural self sustaining system.

I would be happy to prepare a short presentation for the BoS if you think it appropriate. The proposal is due June 18th, so it would be useful to have your input the week of the 1st or 8th of June. There is no commitment for funds from the Town at this point in time.

A group of us, including Peter Johnson-Staub; members from Conservation, Marine and Environmental Services; DER; and CRT have met several times to discuss what might be done in the "Upper Coonamessett Wetland Complex" (UCWC) between T. B. Landers Road in the south to Hatchville Road in the north. This problems in this area are relatively easy to tackle (and the total cost would be far less than the CRRP). If we were awarded this designation, DER

would hire a consultant to map the water flow in UCWC and to begin initial design. We would then be well positioned to compete for state, federal and local grants. Several of the federal granting agencies (NOAA, USFWS, NRCS) are interested in improving the UCWC. We have given some of them tours already and plan a couple of trips in June.

Please let me know whether this should come before the BoS and, if so, when.

Thanks, Betsy

Diane Davidson

From: Elizabeth Gladfelter <egladfelter@whoi.edu>
Sent: Wednesday, June 10, 2020 6:09 PM
To: Julian Suso; Peter Johnson-Staub; Megan English Braga; Mark Kasprzyk
Cc: Diane Davidson; Phyllis Downey
Subject: DER "Restoration and Revitalization Priority Projects"
Attachments: MEMO for Select Board.docx; Maps a-c.pdf; Figs. 1-4.pdf

Dear Julian, Peter and Megan

Attached please find attached a short explanation of the proposal in response to the Division of Ecological Restorations (DER) grant competition "Restoration and Revitalization Priority Projects" that is due June 18, 2020. If you want the whole proposal, let me know as it is almost entirely written (just awaiting a few final letters). Previously, I had requested that it be put on the agenda for June 15th.

We are requesting the Town's endorsement through a vote of the Select Board (and would need a signed letter stating that, hopefully by Tuesday). It would be helpful, I can send a draft letter for you to modify as appropriate.

There have been a group of us in Town (Conservation, MES and Peter), who have been discussing goals and objectives since January, and we have been encouraged by DER to apply for this grant. DER was critical in our success in the Coonamessett River Restoration Project, providing technical assistance, hiring outside contractors for various required elements of a project of this type, and awarding the Town money. If we are successful in getting the upper Coonamessett River designated as a priority project, we would have access to those same benefits.

This grant does not obligate any money from the Town. It would be used to assemble funding from outside sources as we did successfully in the CRRP, so that we can protect and restore the entire river. Several federal funding agencies have already expressed interest in helping support further restoration work.

If you have any questions, please let me know. I will call in to the meeting on the 15th and be available to answer any questions should they arise.

Best, Betsy

MEMO:

To: Falmouth Select Board and Town Administration

From: Elizabeth Gladfelter

Re: Endorsement by the Selectboard with a letter of support for submission with this proposal to the Division of Ecological Restoration; grant must be submitted by June 18, 2020

Date: June 15, 2020

The Division of Ecological Restoration has issued an RFR for Priority Status for projects on retired cranberry bogs. We had priority status for lower Coonamessett, the one mile of the river where we did the Coonamessett River Restoration Project; construction on that has been completed as of May 2020. That priority status was crucial to the project's success as it gave us access to technical advice; allowed DER to hire consultants to do parts of the project for us (e.g., documentation needed for Mass Historical; sec. 106); and DER directly awarded the Town monetary grants.

The present proposal if successful would award the Town Priority Status for the upper Coonamessett River (2 miles from the dam at Pond 14 north to Coonamessett Pond). Obtaining priority status can benefit the town in many ways (see above), and allow us to begin to tackle some of the remaining issues along the river. In particular, members of Conservation, Marine and Environmental Services, the DPW and the Town Administration have been discussing a section of the river near Broad River, the Upper Coonamessett Wetland Complex. Not only is the river and the buffering environment severely compromised from past agricultural practices, but there are numerous water control structures that require extensive maintenance. Fish passage is often a problem in this area, especially as they are currently blocked from the potential spawning area of Broad River.

This proposal requires no match from the Town. If we are awarded the contract, it will allow us to begin working with DER and others invited to be part of the technical team (such as what we had for the CRRP). We could then begin to seek funding to implement restoration actions in this part of the river, improving natural habitat and making the area more resilient to perturbations expected due to climate change.

The first part of the grant is attached, along with maps and photographs, and it provides more detail on the proposal. The Conservation Commission voted unanimously on 3 June 2020 to support this project. Mark Kasprzyk and I will be co-coordinators, working with many other Town Departments, especially Department of Marine and Environmental Services and DPW, as well as with outside supporting agencies and ngos.

APPLICATION FORM
RESTORATION AND REVITALIZATION PRIORITY PROJECTS
Division of Ecological Restoration

RFR ID: DER 2020-05

1. APPLICANT INFORMATION

i. Applicant's Name: Town of Falmouth	ii. Email/Phone: mark.kasprzyk@falmouthma.gov , 508-274-2650; egladfelter@who.edu , 508-540-1272
iii. Project Name Upper Coonamessett River Restoration Project: Part 1 Upper Coonamessett Wetland Complex	

I. Project Location and Setting: *Describe the project location including a general description of the project area geography and features. Consider whether the site has notable ecological features (streams, rivers, wetlands) or is near protected or forested lands. Also include information about any buildings or infrastructure that may be located on or nearby the site.*

The Coonamessett River (Falmouth) is one of Cape Cod's largest rivers, flowing approximately 3 miles from the 158 acre kettle-hole Coonamessett Pond to the Great Pond estuary and thence 2 miles to Vineyard Sound (Map A, B). The primarily groundwater fed river flows through the Coonamessett Greenway, a contiguous 270 acre buffer along almost its entire length that is protected conservation land owned by either the Town or The 300 Committee Land Trust (T3C). Geologically, the river system lies along the western edge of the Buzzard's Bay Moraine, within the Mashpee Pitted Outwash Plain. This geology is characterized by glacially derived, unconsolidated sand and gravel deposits. These deposits provide significant groundwater contributions to the river, resulting in an extremely stable hydrology and cooler water temperatures. In the absence of anthropogenic manipulation, the River is less affected by storms, drought, and changes in air temperature than similarly-sized rivers that are surface-water driven. Thus, populations of diadromous fish, including managed species such as river herring (*Alosa* spp.) and American eel (*Anguilla rostrata*) as well as brook trout and white perch, are less vulnerable to future changes in climate and storm regimes and are more resilient as the climate continues to change. Wetlands along the River's riparian corridor also benefit from the geology by allowing groundwater and surface water exchange.

The Town of Falmouth and its many partners have recently completed (May 2020) the Coonamessett River Restoration Project, which restored the lower 1 mile of river, which had "priority river" designation from the MA Division of Ecological Restoration (DER). Dams and berms were removed and former cranberry bogs were restored to self-sustaining habitat, greatly improving the coastal resiliency of this portion of the river. Two dams were removed and replaced by pedestrian boardwalk/river crossings. A new bridge meeting MA DOT stream crossing standards was built; it replaced the deteriorating pipe culverts under a public road. There is a 135% increase in river channel length (0.87 mile to 1.2 miles), and increased habitat complexity. A total of 33 acres of wetlands were restored by removing sand, filling ditches and creating pit and mound topography. There are 23 acres of mostly forested riparian upland. The result is an increase in free flowing stream from 0.25 miles prior to restoration to 2.2 miles post-restoration. The Coonamessett River Trust (CRT), a local non-profit organization, has conducted monitoring of physical, biological and chemical characteristics pre- and post-restoration. The concurrent Coonamessett Greenway Heritage Trail (CGHT) project improves public access and education along the entire river valley. Eleven of the twelve (12) stations with interpretive signage are complete, and the final major trailhead elements will to be constructed in Fall 2020/Winter 2021. More than forty (40) partners have contributed to the

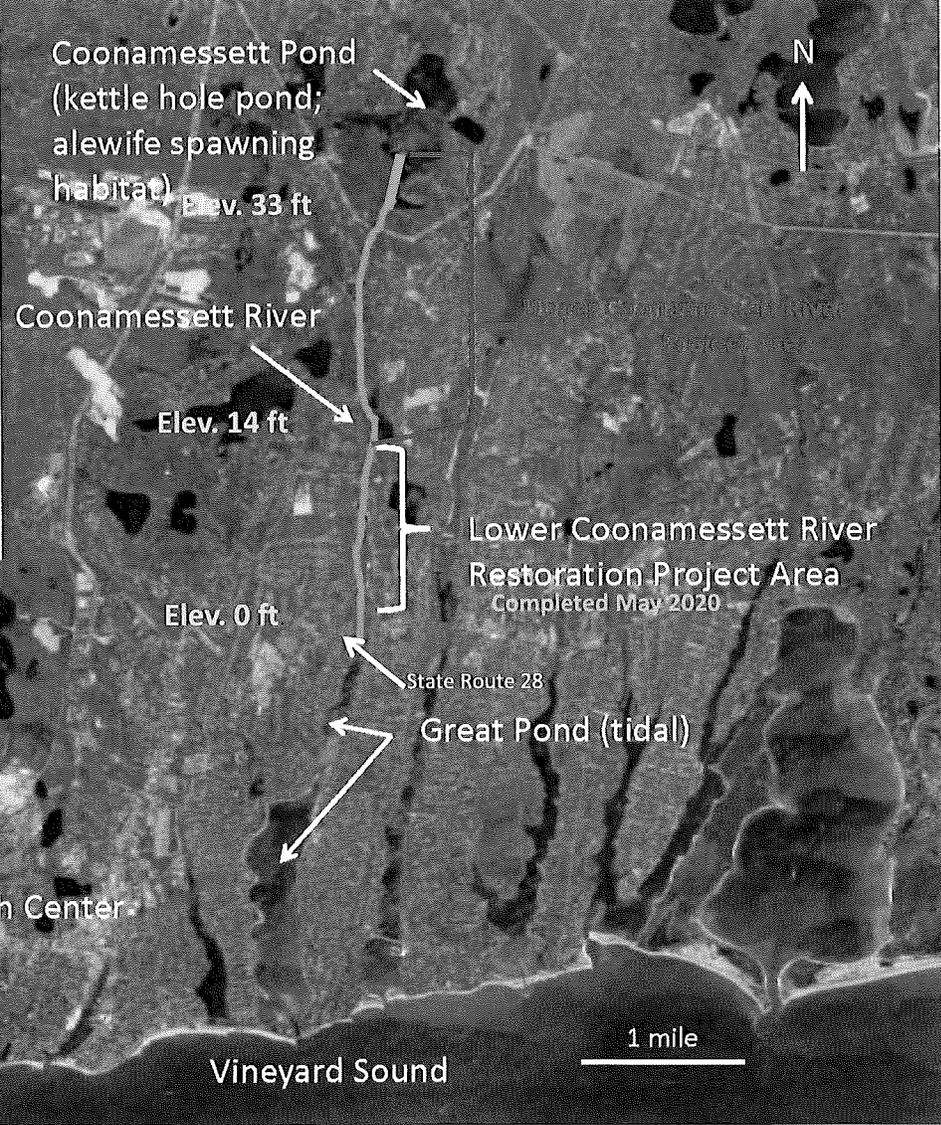
CRRP and CGHT projects, including local, regional, state and federal organizations/agencies as well as local businesses and schools.

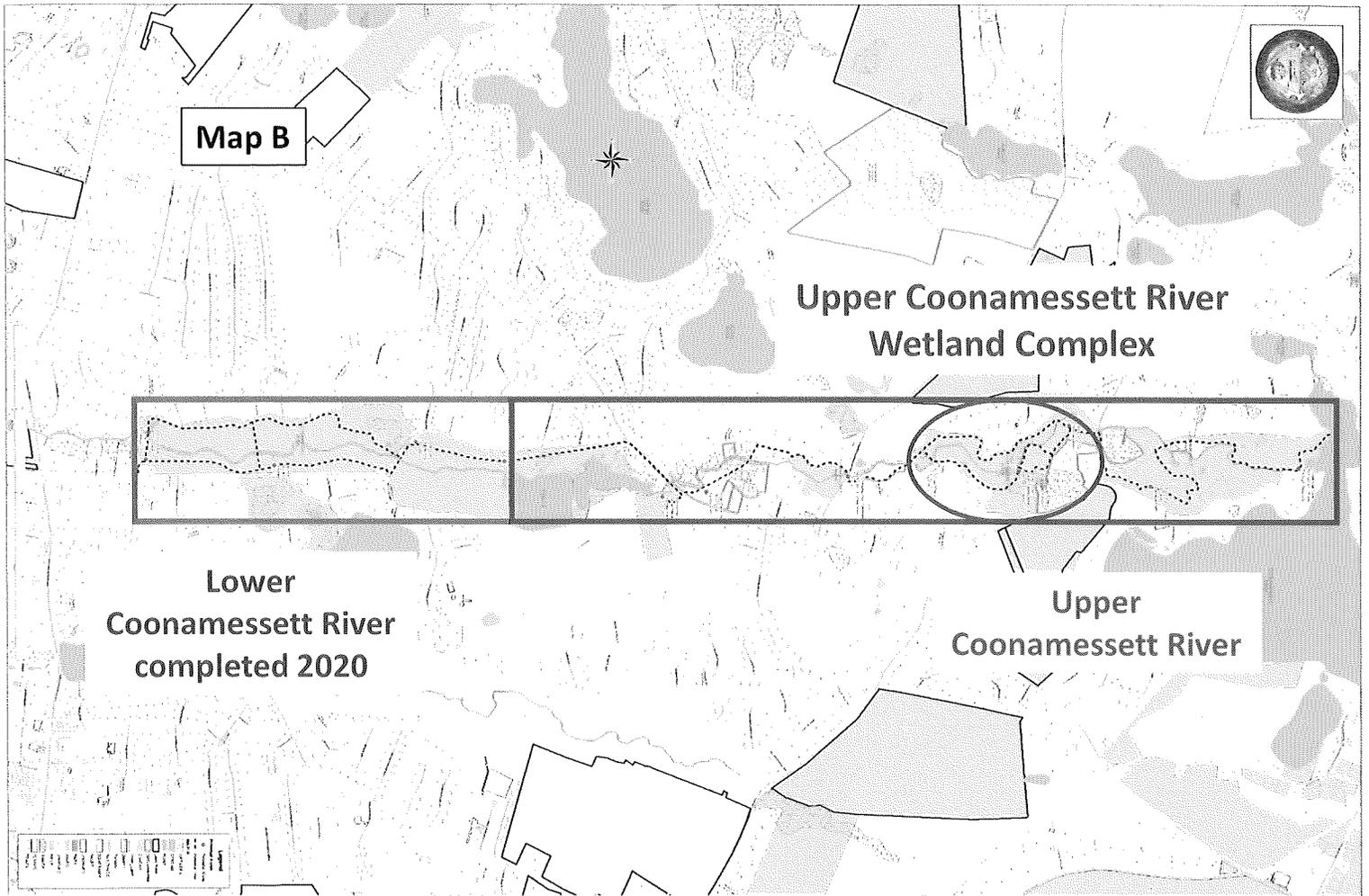
The Coonamessett River is a high-priority watershed for diadromous fish restoration according to the NOAA Restoration Center's Regional Fish Passage Prioritization and the Massachusetts Division of Marine Fisheries (2015). This is, in part, due to the system's resiliency potential.

This proposal seeks to extend priority status for the remaining 2 miles of the Coonamessett River extending from the northern limit of the currently restored section at Pond 14 dam, through the headwater wetlands to Coonamessett Pond (Map B). The goals of restoration are to improve channel habitat, restore wetland connectivity (in a complex of former cranberry bog cells), improve wetland and upland riparian habitat to a self-sustaining natural system, minimizing future maintenance requirements, as well as to maintain and enhance public access and use through the portion of the Heritage Trail that runs through the area. The upper Coonamessett River passes through 23 structures (of which there are 6 partial barriers, 1 significant partial barrier, and 1 complete barrier between the mainstem river and Broad River). The river channel from Pond 14 dam in the south to Coonamessett Pond in the north is 11,257 linear feet in length. There is one dam on Pond 14 with a fish ladder, but much of the river flow bypasses the pond and dam and goes through a large bypass channel. These two channels are tied together downstream of the dam in the restored section of the river.

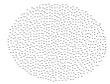
This proposal seeks to begin Part 1 of the upper Coonamessett restoration, an area called the Upper Coonamessett Wetland Complex (UCWC; Map C). It would restore the area of the upper river that lies between Hatchville Road in the north, through the Town owned Baptiste Bogs and finally through a culvert through a berm into Town owned wetlands (Map C; Figs. 1-4). Another culvert connects the southernmost Baptiste bog and the Augusta bogs. Although this stretch of the river has only 3748 linear ft. of river channel (23% of the upper river), the channel passes through 8 culverts (34% of the total in the two miles of the upper Coonamessett). Two of these are insignificant barriers. Of the remaining six (6), four (4) are partial barriers, one (1) a significant partial barrier, and the culvert connecting the river to Broad River, a potential spawning site, is completely blocked for fish passage. These six (6) compromised passages comprise 75% of the problematic barriers in the upper river. There are five bogs retired from cranberry farming (totally 20 acres, plus an additional 0.75 wetland parcel), the upper and lower Baptiste Bogs, which are Town owned. Adjacent to Broad River are wetlands that are on a T3C (The 300 Committee Land Trust) property, the Toner parcel. Downriver from the UCWC, there is a sixth formerly farmed bog, the Romano Bog (also owned T3C); it had been separated from the river channel by vertical sheeting (part of the pollution abatement project described below), but this was removed when the parcel became conservation land. To the south of the Baptiste bogs, there are three (3) actively farmed bogs that belong to two different owners; the Adams bog is separated from the river by vertical sheeting; the Augusta bogs connect to the Lower Baptiste (S) bog by a culvert. Active water control must be an important consideration in the project design. Water control structures are currently managed by the Town Department of Marine and Environmental Services (MES), and fish passage is the responsibility of the Town Herring Warden (Deputy Director of MES).

There is also an Air Force Civil Engineering Center building and well to pump and treat the pollutant EDB (moving in groundwater from the MA Military Reservation, now called Joint Base Cape Cod), as well as another pump house and upwellers associated with the pollution abatement project, all adjacent to the Baptiste bogs. There are a number of wells associated with this project along the length of the river. The pump and treat system was established in 1997 by the Air Force Center for Environmental Excellence (AFCEE; the name has now been changed to AFCEC, Air Force Civil Engineering Center). The pollutant plume has been significantly reduced and by 2018, EDB was no longer detected in surface waters (see Fig. 1). The current 20 year license between the federal government and the Town was signed in 2007.

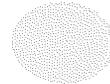




Conservation Lands:

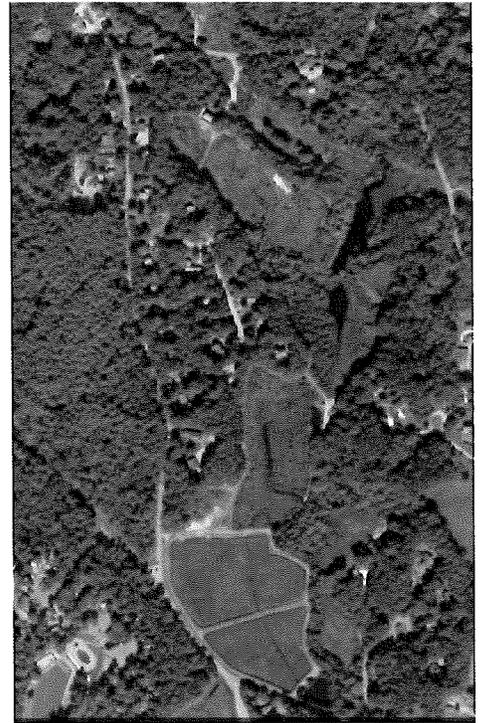
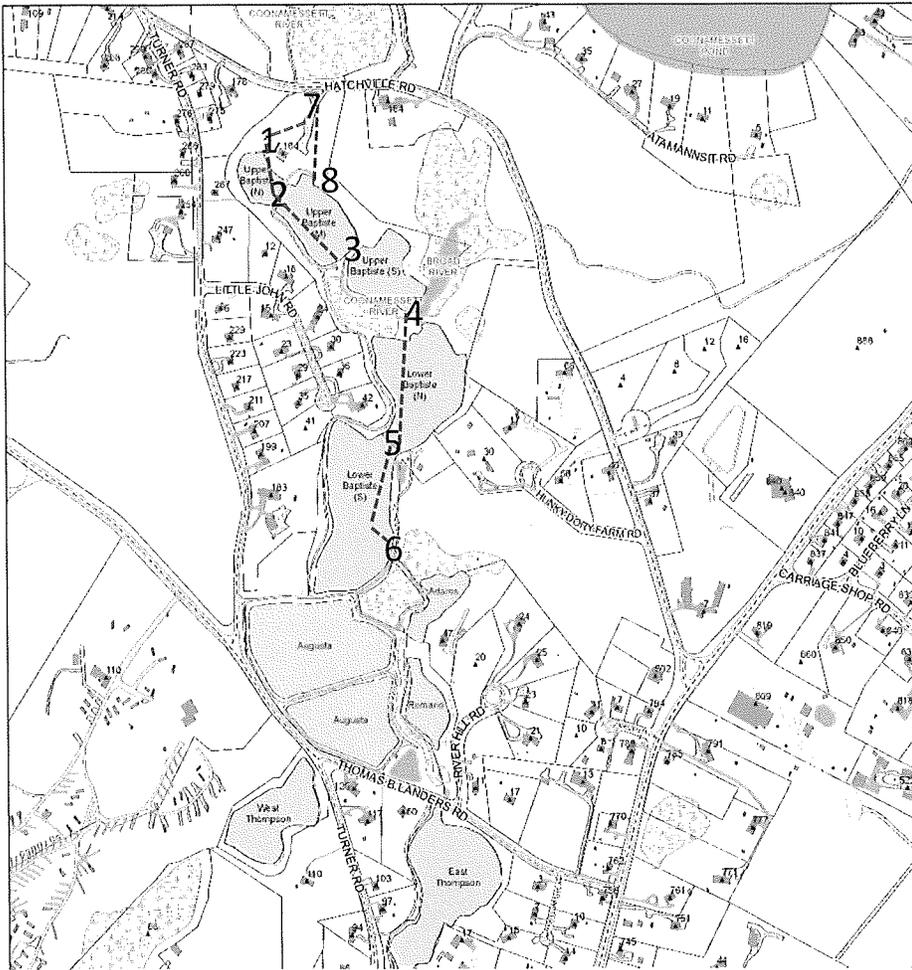


Town of Falmouth



The 300 Committee

Map C





Upper Baptiste (M) Top: looking south
Bottom: at SW corner looking east



Fig. 1



Culvert Between Upper Baptist (N) and
Upper Baptist (M). Culvert #3 on Map C





Fig. 2 Culvert between Upper Baptist (S) on the left and Lower Baptiste (N) on the right
Culvert #5 on Map C

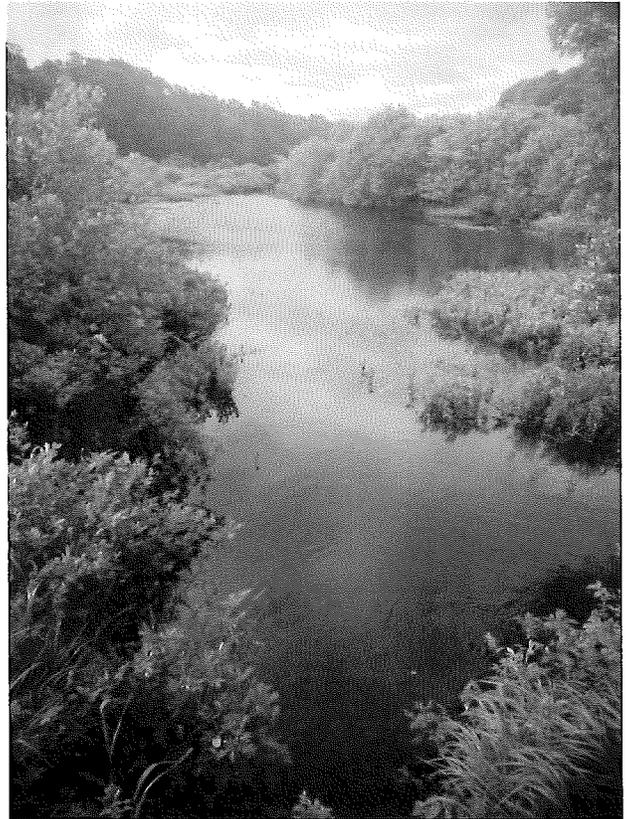
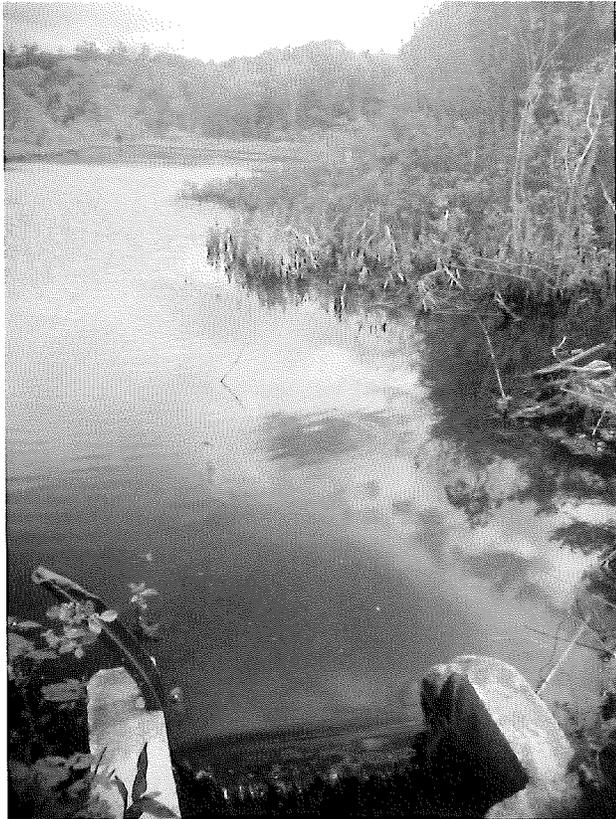


Fig. 3 Culvert between Broad River and the Coonamessett River
Left: Looking northeast across Broad River
Right: Looking southwest downriver towards Lower Baptiste (N)
Marked as * on Map C



Fig. 4

- a. Berm between Lower Baptiste(S) and wetland downstream
- b. Looking west over Lower Baptiste (S)
- c. Looking east, downstream into wetland

This is culvert #7 on Map C



Falmouth Police Department
Chief Edward A. Dunne

June 1, 2020

Meghan English-Braga, Chairman
Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Dear Ms. English-Braga,

We have been designated to receive federal grant funds from the Department of Justice for the FY 2020 Coronavirus Emergency Supplemental Funding (CESF) Grant Solicitation in the amount of \$36,698.00 to be expended on the following:

\$23,000.00 - Personnel (Federal) This money would be paid in the form of overtime and would be utilized to fill the shifts of officers (of all ranks) who are absent from duty due to showing signs of Covid-19, who are quarantined with suspected Covid-19 or who have tested positive for Covid-19. This would also include filling the shifts of officers who have a direct family member who is suffering from, or suspected of suffering from, Covid-19. Additionally, the funding would be used for overtime shifts where we would patrol areas of vulnerable populations who are susceptible to Covid-19 (elderly, disabled, drug/alcohol dependent, etc.) and whose quality of life has been affected by the virus-including seclusion and loneliness and the fear of unlawful behavior.

\$13,698.00 - Supplies (Federal) The gear will be used by Falmouth Police Officers while performing their duties. The protective equipment should greatly reduce the chances of officers becoming infected or infecting others with Covid-19.

Please formally accept this grant at your next scheduled meeting.

Thank you for your attention to this matter.

Sincerely,

Edward A. Dunne
Chief of Police

State	Jurisdiction Name	Government Type	Eligible Allocation
MA	BARNSTABLE CITY	Municipal	\$74,598
MA	BARNSTABLE COUNTY	County	\$58,008
MA	BOSTON CITY	Municipal	\$1,297,757
MA	BRISTOL COUNTY	County	\$58,008
MA	BROCKTON CITY	Municipal	\$267,149
MA	CAMBRIDGE CITY	Municipal	\$86,339
MA	CHELSEA CITY	Municipal	\$102,977
MA	CHICOPEE CITY	Municipal	\$76,170
MA	EVERETT CITY	Municipal	\$42,430
MA	FALL RIVER CITY	Municipal	\$262,806
MA	FALMOUTH TOWN	Township	\$36,698
MA	FITCHBURG CITY	Municipal	\$86,062
MA	FRAMINGHAM TOWN	Township	\$62,396
MA	GARDNER CITY	Municipal	\$50,933
MA	HAVERHILL CITY	Municipal	\$102,146
MA	HOLYOKE CITY	Municipal	\$116,103
MA	LAWRENCE CITY	Municipal	\$173,138
MA	LEOMINSTER CITY	Municipal	\$81,161
MA	LOWELL CITY	Municipal	\$109,540
MA	LYNN CITY	Municipal	\$194,030
MA	MALDEN CITY	Municipal	\$56,665
MA	MARLBOROUGH City	Municipal	\$41,966
MA	NEW BEDFORD CITY	Municipal	\$230,080
MA	NORFOLK COUNTY	County	\$58,008
MA	NORTH ADAMS CITY	Municipal	\$48,439
MA	NORTHAMPTON CITY	Municipal	\$38,454
MA	PEABODY CITY	Municipal	\$47,975
MA	PITTSFIELD CITY	Municipal	\$92,531
MA	PLYMOUTH COUNTY	County	\$58,008
MA	PLYMOUTH TOWN	Township	\$34,111
MA	QUINCY CITY	Municipal	\$107,878
MA	RANDOLPH TOWN	Township	\$32,261
MA	REVERE CITY	Municipal	\$74,321
MA	SALEM CITY	Municipal	\$34,388
MA	SOMERVILLE CITY	Municipal	\$54,538
MA	SPRINGFIELD CITY	Municipal	\$425,682
MA	TAUNTON CITY	Municipal	\$59,162
MA	WAREHAM TOWN	Township	\$33,557
MA	WEBSTER TOWN	Township	\$32,445
MA	WEST SPRINGFIELD TOWN	Township	\$52,228
MA	WEYMOUTH	Township	\$44,927
MA	WORCESTER CITY	Municipal	\$428,550
MA	YARMOUTH TOWN	Township	\$53,246
	Local total		\$5,477,869

Sean Doyle

From: donot-reply@ojp.usdoj.gov
Sent: Thursday, April 23, 2020 9:07 PM
To: James Cummings; Sean Doyle
Subject: GMS Award 2020-VD-BX-0217

Congratulations. You have been awarded a grant by the Office of Justice Programs at the Department of Justice (DOJ). DOJ issued your award in accordance with your legal name and Data Universal Numbering System (DUNS) number as registered in Federal Government's System for Award Management (SAM). In reviewing the award package in step 2 below, please confirm that your legal name and DUNS number are accurate. If this information is incorrect, please contact the Office of the Chief Financial Officer (OCFO) Customer Service at 1-800-458-0786.

Accepting your award is a two step process.

Step 1: Designate a Financial Point of Contact (FPOC) for your award. To designate a FPOC please follow these steps:

1. Log into GMS.
2. Click the "Awards" link on the navigation bar on the left hand side.
3. Click the "View Award Instructions" link to the right of the award you want to accept.
4. A new page displays with this message near the top: "The FPOC designation must be submitted before the Award Package can be accessed." The page contains text boxes highlighted in light yellow to capture the FPOC registration information.
 - a. If information for the FPOC of this award already exists in GMS, the first table entry will contain a box with the text "Available Financial Points of Contact." There is a box with a dropdown arrow to allow the selection of the FPOC. Select the name and click the "Load POC" box. GMS will populate the data entry fields with information from the user Profile. Click the button near the bottom of the page labeled "Submit."
 - b. If the name of the FPOC is not one of the choices using the dropdown arrow, type the appropriate information in each of the fields. Fields with an asterisk (*) are required. Click the button near the bottom of the page labeled "Submit." The FPOC will receive an email requesting them to complete the FPOC registration.
5. Click "Yes" on the confirmation page.
6. You are allowed to assign more than one FPOC to each award. You are able to change the FPOC under the "Manage Users" link on the GMS home page.

NOTE: If you come to the Financial Point of Contact designation screen and the information in the fields are already grayed out and no "Submit" button is available, then the Financial Point of Contact has already been chosen. You will have to accept your award and await confirmation before you can change this designation. If, at that time, you need instructions on how to proceed, you can review the "Creating a Financial Point of Contact instructions" or contact the GMS Helpdesk for assistance.

Step 2. Complete the acceptance process by following these steps:

Click on the "Award Document" link and download the award documents. If you choose to accept the award and ALL the special conditions, you may use either the physical signature process or the electronic signature process as outlined below:

1. Print (or, if signing electronically, download) the Award Document and Special Conditions. Confirm the accuracy of your legal name and DUNS. If accurate, proceed to step 2. If not accurate, please contact the OCFO Customer Service at 1-800-458-0786.

6/15/20

Diane Davidson

From: Frank Duffy
Sent: Friday, May 29, 2020 9:14 AM
To: Julian Suso; Peter Johnson-Staub; Diane Davidson; Jennifer Lincoln
Cc: Irie Mullin
Subject: New Silver Beach Improvement Assoc.

Julian: The BOS needs to revote the NSBIA request to screen the town beach parcel. I suspected something was wrong and Jennifer Lincoln confirmed it. The Board of Selectmen should vote "to authorize the New Silver Beach Improvement Association to file a Notice of Intent with the Conservation Commission for an Order of Conditions to rake/screen the town beach parcel 04A 41 000 098 on Moses Road in the New Silver Beach neighborhood."

The board approved a license. A license is not appropriate until the Conservation Commission issues an Order of Conditions. The license will conform to the Order of Conditions.

Please schedule corrective vote next available date.

Frank K. Duffy, Town Counsel
Town of Falmouth
157 Locust Street
Falmouth, MA 02540
(508) 548-8800 fax (508) 540-0881

CONFIDENTIALITY NOTICE: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege as to this communication or otherwise. If you are not the intended recipient and have received this communication in error, please contact the sender immediately and delete the original message. Thank you.

TOWN OF FALMOUTH
SCHEDULE OF DEPARTMENTAL PAYMENTS TO THE TREASURER

Dept:

Veterans' Services

6/1/2020

FROM	SOURCE#	AMOUNT	TOTAL
Teaticket Eivic Assoc. 6 Narragansett Street E. Falmouth, MA 02536	28543-5660-4830	\$500.00	\$500.00

Donation for Veterans

\$500.00**To the Accounting Officer:**

The above is a detailed list of the monies collected by me amounting in the aggregate to Five Hundred and Dollars, for the period ending 06/01/20, which I have paid to the Treasurer, whose receipt I hold thereof.

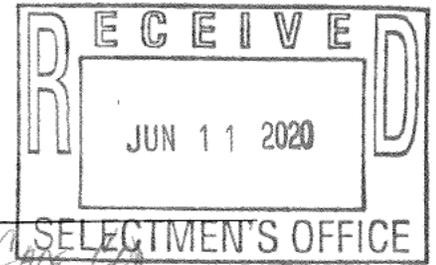

 Julie Cadogan, Principal Office Assistant

To the Department Officer making the payment:

Received from the Veterans' Services Dept. department, the sum of Five Hundred and 00/100 Dollars, for collection as per schedule of this date, 06/01/20 filed in my office.



Town of Falmouth Application for Special Events



CONTACT INFORMATION

Applicant's Name: Food 4 Vets
 Mailing Address: 1015 So. Inner Rd, Joint Base Cape Cod
 Phone: _____ Cell Phone: _____
 E-Mail: _____ Fax #: _____

EVENT DETAILS

Name of Event: Food 4 Vets
 Type of Event: Food pickup for Veterans
 Event Day & Date: 6/25/2020 (1:00pm - 3:00pm) Thurs.
 Rain Date: N/A
 Event Hours: From: 1:00pm To: 3:00pm
 Set-up/Break-down Date(s): 6/25/2020 Time(s): 12 noon setup - 3:00pm Breakdown
 Location Requested:
 1st Choice: RESERVE lot @ Barnstable County Fairground
 2nd Choice: _____

Number of Attendees: 50 Number of Vehicles: 50

Parking Plan: Drive thru / pickup

- Will event include chairs, barriers, tents? Yes or No (tent permit application, if necessary)
- Will event include signs? Yes or No (sign permit application, if necessary)
- Will event be a road race? Yes or No (a. include route map, b. see reverse side for road race rules, and sign)
- Will event include use of Shining Sea Bike Path? Yes or No (see reverse side for bike path rules, and sign)
- Will event include food or beverages? Yes or No (temporary food permit application)
- Will event include alcoholic beverages? Yes or No (one-day liquor license application)
- Will event include entertainment? Yes or No What type? _____

ADDITIONAL INFORMATION

Provide additional detail of your event including requests for use of restroom facilities, electricity, etc.
Food boxes will be brought in by box trucks. Veterans will register and drive up. Volunteers will put food box in CAE & Vets will drive away

Applicant's Signature: [Signature] Date: 6/11/2020

- References:
1. Don Lincoln, Director of Veteran Svcs.
 2. Steve Xarios - CCMSF & MMSF
 3. Don Cox - MMSF

BOARD OF SELECTMEN

Jonathan Dickinson

From: Sari Budrow <ribudrow@yahoo.com>
Sent: Thursday, June 11, 2020 8:37 AM
To: Jonathan Dickinson
Subject: Fwd: Fairgrounds

Sent from my iPad

Begin forwarded message:

From: <wendy@barnstablecountyfair.org>
Date: June 10, 2020 at 2:47:59 PM EDT
To: <ribudrow@yahoo.com>
Subject: Fairgrounds

Hi Sari,

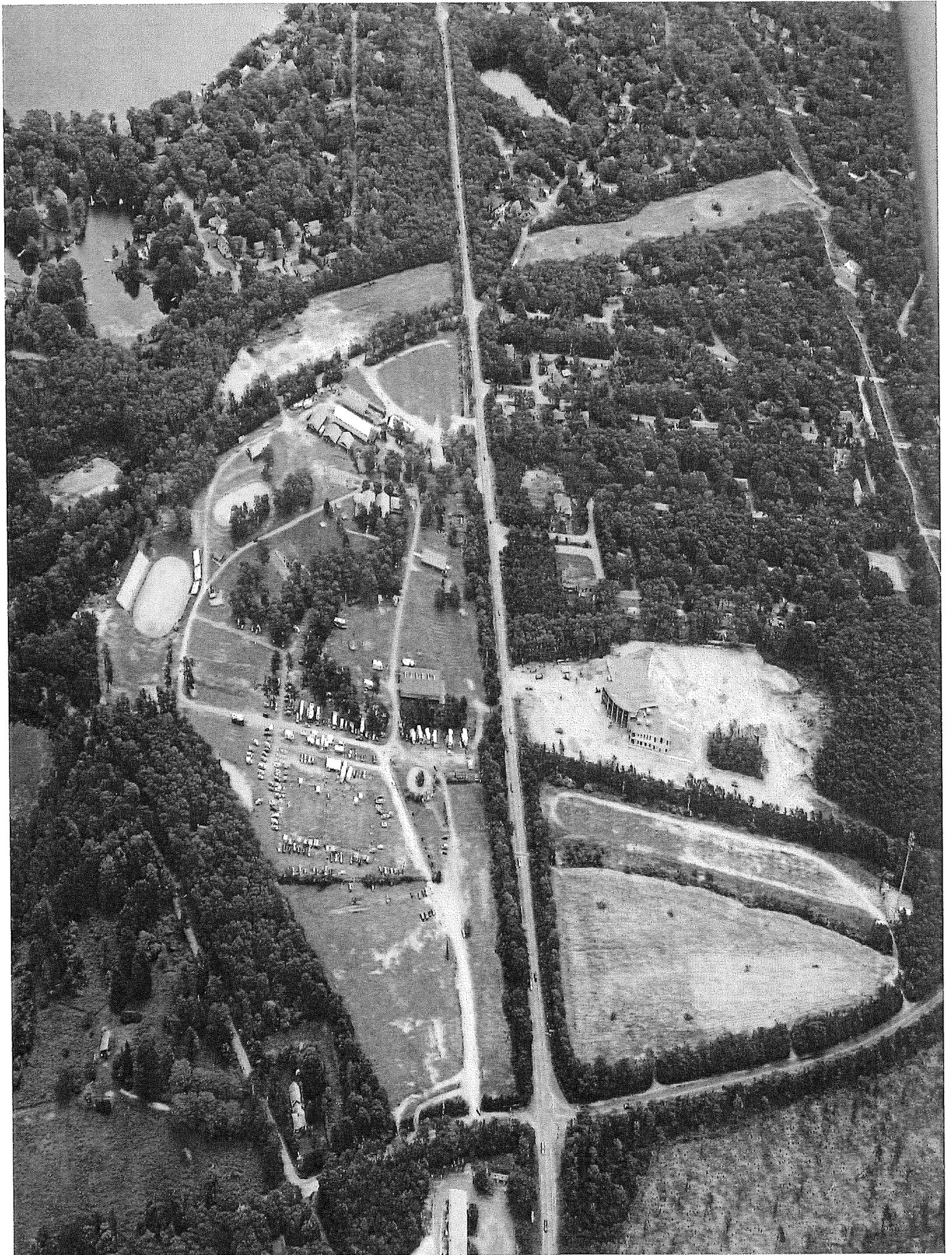
Thanks for your request to use or grounds on June 25th for the food for vets event in our Reserve Lot outside the Administrative Building. I have contacted Noreen to see if Zoning is ok with it and told her you would be contacting the Selectmen and Health department to give clearance for this event with the proper guidelines being adhered to. As I said on the phone there would be no charge just our way of giving back to the Community during these trying days. I will let you know what zoning says and if you can confirm that selectmen and Health are ok we can move forward.

The Reserve lot is the triangle at the top outside the Main Office. It has an entrance on 151 and Ashumet Rd.

Thanks,

Wendy

The health dept. is fine with this operation as there is no food preparation occurring
Scott H. J. 6-11-20



SMASHED THE RECORD!

WE PACKED 2,072 BOXES ON MAY 8 (1,764 PREVIOUS RECORD)



FOOD 4 VETS

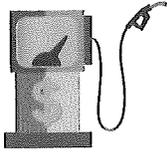
Our mission is to provide
50,000 Vital Food Kits
to Veterans in New England,
who will have limited access
to food due to COVID-19.



Thank you for your continued support!

Donate Now to Fuel Our Mission (<https://www.classy.org/campaign/Food4Vets/c284872>)

MASSACHUSETTS
VETERANS FOUNDATION
**FUEL OUR
MISSION**



Our goal is to deliver 500,000 vital food kits to veterans throughout our region. Each kit will provide nourishment for veterans who have limited access to food and supplies.



As time-critical assistance alike, our Fleet of trucks, led by the "Mighty MEC" (Mobile Emergency Center) will help to deliver goods and services demanded by each charge.



Thank you for your continued support of Our Mission!



<https://www.classy.org/campaign/Food>

Donate Now to Fuel Our Mission
<https://www.classy.org/campaign/Food4Vets/c284872>

UPDATE

Distribution Locations, Times and Instructions:

PRIOR registration is required for ALL locations (see the link after each location to register and read instructions carefully, as each site varies slightly).

FARMER'S MARKET:

- Northborough, MA – American Legion Post 234, [402 West Main Street, Northborough, MA 01532](https://www.google.com/maps/place/American+Legion/@42.3057517,-71.6676362,15.4m5!3m4!1s0x0:0xdacdbfe974eb5d61!8m2!3d42.3057517!4d-71.6676362)
<https://www.google.com/maps/place/American+Legion/@42.3057517,-71.6676362,15.4m5!3m4!1s0x0:0xdacdbfe974eb5d61!8m2!3d42.3057517!4d-71.6676362>.
Saturday, June 13 from 10 am-12 pm. Please [click here](https://clearpathnewengland.formstack.com/forms/boros_cares_4_troops_northboro)
https://clearpathnewengland.formstack.com/forms/boros_cares_4_troops_northboro
to register.

VITAL FOOD KITS:

Massachusetts

https://clearpathnewengland.formstack.com/fbclid=IwAR2vUgtZFT6pIFD7eF_gCGY9e2c4M
to sign up for specific shifts.

Volunteer
https://clearpathnewengland.formstack.com/fbclid=IwAR2vUgtZFT6pIFD7eF_gCGY9e2c4Ma

#Food4Vets

**VITAL MEAL KITS
PACKED TO DATE**

27,135

#Food4Vets **TOTAL MEALS BOXED**

00002,279,340



CAPE COD
MILITARY
SUPPORT
FOUNDATION

MASSACHUSETTS
MILITARY SUPPORT
FOUNDATION



VETERANS
& MILITARY
SUPPORT
FOUNDATION



Food4Vets

Recipes

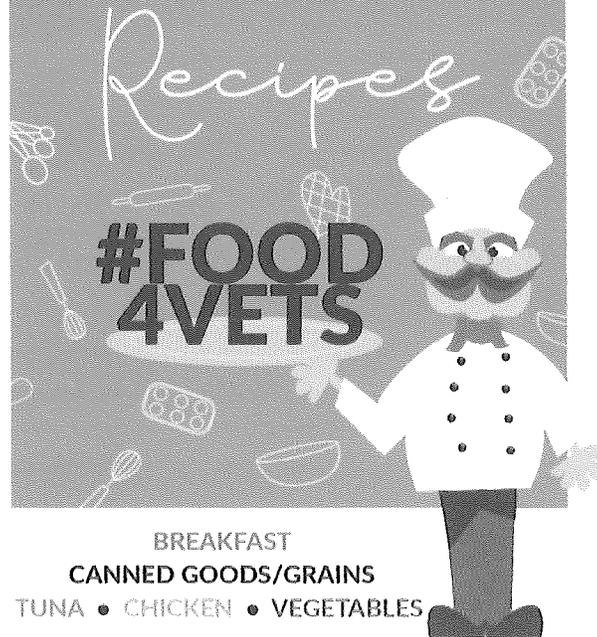
Now that you have your Vital Food Kit, learn how to make these delicious and nutritious recipes! Download our cookbook with recipes specific to ingredients in every box here!

[Food4Vets Recipe Book](#)

https://secureservercdn.net/198.71.233.135/246.979.myftpupload.com/content/uploads/2020/04/Food4Vets_RecipeBook.pdf



SHELTER-IN-PLACE



"Today I benefited from the wonderful Food Drive for veterans in need during the coronavirus pandemic... I was able to pick up your box of 2 weeks worth of healthy food for my wife and myself... This was a great solution. I am grateful for your program and it's creation to deal with problems like this caused by this unusual crisis we are all going through."

David

Diane Davidson

From: Noreen Stockman
Sent: Thursday, June 11, 2020 11:24 AM
To: Diane Davidson; Julian Suso
Cc: Peter Johnson-Staub
Subject: RE: Special Event Request - Food 4 Vets
Attachments: 1220 Nathan S Ellis Hwy.DOCX

Please be advised that the ZBA has issued a special permit for Barnstable County Ag Society for the 2020 summer season. Within the Decision is explicit approval, see Condition #3 on page 4, to provide humanitarian relief (fyi).

Noreen

Noreen H. Stockman
Zoning Administrator
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
508-495-7462

From: Diane Davidson <diane.davidson@falmouthma.gov>
Sent: Thursday, June 11, 2020 10:52 AM
To: Julian Suso <julian.suso@falmouthma.gov>
Cc: Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Noreen Stockman <noreen.stockman@falmouthma.gov>
Subject: Special Event Request - Food 4 Vets

Hi Julian,

Attached is the application for the Food 4 Vets event. It is to be held in the parking lot at the Cape Cod Fairgrounds on Thursday, 6/25/20 from 1:00 p.m. to 3:00 p.m. Therefore, they are requesting that this be placed on Monday's agenda (June 15) for approval.

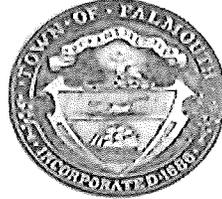
Boxes of food will be brought in by box trucks. Veterans will register and drive up. Volunteers will put a food box in a car and the vet will drive away.

Sari has received approval from Wendy Brown at Cape Cod Fairgrounds. Wendy Brown indicates that she contacted the Zoning Department (I am copying Noreen), and Health has signed off since there is no food preparation occurring.

Thank you,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540*



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

SPECIAL PERMIT NO: 015-20

APPLICANT/OWNER: Barnstable County Agricultural Society, Inc.

SUBJECT PROPERTY: 1220 Nathan E. Ellis Highway, East Falmouth, Massachusetts

Assessor's Map: Map 18 Section 02 Parcel 002 Lot(s) 180, 181,182,183,184,185

Map 18 Section 02 Parcel 002A Lot(s) 359,360,361

Map 18 Section 02 Parcel 003 Lot 000

Map 18 Section 02 Parcel 004 Lot 000

Map 18 Section 02 Parcel 005 Lot 001

Map 18 Section 02 Parcel 006 Lot 002

Map 18 Section 03 Parcel 001 Lot 001

Map 18 Section 03 Parcel 007 Lot 000

Map 18 Section 03 Parcel 008 Lot 000

DEED/CERTIFICATE: Certificate No. 58678 - 50935

SUMMARY: Special Permit granted

PROCEDURAL HISTORY

1. On February 26, 2020, an application was filed by Barnstable County Agricultural Society, 1220 Nathan E. Ellis Highway, East Falmouth Massachusetts (the "Applicant") with the Zoning Board of

Appeals, requesting a special permit to allow non-agricultural event, and parking for a fee at 1220 Nathan E. Ellis Highway, East Falmouth, Massachusetts (the "Premises").

2. Notice was given, as required by M.G.L. Chapter 40 A, Section 9, including notices mailed to all persons deemed to be affected thereby, as they appear on the tax list.
3. The advertised public hearing was opened on April 2, 2020. Board members present included Terrence J. Hurrie, Kenneth Foreman, Robert B. Dugan, Edward Van Keuren, and Mary P. Barry.
4. Wendy Brown, Manager of Barnstable County Agricultural Society appeared before the Board, representing the Applicant.
5. The public hearing was closed on April 2, 2020, following a motion made by Mr. Foreman, seconded by Mr. Van Keuren, and unanimously voted. Minutes of the hearing(s) are on file with the Zoning Board of Appeals.

Letters/E-mails/Information from Applicant/Representative(s)

- Wendy Brown, Manager, submitted an application for a special permit, authorization letter, filing fee and appropriate plans
- Cape Cod Fairgrounds Schedule of Events – 2020
- Map with aerial photo showing designated lots

Letters/Referrals/E-mails from Town Departments

- Referral dated February 28, 2020 from the Water Department – no comment
- Referral dated February 27, 2020 from the Planning Department – no comment
- Referral dated March 1, 2020 from the Fire Department – no comment
- Referral dated March 11, 2020 from the Assessor's - no comment
- Referral dated March 19, 2020 from the Engineering Department – no comment

Letters/E-mails from Abutters/Interested Parties

None

Plans submitted by Applicant/Applicant's Representative

- 'Plot Plan of Land', sheet 1 of 2, dated January 23, 2018,' Plot Plan of Land', sheet 2 of 2, dated January 4, 2017, prepared for Barnstable County Agricultural Society – as drawn by Stephen A. Hass Engineering, Inc., PO Box 16, South Dennis, MA 02660

Hearing:

Voting members: Hurrie, Foreman, Dugan, Van Keuren, and Barry

The Notice of Hearing and referrals were read into the record.

Wendy Brown, Manager for Barnstable County Agricultural Society, appeared before the Board, stating that she was seeking the annual special permit for events at the Barnstable County Agricultural Society. Ms. Brown reported that currently all the May events have been cancelled, due to the state of

emergency related to the Covid 19 viral pandemic. She stated she has not been taking on new events this year, but that they have scheduled a travelling Vietnam Wall opportunity in October.

Given the unique size of the Premises, the Board inquired as to whether the grounds might be utilized as an extra area for Covid testing. Ms. Brown stated they may look into that.

There was Board concern expressed about how to proceed with an approval to use the Premises, given the current state of emergency Covid 19 circumstances, and language was discussed for a motion. Ms. Brown reported that she is in contact with the Police Chief, the County and the Barnstable County Agricultural Society Board, and noted that they would not hold any event that would endanger the public or staff.

Following a motion made by Mr. Foreman, and seconded by Mr. Van Keuren, the Board voted unanimously to close the hearing, and the Board proceeded to deliberate.

Findings:

The subject lots, collectively identified as 1220 Nathan E. Ellis Highway, East Falmouth, Massachusetts (the "Premises") comprises 98 acres, of which 21 acres are designated for the proposed use for non-agricultural event, and parking for a fee. The Premises is sited in the Agricultural A zoning district, the State Zone II District, the Water Resource Protection District, and the Childs River Coastal Pond Overlay District.

1. The Applicant intends to hold non-agricultural events and paid parking at the Cape Cod Fairgrounds, as has been done over many years, which requires an annual permit per By-Law Section 240-160 A.
2. The Applicant is the property owner, and a nonprofit entity.
3. The Applicant has testified that there were no problems or complaints with the programs last year.
4. Due to the current state-of-emergency in Massachusetts and nationwide, due to the novel Corona virus outbreak, it is unknown when public gatherings will be allowed, and under what conditions.

In addition to the above findings, the Board finds that the proposed garage will be in harmony with the general purpose and intent of the By-Law, and does include consideration, as set forth in Section 240-216 of the Code of Falmouth.

The Zoning Board of Appeals weighed the effects of the events at the Premises, as discussed herein, and found that the beneficial effects of granting this special permit outweigh any negative effects there may be. The Board further found that the granting of this special permit will be in harmony with the purpose and intent of the Zoning By-Law, and that the change, extension or alteration shall not be substantially more detrimental to the neighborhood, and will not nullify or substantially derogate from the intent or purpose of the By-Law.

NOW THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, being of the opinion aforesaid, and acting under Section(s) 240-38, 240-109 A and B., 240-160 and 240-18 of the General Code of Falmouth, following a motion made by Ms. Barry, and seconded by Mr. Morse, voted unanimously to grant a special permit to allow non-agricultural events and paid parking at 1220 Nathan E. Ellis Highway,

East Falmouth, Massachusetts (the "Premises"). This special permit shall be subject to the following conditions:

Conditions:

1. The events shall be substantially as provided on the Cape Cod Fairgrounds Schedule of Events – 2020, and the permit shall be applicable for the 2020 calendar year.
2. The events shall not be held until the Federal, State and Town's Covid-19 directive and restrictions are removed or repealed, to allow public events to resume.
3. The Barnstable County Agricultural Society shall not be required to seek a modification of its special permit to allow any activity occurring to provide humanitarian relief, medical testing services or treatment, temporary shelter or continuity of government operations, during a declared local, state or federal emergency.
4. Barnstable County Agricultural Society shall continue to work with the Police and Fire Departments, Board of Health, and Board of Selectmen regarding any approvals or inspections required for any events planned.
5. Any deviation, no matter how minor, from plans submitted and approved by this Board, shall be submitted to the Board for approval, prior to implementation of said change. The Zoning Administrator may make a determination as to whether the changes are minor in nature, and can be approved administratively, or whether they will require a hearing for an amendment. Changes made prior to an approval may be subject to a full hearing, and are at risk that the Zoning Board of Appeals may deny the request.
6. This permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days has elapsed, after the decision had been filed in the office of the Town Clerk with no appeal being filed, or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. (Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit, and that any construction performed under the permit may be ordered undone.)
7. This special permit shall lapse three years from the date on which this decision is filed in the Town Clerk's office, if a substantial use of the Special Permit has not sooner commenced, except for good cause, as determined by the Zoning Board of Appeals.

True Copy Attest:

Noreen H. Stockman, Zoning Administrator

Date Filed With Town Clerk



**TOWN OF FALMOUTH
SPECIAL EVENT PERMIT**

EVENT NAME Sunday Worship Services

NAME Rev. Rebecca Mincieli, John Wesley United Methodist Church

MAILING ADDRESS 270 Gifford Street, Falmouth, MA 02540

EVENT DAY & DATE Sundays, July 5, 2020 – September 6, 2020

RAIN DATE None.

EVENT LOCATION Surf Drive Beach and Parking Lot

EVENT TYPE Sunday Worship Services

ARRIVE/DEPART 7:15 a.m./8:15 a.m. **EVENT HOURS** 7:30 a.m. – 8:00 a.m.

NUMBER OF ATTENDEES 40+ **NUMBER OF VEHICLES** 20+

CONDITIONS:

1. A Beach Department employee will open the gate to Surf Drive parking lot at 7:15 a.m. to allow parishioners into the lot to park and then will let the group out at 8:15 a.m. and lock the gate when everyone has exited the lot.

COVID-19 CONDITIONS:

1. Everyone to maintain social distancing, six feet apart, unless they live in the same household.
2. Everyone must wear masks to the beach.
3. Everyone to bring their own chair and not use the picnic tables.
4. Everyone to leave immediately following the service.

PERMIT FEE \$750.00 (10 days x \$75.00/day) **FILING FEE** \$10.00

DEPOSIT \$300.00 (Refundable at conclusion of event provided that no litter or damage has occurred)

BOARD OF SELECTMEN:



John Wesley United Methodist Church

270 Gifford Street, Falmouth, MA 02540

Rev. Rebecca Mincieli
Cell: (508) 776-1374
Email: PastorRebecca@comcast.net

Office: (508) 548-3050
Email: jwumcfalmouth@comcast.net
Website: www.johnwesleyumc.org

Falmouth Board of Selectmen
Falmouth Town Hall
59 Town Hall Square
Falmouth, MA 02540

June 10, 2020

Dear Madams and Sirs:

As you are aware, you had given approval for John Wesley United Methodist Church to hold our summer worship services at Surf Drive Beach from June 28th through September 6th. Then, with the pandemic, all special events were cancelled, and event organizers were given the option to appeal to you with a modified plan, asking if you would make an exception for a particular event. I am asking for your consideration for our new plan.

I spoke with Maggie Clayton, acting Beach Superintendent, who fully supports our holding these services based on the following:

- We would have everyone maintain social distancing – six feet apart, unless they live in the same household
- We would require everyone to wear masks to beach
- We would require that everyone bring their own chair and would not use the picnic tables
- People would be required to leave immediately after the service and not stay to talk
- We would like to begin on July 5th, which would put us in Phase 3 of the re-opening plan
- There would be a parking lot attendant who would be there to open the gates for those attending the service

There is plenty of space for the people to spread out and still feel part of a worship service. Because of the pandemic, we are not having in person worship, and this is an opportunity for people to fill a spiritual need in a safe and meaningful environment.

We would have the services from July 5th, through September 6th. Since there is no Triathlon or Road Race this year, we would like to meet every Sunday, which would be 10 Sundays total. We would ask that you once again approve the fee waiver, for a total of \$300 (first and last days $\$75 \times 2 = \150), and 75% reduction for the remaining 8 days ($18.75 \times 8 = \$150$).

Thank you very much for your consideration. If possible, I can be present at your meeting in person or online.

Very truly yours,

Rev. Rebecca Mincieli

cc: Maggie Clayton, Acting Beach Superintendent

Diane Davidson

From: Maggie Clayton
Sent: Wednesday, June 10, 2020 3:43 PM
To: Diane Davidson
Cc: Julian Suso; Peter Johnson-Staub
Subject: RE: John Wesley Church Beach Request

Hi, Diane:

I was able to talk to Rebecca before she made the document, so my input (no picnic table usage, mask requirement, delayed start from original date in June in hopes of being in Phase 3, etc.) made it into the proposal. Thank you for confirming.

Best,

Maggie Clayton
Acting Beach Superintendent
Town of Falmouth
(774)392-6900

From: Diane Davidson
Sent: Wednesday, June 10, 2020 11:52 AM
To: Maggie Clayton <maggie.clayton@falmouthma.gov>
Cc: Julian Suso <julian.suso@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>
Subject: FW: John Wesley Church Beach Request

Hi Maggie,

We have received the attached request from Rev. Rebecca Mincieli of John Wesley United Methodist Church for the Select Board to consider a variance for her Sunday Worship events held on Sundays at Surf Drive Beach. She has listed the social distancing safety precautions to be taken, and has noted that she discussed these with you.

Please let me know if you have any additional recommendations for this event. I will place this on the Select Board's agenda on Monday, June 15 for review/approval.

Thank you,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
diane.davidson@falmouthma.gov
(508) 495-7321*

From: Pastor Rebecca [<mailto:pastorrebecca@comcast.net>]
Sent: Wednesday, June 10, 2020 8:53 AM
To: Diane Davidson <diane.davidson@falmouthma.gov>
Cc: Maggie Clayton <maggie.clayton@falmouthma.gov>
Subject: John Wesley Church Beach Request

Hi Diane,

I appreciate you talking with me yesterday. Attached is our request for our summer worship services, based on a new plan that complies with the COVID 19 restrictions. Could we please get on the Select Board agenda on Monday, June 15th?

If you need anything else, please let me know.

Thank you very much,
Rebecca Minciei

Julian Suso

From: Frank Duffy
Sent: Thursday, June 11, 2020 4:41 PM
To: Julian Suso
Cc: Jennifer Mullen
Subject: FW: EDIC (Solar Phase 2) IGA draft
Attachments: EDIC Inter-Governmental Agreement Falmouth and EDIC 5-15-20 Draft.docx; Inter-Governmental Agreement Falmouth and EDIC 5-15-20 RDL Draft (2).docx

Here is the latest iteration of the phase 2 Inter-Governmental Agreement (the top one is a clean copy). This document needs a few tweaks to be complete.

The rent has not been determined because of the EDIC's request to divert it to the Recovery Loan Program. The rent for phase 1 is presently \$1.00 for the first three years and thereafter 50% of the rent the EDIC receives from the solar developer. For the solar array presently at the capped landfill this amounts to \$22,222.22 per MW annually with a 2% annual escalation. There are currently 4MW installed and operational so the total rent is \$88,888.88 and the town is projected to receive \$44,444.44. Phase 2 will add 2MW. The rent for phase 2 is greater (because the federal and state subsidies are different) and will be \$44,412.50 quarterly or \$177,650.00 annually and the town is projected to receive \$88,825.00 annually.

As originally proposed the project was intended to construct a 6MW solar array. However for several reasons only 4MW were constructed. The project was divided into phase 1 (4MW) and phase 2 (2MW).

[My present recommendation is to agree to a commercially reasonable rent at this time.] If at a future date, the EDIC gets authorization for the Recovery Loan Program and the town gets authorization to contribute money to fund it, the rent issue can be renegotiated. I do not recommend language tying the rent to a program that is presently not authorized. In any event I believe any town contribution must be appropriated by town meeting so there may be no need to renegotiate the rent.

This new iteration of the Inter-governmental Agreement merges both phase 1 and phase 2.

A description of the phase 2 area needs to be completed, but it is known to be the remaining 18.8 acres not occupied by the phase 1 solar array. Access, easements and other interests remain the same.

[The Select Board may approve the IGA in principle subject to completion of the issues described above.]

Frank K. Duffy, Town Counsel
Town of Falmouth
157 Locust Street
Falmouth, MA 02540
(508) 548-8800 fax (508) 540-0881

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INTER-GOVERNMENTAL AGREEMENT

BETWEEN

THE TOWN OF FALMOUTH

AND

**THE FALMOUTH ECONOMIC DEVELOPMENT AND INDUSTRIAL
CORPORATION**

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**INTER-GOVERNMENTAL AGREEMENT
BETWEEN
THE TOWN OF FALMOUTH
AND
THE FALMOUTH ECONOMIC DEVELOPMENT AND INDUSTRIAL
CORPORATION**

This Inter-Governmental Agreement (the "Agreement") is entered into this __ day of _____, 2020 (the "Effective Date") and is by and between the Town of Falmouth, Massachusetts ("Town") and the Falmouth Economic Development and Industrial Corporation, a Massachusetts public body politic and corporate organized under M.G.L. c. 121C ("EDIC").

RECITALS

A. Town owns the land described in Exhibit A and located at 0 Blacksmith Shop Road (also known as 458 Thomas B Landers Road) Falmouth, Massachusetts (the "Premises");

B. On behalf of Town, EDIC issued a request for proposals ("RFP") on January 29, 2020 to procure a contractor ("Contractor") to design, procure, install, test, commission, own, operate and maintain a solar photovoltaic system ("PV System") on the Premises for beneficial public purposes;

C. Town wishes to lease the Premises to the EDIC to allow it to work with Contractor for the Contractor to design, procure, install, test, commission, own, operate and maintain a solar photovoltaic system ("PV System") on the Premises;

D. EDIC wishes to assign certain rights and obligations under this Agreement to Contractor to pursuant to a contract between EDIC and Contractor to design, procure, install, test, commission, own, operate and maintain the PV System on the Premises ("Contract"), a form of which is set forth in Exhibit D, hereto;

NOW, THEREFORE, for consideration paid, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Agreement hereby agree as follows.

ARTICLE I: DEFINITIONS

When used in this Agreement, the following terms shall have the meanings given, unless a different meaning is expressed or clearly indicated by the context. Words defined in this Article I which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

"Additional Exceptions" has the meaning set forth in Exhibit A-1 hereto.

“**Affiliate**” means, with respect to any Person, such Person’s general partner or manager, or any other Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person.

“**Applicable Legal Requirements**” means any present and future law, act, rule, requirement, order, bylaw, ordinance, regulation, judgment, decree, or injunction of or by any Governmental Authority, ordinary or extraordinary, foreseen or unforeseen, and all licenses, permits, tariffs, and other governmental consents, which may at any time be applicable to a Party’s rights and obligations hereunder, including, without limitation, the design, procurement, construction, installation, operation, ownership, maintenance, repair, decommissioning and removal of the PV System on the Premises, as well as the selling and purchasing of power therefrom.

“**Bankrupt**” means, with respect to a Party (i) a Party against which a bankruptcy, receivership or other insolvency proceeding is instituted and not dismissed, stayed or vacated within sixty (60) days thereafter; or (ii) a Party that has made a general assignment for the benefit of creditors, become insolvent, or has voluntarily instituted bankruptcy, reorganization, liquidation or receivership proceedings.

“**Business Day**” means a day on which Federal Reserve member banks in Boston are open for business; and a Business Day shall open at 8:00 a.m. and close at 5:00 p.m. Eastern Prevailing Time.

“**Commercial Operation**” means that the PV System is ready for regular, daily operation, has undergone testing as provided in the Contract, has been accepted to the extent required by the Distribution Company, and is in compliance with Applicable Legal Requirements in all respects, and is capable of producing Energy and delivering it to the Point of Delivery.

“**Commercial Operation Date**” means the first day on which the PV System is ready for Commercial Operation, as certified in writing by the Contractor to the EDIC.

“**Commercially Reasonable**” means any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and regulations.

“**Contract**” has the meaning set forth in the Recitals, a form of which is set forth in Exhibit D, hereto.

“**Contractor**” means Falmouth Landfill Solar I, LLC, the third party entity, including successors and assigns, that will design, procure, install, test, commission, own, operate, and maintain the PV System pursuant to the Contract.

“**Distribution Company**” means NSTAR Electric Company d/b/a Eversource Energy or any successor thereto.

“Distribution Company System” means the electric distribution system operated and maintained by the Distribution Company.

“Effective Date” means the date set forth in the introductory paragraph of this Agreement.

“Energy” means the amount of electricity either used or generated over a period of time; expressed in terms of kilowatt hour (“kWh”) or megawatt hour (“MWh”). Energy shall not include renewable energy credits, or any investment or production tax credits under Section 45 of the Internal Revenue Code or otherwise, to the extent that the PV System receives or is entitled to receive any such credits.

“Event of Default” means any event of default as defined in Sections 8.2 and 8.3 of this Agreement.

“Event of Termination” means any event of termination as defined in Section 8.1 of this Agreement.

“Financier” means any individual or entity providing money or extending credit for the PV System to EDIC for: (1) the construction, term or permanent financing of the PV System; or (2) working capital or other ordinary business requirements for the PV System. “Financier” shall not include common trade creditors of EDIC and shall not include any individual or entity providing money or extending credit for the PV System to the Contractor.

“Force Majeure” means any cause not within the reasonable control of the affected Party which precludes that Party from carrying out, in whole or in part, its obligations under this Agreement, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any Governmental Authority acting in its regulatory or judicial capacity; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances or explosions. Nothing in this provision is intended to excuse either Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party’s power to prevent such act, failure to act, or order. Notwithstanding anything in this Agreement to the contrary, *Force Majeure* shall not mean:

- (a) Inclement weather affecting construction, start-up, operation, or decommissioning of the PV System.
- (b) Unavailability of sun.
- (c) Unavailability of equipment, repairs or spare parts for the PV System, except to the extent due to a qualifying event of *Force Majeure*.
- (d) Inability to obtain, maintain or renew any Permit or any delay in obtaining, maintaining, or renewing any Permit, except that the EDIC shall be able to assert Town’s governmental actions on Permits for the PV System as an event of *Force Majeure*.

- (e) Any nonpayment under this Agreement or any third party agreement.
- (f) Economic hardship of either Party.

“Good Engineering Practice” means any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected to accomplish the desired result consistent with reliability, safety, expedition, project economics and Applicable Legal Requirements for similar facilities in the Commonwealth of Massachusetts. Good Engineering Practice is not intended to be limited to consideration of any one practice, method or act, to the exclusion of all others, but rather, is intended to require the consideration of a spectrum of possible practices, methods or acts.

“Governmental Authority” means the United States of America, the Commonwealth of Massachusetts, and any political or municipal subdivision thereof, and any agency, department, commission, board, bureau, independent electric system operator, or instrumentality of any of them, or any court or tribunal.

“Interest Rate” means a fluctuating interest rate per annum equal to the sum of (1) the Prime Rate as stated in the “Bonds, Rates & Yields” section of The Wall Street Journal on the Effective Date and thereafter on the first day of every calendar month, plus (2) two percentage points. (In the event that such rate is no longer published in The Wall Street Journal or such publication is no longer published, the Interest Rate shall be set using a comparable index or interest rate selected by Town and reasonably acceptable to the EDIC.) The Interest Rate hereunder shall change on the first day of every calendar month. Interest shall be calculated daily on the basis of a year of 365 days and the actual number of days for which such interest is due.

“Leasehold Mortgage” has the meaning set forth in Section 11.4.

“Low Income Community Shared Generation Unit” has the meaning set forth in 225 C.M.R. § 20.02.

“Net Energy” means the actual and verifiable amount of Energy generated by the PV System and delivered to the Point of Delivery in excess of any Energy consumed by the PV System as metered in kWh at the Metering Device(s), and in conformance with Applicable Legal Requirements and the Tariff.

“Metering Device(s)” means any and all revenue quality meters installed by Contractor, EDIC or the Distribution Company at, before, or after the Point of Delivery necessary or appropriate for the delivery of Energy into the Distribution Company System.

“Parties” means the Town and EDIC collectively, and their respective successors and permitted assignees.

“Party” means the Town or EDIC individually, and their respective successors and permitted assignees.

“Permits” means all state, federal, county, and local authorizations, certificates, permits, licenses and approvals required by any Governmental Authority for the construction, operation and maintenance of the PV System.

“Permitted Use” means the use, occupation, and enjoyment of the Premises by the EDIC or the Contractor to design, procure, install, test, commission, own, operate, maintain, expand and remove the PV System, all of which are designed and intended for the purpose of producing solar-generated electricity.

“Person” means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trusts, unincorporated association, joint venture, Governmental Authority, or other entity.

“Point of Delivery” means the agreed location or locations on the Premises where Net Energy is to be delivered and received, as further set forth in Exhibit A attached hereto.

“Premises” means the site for PV System and staging area for construction owned by Town which is identified in Exhibit A to this Agreement.

“PV System” means the solar electric generating facility or facilities located on the Premises (with a nameplate capacity of no greater than 2 MW (DC)), including, but not limited to, the PV System Assets as further identified in Exhibit B attached hereto.

“PV System Assets” means each and all of the assets of which the PV System is comprised, including the solar energy panels, mounting systems, carports, tracking devices, inverters, integrators and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Point of Delivery, protective and associated equipment, improvements, Metering Device(s), and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the PV System.

“Real Property Rights” has the meaning set forth in Section 2.1.

“SMART Program” means the Solar Massachusetts Renewable Target Program governed by 225 CMR 20.00, *et seq.*

“Substantial Alteration” has the meaning set forth in Section 5.10.

“Tariff” means the Distribution Company’s Interconnection Tariff and Agreement, M.D.T.E. No. 162-D (Standards for Interconnection of Distributed Generation).

“Term” has the meaning set forth in Section 3.1.

“Termination Date” means the earlier to occur of: (1) the last day of the Term; or (2) the date of termination.

ARTICLE II: LEASE OF PREMISES

2.1 Leased Premises. Town hereby leases to EDIC the possession, use, enjoyment, and control of the Premises (as described in Exhibits A and A-1) for the sole and exclusive purpose of conducting the Permitted Use, as set forth below, subject to the Town's reserved uses as set forth in Article X (Quiet Enjoyment). As shown in Exhibit A, the Town also grants to EDIC an easement for reasonable pedestrian and vehicular access to and egress from the Premises plus the right and easements as may be necessary to construct electric interconnection lines to connect the PV System to the Distribution Company System such that the PV System qualifies as a Low Income Community Shared Solar Generation Unit. Town hereby further agrees and acknowledges that EDIC shall have the right, without any notice to or consent of Town:

- (a) for the PV System to include a total nameplate capacity expected by Contractor to be up to 2MW (DC);
- (b) to fully assign any or all of its rights under this Agreement to Contractor under the Contract, including to: (i) sublease and sublicense the Premises to Contractor; and (ii) provide an easement, as necessary, to Contractor to construct, interconnect, own, operate, maintain, and access the PV System (collectively, the "Real Property Rights"); and
- (c) to fully assign or otherwise delegate any or all of EDIC's rights, privileges or obligations under this Agreement to Contractor, including, without limitation, the right to mortgage its interest in the Premises to finance the PV System.

2.2 The Premises are demised subject to the following:

- (a) any encumbrances shown on the survey of the Premises;
- (b) covenants, restrictions, easements, agreements, and reservations, as set forth in Exhibits A or A-1 attached hereto;
- (c) present and future zoning laws, ordinances, resolutions, and regulations of the municipality in which the land lies, and all present and future ordinances, laws, regulations, and orders of all boards, bureaus, commissions, and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction, so long as they permit or otherwise regulate the use of the Premises for the Permitted Use;
- (d) the condition and state of repair of the Premises as the same may be on the Effective Date;
- (e) all water charges, electric charges, and sewer rents, accrued or unaccrued, fixed or not fixed, from and after the Effective Date arising as a result of the construction and operation of the PV System or any appurtenant facilities or improvements associated with the Permitted Use;
- (f) full compliance by the EDIC of all Applicable Legal Requirements; and

(g) Town's reserved uses, as provided in Article X (Quiet Enjoyment) and set forth in the Additional Exceptions, attached hereto as Exhibit A-1.

2.3 As-Is Condition of the Premises. EDIC accepts the Premises in the condition or state in which the Premises now are without any representation or warranty, express or implied in fact or by law, by Town and without recourse to Town, as to the title thereto, the nature, condition or usability thereof or the use or uses to which the Premises or any part thereof may be put.

2.4 Ownership of the PV System. Prior to and during the Term, Town shall have no ownership interest in the PV System.

2.5 Net Lease. Except as expressly set forth herein, the Parties acknowledge and agree that Town shall not be required prior to or during the Term to make any expenditure, incur any obligation, or incur any liability of any kind whatsoever in connection with this Agreement or the ownership, installation, operation, maintenance, repair or reconstruction of the PV System, subject to the Additional Exceptions set forth in Exhibit A-1.

2.6 Purposes. The Premises shall be used for the sole and exclusive purpose of conducting the Permitted Use. Except with the prior express written consent of Town, EDIC shall not use the Premises for any use other than the Permitted Use.

2.7 Subordination. EDIC acknowledges and understands that this Agreement and all rights of EDIC are subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions, permits, or other matters of record and all existing agreements of the Town with respect to the Premises.

ARTICLE III: TERM

3.1 Term. The term of this Agreement (the "Term") commences on the Effective Date of this Agreement and ends at the earlier of 11:59 PM on the day preceding the twenty-fifth (25th) anniversary of the Effective Date (the "Termination Date") or such date as of which this Agreement may be earlier terminated pursuant to the provisions of this Agreement.

ARTICLE IV: RENT; MAXIMUM FINANCIAL LIABILITY OF THE PARTIES

4.1 Rent. Commencing on the Commercial Operation Date, the EDIC shall pay to the Town a nominal annual rental payment in the amount of one dollar (\$1.00). If the EDIC ceases to operate its Loan Fund, the EDIC shall pay Rent to the Town, commencing in the month in which the Loan Fund ends. For purposes of this Section 4.1: (1) "Loan Fund" means a loan fund to be administered by the EDIC, supported with rent the EDIC receives from the Contractor under the Contract, intended to support small businesses in Falmouth with job retention and expansion; and (2) "Rent" means an annual payment that will be paid monthly in arrears no later than the fifteenth (15th) day following the first day of each month equal to one-half of the rental payment the EDIC receives from the Contractor under the Contract. If the Loan Fund is not operational within one year of the Effective Date of this Agreement, the EDIC shall pay Rent to the Town, which shall be prorated back to the Commercial Operation Date. For purposes of this

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Section 4.1, the Parties acknowledge and agree that the rent paid by Contractor under the Contract as of the Effective Date is \$177,650 per year, paid in arrears on a monthly basis. In the event that the EDIC purchases the PV System from the Contractor, the EDIC will pay to the Town a nominal annual rental payment of one dollar (\$1.00) for the remainder of the Term.

4.2 Maximum Financial Liability of the Parties Pursuant to M.G.L. c. 40, Section 4A. This Agreement is not intended to impose any financial liabilities on the Parties other than as expressly set forth herein.

ARTICLE V: INSTALLATION AND OPERATION OF PV SYSTEM

5.1 General Description; Contractor Acknowledgment. Except as otherwise specified herein, the PV System shall consist solely of the equipment and property described in Exhibit B. Town agrees and understands that all or some of the rights and obligations provided for in this Article may be delegated or assigned by EDIC to Contractor.

5.2 Use of Installation and/or Maintenance Contractors/Subcontractors. EDIC may use qualified contractors and subcontractors to install and/or maintain the PV System, provided that EDIC shall at all times remain fully responsible for the acts and omissions of such contractors or subcontractors. EDIC shall require all installation contractors to reasonably provide performance and payment bonds from a surety company in amounts, form and substance as required under the Contract, naming Town as a direct beneficiary of the surety's obligations under such bonds. Such bonds shall fully protect Town against any and all breaches by Contractor, including, but not limited to, payments of salaries, withholdings, union welfare funds and any other union or employee benefits.

5.3 Governmental Permits. EDIC or Contractor shall obtain at its sole cost all Permits required for the use of the Premises, Permitted Use, and the PV System from any and all Governmental Authorities having jurisdiction in the matter, including the Town in its regulatory capacity. EDIC shall promptly inform Town of all significant developments relating to the issuance of such Permits. Town shall reasonably cooperate with EDIC or Contractor in procuring such Permits. If any changes in such plans and/or specifications are required by any Governmental Authority, then EDIC shall submit such changes, if any, to Town for its approval, which shall not be unreasonably withheld.

5.4 Installation. EDIC will cause Contractor to install the PV System in accordance with Good Engineering Practice and all Applicable Legal Requirements.

5.5 Interconnection with Electric Distribution Grid. EDIC or Contractor shall obtain at their sole cost all Permits and agreements required for interconnection of the PV System to the Distribution Company System. EDIC shall promptly inform Town of all significant developments relating to such interconnection matters. Town shall provide EDIC with such information as EDIC may reasonably request in connection with EDIC's or Contractor's procurement of such Permits and agreements. If any material changes in plans and/or specifications to the PV System are required by the Distribution Company, then EDIC shall submit such changes, if any, to Town for its approval, which shall not be unreasonably withheld.

5.6 Access to and Use of the Premises. EDIC and its contractors or agents shall have access to the Premises on a 24-hour basis, seven days per week.

5.7 Plans and Specifications. Installation of the PV System shall be done according to plans approved by Town, which approval shall not be unreasonably withheld. EDIC shall provide Town with record plans and specifications of the PV System installed on the Premises which show the actual location of the PV System.

5.8 Maintenance Responsibilities. EDIC shall properly maintain or cause Contractor to properly maintain the PV System, conduct all required maintenance, and make all repairs thereto in accordance with Good Engineering Practice. Such obligations shall include, but not be limited to, maintaining the PV System in a condition of Commercial Operation, and taking all actions necessary to comply with the Applicable Legal Requirements. The responsibility of the Contractor and the EDIC for mowing the Premises is set forth in Exhibit A-1 hereto.

5.9 Manufacturer's Warranty. EDIC shall ensure that each manufacturer of equipment and parts comprising the PV System provides a warranty as further described in the Special Terms and Conditions set forth in Attachment D to the RFP and as set forth in the Contract.

5.10 Alterations. EDIC shall have the right from time to time both before and after the completion of the PV System and at EDIC's sole cost and expense to make additions, alterations and changes, structural or otherwise in or to the Premises as is reasonably required to conduct the Permitted Use in compliance with the provisions of this Agreement, subject, however, in all cases to the following:

- (a) No alteration shall be made which would tend to (i) materially change the general design, use, character or structure of the PV System, or (ii) increase, reduce or impair, to any material extent, the use of the PV System for the generation of electricity, subject to Applicable Legal Requirements (any such alteration, a "Substantial Alteration");
- (b) No Substantial Alteration shall be commenced except after prior written notice to and consent from Town, which consent shall not be unreasonably withheld;
- (c) Any alteration or Substantial Alteration shall be made with reasonable dispatch, in accordance with Good Engineering Practice, and in compliance with all Applicable Legal Requirements; and
- (d) No later than completion of any alteration or Substantial Alteration, EDIC will provide Town with complete copies of all final plans and specifications therefor not previously provided.

5.11 Town Cooperation. Town shall have the following duties under this Agreement:

- (a) to act expeditiously, cooperatively and in good faith in facilitating any Permits necessary for the construction and operation of the PV System (i.e., a landfill post-closure use permit from the Massachusetts Department of Environmental Protection);

(b) to cooperate with EDIC and/or Contractor to the extent reasonable and appropriate on issues regarding access, construction, on-site electrical metering and consumption, and interconnection.

(c) to perform any maintenance and/or monitoring obligations imposed by a Permit on the Town (i.e., a landfill post-closure use permit from the Massachusetts Department of Environmental Protection), subject to the Additional Exceptions set forth in Exhibit A-1.

5.12 Emergencies. The Parties agree that Town shall have the right, but not the obligation, to respond to any emergency or equipment failure involving the PV System if necessary to protect the Premises or to protect public health or safety, and to effectuate any necessary repairs or take corrective action.

5.13 Damage. Any damage done by EDIC to the Premises during installation or during operations shall be repaired at EDIC's expense as soon as practicable, but no later than forty-five (45) Business Days after notification of damage, or sooner if immediate repair is required to prevent further damage to such property. For such time as Contractor is the owner of the PV System, the EDIC shall have no responsibility to repair damage to the Premises not caused by the EDIC.

ARTICLE VI: EDIC'S REPRESENTATIONS, WARRANTIES, AND ADDITIONAL COVENANTS

6.1 EDIC's Representations and Warranties. As of the Effective Date of this Agreement, EDIC represents and warrants to Town as follows:

- (a) EDIC has full legal capacity to enter into this Agreement;
- (b) The execution of this Agreement has been duly authorized, and each person executing this Agreement on behalf of EDIC has full authority to do so and to fully bind EDIC;
- (c) EDIC knows of no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting EDIC or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this Agreement or EDIC's ability to carry out its obligations under this Agreement; and
- (d) None of the documents or other written or other information furnished by or on behalf of EDIC to Town or its agents pursuant to this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.

6.2 EDIC's Covenants. In addition to the other covenants set forth in this Agreement, EDIC covenants to Town as follows:

- (a) EDIC shall promptly inform Town of the occurrence of any event that may reasonably be expected to materially affect the operation of the PV System or the performance of EDIC's obligations under this Agreement (including, but not limited to, any notices of default under any third party contract and the occurrence of any event that may result in the imposition of material liability or obligations on EDIC or Town); and
- (b) EDIC shall provide Town such other information as Town may reasonably request in order to review EDIC's compliance with the terms of this Agreement.

**ARTICLE VII: TOWN'S REPRESENTATIONS, WARRANTIES,
AND ADDITIONAL COVENANTS**

7.1 Town's Representations and Warranties. As of the Effective Date of this Agreement, Town represents and warrants the following to EDIC:

- (a) Town has full legal capacity to enter into this Agreement;
- (b) Town has the power to perform all of its obligations hereunder and the right to grant EDIC the right to assign the Real Property Rights to Contractor;
- (c) The execution of this Agreement has been duly authorized, and each person executing this Agreement on behalf of Town has full authority to do so and to fully bind Town;
- (d) Town knows of no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting Town or its properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity or enforceability of this Agreement or Town's ability to carry out its obligations under this Agreement;
- (e) With the exception of Contractor, on the Effective Date, pursuant to Article X (Quiet Enjoyment), no third party shall have any tenancy or license to use all or any portion of the Premises during the Term, except as provided for in Section 10.2 and the Additional Exceptions set forth in Exhibit A-1;
- (f) Town agrees that it has read and fully understands the form of Contract (attached as Exhibit D to this Agreement), including all rights granted to Contractor thereunder; and
- (g) Town warrants that it owns the Premises in fee simple, and the Premises are free and clear of all liens, encumbrances and restrictions except those listed in Exhibit A.

7.2 Town's Covenants. In addition to the other covenants set forth in this Agreement, Town covenants to EDIC as follows:

- (a) that throughout the Term, Town shall not interfere or allow a third party to interfere with the sun affecting the PV System; and
- (b) that throughout the Term, Town shall continue to bear responsibility for the operation and maintenance of the Town's landfill on the Premises in accordance with Applicable Legal Requirements. The Parties acknowledge that Contractor or EDIC may assume responsibility for mowing a portion of the landfill on the Premises in accordance with Exhibit A-1 to the Contract.

ARTICLE VIII: TERMINATION; DEFAULT; REMEDIES; PURCHASE OPTIONS

8.1 Termination. Subject to Section 8.4 (*Force Majeure*), this Agreement shall not be subject to termination, except for the following Events of Termination:

- (a) Either Party may terminate this Agreement in the event a material Event of Default pursuant to Section 8.2 (Events of Default by Town) or 8.3 (Events of Default by EDIC) prevents operation of the PV System for twelve (12) months, except with respect to *Force Majeure* events.
- (b) EDIC shall terminate this Agreement in the event that EDIC abandons the PV System prior to Commercial Operation.
- (c) EDIC may terminate this Agreement in the event of an Event of Default by Town pursuant to Section 8.2 (Events of Default by Town).
- (d) EDIC may terminate this Agreement in the event that Town breaches its obligations and duties pursuant to Article X (Quiet Enjoyment).
- (e) EDIC may terminate this Agreement in the event that the Contract is terminated by either EDIC or Contractor, except to the extent the Contract is terminated due to EDIC's exercise of a purchase option for the PV System.

8.2 Events of Default by Town. The following shall each constitute an Event of Default by Town:

- (a) Town breaches any material obligation under this Agreement, and fails to cure such breach within thirty (30) Business Days after notification by EDIC of the breach;
- (b) If any material representation or warranty made by Town in Article VII of this Agreement (Town's Representations, Warranties, and Additional Covenants) proves to have been misleading or false in any material respect when made and to have a material adverse effect on the EDIC, and Town does not cure the underlying facts so as to make

such representation or warranty correct and not misleading within ten (10) Business Days of written notice from EDIC;

(c) Town fails to carry out its obligations and duties pursuant to Article X (Quiet Enjoyment); or

(d) Any other material breach of this Agreement, which proves to have a material adverse effect on the EDIC, not specifically enumerated above.

Events of Default in this Section 8.2 are subject to specific performance and monetary damages pursuant to Section 8.5 (Remedies).

8.3 Events of Default by EDIC. It shall constitute an Event of Default by EDIC if EDIC:

(a) breaches any material obligation under this Agreement that proves to have a material adverse effect on Town and fails to cure the breach within thirty (30) Business Days after notification by Town of the breach; or

(b) any material representation or warranty made by EDIC in Article VI (EDIC's Representations, Warranties and Additional Covenants) proves to have been misleading or false in any material respect when made and to have a material adverse effect on the Town, and EDIC does not cure the underlying facts so as to make such representation or warranty correct and not misleading within ten (10) Business Days of written notice from Town.

Events of Default in this Section 8.3 are subject to specific performance and monetary damages pursuant to Section 8.5 (Remedies).

8.4 Force Majeure. Notwithstanding Sections 8.1 (Termination), 8.2 (Events of Default by Town) and 8.3 (Events of Default by EDIC), if by reason of *Force Majeure* either Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (a) the non-performing Party, as soon as practicable (and in any event within five (5) Business Days after the *Force Majeure* event first prevents performance), gives the other Party hereto written notice describing the particulars of the occurrence; (b) the suspension of performance be of no greater scope and of no longer duration than is required by the *Force Majeure* event; (c) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (d) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If an event of *Force Majeure* continues for a period of one hundred eighty (180) days or longer, either Party may treat such an event as an Event of Termination and may immediately terminate this Agreement by sending the non-performing Party a written termination notice setting forth the Termination Date, provided, however, that the other Party may not terminate this Agreement if the non-performing Party is using Commercially Reasonable efforts to cure the Event of Termination and the non-performing Party provides reasonable written assurances that it will be able to cure such Event of

Termination within an additional one hundred eighty (180) days. In the event of termination under this Section 8.4, Financier shall have step-in rights as provided in Section 8.6.

8.5 Remedies.

In the event the defaulting Party fails to cure the Event of Default within the period for curative action under Sections 8.2 (Events of Default by Town) or 8.3 (Events of Default by EDIC), as applicable, the non-defaulting Party may seek specific performance and/or monetary damages pursuant to this Section 8.5.

For breach of any provision for which an express remedy or measure of damages is provided, such express remedy or measure of damages will be the sole and exclusive remedy, the obligor's liability will be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly provided herein, the obligor's liability will be limited to direct actual damages only, such direct actual damages will be the sole and exclusive remedy and all other remedies or damages at law or in equity are waived.

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT.

8.6 Step-in Rights of EDIC Financier.

(a) Town agrees to give written notice to any EDIC Financier of which Town has written notice upon the occurrence of any Event of Default hereunder, and EDIC Financier shall have a period of sixty (60) days after receipt of said notice to cure such default, provided however, that EDIC Financier shall have an additional reasonable period of time thereafter, not to exceed one hundred eighty (180) days, to cure the Event of Default if the EDIC Financier uses Commercially Reasonable efforts to cure such Event of Termination during the initial sixty (60) days after notice aforesaid, and the EDIC Financier provides reasonable written assurances that it will be able to cure such Event of Default within such a reasonable period of time thereafter.

(b) Town agrees that, prior to termination pursuant to Section 8.1 (Termination), Town shall give written notice to any EDIC Financier of which Town has written notice upon the occurrence of any Event of Termination hereunder, and the EDIC Financier shall have a period of one hundred eighty (180) days after receipt of said notice to cure such Event of Termination, provided however, that the EDIC Financier shall have an additional one hundred eighty (180) days to cure the Event of Termination if the EDIC Financier uses Commercially Reasonable efforts to cure such Event of Termination during the initial one hundred eighty (180) days after notice aforesaid, and the EDIC

Financier provides reasonable written assurances that it will be able to cure such Event of Termination within the additional one hundred eighty (180) days.

(c) Town also agrees that, in the event that Town terminates this Agreement pursuant to Section 8.1 (Termination), then a new agreement shall be executed by Town with the EDIC Financier to assume the EDIC's place, upon the same terms and conditions as are contained in this Agreement; provided, however, that any such new agreement will be for the unexpired term of this Agreement and provided further, nothing herein shall be construed to alter any substantive terms which would expand the rights of EDIC Financier or extend or expand Town's obligations hereunder.

8.7 Damage or Destruction of PV System.

(a) EDIC shall bear the risk of loss to the PV System (including casualty, condemnation or *Force Majeure*), except to the extent such loss results from the gross negligence of the Town or Town's agents, representative, customers, vendors, visitors, employees, contractors, or invitees.

(b) In the event of any PV System loss, EDIC shall, at its sole cost and expense either (i) repair or replace the PV System, or (ii) elect to terminate this Agreement in which case EDIC shall remove the PV System and promptly restore the Premises to substantially the same condition as existed prior to the Effective Date in accordance with Section 8.8 (Site Restoration). Town and EDIC acknowledge and agree that for such time as Contractor is owner and operator of the PV System, in the event of damage or destruction of the PV System not caused by the gross negligence of EDIC or Town or EDIC's or Town's agents, representatives, customers, vendors, visitors, employees, contractors, or invitees, the Contractor's and EDIC's obligations upon PV System loss set forth in the Contract shall control over this Section 8.7.

8.8 Site Restoration. On the Termination Date, EDIC shall peaceably and quietly leave, surrender and yield up unto Town the Premises. Following the Termination Date of this Agreement, EDIC shall have one hundred twenty (120) days to remove the PV System from the Premises, and to restore the Premises to the condition that existed as of the Effective Date. Town and EDIC acknowledge and agree that for such time as Contractor is owner and operator of the PV System, the Contractor's obligations for site restoration and PV System removal in the Contract shall control over this Section 8.8.

8.9 Abandonment of PV System. Notwithstanding anything to the contrary contained in this Agreement, any waiver in whole or in part of the requirement to remove the PV System shall require the written approval of Town. Any of the PV System left on the Premises after the passage of one hundred twenty (120) days after the Termination Date shall be deemed abandoned. Town shall provide written notice to the EDIC within thirty (30) days of the expiration of such one hundred twenty (120) day period, of its election to retain all or any of the PV System as its property, or dispose of all or any of the PV System in such reasonable manner as Town may see fit and at EDIC's sole cost; provided, however, that Town's election to retain all or any portion of the PV System as its property shall relieve EDIC from any liability for its

failure to remove such PV System; and provided further, however, that the foregoing shall not apply to any portion of the PV System that is not timely removed if the failure to remove is caused by an event of Force Majeure or the negligent acts or omissions of Town (in which event, in either case the time period for removal shall be extended on a day for day basis).

8.10 Acknowledgement of EDIC's Purchase Option. Town agrees and understands that EDIC shall have an option to purchase the PV System under the Contract upon the tenth (10th), twelfth (12th) and fifteenth (15th) anniversaries of Commercial Operation and upon expiration of the term of the Contract ("Purchase Option"). The EDIC shall provide the Town with written notice sixty (60) days prior to the tenth (10th), twelfth (12th) and fifteenth (15th) anniversaries of Commercial Operation, or expiration of the term of the Contract, as the case may be, stating its intention to purchase or not purchase the PV System. In the event that EDIC exercises its purchase option under the Contract, this Agreement shall continue in full force and effect. In the event that the EDIC does not intend to purchase the PV System, the Town shall have until the tenth (10th), twelfth (12th) and fifteenth (15th) anniversaries of Commercial Operation or term expiration of the Contract, as the case may be, to notify the EDIC of its intent to purchase the PV System. In the event that the Town exercises its purchase option pursuant to this Section 8.10:

- (a) EDIC and the Town will enter into an assignment agreement and other documents as may be reasonably necessary to complete the assignment of the EDIC's Purchase Option under the Contract to the Town;
- (b) EDIC will make no representations or warranties of any kind in connection with the assignment of its rights and obligations under the Contract. In any assignment instrument between the EDIC and the Town, to the extent permitted by law, the Town shall indemnify and hold harmless the EDIC and its directors, officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages and expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of, or involving any one of the foregoing parties to the extent arising, directly or indirectly, from or in connection with:
 - (x) any material breach by Town of its obligations, covenants or representations or warranties contained in the assignment instrument;
 - (y) Town's failure to perform or discharge, as and when due, the duties and obligations of the EDIC assigned to Town including any claims by Contractor or the then owner of the PV System regarding Town's failure to perform or discharge, as and when due, such duties and obligations;
 - and (z) all debts, liabilities and obligations arising out of or in any way relating to the PV System after the Transfer Date (as defined in the Contract).
- (c) This Agreement shall terminate upon the Transfer Date (as defined in the Contract).

ARTICLE IX: INSURANCE

The Parties agree to comply with the insurance obligations allocated to them in Exhibit C hereto.

ARTICLE X: QUIET ENJOYMENT

10.1 Quiet Enjoyment. Town covenants that EDIC shall quietly have and enjoy the Premises throughout the Term and any extensions thereof. Town warrants and agrees that, throughout the Term and any extensions thereof:

- (a) the Premises shall be dedicated to EDIC's use for conducting the Permitted Use and designing, constructing, operating, maintaining, repairing, and expanding the PV System, except as provided for in Section 10.2 and subject to the Additional Exceptions set forth in Exhibit A-1;
- (b) any other uses of the Premises by Town or any third party (other than Contractor) pursuant to Section 10.2 and the Additional Exceptions set forth in Exhibit A-1 shall not unreasonably interfere with the Permitted Use and the operational and solar requirements of the PV System;
- (c) Town shall maintain or obtain any agreements, contracts, consents, Permits, approvals, or other instruments or permissions necessary for EDUC to have the quiet enjoyment of its rights under this Agreement; and
- (d) Town shall, in good faith, use its best efforts to protect EDIC's quiet enjoyment of its rights hereunder, including, without limitation, defending against a third party claim that would materially interfere with EDIC's rights under this Article X.

Subject to the specific provisions of this Agreement permitting the same, Town shall have the right to enter upon the Premises at any time for any purpose and no such entry which complies with the provisions of this Agreement permitting the same shall be considered a breach of the covenant of quiet enjoyment.

10.2 Town's Reserved Uses. Except as specifically set forth in the Additional Exceptions contained in Exhibit A-1, Town shall not itself conduct any other use, nor shall Town allow any third party to conduct any other use, on the Premises.

ARTICLE XI: ASSIGNMENT AND MORTGAGE

11.1 Assignment.

- (a) EDIC Assignment. Except as otherwise provided by this Agreement, EDIC shall not assign, subcontract, sublet or delegate its rights, privileges or obligations under this Agreement without the prior written approval of Town, provided that prior notice to or consent of Town shall not be required: (i) for any assignment or transfer by EDIC to Contractor; and (ii) for a collateral assignment by EDIC to any EDIC Financier, subject to the terms and conditions of this Article XI. For assignments requiring Town's approval, approval may be denied in the reasonable discretion of Town if it determines that the proposed assignee does not have at least the same financial and technical ability as the EDIC. EDIC's assignee shall agree in writing to be bound by the terms and conditions of this Agreement.

(b) Town Assignment. Town shall not assign this Agreement without the prior consent of EDIC, such consent not to be unreasonably withheld, provided, however, that any such assignment shall be made subject to the terms and provisions of this Agreement. Town shall promptly provide EDIC a copy of the assignment document following any assignment.

The rights and obligations created by this Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the respective Parties hereto. Notice of any permitted assignment shall be provided to the other Party as soon as practicable.

11.2 Financing by Leasehold Mortgage. In the event that EDIC exercises a purchase option for the PV System under the Contract, Town is cognizant of the need of EDIC to finance its interest in the Premises and the PV System thereon, and therefore specifically agrees, subject to Section 8.6, without any further request for prior consent to permit EDIC to mortgage, assign or transfer its interest in the Premises for the purpose of obtaining financing, which shall include equity and/or debt, provided:

- (a) The term of such mortgage, assignment or transfer shall not exceed the Term; and
- (b) EDIC shall give Town notice of the existence of any mortgage, assignment or transfer, together with the name and address of the mortgagee, assignee or transferee, and a copy of the mortgage, assignment or transfer document within thirty (30) days of the execution of such mortgage, assignment or transfer.

11.3 Financing by Leasehold Mortgage Release of EDIC. EDIC shall be relieved from its obligations under this Agreement in whole or in part, as the case may be:

- (a) by any whole or partial disposition of EDIC's interest in this Agreement in compliance with Section 11.1, when coupled with a written instrument signed by the assignee or transferee of such interest in which said assignee or transferee accepts and agrees to be bound by the terms of this Agreement, unless the Parties agree otherwise, and except as otherwise provided by the terms of any assignment or transfer; and
- (b) in the event of any foreclosure by a Financier, in which case the Financier shall substitute for the EDIC for purposes of this Agreement.

Absent express written consent of Town, the execution of a mortgage or any assignment from a Financier to another Financier shall not relieve EDIC from its obligations under this Agreement.

11.4 Financier Provisions. Any Person or entity that holds or is the beneficiary of a first position mortgage, deed of trust or other security interest in this Agreement or in any PV System located on the Premises arising from an assignment, mortgage or other transfer of interest from EDIC (any such first position mortgage, deed of trust or other security interest is referred to herein as a "Leasehold Mortgage") shall, for so long as its Leasehold Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth herein. No Leasehold Mortgage shall encumber or affect in any way the interest of Town or Town's fee interest in and to the Premises, or Town's rights under this Agreement. Town shall act

expeditiously, cooperatively and in good faith in facilitating any amendments to this Agreement requested by Financier in connection with the financing of the PV System.

(a) Financier's Right to Possession, Right to Acquire and Right to Assign. Pursuant to the provisions of this Section 11.4 and subject to Section 8.6, a Financier shall have the right: (i) to assign its security interest; (ii) to enforce its lien and acquire title to the leasehold estate by any lawful means; (iii) to take possession of and operate the PV System or any portion thereof and to perform all obligations to be performed by EDIC hereunder, or to cause a receiver to be appointed to do so, subject to the terms and conditions of this Agreement; (iv) to acquire the leasehold estate by foreclosure or by an assignment in lieu of foreclosure; and (v) to sell the PV System to a third party. Town's consent shall not be required for the Financier's acquisition of the encumbered leasehold estate created by this Agreement, whether by foreclosure or assignment in lieu of foreclosure.

(b) Upon the Financier's acquisition of the leasehold estate, whether by foreclosure or assignment in lieu of foreclosure, Financier shall have the right to sell or assign said acquired leasehold estate, provided Financier and proposed assignee (as applicable) shall first satisfy each of the following conditions: (i) any such assignee shall be approved in advance by Town, such approval not to be unreasonably conditioned, withheld or delayed; (ii) any such assignee shall assume all of EDIC's obligations under this Agreement; (iii) Financier and/or any proposed assignee shall have satisfied every obligation of EDIC existing under this Agreement but which remains unsatisfied at the time of the proposed assignment; and (iv) Financier and any such assignee shall satisfy all Applicable Legal Requirements.

(c) Notice of Default; Opportunity to Cure. The Financier shall be entitled to receive notice of any default by EDIC, provided that such Financier shall have first delivered to Town a notice of its interest in the Leasehold Mortgage in the form and manner, if any, provided by state laws, rules, regulations, EDIC's procedures, and the provisions of this Agreement. If any notice shall be given of the default of EDIC and EDIC has failed to cure or commence to cure such default within the cure period provided in this Agreement, then any such Financier, which has given notice as above provided, shall be entitled to receive an additional notice that EDIC has failed to cure such default and such Financier shall have sixty (60) days after such additional notice to cure any such default or, if such default cannot be cured within sixty (60) days, to diligently commence curing within such time and diligently pursue such cure to completion within such time as EDIC would have been allowed pursuant to Article VIII (Termination; Default; Remedies; Purchase Options) but as measured from the date of such additional notice. The Financier may take possession of the Premises and the PV System, and operate the PV System if necessary, pursuant to Section 8.6.

(d) Cross-Default/Cross-Collateralization. The Leasehold Mortgage shall not contain any cross-collateralization or cross-default provisions relating to other loans of EDIC (or any subsidiary or Affiliate of EDIC) that are not incurred for the ownership, construction, maintenance, operation, repair or financing of the PV System.

- (e) Priority in Payment. The Financier shall have priority over Town with respect to payments owed by EDIC.

ARTICLE XII: DISPUTE RESOLUTION; GOVERNING LAW

12.1 Dispute Resolution. Unless otherwise expressly provided for in this Agreement, the dispute resolution procedures of this Section 12.1 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties. In the event that the Parties cannot resolve a dispute by informal negotiations, the Parties agree to submit the dispute to mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. The period for mediation shall commence upon the appointment of the mediator and shall not exceed sixty (60) days, unless such time period is modified by written agreement of the Parties. The decision to continue mediation shall be in the sole discretion of each Party. The Parties will bear their own costs of the mediation. The mediator's fees shall be shared equally by the Parties. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, the sole venue for judicial enforcement shall be Barnstable County Superior Court, Massachusetts. Notwithstanding the foregoing, injunctive relief from such court may be sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement.

12.2 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and shall be construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts without regard to principles of conflicts of law.

12.3 Stay of Termination.

(a) During informal negotiations and mediation pursuant to Section 12.1, the Parties shall not exercise any termination rights pursuant to this Agreement. During such informal negotiations and/or mediation, the Parties shall continue to fully perform their respective obligations pursuant to this Agreement. All applicable statutes of limitation and defenses based upon the passage of time and similar contractual limitations shall be tolled while discussions in Section 12.1 are pending, and the Parties shall take such action, if any, required to effectuate such tolling. Without prejudice to the procedure set forth in Section 12.1, a Party may file a complaint for statute of limitations purposes, if in its sole judgment such action may be necessary to preserve its claims or defenses.

(b) During the term of the Contract, if there is any lawsuit pending between EDIC and Contractor, Town shall not exercise any termination rights pursuant to this

Agreement and shall continue to fully perform its obligations under this Agreement. As to any claims that arise between the Parties under this Agreement, all applicable statutes of limitation and defenses based upon the passage of time and similar contractual limitations shall be tolled while such lawsuit is pending and the Parties shall take such action, if any, required to effectuate such tolling. Notwithstanding the foregoing, Town may file a complaint for statute of limitations purposes, if in its sole judgment such action may be necessary to preserve its claims or defenses. This provision may be waived by the EDIC at any time by any reason.

ARTICLE XIII: MISCELLANEOUS

13.1 Construction; Obligation to Modify Agreement.

(a) As set forth in Section 5.2 (Use of Installation and/or Maintenance Subcontractors) herein, EDIC may perform or have Contractor perform all or some of its obligations hereunder. To the extent Contractor is performing EDIC's obligations hereunder it will do so pursuant to the Contract, which contains the mandatory contract terms set forth in Attachment C to the RFP. The Parties acknowledge that inconsistencies may exist between this Agreement and the Contract and that the Parties will use their best efforts to construe the two agreements harmoniously. If a conflict arises between the Contractor's performance of EDIC's obligations hereunder pursuant to the Contract and the terms of this Agreement, the Parties will use their best efforts to reach a Commercially Reasonable resolution of the conflict. To the extent the Parties are unable to resolve such conflict, the Parties acknowledge and agree that their sole remedy shall be to utilize the Dispute Resolution procedures set forth in Section 12.1 of this Agreement.

(b) Upon implementation by the Department of Public Utilities or other Governmental Authority of any rule or regulation that may affect any provision of this Agreement, in particular any rule or regulation regarding the SMART Program, the Parties shall be obligated to amend this Agreement to conform to such rule(s) and/or regulation(s) to the extent that such amendments are Commercially Reasonable. The Parties shall use their best efforts to conform such amendment to the original intent of this Agreement and to do so in a timely fashion.

13.2 Notices. All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and addressed to the following:

If to Town:

Town of Falmouth
Town Manager
Town Hall, 59 Town Hall Square
Falmouth, MA 02540
Phone: 508-495-7320
Fax: 508-457-2573
Email: townmanager@falmouthmass.us

with a copy to:

Frank K. Duffy, Jr.
Town Counsel
157 Locust Street
Falmouth, MA 02540
Phone: 508-548-8800
Fax: 508-540-0881
Email: frank.duffy@falmouthma.gov

If to EDIC:

Falmouth Economic Development and Industrial Corporation
Attention: Chair
59 Town Hall Square
Falmouth, MA 02540

with a copy to:

Jeffrey M. Bernstein, Esq.
BCK Law, P.C.
271 Waverley Oaks Road, Suite 203
Waltham, MA 024522
Phone: 617-244-9500
Fax: 802-419-8283
Email: jbernstein@bck.com

Notices hereunder shall be deemed properly served: (a) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (b) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Agreement; or (c) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Agreement. Either Party may change its address and contact person for the purposes of this Section 13.2 by giving notice thereof in the manner required herein.

Commented [AE2]: Frank – should we include electronic notice give current times?

Notices may also be transmitted by electronic mail, provided that any notice transmitted solely by electronic mail which is not confirmed as received by the receiving party shall be followed up by personal delivery or overnight delivery within forty-eight (48) hours.

13.3 Entire Agreement; Amendments; Binding Effect. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This Agreement may only be amended or modified by a written amendment to this Agreement signed by both Parties hereto. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

13.4 Expenses. Each Party hereto shall pay all expenses incurred by it in connection with its entering into this Agreement, including but not limited to, all attorneys' fees and expenses.

13.5 No Joint Venture. Nothing herein contained shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Parties are individual and not collective in nature.

13.6 Joint Workproduct. This Agreement shall be considered the workproduct of both Parties hereto, and, therefore, no rule of strict construction shall be applied against either Party.

13.7 Waiver. No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

13.8 Severability. If any article, section, phrase or portion of this Agreement is, for any reason, held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such article, section, phrase, or portion so adjudged shall be deemed separate, severable and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such adjudication, provided the basic purpose of this Agreement and the benefits to the Parties are not substantially impaired.

13.9 Further Assurances. From time to time and at any time at and after the execution of this Agreement, each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other and shall take any other action consistent with the terms of this Agreement that may be reasonably requested by the other for the purpose of effecting or confirming any of the transactions contemplated by this Agreement.

13.10 Headings and Captions. The headings and captions appearing in this Agreement are intended for reference only, and are not to be considered in construing this Agreement.

13.11 Survival. Termination of this Agreement for any reason shall not relieve Town or EDIC of any obligation accrued or accruing prior to such termination, including, but not limited to, the obligations set forth in Article IX (Insurance) and XII (Dispute Resolution; Governing Law), which shall survive the expiration or termination of this Agreement. Article IX (Insurance) shall expire three (3) years after the Termination Date, including any extensions thereof, of this Agreement.

13.12 Counterparts; Scanned Copy. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The Parties agree that a scanned or electronically reproduced copy or image of this Agreement bearing the signatures of the Parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an

original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this Agreement first be proven.

13.13 Reports; Compliance with M.G.L. c. 40, Section 4A. EDIC shall prepare an annual report which shall be provided, without charge to the Town no later than sixty (60) days after the close of its fiscal year. EDIC shall keep accurate and comprehensive records of services performed, costs incurred, and reimbursements and contributions received. EDIC agrees that it will perform regular audits of such records. Periodic financial statements shall be issued to the Town. EDIC shall comply with all applicable provisions of M.G.L. c. 40, §4A.

13.14 No Limitation of Regulatory Authority. Except as provided in Section 2.1(c)(Leased Premises), the Parties acknowledge that nothing in this Agreement shall be deemed to be an agreement by Town to issue or cause the issuance of any permit or approval, or to limit or otherwise affect the ability of the Town or the Commonwealth of Massachusetts to fulfill its regulatory mandate or execute its regulatory powers consistent with Applicable Legal Requirements.

[Signature page to follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

EDIC

Falmouth Economic Development and Industrial Corporation

By: _____
Name: _____
Title: _____

59 Town Hall Square
Falmouth, MA 02540

TOWN

Town of Falmouth

By: _____
Name: _____
Title: _____

Town Hall
59 Town Hall Square
Falmouth, MA 02540

List of Exhibits to this Agreement

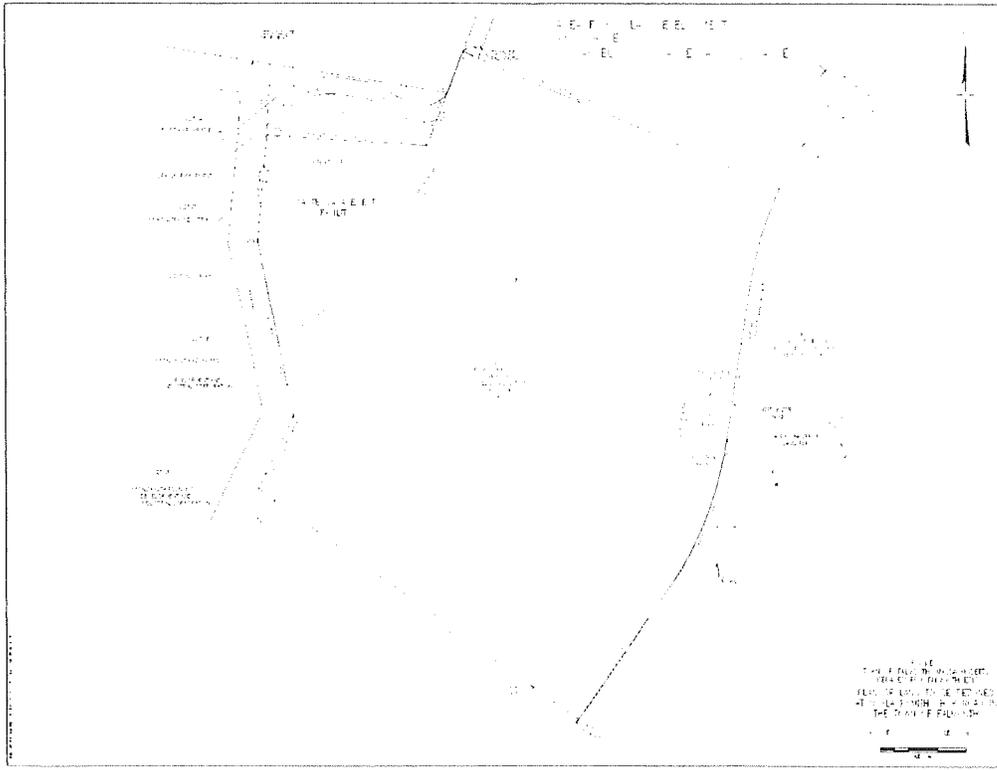
- Exhibit A – Description of Premises
- Exhibit A-1 – Additional Exceptions
- Exhibit B – Description of PV System
- Exhibit C – Insurance Requirements
- Exhibit D – Form of Contract

EXHIBIT A
DESCRIPTION OF PREMISES

Address: Town of Falmouth Department of Public Works Waste Management Facility, 0 Blacksmith Shop Road (also known as 458 Thomas B Landers Road), Falmouth, MA

Legal Description: That 48.16 acre portion of the Falmouth Department of Public Works Waste Management Facility shown on Falmouth Assessors Map 16 Section 01 Parcel 015 Lot 000, located west of Blacksmith Shop Road and south of Thomas B. Landers Road and as further described in the plans set forth below.

Commented [AE3]: I suggest replacing this with a version that identifies the acreage the Phase II PV system is built on. And I suggest replacing the Exhibit A in the Phase I IGA with a version that identifies the acreage the Phase I PV System is built on. Citizens has these two documents – this seems the cleanest approach unless the Town has a different approach.



Description of the Property: The Property shall further include all necessary electrical and other utility sources, together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property for the purpose of design, procurement, installation, interconnection, testing, commissioning,

ownership, operation, inspection, maintenance, repair and improvements and removal of the PV System.

EXHIBIT A-1

ADDITIONAL EXCEPTIONS

EDIC and Contractor's use of the Premises shall be subject to the following:

1. Full compliance by the EDIC and/or Contractor in all respects with the terms and conditions of the Falmouth Landfill Waste Management Facility Administrative Consent Order SE-96-4002 dated April 16, 1996, as amended from time to time.
2. Full compliance by the EDIC and/or Contractor in all respects with the terms and conditions of any and all post-closure use permits or orders granted at any time throughout the Term by the Massachusetts Department of Environmental Protection regarding the landfill located on the Premises.
3. For such time as Contractor is the Owner of the PV System, the Contractor shall be responsible for mowing the area of the Premises located within the fence surrounding the PV System and the EDIC shall be responsible for mowing the remaining area of the Premises.

Town's reserved use of the Premises:

1. Town will have continued operation or maintenance responsibilities required pursuant to the Falmouth Landfill Waste Management Facility Administrative Consent Order SE-96-4002 dated April 16, 1996, as amended from time to time, and the terms and conditions of any and all post-closure use permits or orders granted at any time throughout the Term by the Massachusetts Department of Environmental Protection regarding the landfill located on the Premises, to be conducted at the sole expense of the Town. EDIC will use its best efforts to cooperate with Town's prosecution and completion of such work.

EXHIBIT B

DESCRIPTION OF PV SYSTEM

The PV System is a solar electric generation facility to be located on at the Town's closed landfill. The facility will consist of approximately [xx] photovoltaic modules mounted on a [xx] ground mount system. The solar array will utilize approximately [xx] inverters to convert the energy output from direct current (DC) to alternating current (AC). A transformer will then step up the voltage of the AC output to the level of the interconnecting utility's distribution line.

At such time that Contractor can fully describe the PV System, the Parties shall replace this Exhibit B in its entirety.

PV SYSTEM:

System Manufacturer: _____

Nameplate Capacity: _____

Approximate Annual Energy Production:

_____ kWh

Location: _____

Mounting Systems: _____

Inverters: _____

Integrators: _____

Related Equipment: _____

Electric Lines: _____

Permits: _____

EXHIBIT C
INSURANCE REQUIREMENTS

A. EDIC's insurance obligations. EDIC shall secure and maintain, at its own expense, throughout the Term of this Agreement the following insurance coverage. EDIC shall provide Town with evidence, reasonably satisfactory to the Town, of its insurance hereunder, upon request.

1. *Comprehensive commercial general liability insurance* of at least \$2,000,000 combined single limit. This limit requirement may be satisfied by (i) the purchase of the specified limits in an individual policy, or (ii) with the purchase of additional umbrella or excess liability insurance which, in combination with the limits of the separate policies, provides the total limit required.
2. *Excess liability* coverage of at least \$10,000,000.
3. *Additional insurance requirements.* All insurance maintained by EDIC shall:
 - a. Include as additional insured Town but only for obligations arising out of this Agreement. The policies shall be endorsed to require that such additional insureds receive at least thirty (30) days' notice of cancellation or non-renewal.
 - b. Such insurance shall contain a standard separation of insureds clause, whereby the actions of one insured will not negate coverage for another insured.
 - c. The insurance may be provided on a claims-made basis.
 - d. In the event such insurance is cancelled or non-renewed, EDIC agrees to provide a 36 month discovery period endorsement for obligations under this Agreement.
 - e. The insurance shall include coverage for bodily injury liability, property damage liability, advertising injury liability and personal injury liability.
 - f. The insurance shall include blanket contractual liability coverage, including coverage for this Agreement.

B. Town's insurance obligations. Town shall secure and maintain, at its own expense, throughout the Term of this Agreement the following insurance coverage. Town shall provide EDIC and/or Contractor with evidence, reasonably satisfactory to the EDIC and/or Contractor, of its insurance hereunder, upon request.

1. **Commercial general liability insurance** written on an occurrence basis and endorsed to include its independent contractors, bodily injury liability, property damage liability, personal injury liability, premises/operations liability, and broad form general liability, with limits of not less than \$3,000,000 combined single limit and annual aggregate. This limit requirement may be may be satisfied by (i) the purchase of the specified limits in an individual policy, or (ii) with the purchase of additional umbrella or excess liability insurance which, in combination with the limits of the separate policies, provides the total limit required.

2. **Property insurance** on the Premises with a waiver of subrogation rights against the EDIC and Contractor.

EXHIBIT D
FORM OF CONTRACT

Commented [AE4]: The Sublease is under review but is in substantially the same form as the Sublease for the Phase I PV System.

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
MONDAY, JUNE 1, 2020
SELECT BOARD'S MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the June 1, 2020 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. *The meeting will be televised via Falmouth Community Television.*
2. *Real-time public comment can be addressed to the Select Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.*
 - a. *Zoom Login instructions:*
 - i. *Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/BOSSB>.*
 - ii. *Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.*
3. *Additionally public comments may be sent in advance of the meeting to selectboard@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.*
4. *Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Select Board's Office to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Town Manager's Office at townmanager@falmouthma.gov so they may be displayed for remote public access viewing.*

Select Board Members Present: Chair English Braga English Braga, Chair; Doug Brown, Co-Chair; Doug Jones; Sam Patterson; Nancy Taylor.

Also Present: Julian Suso, Town Manager; Frank Duffy, Town Attorney; Peter Johnson-Staub.

1. Call to Order by Co-Chair Brown at 7 p.m.
2. Pledge of Allegiance
3. Reorganization of the Select Board

Mr. Jones motion to appoint Ms. English Braga as Chair of the Select Board (SB). Second Mr. Patterson. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye. Ms. English Braga recused herself from the vote.

Mr. Patterson motion to appoint Mr. Brown as CoChair of the SB. Second Chair English Braga. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Chair English Braga, aye; Mr. Jones, aye. Mr. Brown recused himself from the vote.

Mr. Patterson is liaison for the following committees:
Affordable Housing

Communication Preservation
Conservation Commission
School
Finance Committee

Mr. Jones motion to appoint Mr. Patterson as the SB member to the EDIC. Second Chair English Braga. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Ms. English Braga, aye.

Mr. Brown is liaison for the following committees:
Beach
Coastal Ponds
Building
Planning Board
Waterways
Marks Building
He will consider the Traffic Advisory
Mr. Brown is interested in the Assembly of Delegates position

Mr. Jones is liaison for the following committees:
Agricultural Commission
Housing Authority
Golf Advisory
Recreation
Library
Zoning Board of Appeals

Ms. Taylor is liaison for the following committees:
Affirmative Action
Disabilities
Human Services
Substance Use Commission
Veteran's Council

Mr. Brown suggested the Select Board cover the Fire Station Search Committee may need a liaison, maybe the SBBQSSB can cover the meetings once they are up and running again.

~~Chair~~ Chair English Braga will be liaison to the remaining committees, including the Board of Health.

4. Recognition

Mr. Brown recognized the Governor's office.

Mr. Brown recognized the passing of George Floyd and events since. Mr. Jones noted the vigil and importance that we all step forward to make changes, what happened is unacceptable. The silent vigil was peaceful, respectful, wearing masks, and social distancing. He is very proud of this Town.

Ms. Taylor was at the vigil and noted that there were many young people who attended and took it seriously.

5. Announcements

Town Meeting recommended date for Monday, June 22 at 6 p.m. with Moderator David Vieira.

6. Public Comment-none.

SUMMARY OF ACTIONS

1. Administrative Orders

- a. Vote to sign letter of support for Municipal Vulnerability Preparedness (MVP) Action Grant application for Woods Hole sewer force main relocation evaluation

Mr. Suso noted information is in packet and recommendation was received from Amy Lowell and the Waste Management Committee.

Mr. Jones motion approval. Second Mr. Patterson. All aye. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye. Absent: Ms. English Braga.

- b. Vote to accept grant funding in the amount of \$6,000.00 from the Executive Office of Public Safety and Security Highway Safety Division - FY2020 Pedestrian and Bicycle Safety Enforcement and Equipment

Mr. Jones motion approval. Second Mr. Patterson. All aye. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye. Absent: Ms. English Braga.

- c. Approve execution of Memorandum of Understanding (MOU) with Cape Light Compact related to Green Communities Initiative

Mr. Suso made a report, anticipated moving towards Green Communities designation, the adoption of the stretch code allows them to take the next step. No local match is required, this is a retroactive request with a 5/22/20 deadline. He executed the MOU with understanding it would bring to the SB tonight to affirm this to occur. He spoke to Chair English Braga when it was clear the deadline would not align with the next BOSSB meeting. Tom Bott, Town Planner, will be the Town representative.

Mr. Patterson motion approval. Second Mr. Jones. All aye. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye. Absent: Ms. English Braga.

- d. Authorize application for Community Development Block Grant (CDBG) funding for Microenterprise Loan Program and related social services to benefit eligible small businesses and others in Falmouth

Mr. Suso explained that they have been working with EDIC and others to explore potential funding availability for Community Block Grant.

This was further discussed and voted on during the hearing later in this meeting.

- e. Authorize installation at end of Worcester Court of "Take a Book" library, for 2020 only to assess the outcome, in collaboration with Department of Public Works and Library Department

Mr. Suso was Contacted by Sandy Trainor, and Linda Collins, Library Director, this exists in other Falmouth locations. Collaborate with DPW so installation occurs where it will be complimentary.

Sandy Trainor, Jericho Path, became a member of the Falmouth Heights Maravista Neighborhood Association. She was going to have it on her property, this would be a way to support something good in the community. She went to the DPW for permission, the box has already been built. She sent photos of the sites on Worcester Court, but since then the bushes have been cut down. She suggested where the benches and bushes are located would be a nice place for it but is agreeable to anything.

Library Director Linda Collins, they are very supportive of this and there are 6 other libraries around Town, only 1 is year round.

Chair English Braga noted that DPW will be able to assist in proper placement and installation. Ms. Trainor will reach out to Mr. McConarty to work out installation.

Ms. Collins said curbside delivery began today to those who called and reserved them. Takeaway programs for adults and teens, next couple days will be with children and families. People can call and let them know what they would like, then leave them outside on a table. Just doing this from the main branch at this time.

Mr. Brown motion approval to authorize. Second Mr. Patterson. All aye. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.

- f. Vote to accept donation from Robert and Susan Catalano on behalf of David's Old Silver Swim, Inc. in the amount of \$500.00 to the Beach Department Donation Account for the "Dare to be Great" award to a lifeguard

Mr. Jones motion approval. Second Mr. Patterson. All aye. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.

7:30 p.m. PUBLIC HEARINGS

1. Discuss proposed application to the Department of Housing and Economic Development for a Microenterprise Loan Program and related social services utilizing Community Development Block Grant – COVID-19 funding available to eligible municipalities

Mr. Suso read the public notice. Comments will continue to be taken into account. A second public hearing does not need to take place before the application is moved forward.

Mr. Suso said notice of funding available was received from the Commonwealth, \$19.65 million in the MA Comm Develop Block Grant Funding to respond to the COVID-19 pandemic. Falmouth is no entitlement municipality, as such the Town is eligible, those receiving the funds must meet a national objective of primarily benefiting low to moderate income people and includes standards for that criteria. Includes allocation for rental/mortgage assistance, competitive basis for municipalities for delivery of social services and microenterprise loan program. The Town cannot receive more than \$400,000. Microenterprises assistance, these fund up to \$10,000 per businesses for these enterprises adversely affected by COVID-19, specific guidelines for businesses include 5 or fewer employees, of which 1 or more owns the microenterprise, it also refers to an action plan. Minimum eligibility criteria include that the business must be for profit, physical establishment in the Town, currently in operation and established before 1/1/19, and in good standing with government. Public social service can include food assistance, homelessness assistance, job training, and other services addressing impacts of COVID-19. Requires two public hearings. Encourage residents to email/write their thoughts and suggestions.

Michael Galasso said the EDIC is willing to partner with the Town by putting together the application, they have put the first part of the app, letter of intent, together. \$10 million for rental and mortgage assistance, this goes to the HAC and hopefully they will apply for that. A budget will need to be submitted with the application.

Microenterprises Grant program for eligible businesses up to \$10k to be used for rental, utilities, other costs. This is a complement to the Small Business Loan program that the EDIC is working on. They would help administer and qualify the businesses, help underwrite the businesses, and help in qualifying the owners. They would probably conduct a lottery to select those who may be entitled to the grant.

According to Mr. Suso, it is unknown who would provide the oversight for this and will be articulated in the 4 page application. The Planning Department will be involved.

Ms. Taylor asked how the money would be distributed, criteria, and how funds go to businesses. 15% charge to the grant for oversight, which seems like a lot to her.

Mr. Suso has been involved in these programs, administrative costs is discretionary by the applicant and is permitted, but not required and up to the Town on whether that cost is charged at all.

Jill Bishop heard about it tonight, this is a great brainstorming opportunity and she is looking forward to learning about it and having some input.

Suzie Hauptmannoffman just learned of this program today, there are needs in the community by those affected by the COVID-19 and ways for the Town to use the funds. Needs to be some additional discussions with stakeholders and community members.

~~Kerina~~ Delaney would be happy to partner with this.

The SB wants to make sure in addition to Service Center, Human Services and Falmouth Senior Center are included in the discussion going forward, these organizations need to have input to be successful, which JS confirmed. Meeting with stakeholders will need to be had to collaborate on the application.

The SB wants to make sure that the 15% charge is kept as low as possible so as high a percentage will go to help people.

Details about how the funds are transmitted are not known at this time, they will be provided with those guidelines by the federal government.

The Town is the primary applicant, the EDIC can serve as a partner.

Public Comment: None at this time.

Mr. Patterson motion to close the hearing. Second Ms. Taylor. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.

Mr. Jones motion approval to move forward with the application. Second Mr. Patterson. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.

BUSINESS

1. Discussion/update on COVID-19 issues

Suzie ~~Hauptmannoffman~~ reported that Human Services has continued to maintain and operate at full capacity. They have made referrals, telehealth counseling services 234 in April/May, resident outreach for critical needs, outreach to homeless and extended hotel stay residents, phone consultation and collaboration meetings with residents and/or community agencies and other Town depts 217 incidents and 111 hours. The public can contact them at 508-549-0533 between 8-430 M-Friday.

Need to look at what the needs will be as we open up. Changes are being made to make it safer for staff and folks accessing the services at Town Hall.

Jill Bishop said they have remained staffed m-f 8am-4pm, they connect people to resources for people. Recommend seniors to connect with family members, caregivers, neighbors to establish a plan in place. Essential services they are focusing on include transportation, food delivery, programming, outreach services including automated info calls to senior services, wellness check-in, weekly check in calls for food distribution requests, Falmouth Senior Services has trained staff available. Many seniors are doing okay, have made connections with family members/caregivers to help them during this time.

Veterans Services continues their important work as well.

Mr. McGann, Health Agent, reported that community spread is very low, less than 10% active non long term facility cases. Incubation is about 5/5-6.5 days, he would not know if there was an issue with a resident from another state.

Doug Jones said that it was reported a Little League practice was going on a local field, fields are not open. Complaints are given a notice, BOH has given him the authority to issue fines, but he would rather not.

According to Mr. McGann, Phase 2 may be as soon as next Monday. Guidance has been provided to the recreation camps, outside as much as possible, groups of 12 which would include 2 counselors and 10 children. The Town has about a month to attempt to craft something for the recreation department camp. Only Town residents, not out of state residents. Restaurant guidance came last week, outdoor, no more than 6 people in a party, no bar service, and about social distance, but no guideline about specific capacity. This is all subject to change, still continue using masks and socially distancing.

2. Current status and information on nursing homes during the pandemic

Mr. Brown received letter from Heidi Ingraham, her mother in a nursing home in the area and she has not been able to visit her mother, this letter was signed by about 250 people.

Mr. McGann said the MA Bureau of Healthcare safety and quality regulates nursing homes. He just received 6/1/20 letter allowing some visitation in long term care facilities may allow visits to occur so long as dedicated outdoor visiting space on 6/3/20 with social distancing and masks. Also, compassionate care visitation. Each facility will be able to make the decision on what is safest for their residents, they may have individual policies. The Health Department only issues permit for food service and has no jurisdiction aside from this.

Chair English Braga noted many facilities are trying to offer some sort of contact like virtual visits.

3. Discussion/update on Spring Town Meeting

Mr. Suso explained that he sent the ~~BOSSB~~ an alternative daytime venue proposal discussed with Moderator David Vieira. The idea of a June meeting outside was discussed as a possibility, setting, time, location that the Moderator has authority to take care of. The SB would ask the Moderator to consider it. The SB would not direct him to make it that date, but to consider it.

Rep. Vieira said that Town Meeting will not be held until the 3rd Wednesday after the lifting of the emergency. Town Administration had since suggested a small Town Meeting be held on 6/22/20 at the FHS to address articles involving Finance issues, budget, and the override.

Peter McConarty looked at a template inside and outside for a short meeting.

Town Meeting members could meet on the FHS turf field with 6 feet distancing requirement. Back to traditional paper forms for whatever would be projected. The fallback venue would be the field house given you can social distance inside. Mr. McGann said the Fieldhouse is a different because of the more compact entry points and restroom situation may be challenging, though the SB noted that rest room issue could be similar to outside venue. Looking at keeping the meeting under 2 hours and then adjourn to a future time.

Mr. McGann likes the outdoor, an indoor venue concerns him.

Mr. Jones asked what flexibility to postpone, could it be postponed due to inclement weather. Rep. Vieira said they could issue a continuance, need to make sure all know about it.

Ms. Taylor is concerned about synthetic turf stadium for a meeting, Mr. Suso said that other venues had been considered including the fairgrounds, music clamshell at Marina Park, but the FHS synthetic field is the best for their purpose, especially with the sound system that is there.

Rep. Vieira recommended a 6pm start time and need to be cognizant of those working so Town Meeting members can still represent their constituents.

Mr. McGann said Triple E is an issue later in the summer in late July/early August.

According to Attorney Duffy, they have been discussing this for some time, this proposal works and can go forward as planned.

Ms. Mullen noted the importance of passing the budget in June.

Rep. Vieira said that the majority of Towns are continuing and not meeting. If the Town goes forward, notification would need to go out soon and provided to the Town Meeting members; they have about a week to put out the notification. He would rescind his declaration and issue a new declaration for the meeting on 6/22/20 6pm to address Articles 7, 8, 12, 13, 14 and then extend in 30 day increments until they can meet in person. Rep. Vieira has been asked to consider this, he does not feel comfortable with anything other than his original declaration, which is why he asked the SB to vote to ask him to consider this.

Ms. Mullin said Michael Palmer on vacation this week and he usually sends notification out, she can get the post cards printed and mailed out if needed before he returns.

Chair English Braga is ambivalent, they cancelled town wide events and allowed organizers to come back with a modified plan, she feels this is helpful but not necessary. Having David reach out to people as he described, she does not take it lightly to put Town Meeting members balancing their health concerns to their duty as Town Meeting Members.

Mr. Suso said that if determination to allow to go forward with shortened meeting, they will take every necessary precaution to ensure a safe and sanitary setting and people's needs.

Public Comment-none.

Mr. Brown motion to request Moderator Vieira to consider the 6/22/20 date if it proves to be feasible. Second Mr. Patterson. **Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, no; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.**

Rep. Vieira said the Chamber and SB had conversations regarding reopening of restaurants and ABCC licenses, the Governor issued change of order allowing liquor license changes to Nov. 1 and did not have to await approval of the ABCC. There is also a bill in committee to do it legislatively. Deals with local regulatory issues.

Mr. Brown said that there are many seniors involved in Town Meeting, if any member does not feel comfortable with this, let the ~~BOSSB~~ know so they can have a quorum, it would be an excused absence.

4. Review/action on two conceptual plans for summer season road right-of-way closures downtown

Beginning 6/8/20 the Gov. may reopen restaurants for outdoor dining and the ~~BOSSB~~ along with staff have been talking about this, guidance, and worked with Chamber of Commerce along with communicating with Main Street businesses. There is no perfect solution. They have talked about whether there is a way the Town can support restaurants in particular with restrictions in place. Input from FPD, FFD, DPW, assessing the area.

Mr. Suso said the two options have been analyzed with public safety staff and the Chamber, these were the alternatives discussed. Some have ability for outdoor dining behind the restaurant.

a. Partial closure of Academy Lane and Library Lane

Picture of proposal reviewed. This was the initial concept, easy closure to make, not cutting access to shops, and putting picnic tables up would allow people to take their takeout to eat outside. This does not provide sit down meal with beverages.

Mr. Suso noted that people are spreading out, currently being done by people.

Mr. Brown in favor of putting the picnic tables out there, but restaurant people do not want to have the responsibility to clean the tables. Take out will likely still be an important element in the restaurant plan.

Chair English Braga feels that to offer support, she would like to go a little more all in. Picnic tables on library lawn where there is shade. The retail stores and restaurants need help, there are ways to offer incentives to make it a beautiful pedestrian experience. Main Street is a big draw, we could do something bold and exciting.

Mr. Jones feels June is a great month to try it, have Main Street be one way.

FFD Chief Small said minimum distance would be 16 feet, wants to be sure talking one way traffic with jersey barriers. When that came through FFD looked like 2 way traffic with jersey barriers, which would be difficult. One way with jersey barriers with one way traffic and no parking, the FFD could work with that.

Michael Kasparian said the situation is dire for restaurants and retail. They need as much room as possible for them to make the best of the season. One way traffic will work, they are

hoping to accommodate the retail and restaurants. They were hoping that by blocking area across from the restaurants by the library, expand outdoor settings in the area, it would allow seating. Picnic tables along library and academy lanes, this is a good time to try it. It sounds like a plan in play that could accommodate retail and restaurant. He would like to put the tables out to enhance the takeout business.

The Town will need to provide sanitary cleaning between each visit, and he hopes that they could work out some way to do it.

One way traffic would flow west from FFD Headquarters to downtown.

Mr. McConarty asked what the plan would be re closures, working on areas, do not want to push traffic to the other side of the road. Need to know if full or partial closure. One section of the road would be 60 barriers at \$400 each and delivery charge.

Chief Small said that a hard closure at Shore St. and Walker S. or potentially a hard closure farther down Main Street but softer closures other places with combo of jersey movers and soft moveable barriers. Hard closure with 16 ft emergency lane maintained.

Chair English Braga spoke with Chief Dunne, his preference is for something more complete, lane shifts are problematic and can be difficult. Bigger closure would be preferable for public safety.

Mr. Kasparian asked if Shore St. Ext. to Library Lane then Town Hall Square to Post Office Lane to allow for one way traffic to go through, but parking in the middle keeping cars moving and allowing retailers to have parking in front of their places. Chair English Braga noted this is what Chief Dunne felt was problematic and confusing.

Chief Small said that would be problematic, needs to be a hard closure for public safety. If they did jersey barriers down the center line, they would need the travel lane and parking space area; if emergency, need an area around the truck to access the equipment, which is why they would need the 16 ft to operate.

Mr. Suso thinks that arrangement could be made with businesses in rear parking areas to merge them. Deliveries can be made by parking near the library and walking with hand trucks to deliver, this is not unusual during the busy summer months.

Mr. Patterson does not think delivery trucks can be accommodated.

Mr. Jones believes the hard closure from Shore St. to Walker or Elm Arch St. to help create the pedestrian walkway and try it for the month of June and see how it goes.

Mr. Kasparian would like to think about the restaurants on the other side of Town, too.

St. Barnabas would welcome allowing people to use their parking lot as an extension of municipal parking.

Some places are so specific, may need to take a closer look.

Mr. McConarty said it would be easier for DPW to do full closure. The DPW has property line survey for Main Street is the face of the building and the rest is owned by the Town. Some areas have 2-3 feet from their building.

Attorney Duffy has seen the DPW plan, the building and lot lines are 2 feet, except where Anejo is different. The Town could allow the restaurant to go down a bit on the public sidewalk.

Chief Small said L shaped barrier at library lane would have to be a hardened area, that would be an access problem for FFD. His recommendation is to push the closure down to Walker

Street, gives soft access at Library Lane and Elm March way. Main St. area needs to be a hard closure.

Mr. Jones motion for full closure Shore St., to Elm Arch and keep library lane open. Second Mr. Patterson. Motion was amended by Mr. Jones to closing Main St. from Walker to Shore St., including soft closures at Elm Arch, Cahoon, and Library Lane. Ms. Taylor Second. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, no; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.

The handicap parking that is taken away will be added.

May need to have reserved parking in Peg Noonan Park for residents of Cahoon and the possibility of Shoreway Acres assisting in this was discussed.

5. Minutes of Meetings:

a. Public Session

April 27, 2020

Mr. Patterson motion approval as edited. Second Mr. Jones. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, no; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye. Abstain: Ms. Taylor.

May 18, 2020

Mr. Patterson motion approval as edited. Second Mr. Jones. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, no; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye. Abstain: Ms. Taylor.

b. Executive Session

May 18, 2020

Mr. Patterson motion approval and not release. Second Mr. Brown. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, no; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye. Abstain: Ms. Taylor.

6. Individual Select Board Members' Reports

Mr. Patterson

He and Mr. Suso attended zoom meeting of Friends of Nobska light board and annual meeting. Keepers house and lighthouse reno is done, punch list items being completed in June. Site work is incomplete, they can make it serviceable the entire parcel will not be open to public for some time. Not enough funds raised to turn the keeper's house into a museum. Fundraising is key. Structurally restoration has been done and stabilized, now effort is turning space into education facility and museum. Most funds through CPC and \$200,000 in grants from MA Cultural Council along with private funds. Coast guard remediated contamination that built up over 130 years.

Mr. Brown:

Attended zoom meeting and need to maintain safety.

Ms. Taylor:

We are not separating health from economy; they depend on each other. Moving forward in healthy and safe way.

7. Town Manager's Report

Mr. Suso welcomes Nancy Taylor.

Tentative schedule on 6/22/20 anticipating interview process for new and reappointments, move that forward to the 15th instead of 22. Summertime retreat for last Monday in June, think about it going forward, see if 6/29 would be agreeable.

The SB will get more information from Attorney Duffy and Attorney Mullin after they have reviewed the guidance from Gov. Baker and the SB will ask them to look at it tomorrow and then address what it requires of the SB.

Mr. Jones motion to adjourn at 10:45 pm. Second Mr. Patterson. Roll Call Vote: Mr. Patterson, aye; Ms. Taylor, aye; Mr. Brown, aye; Mr. Jones, aye; Chair English Braga, aye.
Respectfully Submitted,

Jennifer Chaves
Recording Secretary

REPORT

TO: Select Board

FROM: Julian M. Suso JMSuso

DATE: June 12, 2020

- As you know, we will be convening in virtual meeting session at 6PM on Monday, June 15 in Joint Session with the Finance Committee. This is for the purpose of concluding two important votes for each Board in preparation for the upcoming Town Meeting on Monday, June 22. The two votes deal with wrapping up details for existing FY20 and also adjusting details for FY21 going to Town Meeting. As we have previously reported, we are in a reasonably positive position given the financial challenges being presented by the COVID-19 pandemic, specifically attributable to the cautious and conservative budgeting and spending policies of this Select Board as implemented through the various Town Departments and with the expert monitoring and guidance of Finance Director Jennifer Mullen.
- We are bringing the Board two Special Event requests that appear to be consistent with appropriate social distancing guidelines and related State regulations, as was the voted determination of the Board when all Special Events were cancelled earlier in the year due to the COVID-19 pandemic.
- As we have in the recent past, we will once again be providing the Board with a status update on COVID-19 related issues. In addition to comments from Scott McGann, we will specifically provide an update on the unfortunate, but necessary cancellation of Falmouth's traditional summer recreation camp – to be replaced with alternative recreation programming more appropriate during this pandemic. Joe Olenick will be joining us. I will also be providing an update on our expedited permitting/licensing process for temporary outdoor restaurant seating. As of this writing, applications from restaurants continue to arrive for review.
- We have a discussion of the proposed Phase Two of the solar array on the Town landfill site on the Board's agenda. As you will recall, this is a project being pursued in collaboration with EDIC. Due to the representation of time sensitivity on the part of EDIC, I bring this to the Board although one or two significant loose ends unfortunately yet remain. Working closely with Town Counsel and EDIC representatives, I can confirm that this project proposal very closely parallels the Phase One project, although smaller in size. Further, although it has been suggested by EDIC representatives that

the revenues from this project should be allocated for a proposed future business loan recovery program – as has been confirmed by Town Counsel, such a program lies a bit into the future at best given that it would require both Special Legislation (to alter the present authority of EDIC) as well as separate action by Town Meeting. I am instead recommending that the Board consider affirming the Phase Two proposal with a basic 50-50 cost sharing of rental revenue from day one. As we discussed back when Phase One was first authorized, this former landfill property is owned by Falmouth's taxpayers and such a split in revenue is highly appropriate – to allow such revenue to be available for local municipal services. I attach an email from Frank Duffy in which he recommends this approach to move this important process forward. If it is the desire of the Board, your preference can be voted and we will assemble the final product with Town Counsel and execute along with EDIC. Alternatively, this can be carried forward to your first regular meeting in July. Town Counsel will be with us on Monday evening for any questions or assistance.

ADDENDUM: It has just come to my attention that there is an article in today's *Enterprise* suggesting, incredibly, that the EDIC has secured a "legal opinion" (from an outside law firm) that they DO NOT need to seek Special Legislation NOR do they need to secure Town Meeting approval to pursue their proposed Business Loan recovery program. I have discussed this in some detail with Frank Duffy, and be assured that Frank Duffy's written opinion remains the same (even after having reviewed the short legal opinion which EDIC secured) – this REQUIRES Special Legislation and independent action by Town Meeting. Such a unilateral "promotional release" by an EDIC representative to the *Enterprise* was pursued without any contact whatsoever with Falmouth Town Counsel.

- As I have in the past, I am asking the Board to vote to affirm extending the same 2% cost-of-living adjustment to the Town's non-Union employees which is included in the negotiated collective bargaining agreements for Falmouth's unionized employees. Funds are budgeted for this purpose.
- I attach a copy of an email from earlier this year with background information on compensation for the Town's part-time position of Sealer of Weights and Measures. Action on this well-deserved adjustment has been delayed and I want to advise the Board of my intention to put this

compensation adjustment from \$10,400 to \$13,000 in place effective with this calendar year.

- As you are aware, Fire Chief Michael Small submitted his notice of retirement from this position effective July 31. This position is governed by the State Civil Service process. Consistent with this, I am working with Denise Coleman and Chief Small in pursuing the necessary approvals from the State to proceed with a Fire Chief Assessment Center process. This would be essentially identical to the process we have followed in the past. Given the likelihood that this process will not be fully concluded by July 31, I will be reviewing with Chief Small my future appointment of an Interim or Acting Fire Chief to ensure seamless continuity for this important position.
- Town Meeting convenes at 6PM on Monday, June 22 at the High School Stadium. We have conducted a walk-through with the Town Moderator, Town Clerk, School Department representatives and others to ensure that the appropriate set-up will be in place for the shortened Town Meeting on that date.
- The Board's Annual Strategic Plan Retreat is tentatively scheduled for Monday, June 29.
- Your next regular business meeting is Monday, July 13.

Julian Suso

From: Julian Suso
Sent: Thursday, February 20, 2020 11:20 AM
To: Falmouth Selectmen
Cc: Peter Johnson-Staub; Jennifer Mullen; Frank Duffy; Denise Coleman
Subject: Compensation - Sealer of Weights and Measures

Dear Board Members,

I have spoken with our Town Sealer, Kevin Murphy, regarding his annual compensation for his position as Town Sealer of Weights & Measures. This was triggered by our recent approval of a long-standing working arrangement with the Town of Barnstable in regard to a small portion of the Sealer duties. Although I had not previously been aware of this, Kevin has indicated (and I have now confirmed) that he has not received a compensation increase since 2009. Working on a part-time basis as Sealer of Weights & Measures, Kevin routinely collects fees for this important service and delivers the cash/checks to the Town for routine receipt into Town accounts. He has been paid \$10,400 annually since 2009 (prior to my arrival as Town Manager). I can further confirm that the annual collection of fees which Kevin oversees is in excess of \$19,000 each year for this service. Since 2009, compensation for all employees (including part-time) has increased significantly. It appears that this position has been inexplicably missed. At any rate, I believe it is appropriate that the annual compensation for this position be increased after being overlooked for over ten years. I am suggesting an increase to \$13,000 annually which I believe is highly warranted for this very important service. Jennifer Mullen has confirmed that this modest adjustment can be accommodated within the existing, budgeted funds in this fiscal year's budget. Frank Duffy has confirmed that this adjustment does not require the independent action of Town Meeting, and is within the authority of the Town Manager as per the Falmouth Town Charter. I want to bring this action to your attention prior to proceeding in the event that any member of the Board would have a question or concern. Should that be the case, please contact me individually at your earliest convenience. Thank you.

Julian