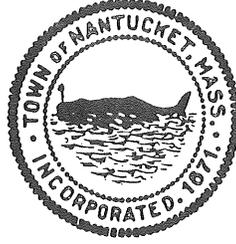


Town and County of Nantucket
Board of Selectmen • County Commissioners

James R. Kelly, Chairman
Rick Atherton
Robert R. DeCosta
Matt Fee
Dawn E. Hill Holdgate



16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

*AGENDA FOR THE MEETING OF THE
BOARD OF SELECTMEN
AUGUST 3, 2016 - 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS*

I. CALL TO ORDER

II. BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Board of Selectmen Meeting is Being Video/Audio Recorded.
2. Next Board of Selectmen Meeting is Wednesday, August 17, 2016 (Summer Schedule).

*IV. PUBLIC COMMENT**

*V. NEW BUSINESS**

VI. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of May 25, 2016 at 6:00 PM; June 13, 2016 at 5:00 PM.
2. Approval of Payroll Warrants for Weeks Ending July 24, 2016; July 31, 2016.
3. Approval of Treasury Warrants for July 27, 2016; August 3, 2016.
4. Approval of Pending Contracts for August 3, 2016 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VII. CONSENT ITEMS

1. Gift Acceptance: Planning and Land Use Services (PLUS); Natural Resources Department; Human Services (Saltmarsh Senior Center).
2. Town Clerk: Request for Adoption of Warrant for September 8, 2016 State Primary.
3. Town Clerk: Request for Reappointment of Registrar of Voters.

VIII. TOWN MANAGER'S REPORT

1. Update Regarding Volume of Mixed Excavation Waste to Landfill.

2. Review of Lined Landfill Cell Updated Construction Costs, Including Review of Off-island Shipping Costs.
3. Review of Sewer Connection and Dedication Agreement with Richmond Great Point Development, LLC.
4. Review and Recommendation Regarding Jetties Beach Concession Request for Proposals.
5. Review of Sea Street Pump Station Upgrade Project.
6. Monthly Town Management Activities Report.
7. Request for Exemption from MGL Chapter 268A, section 19(b)(1).
8. Recommendation Regarding Funding of Shortfall for New Fire Station Project.

IX. CITIZEN/DEPARTMENTAL REQUESTS

1. Nantucket Cottage Hospital: Request to Hang Temporary Banners on Main Street for 20th Anniversary of Boston Pops on Nantucket, August 8 - 14, 2016.
2. FORSYTH 48 LLC/Planning Office: Request for Approval and Execution of License Agreement for Lots 108 and 109 on Plan of Land Entitled "Plan of Taking and Disposition for the Town of Nantucket in Nantucket, Mass.," Prepared by Earle and Sullivan, Inc., Dated October 30, 2013 and Recorded with Nantucket Registry of Deeds as Plan No. 2014-04 to Allow for the Relocation of a Travelled Path for Pedestrian and Vehicular Use within Lot 109, for the Licensee to Use Lot 108 for Pedestrian and Vehicular Access to Licensee's Land and the for All Purposes Except Construction of Structures Until Lot 108 is Conveyed from Town to Licensee.

X. SELECTMEN'S REPORTS/COMMENT

1. Decision on Application for New Entertainment License for Nantucket Island Management, LLC d/b/a White Elephant Hotel Residences, Bettina Landt, Manager, for Premises Located at 19 North Water Street/19 South Beach Street, 29 North Water Street and 72 Easton Street (tabled from 20 July 2016).
2. Update on 6 Fairgrounds Road Housing Project.
3. Review of Nantucket Planning & Economic Development Commission Old South Road Corridor Study.
4. Committee Reports.

XI. ADJOURNMENT

** Identified on Agenda Protocol Sheet*

Board of Selectmen Agenda Protocol:

- **Roberts Rules:** *The Board of Selectmen follows Roberts Rules of Order to govern its meetings as per the Town Code and Charter.*
- **Public Comment:** *For bringing matters of public interest to the attention of the Board. The Board welcomes concise statements on matters that are within the purview of the Board of Selectmen. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action. Except in emergencies, the Board will not normally take any other action on Public Comment. Any personal remarks or interrogation or any matter that appears on the regular agenda are not appropriate for Public Comment.*

Public Comment is not to be used to present charges or complaints against any specifically named individual, public or private; instead, all such charges or complaints should be presented in writing to the Town Manager who can then give notice and an opportunity to be heard to the named individual as per MGL Ch. 39, s 23B.

- **New Business:** *For topics not reasonably anticipated 48 hours in advance of the meeting.*
- **Public Participation:** *The Board welcomes valuable input from the public at appropriate times during the meeting with recognition by the Chair. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Selectmen may have questions on the clarity of information presented. The Board will hear any staff input and then deliberate on a course of action.*
- **Selectmen Report and Comment:** *Individual Selectmen may have matters to bring to the attention of the Board. If the matter contemplates action by the Board, Selectmen will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting. Otherwise, except in emergencies, the Board will not normally take action on Selectmen Comment.*

EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY BOARD OF SELECTMEN
August 3, 2016

| Type of Agreement/Description | Department | With | Amount | Other Information | Source of Funding |
|--------------------------------|---|--|--|---|--|
| Service Agreement | Town Admin | Bistany Irrigation | Not to exceed \$25,096 | Maintenance of Town irrigation systems for three years | DPW Budget |
| Service Agreement | DPW | Longfin, LLC d/b/a Holdgate Partners | \$5,452 | Provide sand (116 tons) for Children's Beach Playground | DPW budget |
| Amendment to Service Agreement | DPW | T&T Roofing LLC | Adds \$12,150 to current 3-year contract of \$48,600 for total of \$60,750 | Amendment # 1 for on-call roof repairs for Town buildings | Art. 10/2014 ATM - Public Buildings Repair and Maintenance |
| Service Agreement | Finance Department | Scappini & Pina, P.C. | \$15,000 | Provide support services in the Finance Department for one year | Finance Budget |
| Grant Agreement | Town Admin/Community Preservation Committee | South Church Preservation Fund | \$93,068 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/Community Preservation Committee | First Congregational Church of Nantucket | \$371,905 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/Community Preservation Committee | Nantucket Historical Association | \$40,000 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/Community Preservation Committee | Museum of African American History | \$307,246 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/Community Preservation Committee | Hospital Thrift Shop | \$78,700 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |

| | | | | | |
|-----------------|---|---|-----------|---|------------------------|
| Grant Agreement | Town Admin/ Community Preservation Committee | Nantucket Preservation Trust with Preservation Institute Nantucket | \$107,800 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/ Community Preservation Committee | Nantucket Interfaith Council | \$130,000 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/ Community Preservation Committee | Habitat for Humanity Nantucket | \$250,000 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/ Community Preservation Committee | Housing Nantucket | \$261,000 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |
| Grant Agreement | Town Admin/ Community Preservation Committee | Nantucket Pond Coalition | \$24,900 | FY 2017 Community Preservation Act Funding | Article 30 2016 ATM |

CONSENT AGENDA ITEMS FOR 08/03/16 SELECTMEN'S MEETING

1. Gift Acceptances

Recommend the acceptance of the following gifts to Town agencies:

- PLUS: \$25,000 from Ahold Financial for development of Depot Park.
- Natural Resources Dept: \$804 from Proud Pour Inc. for Oyster Restoration Program.
- Human Services: \$100 from Peter & Susan Karger for Saltmarsh Senior Center.

Recommended Motion: To accept all gifts for their designated purposes, with thanks to the donors

Town Administration will ensure that letters of thanks are sent.

2. Town Clerk: State Primary Warrant

Recommend the September 8, 2016 State Primary Warrant be adopted.

Recommended Motion: To adopt the September 8, 2016 State Primary Warrant

3. Town Clerk: Registrar of Voters

Recommend the reappointment of Janet Coffin as Registrar of Voters for a three-year term.

Recommended Motion: To reappoint Janet Coffin as Registrar of Voters for a three-year term, said term to expire 2019



Planning and Land Use Services

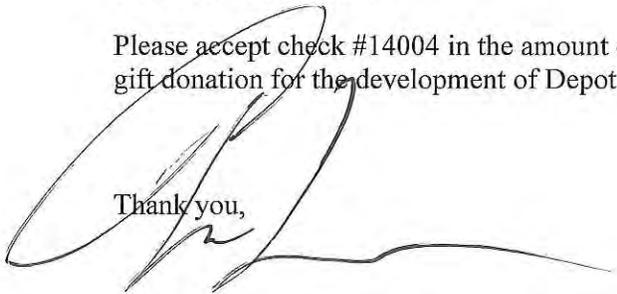
Memorandum

To: Board of Selectmen
From: ANDREW VORCE, Director of Planning
Date: 7/27/2016
Re: Depot Park Gift Donation

To Board of Selectmen:

Please accept check #14004 in the amount of Twenty Five Thousand (\$25,000.00) Dollars, as a gift donation for the development of Depot Park, from Ahold Financial.

Thank you,



Andrew Vorce
Director of Planning

Town of Nantucket

Conveyance of restricted donation
received from Ahold Financial for the
development of Depot Park.

(property not accepted by Land Bank)

\$25,000.00

ATTN: Andrew Vorce

NANTUCKET ISLANDS LAND BANK
22 BROAD ST
NANTUCKET, MA 02554
PH. (508) 228-7240

 **Nantucket Bank**
A division of Blue Hills Bank
53-7013-2113

14004

Twenty-Five Thousand and 00/100 Dollars

DATE

AMOUNT

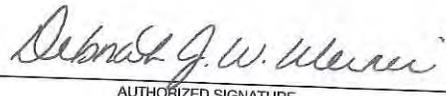
PAY

Jun 28, 2016

*****\$25,000.00

TO THE
ORDER
OF:

TOWN OF NANTUCKET



AUTHORIZED SIGNATURE

Memo: RESTRICTED DONATION

⑈014004⑈ ⑆211370134⑆ 79 9508888⑈

Security features. Details on back.

TOWN OF NANTUCKET NATURAL RESOURCES DEPARTMENT

2 BATHING BEACH ROAD
NANTUCKET, MA 02554

(508) 228-7230



07/14/2016

Board of Selectmen
16 Broad Street
Nantucket, MA 02554

Dear Board Members,

On behalf of the Natural Resources Department we are requesting that the Board of Selectmen accept a gift of \$804.00 from Proud Pour Inc. This donation will be used for the Oyster Restoration Program

We will be in attendance at the upcoming meeting of the Board to answer any questions that you have in regards to this gift and program. Thank you for your attention to this matter.

Sincerely,

Jeff Carlson,
Town of Nantucket
Natural Resources Coordinator



MEMO

Date: July 22, 2016
TO: Rick Atherton
FROM: Laura Stewart, Saltmarsh Senior Center, Program Coordinator
RE: Request for acceptance of gift

I am writing to request acceptance of the following gift donation:

From Peter & Susan Karger: \$100.00 to the Saltmarsh Senior Center

Thank you,

Laura Stewart

from the desk of.....

Laura Stewart
Program Coordinator,
Senior Services
81 Washington Street
Nantucket, MA 02554
508-228-4490

phone: 508-228-4490
fax: 508-325-5366
e-mail: lstewart@nantucket-ma.gov

COMMONWEALTH OF MASSACHUSETTS
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

WARRANT FOR 2016 STATE PRIMARY

SS.

To the Constables of the Town of Nantucket:

GREETINGS:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city or town who are qualified to vote in Primaries to vote at:

**WARD 0, PRECINCT 1
NANTUCKET HIGH SCHOOL, 10 SURFSIDE ROAD**

On **THURSDAY, THE EIGHTH DAY OF SEPTEMBER, 2016**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the State Primaries for the candidates of political parties for the following offices:

| | |
|---------------------------------|--|
| REPRESENTATIVE IN CONGRESS | NINETH DISTRICT |
| GOVERNOR'S COUNCIL | FIRST DISTRICT |
| SENATOR IN GENERAL COURT | CAPE & ISLANDS DISTRICT |
| REPRESENTATIVE IN GENERAL COURT | BARNSTABLE, DUKES & NANTUCKET DISTRICT |
| SHERIFF | NANTUCKET COUNTY |

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this _____ day of _____, 2016.



Selectmen of: NANTUCKET

Pursuant to Chapter 39, section 10 of the General Laws of the Commonwealth and the Warrant of January 20, 2016 I have notified and warned the inhabitants of the Town of Nantucket qualified to vote in Town affairs to appear at the times and place and for the purposes within mentioned by posting said notification on _____ at the Stop & Shop on Pleasant Street and Harbor Square, the Town and County Building at 16 Broad Street; and upon the Bulletin Boards at the corner of Main and Federal Streets, and Siasconset Square.

_____, 2016.
Constable



Town of Nantucket

◆◆◆◆◆

OFFICE OF THE TOWN & COUNTY CLERK

16 Broad Street
NANTUCKET, MASSACHUSETTS 02554-3590

Catherine Flanagan Stover, MMC, CMMC
Town & County Clerk

(508) 228-7216
FAX (508) 325-5313
Home: (508) 228-7841

Email: estover@nantucket-ma.gov
townclerk@nantucket-ma.gov

WEBSITE: <http://www.nantucket-ma.gov>

◆◆◆◆◆

July 27, 2016

Dear Mr. Kelly:

One of the Members of our Board of Registrars of Voters, Janet Coffin, ends her term of office in 2016. I have had no communication from the Republican Town Committee in regard to other nominees for the office.

May I request that a spot be slated on your next Board of Selectmen Agenda for Mrs. Coffin's reappointment? Her next term would expire in 2019.

Most sincerely yours,

Catherine Flanagan Stover, MMC, CMMC
Town & County Clerk



MEW and Leaf/Yard Waste Data July 2015 vs. 2016

MEW July 1 - 31, 2016

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|-------------|---------|----------|-----------|--------------|
| 1926 | | 51 | 0 463,040.0 | | 0 231.52 | 231.52 | \$ 13,891.20 |

MEW July 1 - 31, 2015

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|---------------|---------|-----------|-----------|--------------|
| 1926 | | 96 | 0 2,389,860.0 | | 0 1194.93 | 1194.93 | \$ 35,847.90 |

MEW July 1 - 31, 2016

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|-------------|---------|----------|-----------|--------|
| 1826 | | 13 | 0 395,040.0 | | 0 197.52 | 197.52 | 0.00 |

MEW July 1 - 31, 2015

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|-------------|---------|----------|-----------|--------|
| 1826 | | 15 | 0 550,760.0 | | 0 275.38 | 275.38 | 0.00 |

LEAF & YARD July 1 - 31, 2016

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|---------------|---------|----------|-----------|--------|
| 1922 | | 1286 | 0 1,813,760.0 | | 0 906.88 | 906.88 | 0.00 |

LEAF & YARD July 1 - 31, 2015

| MATERIAL | # Tickets | Count | Est Vol | Act Vol | Est Wt | Actual Wt | Charge |
|----------|-----------|-------|---------------|---------|----------|-----------|--------|
| 1922 | | 1239 | 0 1,554,920.0 | | 0 777.46 | 777.46 | 0.00 |

Material Analysis Report by Account

Inbound and outbound materials for the period 07/01/2016 - 07/31/2016

Detailed Report for Sites: 1, 2

Accounts 0 - 999999 Customer Types - Z Materials 1926 - 1926 Material Types - ZZ

| Date | Material | Type | Customer | Type | Tickets | Count | Est. vol. | Act. Vol. | Est. Wt. | Actual Wt. | Charge | |
|----------|----------|------|----------|------|----------------------------------|----------|-------------|--------------|-------------|-------------|---------------|---------------|
| 07/01/16 | 1926 | | 0 | | 02-00973775 | 0 | 3020 | 0 | 1.51 | 1.51 | 90.60 | |
| 07/01/16 | 1926 | | 0 | | 02-00973875 | 0 | 2460 | 0 | 1.23 | 1.23 | 73.80 | |
| 07/02/16 | 1926 | | 0 | | 02-00973916 | 0 | 5220 | 0 | 2.61 | 2.61 | 156.60 | |
| 07/17/16 | 1926 | | 0 | | 02-00976551 | 0 | 920 | 0 | 0.46 | 0.46 | 27.60 | |
| | | | | | ----- | | | | | | | |
| | | | | | RESIDENTIAL CASH CUSTOMER | 4 | 0 | 11620 | 0 | 5.81 | 5.81 | 348.60 |
| | | | | | Average | 0 | 2905 | 0 | 1.45 | 1.45 | 87.15 | |
| 07/27/16 | 1926 | | 172 | Y | 02-00978427 | 0 | 1320 | 0 | 0.66 | 0.66 | 39.60 | |
| | | | | | ----- | | | | | | | |
| | | | | | THE GARDEN GROUP | 1 | 0 | 1320 | 0 | 0.66 | 0.66 | 39.60 |
| | | | | | Average | 0 | 1320 | 0 | 0.66 | 0.66 | 39.60 | |
| 07/21/16 | 1926 | | 195 | Y | 02-00977308 | 0 | 9420 | 0 | 4.71 | 4.71 | 282.60 | |
| | | | | | ----- | | | | | | | |
| | | | | | DEAN PIHL | 1 | 0 | 9420 | 0 | 4.71 | 4.71 | 282.60 |
| | | | | | Average | 0 | 9420 | 0 | 4.71 | 4.71 | 282.60 | |
| 07/06/16 | 1926 | | 388 | Y | 02-00974538 | 0 | 4440 | 0 | 2.22 | 2.22 | 133.20 | |
| 07/14/16 | 1926 | | 388 | Y | 02-00975997 | 0 | 3680 | 0 | 1.84 | 1.84 | 110.40 | |
| 07/19/16 | 1926 | | 388 | Y | 02-00976865 | 0 | 1900 | 0 | 0.95 | 0.95 | 57.00 | |
| | | | | | ----- | | | | | | | |
| | | | | | NANTUCKET LANDSCAPES | 3 | 0 | 10020 | 0 | 5.01 | 5.01 | 300.60 |
| | | | | | Average | 0 | 3340 | 0 | 1.67 | 1.67 | 100.20 | |
| 07/27/16 | 1926 | | 500 | Y | 02-00978471 | 0 | 1840 | 0 | 0.92 | 0.92 | 55.20 | |
| | | | | | ----- | | | | | | | |
| | | | | | ST. PETER CONSTRUCTION | 1 | 0 | 1840 | 0 | 0.92 | 0.92 | 55.20 |
| | | | | | Average | 0 | 1840 | 0 | 0.92 | 0.92 | 55.20 | |
| 07/06/16 | 1926 | | 509 | Y | 02-00974576 | 0 | 1180 | 0 | 0.59 | 0.59 | 35.40 | |
| 07/07/16 | 1926 | | 509 | Y | 02-00974624 | 0 | 1220 | 0 | 0.61 | 0.61 | 36.60 | |
| 07/12/16 | 1926 | | 509 | Y | 02-00975671 | 0 | 240 | 0 | 0.12 | 0.12 | 7.20 | |
| 07/13/16 | 1926 | | 509 | Y | 02-00975926 | 0 | 900 | 0 | 0.45 | 0.45 | 27.00 | |
| 07/20/16 | 1926 | | 509 | Y | 02-00977118 | 0 | 2500 | 0 | 1.25 | 1.25 | 75.00 | |
| 07/20/16 | 1926 | | 509 | Y | 02-00977141 | 0 | 3040 | 0 | 1.52 | 1.52 | 91.20 | |
| 07/20/16 | 1926 | | 509 | Y | 02-00977163 | 0 | 2100 | 0 | 1.05 | 1.05 | 63.00 | |
| 07/21/16 | 1926 | | 509 | Y | 02-00977270 | 0 | 1800 | 0 | 0.90 | 0.90 | 54.00 | |
| 07/22/16 | 1926 | | 509 | Y | 02-00977525 | 0 | 1960 | 0 | 0.98 | 0.98 | 58.80 | |
| | | | | | ----- | | | | | | | |
| | | | | | TED GODFREY | 9 | 0 | 14940 | 0 | 7.47 | 7.47 | 448.20 |

Material Analysis Report by Account

Inbound and outbound materials for the period 07/01/2016 - 07/31/2016

Detailed Report for Sites: 1, 2

Accounts 0 - 999999 Customer Types - Z Materials 1926 - 1926 Material Types - ZZ

| Date | Material | Type | Customer | Type | Tickets | Count | Est. vol. | Act. Vol. | Est. Wt. | Actual Wt. | Charge |
|---|----------|------|----------|------|-------------|-------|-----------|-----------|----------|------------|----------|
| Average | | | | | | 0 | 1660 | 0 | 0.83 | 0.83 | 49.80 |
| 07/01/16 | 1926 | | 521 | Y | 02-00973721 | 0 | 6220 | 0 | 3.11 | 3.11 | 186.60 |
| 07/01/16 | 1926 | | 521 | Y | 02-00973814 | 0 | 6020 | 0 | 3.01 | 3.01 | 180.60 |
| TOM HANLON LANDSCAPING | | | | | | 2 | 12240 | 0 | 6.12 | 6.12 | 367.20 |
| Average | | | | | | 0 | 6120 | 0 | 3.06 | 3.06 | 183.60 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973892 | 0 | 32880 | 0 | 16.44 | 16.44 | 986.40 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973898 | 0 | 25820 | 0 | 12.91 | 12.91 | 774.60 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973940 | 0 | 45500 | 0 | 22.75 | 22.75 | 1,365.00 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973944 | 0 | 33100 | 0 | 16.55 | 16.55 | 993.00 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973989 | 0 | 42600 | 0 | 21.30 | 21.30 | 1,278.00 |
| 07/02/16 | 1926 | | 522 | Y | 02-00973998 | 0 | 28800 | 0 | 14.40 | 14.40 | 864.00 |
| 07/16/16 | 1926 | | 522 | Y | 02-00976423 | 0 | 23500 | 0 | 11.75 | 11.75 | 705.00 |
| 07/27/16 | 1926 | | 522 | Y | 02-00978500 | 0 | 21360 | 0 | 10.68 | 10.68 | 640.80 |
| TOSCANA CORP. | | | | | | 8 | 253560 | 0 | 126.78 | 126.78 | 7,606.80 |
| Average | | | | | | 0 | 31695 | 0 | 15.85 | 15.85 | 950.85 |
| 07/20/16 | 1926 | | 562 | Y | 02-00977219 | 0 | 5060 | 0 | 2.53 | 2.53 | 151.80 |
| DALE HARRINGTON LANDSCAPING | | | | | | 1 | 5060 | 0 | 2.53 | 2.53 | 151.80 |
| Average | | | | | | 0 | 5060 | 0 | 2.53 | 2.53 | 151.80 |
| 07/19/16 | 1926 | | 774 | Y | 02-00976882 | 0 | 2560 | 0 | 1.28 | 1.28 | 76.80 |
| ATLANTIC LANDSCAPING | | | | | | 1 | 2560 | 0 | 1.28 | 1.28 | 76.80 |
| Average | | | | | | 0 | 2560 | 0 | 1.28 | 1.28 | 76.80 |
| 07/06/16 | 1926 | | 790 | Y | 02-00974369 | 0 | 2400 | 0 | 1.20 | 1.20 | 72.00 |
| DEVON LANDSCAPE | | | | | | 1 | 2400 | 0 | 1.20 | 1.20 | 72.00 |
| Average | | | | | | 0 | 2400 | 0 | 1.20 | 1.20 | 72.00 |
| 07/16/16 | 1926 | | 911 | Y | 02-00976464 | 0 | 5940 | 0 | 2.97 | 2.97 | 178.20 |
| 07/25/16 | 1926 | | 911 | Y | 02-00977944 | 0 | 2720 | 0 | 1.36 | 1.36 | 81.60 |
| NANTUCKET LAWN & GARDEN INC. | | | | | | 2 | 8660 | 0 | 4.33 | 4.33 | 259.80 |
| Average | | | | | | 0 | 4330 | 0 | 2.17 | 2.17 | 129.90 |

Material Analysis Report by Account

Inbound and outbound materials for the period 07/01/2016 - 07/31/2016

Detailed Report for Sites: 1, 2

Accounts 0 - 999999 Customer Types - Z Materials 1926 - 1926 Material Types - ZZ

| Date | Material | Type | Customer | Type | Tickets | Count | Est. vol. | Act. Vol. | Est. Wt. | Actual Wt. | Charge |
|----------|---------------------------------------|------|----------|------|-------------|----------|--------------|-----------|-------------|-------------|---------------|
| 07/06/16 | 1926 | | 943 | Y | 02-00974545 | 0 | 2180 | 0 | 1.09 | 1.09 | 65.40 |
| | CLEAN CUT LANDSCAPING | | | | 1 | 0 | 2180 | 0 | 1.09 | 1.09 | 65.40 |
| | Average | | | | | 0 | 2180 | 0 | 1.09 | 1.09 | 65.40 |
| 07/21/16 | 1926 | | 1132 | Y | 02-00977392 | 0 | 1700 | 0 | 0.85 | 0.85 | 51.00 |
| | MOHR GARDENING | | | | 1 | 0 | 1700 | 0 | 0.85 | 0.85 | 51.00 |
| | Average | | | | | 0 | 1700 | 0 | 0.85 | 0.85 | 51.00 |
| 07/20/16 | 1926 | | 1154 | Y | 02-00977147 | 0 | 7620 | 0 | 3.81 | 3.81 | 228.60 |
| 07/22/16 | 1926 | | 1154 | Y | 02-00977500 | 0 | 6360 | 0 | 3.18 | 3.18 | 190.80 |
| | CISNEROS LANDSCAPING | | | | 2 | 0 | 13980 | 0 | 6.99 | 6.99 | 419.40 |
| | Average | | | | | 0 | 6990 | 0 | 3.50 | 3.50 | 209.70 |
| 07/06/16 | 1926 | | 1402 | Y | 02-00974544 | 0 | 1420 | 0 | 0.71 | 0.71 | 42.60 |
| | HY LINE SERVICES INC | | | | 1 | 0 | 1420 | 0 | 0.71 | 0.71 | 42.60 |
| | Average | | | | | 0 | 1420 | 0 | 0.71 | 0.71 | 42.60 |
| 07/26/16 | 1926 | | 1413 | Y | 02-00978128 | 0 | 1160 | 0 | 0.58 | 0.58 | 34.80 |
| | SEED TO STONE | | | | 1 | 0 | 1160 | 0 | 0.58 | 0.58 | 34.80 |
| | Average | | | | | 0 | 1160 | 0 | 0.58 | 0.58 | 34.80 |
| 07/14/16 | 1926 | | 1444 | Y | 02-00976008 | 0 | 1440 | 0 | 0.72 | 0.72 | 43.20 |
| | ANDERSON LANDSCAPING | | | | 1 | 0 | 1440 | 0 | 0.72 | 0.72 | 43.20 |
| | Average | | | | | 0 | 1440 | 0 | 0.72 | 0.72 | 43.20 |
| 07/07/16 | 1926 | | 1587 | Y | 02-00974712 | 0 | 2460 | 0 | 1.23 | 1.23 | 73.80 |
| | KOBO UTILITY CONSTRUCTION INC. | | | | 1 | 0 | 2460 | 0 | 1.23 | 1.23 | 73.80 |
| | Average | | | | | 0 | 2460 | 0 | 1.23 | 1.23 | 73.80 |
| 07/06/16 | 1926 | | 1592 | Y | 02-00974540 | 0 | 12360 | 0 | 6.18 | 6.18 | 370.80 |
| 07/06/16 | 1926 | | 1592 | Y | 02-00974552 | 0 | 11120 | 0 | 5.56 | 5.56 | 333.60 |
| 07/06/16 | 1926 | | 1592 | Y | 02-00974566 | 0 | 11920 | 0 | 5.96 | 5.96 | 357.60 |

Material Analysis Report by Account

Inbound and outbound materials for the period 07/01/2016 - 07/31/2016

Detailed Report for Sites: 1, 2

Accounts 0 - 999999 Customer Types - Z Materials 1926 - 1926 Material Types - ZZ

| Date | Material | Type | Customer | Type | Tickets | Count | Est. vol. | Act. Vol. | Est. Wt. | Actual Wt. | Charge | |
|-----------------------------|----------|------|----------|------|-------------|-------|-----------|-----------|----------|------------|--------|-----------|
| 07/06/16 | 1926 | | 1592 | Y | 02-00974584 | 0 | 13300 | 0 | 6.65 | 6.65 | 399.00 | |
| 07/07/16 | 1926 | | 1592 | Y | 02-00974670 | 0 | 11880 | 0 | 5.94 | 5.94 | 356.40 | |
| 07/07/16 | 1926 | | 1592 | Y | 02-00974745 | 0 | 10880 | 0 | 5.44 | 5.44 | 326.40 | |
| 07/07/16 | 1926 | | 1592 | Y | 02-00974765 | 0 | 11600 | 0 | 5.80 | 5.80 | 348.00 | |
| 07/07/16 | 1926 | | 1592 | Y | 02-00974780 | 0 | 9260 | 0 | 4.63 | 4.63 | 277.80 | |
| 07/07/16 | 1926 | | 1592 | Y | 02-00974804 | 0 | 12740 | 0 | 6.37 | 6.37 | 382.20 | |
| RYAN CONWAY LANDSCAPING INC | | | | | | 9 | 0 | 105060 | 0 | 52.53 | 52.53 | 3,151.80 |
| Average | | | | | | 0 | 11673 | 0 | 5.84 | 5.84 | 350.20 | |
| Report Total | | | | | | 51 | 0 | 463040 | 0 | 231.52 | 231.52 | 13,891.20 |
| Report Average | | | | | | 0 | 9079 | 0 | 4.54 | 4.54 | 272.38 | |

MEMORANDUM

TO: C. Elizabeth Gibson, Town Manager, Brian Turbitt, Finance Director; Kara Buzanoski, Director of Public Works; John Giorgio, Esq., Town Counsel, Town of Nantucket
FROM: George H. Aronson, CRMC
RE: Updated Estimate of Construction Cost for Cell 3A
DATE: 21 July 2016

This memorandum documents my conversation earlier today with Nathan Widell of Waste Options Nantucket regarding construction costs for Cell 3A.

In December 2015, Waste Options estimated the construction cost of Cell 3A at \$1.68 million as follows:

| | |
|---|------------------|
| Clay supply and deliver | \$237,000 |
| Permeable sand supply and deliver | \$284,000 |
| Washed stone | \$30,000 |
| Liner supply and install | \$268,000 |
| Pumps | \$50,000 |
| Geotech testing, survey and certifying engineer | \$115,000 |
| Leachate tank and containment | \$77,500 |
| Electrical contract | \$35,000 |
| <u>Labor allowance</u> | <u>\$148,000</u> |
| Subtotal | \$1,244,500 |
| <u>Contingency @ 35%</u> | <u>\$435,575</u> |
| Total | \$1,680,075 |

Waste Options has identified five qualified contractors from whom it will solicit quotes. The numbers are not yet available, but Nathan anticipates that the quotes will be within expectations. Nathan would use Sci-tek as the engineer and would use their usual electrical contractor as needed.

The labor allowance might be met either by subbing out work to third-parties or through additional work by existing or new/temporary Waste Option employees. The labor allowance accounts for wage differentials to satisfy prevailing wage requirements.

The estimate from December 2015 does not, however, account for the cost of subbase material. Although Nathan believes that the Town is obligated to pay for subbase material, as of December 2015, Waste Options was willing to use its equipment and labor to generate such material for the project at no extra cost, because the revenue from acceptance of MEW allowed them to do so without economic harm. Nathan stated that the delivery of commercial MSW has essentially ended since July 4th weekend; as a consequence, because Waste Options has lost that revenue stream, according to Nathan, Waste Options is no longer willing or able to use its equipment and labor to generate and place subbase material (there is ample material on site for this purpose, but Waste Options needs to use labor to screen the sand in order to achieve the needed properties). As an alternative, Waste Options might (a) bring in the material from

off-site sources at the cost of about \$1.0 million; or (b) have the Town pay Waste Options to produce the sand from on-site materials at a cost of roughly \$500,000.

If the cost of subbase is added to the capital cost from December 2015, then the adjusted cost of Cell 3A would be as follows:

| | |
|------------------|--|
| \$1,096,500 | Third-party costs |
| <u>\$148,000</u> | <u>Labor allowance</u> |
| \$1,244,500 | Third-party costs plus labor |
| <u>\$500,000</u> | <u>Subbase material if provided by Waste Options on their proposed terms</u> |
| \$1,744,500 | Subtotal with subbase and without contingency |
| <u>\$435,575</u> | <u>Contingency @ 35% of third-party costs plus labor</u> |
| \$2,180,075 | Total with contingency |

Note that the contingency of 35 percent may be generous. Much of the contingency line-item might reasonably be applied to the cost of the subbase material. On that basis, and presuming that subcontractor quotes are close to expectations, the updated estimate of the construction cost for Cell 3A would be in the range of \$1.7445 million to \$2.180 million.

Using this information, I will be developing a separate memorandum to compare the cost of proceeding with construction of Cell 3A with the cost and associated impacts (e.g., accelerated closure of cells 2A and 2B) of not proceeding with construction of Cell 3A and relying on off-island haul and disposal of residuals from the Composting Facility.

| Attachment B | | | | | | | |
|---|----------------------------|-----------|--------------------|-----------|-------------------------|---|--|
| Town of Nantucket | | | | | | | |
| Life-cycle costs for residuals disposal in Cell 3A costs vs. off-island | | | | | | | |
| + | | | | | | | |
| Amortized annual Cell 3A construction and closure costs | | | | | Annual off-island costs | | |
| Year | Residuals tons per year | Build | Close | Total | Equivalent NPV | Haul/tip \$/ton | Haul/tip \$/year |
| 2016 | | 2,180,075 | | 2,180,075 | | | |
| 2017 | 4,000 | | | - | 355,725 | \$ 170.00 | 680,000 |
| 2018 | 4,000 | | | - | 362,840 | \$ 173.40 | 693,600 |
| 2019 | 4,000 | | | - | 370,096 | \$ 176.87 | 707,472 |
| 2020 | 4,000 | | | - | 377,498 | \$ 180.41 | 721,621 |
| 2021 | 4,000 | | | - | 385,048 | \$ 184.01 | 736,054 |
| 2022 | 4,000 | | | - | 392,749 | \$ 187.69 | 750,775 |
| 2023 | 4,000 | | | - | 400,604 | \$ 191.45 | 765,790 |
| 2024 | | | 363,214 | 363,214 | - | | |
| Total costs | | 2,180,075 | 363,214 | 2,543,289 | 2,644,560 | | 5,055,313 |
| NPV of total costs @ | | 2.0% | | 2,490,075 | 2,490,075 | | 4,760,000 |
| Equivalent cost per ton, high estimate construction cost | | | | | \$ 88.93 | | \$ 170.00 |
| Equivalent cost per ton, low estimate construction cost | | | | | 2,084,500 \$ 74.45 | | \$ 170.00 |
| Cell 3A construction | | | | | | Off-island haul cost | \$ 68.18 |
| Low estimate | | | | | 1,774,500 | Off-island tip fee | \$ 100.00 |
| High estimate | | | | | 2,180,075 | Total haul/tip | \$ 168.18 |
| Cell 3A closure | | | | | | Escalate | 2.0% per year |
| Per WON | | 2016 | | 310,000 | | | |
| Escalated | | 2024 | | 363,214 | 2.0% | Cost if barged (WON: at least \$200 to \$300 per ton) | |
| Cell 3A residuals and life | | | | | | | |
| MSW | | 12,000 | tons/yr | | | | |
| Residuals | | 4,000 | tons/yr | | 33% | 4,000 | tons/yr |
| | | 0.67 | tons/cubic yard | | | 22 | tons/load |
| | | 5,970 | cubic yards/yr | airspace | | 182 | loads/yr |
| | | 42,000 | cubic yards | | | 1500 | \$/load |
| | | 7.0 | years life of cell | | | \$ 68.18 | \$/ton haul |
| | | | | | | \$100 | per ton tip fee consistent with WON cost plus fee |

MEMORANDUM

TO: C. Elizabeth Gibson, Town Manager, Town of Nantucket
Kara Buzanoski, Director of Public Works, Town of Nantucket
John Giorgio, Esq., Town Counsel, Town of Nantucket

FROM: George Aronson, Principal, CRMC

RE: Comparison of the Costs to the Town for Management of Composter Residuals
through (a) Disposal in the Proposed Cell 3A and (b) Off-Island Disposal

DATE 25 July 2016

Within the next fiscal year, the landfill cell that is used for disposal of the residual materials from the Town's mixed-waste composting facility (Cell 2B) will reach capacity. The Town has worked with the private contractor that owns and operates the Composter and that operates the Town's landfill, Waste Options Nantucket, LLC (Waste Options), to develop a new cell at the Town landfill, Cell 3A, that would continue to accept such residual materials for disposal after Cell 2B reaches capacity and closes. Waste Options has prepared a design for Cell 3A, applied for and received the authorization permit to construct Cell 3A from the Massachusetts Department of Environmental Protection (MassDEP), and is preparing to start construction. In this context, this memorandum provides updated information on the life-cycle costs of Cell 3A and compares those costs to the only alternative to construction of Cell 3A that is considered to be feasible at this time; namely, movement of the residual materials off of Nantucket for disposal at an off-island waste management facility.

The sections that follow present the basis for the following findings:

- Life-cycle costs to the Town for disposal of residual materials in Cell 3A are projected at from **\$74** per ton up to **\$89** per ton, equivalent to as much as \$2.54 million in total cost or \$2.49 million in net present value assuming a discount rate of two percent per year.
- Life-cycle costs to the Town for off-Island disposal of residuals materials are projected at approximately **\$170** per ton, equivalent to \$5.06 million in total cost or \$4.76 million in net present value assuming a discount rate of two percent per year. Costs might be higher if a separate barge system is needed as an alternative to the ferry system for transporting truckloads of residuals materials to the mainland.
- Based on the above, construction of Cell 3A would reduce costs by at least **\$81** per ton, equivalent to \$2.52 million savings in the projected total cost or \$2.27 million savings in the net present value of the cost, over the seven-year life of Cell 3A.
- The above analysis does not account for the cost of changing the design and accelerating the closure schedule for Cells 2A and 2B, or for the cost of changing the design and accelerating the closure schedule for Cells 1, 1B and 1C upon termination to the landfill mining program in 2019, either or both of which might result is Cell 3A is not constructed.

The Life-Cycle Costs of Cell 3A

Over its life cycle, the costs of Cell 3A that will be borne by the Town include both (a) the initial construction costs; and (b) the ultimate costs of closure when the cell reaches capacity. The costs of cell development and permitting, including engineering and permit preparation costs, as well the ongoing operating costs (involving use of labor and equipment to deposit the residuals materials in the landfill cell and to add cover material), are borne by Waste Options under the Waste Services Agreement.

The updated life-cycle cost for disposal of the residual materials in Cell 3A is now projected to be in the range of \$74.45 per ton to \$88.93 per ton based on the following:

- Construction costs in the range of \$1.74 million to \$2.18 million.
- Closure costs after a seven-year operating life of \$363,000, based on the estimated closure costs of \$310,000 in 2016 and seven years of cost inflation at 2.0 percent per year.
- Cell capacity of 42,000 cubic yards.
- Total residuals disposal in Cell 3A of 28,000 tons over a seven-year cell life, based on 12,000 tons per year of materials into the Composter (conservatively high compared to the average of 10,811 tons per year since 2007), a residuals generation rate of 33 percent of the incoming tonnage (yielding 4,000 tons per year of residuals), and a conservatively low assumed density for baled residuals of 1333 pounds per cubic yard (0.67 tons per cubic yard, which is less than experienced values of up to 0.75 tons per cubic yard) --- which results in the use of 6,000 cubic yards per year of landfill airspace.

Attachment A provides a separate memorandum on the basis for the updated estimates of Cell 3A construction and closure costs. Attachment B summarizes the life-cycle cost calculation.

Based on the above, the disposal cost in Cell 3A could be equivalent to up to \$88.93 per ton amortized and escalating over the seven-year life of Cell 3A, yielding a net present value cost of \$2.49 million.

The Costs of Off-Island Disposal

The costs of off-Island disposal that would be borne by the Town include both (a) the cost to transport the residual materials from the Town landfill to the point of disposal on the mainland, which include the costs to (i) truck the material from the landfill to the Nantucket ferry terminal; (ii) cover the fares for the ferry; and (iii) truck the material from the Hyannis ferry terminal to the disposal facility; and (b) tip fees for disposal at the final destination. All of these costs would be borne by the Town as Direct Costs reimbursable to Waste Options under the Waste Services

Agreement. In addition, the Town would need to address (c) impacts of the additional truck traffic on the ferry system; and (d) the potential for an accelerated closure for the MassDEP to require the Town to proceed in advance of the current schedule with the final closure of Cells 2A and 2B, and potentially, the final closure of Cells 1A, 1B and 1C.

Regarding transportation costs, one point of comparison is the current rate for off-Island transportation and disposal of C&D waste from the transfer station. That rate is currently \$141.33 per ton, of which the transportation component is estimated to comprise approximately \$70 per ton¹. Baled residuals are somewhat denser than C&D waste; however, transportation costs are likely to be comparable, because transportation of baled residuals involves approximately the same loads per trailer (20 to 25 tons per load) due to inefficiencies in loading trailers with formed bales.

Regarding tip fees, the baled residuals have fewer outlets for disposal on the mainland than C&D waste. The Bourne Landfill, which accepted baled residuals when they were shipped off-Island in 2008, would not do so today, because it is dedicated to accept almost exclusively ash from the SEMASS municipal waste combustion facility under a long-term disposal contract. The SEMASS facility would not accept the bales due to their density, heating value and high composition of plastics. The Fall River Landfill is now closed. The Southbridge Landfill is at capacity. Potential outlets include the Middleboro Landfill, operated by Waste Management; the Champion City Transfer Station in Brockton, which sends materials by rail to Ohio; and other transfer stations that might arrange for long-haul and disposal at remote sites such as the Seneca Meadows Landfill in New York. Tip fees for disposal at these potential outlets, including costs for transfer and extra hauling of the bales to the remote facilities, are unlikely to be less than \$100 per ton, in part due to inefficiencies accepting bales. Tip fees might be higher during the summer season, when disposal capacity is most in demand and market tip fees from conventional materials can exceed \$110 per ton.

Based on the above, and assuming transportation costs of \$70 per ton and tip fees of \$100 per ton, the full cost for off-Island disposal of Composter residuals is likely to be in the range of \$170 per ton --- and might be substantially higher if the closest facilities are unwilling to accept the material. At \$170 per ton for 4000 tons per year of residuals material over a seven-year term, the total cost of such disposal would be \$5.06 million and the net present value of the cost would be \$4.76 million.

Regarding impacts on the ferry system, transportation of 4,000 tons per year of residuals material in 20-ton to 25-ton loads would require 160 to 200 additional trips per year for trailers on the commercial ferry, with a disproportionate number of trips indicated during the summer months,

¹ Note that \$70 per truckload is consistent with present charges of \$1500 per load for 22 tons of material per truck.

when space on the ferry is already at a premium. A Town decision to ship residual materials to the mainland would add to that burden. Note further that barge captains have rejected trailer loads of waste materials for being too odorous. Most recently, in 2015, ferry passage was denied to trailer loads of MSW being shipped to the mainland while the Composter was out of service for repairs. Waste Options has claimed that the alternative of using an independent barge system for shipment of loads of waste materials would cost in the range of \$200 per ton to \$300 per ton. This claim has not been evaluated by an independent third party.

Regarding acceleration of closure costs, landfill Cell 2A, although inactive, has not been closed and capped to this point, because the design of its liner system is linked to the design of the liner system proposed for the closure of Cell 3A. Similarly, landfill Cell 2B, which is current active, is not scheduled to be closed immediately after it reaches capacity, because the design of its final liner system is also linked to the design of the liner system proposed for the closure of Cell 3A. If Cell 3A is not constructed, however, there would be no justification for further deferral of the closure of the inactive Cells 2A and 2B. In such event, it is recommended that the Town prepare to proceed with closure of both cells. The Town has maintained unused borrowing authority of \$633,000 to prepare for the closure of these landfill cells, but has not evaluated what the closure might ultimately cost in the event that Cell 3A is not constructed and the closure design is changed accordingly. Additional closure costs, involving use of additional borrowing authority, would likely be required.

Regarding acceleration of closure costs for Phases 1A, 1B and 1C, a decision not to construct Cell 3A would re-open the basis for the final closure of the entire landfill site upon the expiration of the landfill mining program, which is scheduled for not later than June 30, 2019. If Cell 3A were to be constructed and operating, the Town would have a basis for deferring certain closure costs, because of interrelations between the closure of Cell 3A and the closure of the entire site. If Cell 3A is not constructed, then there would be no such basis for deferring closure costs, and the Town would need to prepare for closure of the entire site not later than 2021. The most recent estimate of the cost of final closure of the entire landfill site are in the range of \$6.0 million to \$8.2 million. The Town has not set aside unused borrowing authority or otherwise prepared a specific plan to pay for such closure costs.

Waste Options and the Town have each investigated several alternative technologies for processing the plastics component of the residual materials into various products through gasification or pyrolysis facilities that might be developed at the Madaket Road site. Although certain technologies have appeared initially promising as long-term prospects, none are sufficiently proven or commercially available at this time, and no proposal to the Town has been sufficiently developed, to provide a reliable alternative to off-shore disposal of residual materials in 2016.

MEMORANDUM

TO: Libby Gibson, Town Manager
FROM: John W. Giorgio, Town Counsel
DATE: July 15, 2016
RE: Sewer Connection and Mitigation Statement

I have attached a copy of the sewer agreement that Richmond is proposing for its project on Old South Road. I understand that this draft agreement will be discussed by the Board of Selectmen at its August 3, 2016 meeting.

In order to assist the Board with its consideration of the proposed agreement, I would highlight the following policy issues for the Board to consider:

1. The MOA that the Board and Richmond entered into just prior to the November 9th Town Meeting contained a provision whereby Richmond agreed to construct the necessary sewer extension at its sole cost and expense, and further agreed to size the infrastructure to accommodate other potential sewer connections unrelated to the Richmond development that could potentially connect. I recommend that the sewer agreement that we negotiate with Richmond be consistent with the MOA.
2. I recommend that Richmond be required to design and construct the necessary infrastructure to extend the Town's sewer system to serve the development, and that, upon construction, the extension become part of the Town's system of common sewers. This means that the maintenance of the extension will become the responsibility of the DPW once the sewer is accepted. It is important that the "Richmond System" to be incorporated into the Town's sewer system as an extension is properly defined and does not include the sewer laterals necessary for the service connections to the Richmond units to be constructed. We will also need to have Richmond grant the Town the necessary easements to the extent any portion of the sewer extension is located on Richmond property outside of the public ways, or on other private property.
3. I do not recommend that the Agreement restrict the ability of other properties to connect to the sewer extension once the extension is incorporated into the Town's sewer system as long as all requirements of the Town have been met. This is necessary because once the Town accepts the sewer extension, any property that abuts the sewer has a right of connection subject only to capacity and compliance with other Town requirements. We do not recommend that developer maintain any form of control over such subsequent connections as such conditions are, in our opinion, inconsistent with the legal requirements for connections to common sewers as well as the MOA between the Town and Richmond.

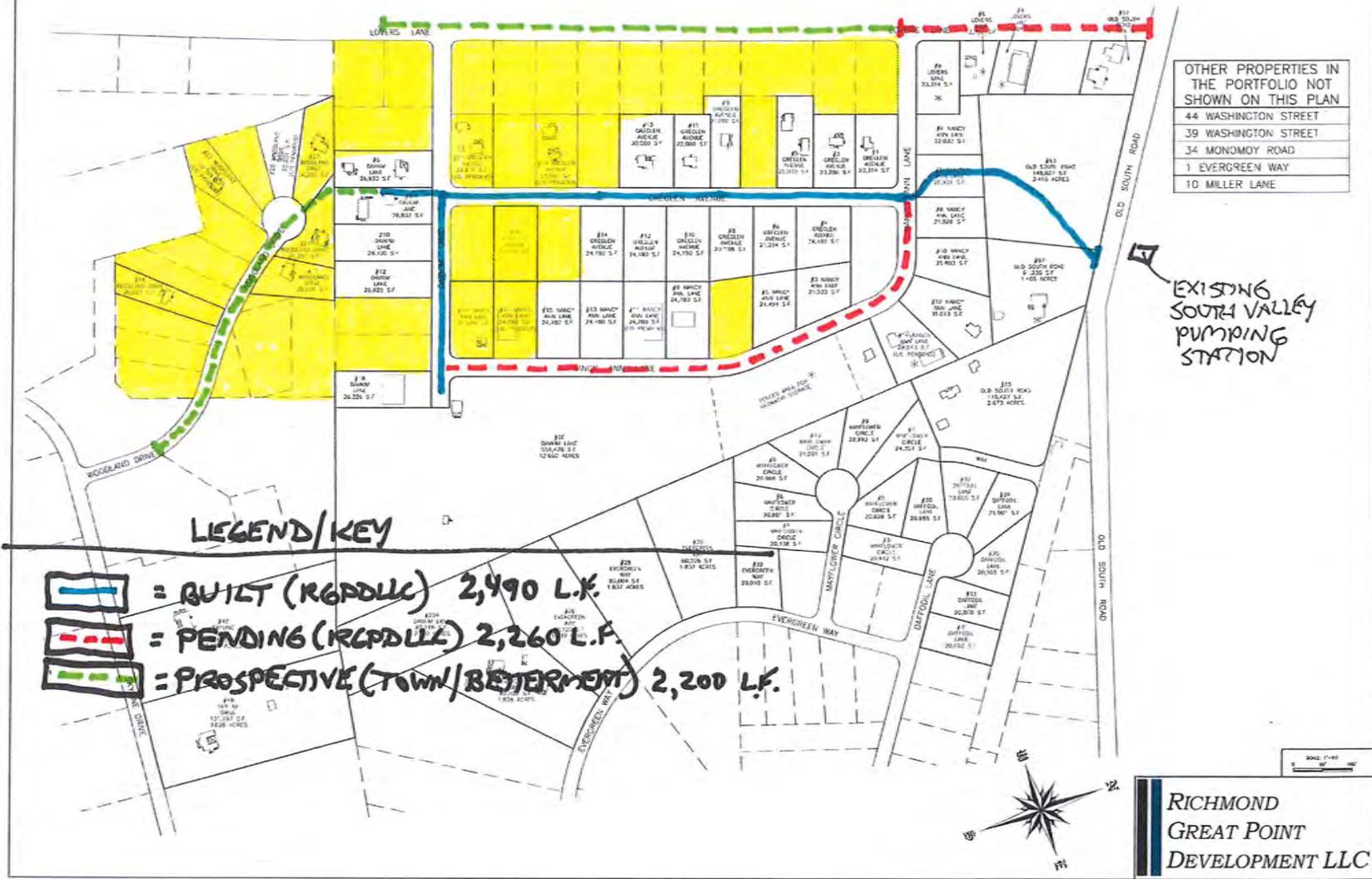
4. Richmond is asking for a waiver of all sewer connection fees and other assessments. This is a policy matter for the Board to decide.
5. Richmond has proposed a mitigation payment to the Town in the amount of \$250,000, and while the draft agreement that we received was not entirely clear, it appears that \$150,000 of the total mitigation payments must be used by the Town to make improvements to the South Valley Sewer Pump Station, and that any balance remaining after the upgrade would be returned to Richmond. I recommend that the agreement be revised to provide that the mitigation payment (the entire \$250,000) represents a gift to the Town under G.L. c. 44, s. 53A, and can be used by the Town not only to upgrade the pumping station but also to make any other sewer system improvements that are required to handle the Richmond and surrounding flow. The Town can certainly agree, as a legal matter, to return any unspent funds to Richmond. It would appear also that the remaining mitigation payment of \$100,000 does not have any restrictions. If Richmond is intending to make this \$100,000 payment in lieu of paying ordinary and customary connection fees and assessments, we will need to know what the sewer connection and privilege fees would ordinary be for a project of this size and magnitude in order to determine whether the proposed mitigation payment will cover all of the Town's costs for the pump station upgrades as well as the avoided connection and assessment fees. We also recommend that Richmond be required to make an additional gift to the Town in the event the actual costs to upgrade the Town's sewer system exceed the initial amount based on actual bids.
6. We recommend that Richmond be required to reimburse the Town for the legal and professional engineering fees incurred by the Town to review the Agreement.
7. I recommend that the Agreement specify a limitation on the number of bedrooms that can be connected to the sewer and/or the total flow from the development.
8. Finally, I recommend that Richmond be required to provide a performance bond for the work, evidence of adequate general liability and property damage insurance, and that Richmond indemnify the Town.

Please let me know if you have any questions.

559572

BUILT, PENDING + PROSPECTIVE SEWER MAIN SYSTEM.

RICHMOND GREAT POINT DEVELOPMENT LLC PORTFOLIO TOWN OF NANTUCKET, MASSACHUSETTS



OTHER PROPERTIES IN THE PORTFOLIO NOT SHOWN ON THIS PLAN

| |
|----------------------|
| 44 WASHINGTON STREET |
| 39 WASHINGTON STREET |
| 34 MONOMOY ROAD |
| 1 EVERGREEN WAY |
| 10 MILLER LANE |

EXISTING SOUTH VALLEY PUMPING STATION

LEGEND/KEY

- = BUILT (RGPDLL) 2,490 L.F.
- = PENDING (RGPDLL) 2,260 L.F.
- = PROSPECTIVE (TOWN/BETTERMENT) 2,200 L.F.

RICHMOND
GREAT POINT
DEVELOPMENT LLC

MEMO

Town of Nantucket

TO: L. Gibson, Town Manager
FROM: G. Tivnan, Assistant Town Manager
CC: E. Mooney, A. Baxter, D. Hill-Holdgate
DATE: July 27, 2016
RE: Jetties Concession Bid Recommendation



Purpose: The current lease agreement for the concession and retail operations at Jetties Beach expires on December 31, 2016. The Town seeks qualified responders to submit proposals for a five year lease agreement for the “Operation of a Restaurant and Retail Concession at Jetties Beach, 4 Bathing Beach Road, Nantucket, MA”.

Recommendations:

- Rebid the RFP.
- Change to three-year lease with two one-year options.
- Remove the menu requirements and restrictions including breakfasts and “typical snack bar”, however make these items “preferred but not required” and allow bidders to include options or compromises in their proposals which will be evaluated as Highly Advantageous, Advantageous or Not Advantageous to the Town.
- Remove the expanded season, however make openings in May, June, September and October “preferred but not required” and allow bidders to include options or compromises in their proposals which will be evaluated as Highly Advantageous, Advantageous or Not Advantageous to the Town.
- Require the restaurant to be open during large private events in the high season (July and August), or limit the use of large tents.

Background: To craft an appropriate scope of services for an RFP, Town Administration sought guidance for the terms of a lease agreement from the Board of Selectman at the Board’s April 6, 2016 meeting. The following agenda item was included under Town Manager’s Report:

“Review of Provisions for New Jetties Beach Concession Lease (2017-2021).”

from the desk of . . .

Gregg Tivnan
Assistant Town Manager
16 Broad Street
Nantucket, MA 02554
508-228-7255 • 508-228-7272 (fax)
gtivnan@nantucket-ma.gov

This discussion can be viewed on-demand on the Town's website starting at 1:22:24 into the meeting (<http://ma-nantucket.civicplus.com/363/Video-On-Demand>)

4/6/16 BOS Requirements:

Per the BOS discussion of 4/6/16, in addition to the existing terms of the current lease agreement, the following additions to the scope of services were included in the RFP:

- Season – require expanded season from Memorial Day through Columbus Day to better serve the local residents
- Menu – Keep it “simple” with a “typical snack bar” and include breakfast (days/times not specified)
- Events –
 - Fourth of July – the Town reserves the right to schedule this event any time between July 3 and July 5 (not just on July 4)
 - Required to stay open an extra day in September or October for every day restaurant is closed for a private event in May or June
 - \$500 for small events (don't close restaurant) + all other permitting fees, if applicable.
 - \$1,000 for large events (close restaurant) + all other permitting fees, if applicable.
- Concession Fees -
 - Minimum bid of \$108,380 the first year
 - Minimum increase of 3.0% annually each year thereafter
 - Minimum percentage of sales of 5.0% per monthly revenue report

RFP Results:

- RFP was issued Tuesday, April 12, 2016
- RFP closed on Monday, May 16, 2016
- Bids opened and reviewed Tuesday, May 24, 2016
- Three bids were received:
 - Bartholomew, Inc
 - Jetties Beach, Inc.
 - Runway Beach LLC
- None of the bids were fully responsive to the scope of service, including duration of season, hours of operation, menu/breakfast, and scheduling of large events.
- All of the bids met the Concession Fee minimum requirements.
- Per Town Counsel, the Town could reject all bids or negotiate with all three vendors because none were fully responsive but also not completely unresponsive. Re-bidding was determined the best solution.

End



Town of Nantucket

REQUEST FOR PROPOSALS FOR CONCESSION SERVICES AT JETTIES BEACH CONCESSION

The Town of Nantucket invites qualified responders to submit proposals for a five year lease agreement for the operation of a Restaurant and Retail Concession at Jetties Beach, 4 Bathing Beach Road, Nantucket, MA. This lease begins January 1, 2017 and expires December 31, 2021.

I. GENERAL INFORMATION AND SUBMISSION REQUIREMENTS.

1. Requests for Proposals can be obtained from, and proposals will be accepted at the Town of Nantucket, Procurement Office, 16 Broad Street, Nantucket, MA 02554, until **2:00 PM, Thursday, May 5, 2016**. **Four (4) copies of the proposal are required.**
2. Price and non-price (technical) proposals must each be submitted in separate envelopes that are sealed and clearly marked:

Price Proposal for Jetties Concession

Non-Price (or Technical) Proposal for Jetties Concession

If the proposal is mailed, the sealed price proposal and separately sealed non-price proposal must both be enclosed in a separate sealed envelope for mailing. **Failure to comply strictly with these requirements may result in the rejection of a proposal.**

3. Proposals shall not be opened publicly, but will be opened in the presence of one or more witnesses. At the opening of the proposals the Chief Procurement Officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. Proposals will not be available to the public until after the evaluation of proposals is complete.
4. Award date. Award will be made within forty-five (45) days after proposal opening unless otherwise stated in the specifications or the time for award is extended by mutual consent of all parties. All submittals shall be valid for a minimum period of sixty (60) calendar days following the date established for acceptance. The Town shall award a contract, if at all, to the responsible offeror whose proposal is responsive and the most advantageous taking into consideration price and the evaluation criteria set forth in this Request for Proposals.
5. If any changes are made to this RFP, an addendum will be issued. Addenda will be mailed or faxed to all companies and individuals on record as having requested the RFP. Each responder shall acknowledge receipt of any and all addendum issues by submitting acknowledgment forms provided with any Addenda; and if no such forms are provided with the addenda, on the face of the offeror's non-price proposal. **Failure to do so shall be cause to reject the submittal as being unresponsive.**
6. Questions concerning this RFP must be submitted in writing to Heidi Bauer, Chief Procurement Officer,



Town of Nantucket

16 Broad Street, Nantucket, MA 02554 **before 1:00 PM, Monday, May 2, 2016. Attempts made by proposers to contact other Town employees directly with questions subject the proposer to disqualification.** Questions may be delivered, mailed, emailed (hbauer@nantucket-ma.gov) or faxed. Written responses, if any, will be in the form of addenda to this RFP and will be posted on the Town website and mailed, emailed or faxed to all companies and individuals on record as having requested the RFP.

7. Responses may be modified, corrected or withdrawn only by written notice received by the Town of Nantucket prior to the time and date set for the response opening, except as provided in the next paragraph. Modifications must be submitted in a sealed envelope clearly labeled "Modification No. ____" and must reference the original RFP response.
8. An offeror may correct, modify, or withdraw a proposal by written notice received in the office designated above prior to the time and date set for the receipt of all proposals. After such time and date, an offeror may not change the price or any other provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. The procurement officer shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended bid are clearly evident on the face of the proposal document, the procurement officer shall correct the mistake to reflect the intended correct offer and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal document but the intended correct offer is not similarly evident.
9. Negligence on the part of the responder in preparing the proposal confers no rights for the withdrawal of the proposal after it has been opened.
10. The Town of Nantucket reserves the right to reject any and all responses and to waive any minor informality in responses received whenever such rejection or waiver is in its best interest and to the extent doing so is permitted by law.
11. The Town of Nantucket will not be responsible for any expenses incurred in preparing and submitting responses. All submittals shall become the property of the Town of Nantucket. All plans, specifications and other documents resulting from this contract shall become the property of the Town of Nantucket. All proposals shall be deemed a public record.
12. Responders must be willing to enter into the Town of Nantucket's standard form of contract.
13. The RFP, and any subsequent contract for the services, is hereby issued in accordance with M.G. L. c. 30B.
14. Sealed proposals received prior to the date of opening will be kept unopened. No responsibility will attach to an officer or person for the premature opening of a proposal not properly addressed, sealed and/or identified.
15. Any proposals received after the advertised date and time for opening will be returned to the responder



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unopened.

16. Purchases by the Town of Nantucket are exempt from federal, state and municipal sales and/or excise taxes.
17. The Tax Compliance Certification and the Certificate of Non-Collusion, included in this RFP, must be completed, signed, and enclosed with the non-price proposal. These forms must be signed by the authorized individual(s).
18. Unexpected closures. If, at the time of the scheduled response opening, Town Hall is closed due to uncontrolled events such as fire, snow, ice, wind or building evacuation, the response opening will be postponed until 3:00 PM on the next normal business day. Proposals will be accepted until that date and time.
19. The Town of Nantucket is an Affirmative Action/Equal Opportunity Employer. The Town encourages submittals from qualified MBE/DBE/WBE firms.
20. Responders should be aware that many overnight mailing services do not guarantee service to Nantucket.
21. Responses to the RFP must be prepared according to the guidelines set forth herein. Selection of the successful responder will be based upon an evaluation and analysis of the information and materials required under the RFP, and in accordance with section 6 of Chapter 30B of the General Laws.
22. Bidders must submit a **bid deposit of ten percent (10%) of the amount of the total base bid**. Bid deposit may be in the form of a certified check; a bank, treasurers or cashier's check; or a bid bond from a surety company.



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II. SCOPE OF SERVICES.

General: The Concessionaire is responsible for the Operation of a typical snack bar, restaurant and retail concession with the ability to have functions in the function area after 5pm at Jetties Beach, 4 Bathing Beach Road, Nantucket, MA. The Concessionaire is responsible for the Operation of food service in order to offer breakfast, lunch and dinner service. The Concessionaire is also responsible for custodial maintenance of the Beach Maintenance area, as indicated on Exhibit A. Note: The Beach Maintenance area is within a traditional habitat area for both State and Federally protected shorebirds. The Town of Nantucket's agent will be the Events Manager.

Concession Premises: The Concession premises (hereinafter called the Premises) shall include the Concession building and the Bathhouse and the tent function area; beginning at the corner of the concession deck closest to the Parking lot walking approximately 180' perpendicular towards the ocean at that point turning West, parallel to the Ocean, walking approximately 100' thence turning South heading approximately 180' to the corner to Bathhouse squaring off the parameters of the tent function area as shown in Exhibit "A".

A. CONCESSION FEE AND OTHER CHARGES

- 1) **Concession Fee:** The Concessionaire shall propose an annual Fee in the amount set forth on the Bid Form attached to this Request for Proposals as Exhibit B for each occupancy period during the term hereof. **This fee MUST BE a minimum of \$108,380 for the first year and be increased by at least 3% each year thereafter to reflect the annual rental rate PLUS a fee based on a percentage of sales to include private events which shall be NO LESS THAN 5% of sales as reflected in a monthly revenue report to be provided to the Finance Department.** This monthly revenue report is to be sent to the Finance Department within five days after the close of each month and should reflect the monthly receipts for both sales and events. The percentage fee above the 5% is a term to be included in the sealed price proposal and the amount above 5% is to be provided by the proposer. For all days the restaurant is closed to the public for a private event, the concessionaire shall be expected to remain open an extra day at the end of the season in addition to the normal lease period.
 - a) The Annual Concession Fee shall be payable in two equal installments, the first due on or before July 1 and the second due on or before August 1 of each year.
 - b) The fee based on the percentage of monthly sales shall be paid to the Finance Department within five (5) days of the close of each month together with the monthly receipts and revenue report.

The Concessionaire's 10% bid deposit will be credited toward the first payment of the first year's annual concession fee.

- 2) **Security Deposit:** The Concessionaire shall file with the Town of Nantucket a \$5,000.00 security deposit; refundable at the end of the lease term, without interest to the Concessionaire within sixty (60) days, after determination has been made that the Concessionaire has fulfilled all of the terms of the contract and left the premises in adequate condition according to the Town and after presenting proof that all utility payments as well as landfill and sewer fees have been made and no defaults are left



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outstanding.

- 3) **Utility Payments:** The Concessionaire shall pay all water, power, gas, sewer, landfill, oil and telephone costs incidental to its operation hereunder. This obligation includes but is not limited to payment of water and electric bills, Landfill and Sewer User Fees for both the Concession and the Bathhouse portions of the premises. The Concessionaire is also responsible for turning on and turning off of all utilities and any and all utility deposits required doing so. The Concessionaire shall present proof of payment of all utilities to the Town of Nantucket within thirty days of closing for the season. Should proof of payment not be presented the Concessionaire shall be considered in default and the Town of Nantucket has the right at its discretion to pay any outstanding amounts from the security deposit as stated in Section A3 above.
- 4) **Other Fees and Utilities:** The Concessionaire shall also be responsible for all licensing fees as determined by the Town, "all" utilities and all other costs associated with the operation of the premises; including any additional fees brought on by the presence of listed shorebirds and the protection plan implemented by the Town of Nantucket's Endangered Species Program, through the Beach Management Plan. Those items specifically provided herein are excluded.

B. TERM

- 1) **Lease Term:** Five years beginning January 1, 2017 and expiring on December 31, 2021.
- 2) **Operation Dates:** Successful bidder shall be permitted to occupy the Premises only during the Occupancy periods, which run from the second weekend in May through the Monday after Columbus Day each calendar year.

C. CONCESSIONAIRE'S OBLIGATIONS

OBLIGATIONS

- 1) **Concession Facility:** Concessionaire agrees to operate a Concession facility of a typical snack bar restaurant and a small retail business in accordance with the applicable rules and regulations and to obtain appropriate licenses before operating the facility and presenting the Town of Nantucket with the same. Small retail sales are allowed. The Concessionaire is responsible to offer food service in order to offer breakfast, lunch and dinner service. The concessionaire shall operate the premises so as to enhance the public's use and enjoyment of the adjacent public beach facility and in the best interest of the Town of Nantucket. The Concessionaire is responsible for compliance with all laws and regulations applicable to the operation of the premises, including but not limited to compliance with applicable ADA regulations.
- 2) **Private Functions/Special Events:** Prior to holding any Private Function, Special Event or activity of less than 250 people the Concessionaire shall obtain in writing approval from the Town of Nantucket and the Events Manager. A list of upcoming events, as well as completed Beach Event Forms (Exhibit C) must be submitted to both the Events Manager and the Town by May 1st. Any additional events after May 15th will require a Beach Event Form to be completed and submitted to the Town of Nantucket as



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soon as the event is scheduled. The Town of Nantucket shall have full discretion to deny permission to hold any Private Function, Special Event, or activity. Should the Town of Nantucket approve such a function all of the following conditions must be met:

- a) If a fire on the beach is planned the Concessionaire must obtain a permit from the Fire Department. A copy of the permit will be give to the Town of Nantucket prior to the day of the function.
 - b) Concessionaire will be responsible for compliance with all Massachusetts, County and Town laws regulations and ordinances governing noise.
 - c) Private functions at the concession will be held in the premises only as shown on Exhibit A and not on the remainder beach. The Town of Nantucket's policy is to disallow private functions on the remainder of the property.
 - d) Section C 2 Private Functions above may be overridden by the additional provisions of this lease. Not any other part of the lease is affected by any such changes.
 - e) A completed copy of the Beach Event Form must be submitted to the Events Manager.
 - f) Depending on the status of the State & Federally listed species and after the review of the Town, the Concessionaire may be required to hire monitor(s) through the Town's Endangered Species Program. If the hiring of monitor(s) is deemed necessary a completed Detail Form must be completed and submitted to the Events Manager before the event. Exhibit D "
- 3) **Public Restrooms, Bathhouse and Shower facilities:** All areas designated as Public Restrooms, Bathhouse and Shower facilities shall be available as such for the public's use. At a minimum the Concessionaire shall operate the Bathhouse, toilet and shower facilities between the hours of 9:00 am and 5:30 pm seven (7) days per week from the second weekend in May through Columbus Day Weekend each year. The Concessionaire shall open the Bathhouse and toilet facilities at all times while the concession is operating. The Town of Nantucket reserves the right to open and staff the toilet facilities only at other hours for special events. Toilet room facilities must remain open even in inclement weather. The Concessionaire shall be responsible for the cleanliness of the Public Restroom facility and area surrounding the Public Restroom facility.
- 4) **Kitchen Equipment:** The Concessionaire shall provide and install all kitchen equipment and food and drink equipment not already provided by the Town of Nantucket. Any purchase of equipment by Concessionaire from previous Concessionaire would be a private agreement and is not part of the contract for the facilities. Concessionaire is responsible for maintenance; replacement and removal of his/her own equipment. Any equipment affixed permanently to the premises shall immediately become the property of the Town of Nantucket subject only to the Concessionaire's right to use such equipment during the term hereof. The Concessionaire is responsible for preventive maintenance for the equipment provided by the Town of Nantucket. In addition the Concessionaire agrees to perform annual maintenance prior to closing the building each fall. A schedule of the minimum annual maintenance requirements is attached hereto, and incorporated herein, marked Exhibit "G". Any such equipment remaining after the expiration of this contract shall, at the option of the Town of Nantucket, either become the property of the Town of Nantucket or be removed and disposed of by the Town of Nantucket at the expense of the Concessionaire.
- 5) **Custodial Services:** The Concessionaire shall clean the restrooms as often as required to maintain them



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in a condition satisfactory to the Town of Nantucket. The Concessionaire shall supply and maintain paper, soap and supplies as needed.

- 6) **Maintenance:** The Concessionaire shall provide all custodial maintenance inside the buildings and outside the buildings in the Beach Maintenance Area indicated on Exhibit A, policing the beach and parking areas at least twice daily to keep it free of all litter and other trash generated by the patrons of the beach. All rubbish/trash collected by the Concessionaire or generated from the concession's operation will be secured, removed from the beach and disposed of at the Concessionaire's expense including landfill fees. The Concessionaire is responsible for repairing and maintaining any and all windows and door screens and must inform the Town of Nantucket immediately of any and all repairs so made. The Concessionaire will be required to provide a work order for all exterior and structural repair work to be performed by the Town of Nantucket. Once a pair of potentially nesting listed shorebirds has been recognized, all cleaning of the beach's litter must be done by hand. NO beach raking will be permitted until the status of the State and Federally listed shorebirds has been examined by the Town and has been deemed permissible. Removal of the wrack line by hand or machine is prohibited. The Town is responsible for beach raking. All repairs, maintenance construction, power washing, or any other action that may involve excessive noise must be completed prior to April 15th
- 7) **Signs and Structures:** Before any temporary or permanent signs or structures are erected the Concessionaire shall first obtain such written approvals as may be required under existing Town regulations including but not limited to a Certificate of Appropriateness from the Historic District Commission of the Town. The Concessionaire shall then obtain the written permission of the Town of Nantucket.
- 8) **State and Federally Protected Species:** The Concessionaire must be aware that Jetties Beach is a known traditional habitat area for State and Federally listed species, such as the Piping Plover. Such listed species are protected under the Endangered Species Act and are monitored and protected by the Town of Nantucket's Endangered Species Program. The Town's Endangered Species Program is based on set State and Federal Guidelines. Failure to follow the rules, regulations and guidelines created by the State and Federal Government and implemented by the Town of Nantucket's Endangered Species Program may result in the potential closure of Jetties Beach. The Concessionaire is required to abide by all rules and regulations set forth regarding the "State and Federally listed species" and therefore must notify the Town of any "Private Function, Special Event or Activity" as soon as they are scheduled and no later than one week in advance of the event.
- 9) **Alcoholic Beverages:** In accordance with Section 54-1C of the Nantucket Code, the Town of Nantucket hereby grants its consent to the Concessionaire to serve alcoholic beverages for possession and consumption on the premises subject to the following conditions.
 - a) Concessionaire must obtain a liquor license from the Nantucket Board of Selectmen in accordance with all local, state and federal rules and regulations.
 - b) The area of the Premises in which alcoholic beverages will be served and consumed shall be limited and clearly delineated to the satisfaction of the Town of Nantucket. Appropriate precautions shall be taken to assure that alcoholic beverages are not consumed outside the premises.



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- c) The Concessionaire will be responsible for compliance with all Massachusetts and Nantucket laws, regulations and ordinances governing the serving and consumption of alcoholic beverages on the premises including the consumption of alcoholic beverages by minors.
 - d) Alcohol may only be served as indicated on the Concessionaire's liquor license.
If it is the intent of the successful concessionaire to extend the liquor license hours they will be required to obtain Board of Selectmen approval.
 - e) The Concessionaire shall hire a police detail for any private function at which alcohol will be served where more than 150 persons are expected to attend. The cost of such police detail will be paid by the Concessionaire or the sponsor of the function.
 - f) The Concessionaire hereby agrees to indemnify and hold harmless the Town and County of Nantucket and all of their officials, members, officers, employees and agents from any and all claims arising out of the sale or consumption of alcoholic beverages on the premises and all other costs (including legal fees) related thereto. The Concessionaire will maintain liability insurance with respect to the serving of alcoholic beverages as required by the laws and regulations of the Commonwealth of Massachusetts and the Town and County of Nantucket. All Such policies of liability insurance shall name the Town and County of Nantucket and all other indemnified parties as additional insured parties under the policy. The Concessionaire shall deliver written proof of such insurance, by a certificate of insurance or otherwise as required by the Town, to the Town's designee on or before March 1 of each year during the term herein.
 - g) Such provisions are subject to review, modification or termination by the Town of Nantucket at its sole discretion at any time.
 - h) Tents set up on the beach portion of the premises cannot be set up until the day of the event for which they are being used and must be removed by Noon on the day after the event. Problems with this provision should be brought to the attention of the Town of Nantucket at least one week prior to the event if not previously addressed during the permitting process. Before erecting or removing a tent and/or floor on Jetties Beach, the Events Manager must be notified of the size of the tent(s), the times and the date(s). If the Town feels it is necessary, the Concessionaire will hire monitor(s) through the Town's Endangered Species Program to be present during both the erection of the tent and/or floor and the removal. Failure to contact the Town regarding a tent and/or floor may result in the loss of future tent/floor use.
- 11) **Use for dwelling purposes:** The Concessionaire is expressly prohibited from using any part of the premises for dwelling purposes except upon the following terms and conditions.
- a) Only that portion of the second floor of the main building known as the apartment may be used for dwelling purposes and may be so used only by the Concessionaire or employees of the Concessionaire during the period of Occupancy if approved by the Town. If allowed to be used by the Concessionaire, immediate family only may enter the apartment two weeks prior to the occupancy period or two weeks prior to opening the concession whichever is later for the sole purpose of preparing the buildings for the



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summer season. The Concessionaire with immediate family only may remain in the apartment for up to two weeks after the occupancy period or two weeks after closing the concession whichever is earlier for the sole purpose of closing and winterizing the buildings.

- b) Use of the apartment is specifically restricted to a single family occupancy with the number of occupants allowed determined by the Nantucket Building Inspector.
 - c) Leasing of rooms or space to transients or in any temporary basis is strictly prohibited.
 - d) The apartment may not be sublet.
 - e) Occupancy of the apartment for dwelling purposes may commence only after it has been inspected and approved by the Nantucket Building Inspector. Concessionaire shall be responsible for requesting this inspection by the Nantucket Building Inspector and for complying with all required safety requirements. The Nantucket Building Inspector shall have the right from time to time and upon reasonable notice to the Concessionaire to inspect the premises to see that all terms and conditions of these specifications are being met.
 - f) No structural changes or improvements may be made to the apartment by the Concessionaire without written consent of the Town of Nantucket. Any improvements made to the apartment including those necessary to meet building codes are the sole responsibility of the Concessionaire.
- 12) **Beach Access:** The Town of Nantucket will hold keys to the gate at the vehicle access to the beach and the Concessionaire will contact the Town of Nantucket if he/she requires access to the beach through the gate. The Town of Nantucket may deny access to the beach for motorized vehicles at the Town's discretion.
- 13) **Tennis Courts:** The Town of Nantucket reserves the right to sell liquid refreshments at the Town of Nantucket office building located at Jetties Beach.
- 14) **Hospital Event:** The Nantucket Cottage Hospital will have the use of the beach and the concession for two days during the summer to use for a major fund raiser. The Town of Nantucket will be responsible for providing the Concessionaire with up to three alternate dates for this event six months prior to the date of the event and providing the concessionaire the final date and dollar amount of compensation to be paid to the Concessionaire at least six months prior to the event.
- 15) **Fourth of July Fireworks:** The Town has discretion to schedule this event at Jetties Beach at any time from July 3 through July 5 weather dependent.
- 16) **Boardwalk:** The Boardwalk will be installed each season by April 15th by the Department of Public Works in concert with the Town of Nantucket. The boardwalk will be placed to the far right, between the Pavilion and the parking area, and will be flush with the sand. The boardwalk will remain in place for the summer season. The only event for which the boardwalk may be moved is the Hospital Fundraiser. Problems with this provision should be brought to the attention of the Town of Nantucket at least 48 hours prior to the event.



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- 17) **No Pets** - The Concessionaire and/or its employees are prohibited from bringing his/her pet (s) to work.
- 18) **End of Season Inspection:** The Concessionaire shall schedule with the Town of Nantucket a date and time for the end of season inspection. The purpose of the inspection is;
 - a. To ascertain any and all repairs necessary prior to opening for the upcoming season.
 - b. To make sure the premises are clean and all items are secured prior to closing for the season.

D. IMPROVEMENTS

- 1) **Consent:** The Concessionaire shall not undertake any improvements to the premises without having first received the written consent of the Town of Nantucket. Should the Town of Nantucket consent to such improvements the Concessionaire shall obtain all required permits and present copies of all permits to the Town of Nantucket prior to starting work. Any improvements to the premises shall be completed before April 15th. Should there be an emergency need for improvements after April 15th the Town must be provided with copies of the permits and details of the work. Before any work begins an assessment may be made by the Beach Manager based on the current status of the State and Federally listed species and the effect the work may have on their habitat/productivity.
- 2) **Ownership:** Any improvements made by the Concessionaire to the premises during the term of the contract including any structure, fixture or equipment affixed permanently to the premises shall become the property of the Town of Nantucket except as agreed upon in writing prior to installation.

E. INSURANCE

Insurance: The Concessionaire will maintain insurance as listed below and will deliver certificates to the Town of Nantucket, on or before March 1 of each year during the term, stating this insurance is in force, in any calendar year for the duration of this Agreement before he enters the premises:

- 1) **Worker's Compensation:** Worker's Compensation insurance in accordance with Massachusetts General Laws Chapter 152, as amended.
- 2) **Liability:** Comprehensive General Liability insurance including products liability for a combined single amount of \$2,000,000. This policy must have as one of its terms a provision that the Town and County of Nantucket and its Town of Nantucket are additional insured parties. A copy of this policy showing the Town as an additional insured is to be provided to the Town of Nantucket annually on or before March 1. Such policy must also contain a provision that the Town of Nantucket will be provided with ten (10) days written notice by the insurer of any intent to cancel or a determination that such insurance will not be renewed.

F. OPERATING HOURS

- 1) **Concession Facility:** At a minimum the Concessionaire shall operate the Concession between the hours of 10:00 am and 5:00 pm seven (7) days per week from the third week in May, through Columbus



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Day Weekend. There may be allowed limited hours after September 15 of Thursday through Sundays with a full service bar and restaurant. The Concessionaire will offer breakfast service which will require expanding the hours of operation. The Town of Nantucket agrees to support expansion of the hours of operation necessary to provide breakfast and/or dinner service. The Concessionaire may extend the hours of operation subject to the written approval of the Town of Nantucket. In the event of the beach being unoccupied and closed due to inclement weather the Concessionaire may close after notifying the Town of Nantucket.

G. INDEMNIFICATION

- 1) **Indemnification:** The Concessionaire agrees at all times during the term of this contract to indemnify, hold and save harmless, the Town of Nantucket and the Town of Nantucket and its officials, employees and agents from and against any and all action or causes of actions, claims, demands, liabilities, losses, damages or expense of whatsoever kind and nature including all legal costs arising out of or in connection with the operation and rental by Concessionaire of the premises or its performance or failure to perform or any provision of this contract.
- 2) **Waiver of Rights of Recovery:** The Concessionaire also agrees to waive all rights of recovery it may have against the Town of Nantucket and the Town and County of Nantucket for any loss to property or person for which the Concessionaire is insured.

H. TOWN OF NANTUCKET OBLIGATIONS

The Town of Nantucket agrees to the following:

- 1) **Repairs:** To make exterior and structural repairs to the premises subject to funding by Town Meeting. This would include boardwalk repair, parking lot maintenance, bike rack maintenance and safety inspections (with 24 hour notice to the Concessionaire). The Town of Nantucket is also responsible for sewer and water lines, repair of plumbing and wiring faults due to normal use, recreational equipment, as well as providing trash barrels during occupancy period.
- 2) **Special Events:** To inform the Concessionaire of any and all special events taking place on the premises.
- 3) **Improvements:** Any improvements or replacement of equipment made to the premises at the Town of Nantucket's expense will become the property of the Town of Nantucket.

Waiver of Liability

- 1) **Town of Nantucket's Obligation:** Except as a result of its failure to perform the obligations specifically provided herein within a reasonable period after receipt of written notice thereof, the Town of Nantucket shall not be liable to the Concessionaire for any injury or damage to the Premises or to any property of the Concessionaire or to any property of any third person, firm, association or corporation on or about the Premises.



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- 2) **Beach Use:** Operation of the Premises by the Concessionaire is independent of the operation of the beach. The Town of Nantucket of Town may from time to time close the beach, acting in the public's interest or in the interest of the State and Federal regulations and guidelines set in place for the protection of listed species. The Town of Nantucket shall not be financially or otherwise liable to the Concessionaire or to the Concessionaire or its agents for any such closure, and such closure shall not change the Concessionaire's obligations as detailed elsewhere in this lease.

I. DEFAULT, DETERMINATION & REMEDIES

- 1) **Events of Default.** The occurrence of any of the following shall constitute an Event of Default by the Concessionaire hereunder:
- 2) **Failure to Make Payment.** The Concessionaire shall default in the payment of any installment of rent, utility, fee, or other sum herein specified on or before the date such payment is due; or
- 3) **Failure to Operate in the Public Interest or to Fulfill Other Non-Monetary Terms:** The Town of Nantucket determines that the Concessionaire has failed to operate the Premises in the best interest of the Town and/or has failed to operate in accordance to the guidelines set for the management/protection of the State and Federally listed species, or the Concessionaire shall default in the observance or performance of the Concessionaire's non-financial covenants, agreements or obligations hereunder, and such default shall not be corrected within twenty (20) days after written notice thereof; or
- 4) **Failure to comply with the TOWN's Regulations:** The Concessionaire agrees to comply with the current TOWN Guidelines. The most recent version of said guidelines is attached hereto and marked as Exhibit "B".
- 5) **Bankruptcy.** The Concessionaire shall be declared bankrupt or insolvent according to the law, or, if any assignment be made of the Concessionaire's property for the benefit of creditors.
- 6) **Termination.** Upon the occurrence of any Event of Default hereunder, the Town of Nantucket shall have the right thereafter, in its discretion, to re-enter and take complete possession of the Premises, to declare the term of this Agreement ended, and to remove the Concessionaire's effects, without prejudice to any remedies which might otherwise be used for arrears of rent or other default.
- 7) **Remedies.** The Concessionaire shall indemnify the Town of Nantucket against all loss of rent and other payments which the Town of Nantucket may incur by reason of such termination during the residue of the term. If the Concessionaire shall default (after reasonable notice thereof in the case of non-monetary default) in the observance or performance of any conditions or covenants on Concessionaire's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the Town of Nantucket, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of the Concessionaire. If the Town of Nantucket makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of the Prime Rate plus two



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percent (2%) per annum and costs, shall be paid to the Town of Nantucket by the Concessionaire as additional rent. "Prime Rate" shall be the interest rate published from time to time in the Wall Street Journal as the prime rate charged by the US money center commercial banks.

J. GENERAL PROVISIONS

- 1) **Late Charges.** A late charge of three percent (3%) of any amount due and unpaid fifteen (15) days after due date shall be added to the amount due from Concessionaire and a finance charge of one point five percent (1½%) per month will be added to all amounts remaining unpaid thirty (30) days after the date the amount was originally due, such charge constituting a charge equal to eighteen percent (18%) per annum.
- 2) **Compliance with M.G.L. Ch. 7.** The Concessionaire covenants and agrees that it will comply with the requirements of M.G.L. Ch. 7, § 40J, including but not limited to, the filing with the Massachusetts Executive Office for Administration and Finance, Division of Capital Asset Management of a disclosure statement in connection with the disposition of an interest in real property by the Town of Nantucket. A copy of the Disclosure Statement is attached hereto.
- 3) **Independent Concessionaire Relationship.** There is no relationship of joint venture, partnership, employment or agency between the Town of Nantucket, on the one hand, and the Concessionaire on the other, and neither party shall have nor exercise any control or direction over the method by which the other performs its work or functions, aside from such control or direction as provided in this Agreement, which the parties view as consistent with their independent Concessionaire relationship.
- 4) **Binding Obligations, Related Obligors.** It is further intended by the Concessionaire and its principals as a condition to this Agreement, that any corporations or other entities which control or are under direct or indirect common control of or with the Concessionaire or which may otherwise be reasonably considered to be a part of its operating business, shall be jointly and severally liable with the Concessionaire for its liabilities as a party to the Town of Nantucket hereunder.
- 5) **Successors and Assigns; No Right to Assign.** Concessionaire shall have no right to assign this Agreement or the rights granted hereby with respect to the Premises, or otherwise delegate any of its duties hereunder without the prior written consent of the Town of Nantucket, which may be withheld at the sole discretion of the Town of Nantucket. Any such attempted disposition without the consent of the Town of Nantucket in writing shall be null and void and of no force and effect. The terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.
- 6) **Decisions by the Town of Nantucket.** Except as otherwise expressly provided in this Agreement, any decision or action taken by the Town of Nantucket relating to this Agreement or its operation or its termination shall be made by a majority vote of the Board of Selectmen. Responsibilities to monitor obligations shall be undertaken by the Procurement Office.
- 7) **Notices.** All notices required or permitted to be given to Town of Nantucket or Concessionaire shall be in



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writing and shall be given personally, or sent by certified mail return receipt requested, addressed to such party at its latest address of record. Notices to and payments to the Town of Nantucket shall be addressed to the Town of Nantucket at its offices, Two Bathing Beach Road, Nantucket, MA 02554 and notices to the Concessionaire addressed to it at its principal business address, which Concessionaire represents as appearing on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.

- 8) **Governing Law.** This Agreement is governed by the laws of the Commonwealth of Massachusetts. In any controversy, litigation or action arising hereunder, each party, including successors and assigns, irrevocable consents to the jurisdiction of the courts of Massachusetts, agrees that venue shall be proper only there; and waives personal service of any summons, complaint or other process and agrees that service thereof may be made in the manner of other notice given hereunder.
- 9) **Entire Agreement; Amendment Interpretation.** This Agreement and the specifications advertised by the Town of Nantucket constitute the entire agreement between the parties superseding all prior or contemporaneous oral or written understandings. No amendment or other modification of the terms of the Agreement shall be binding unless in writing, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions of this Agreement shall be deemed continuing or extending beyond the terms specifically waived in writing. If any provision of this Agreement shall be held unlawful, invalid, or unenforceable, the remainder of the Agreement shall not be affected thereby. Paragraph headings contained herein are for reference only and are not intended to define or limit the scope of any provisions of this Agreement.

K. OTHER CONCESSIONAIRE'S OBLIGATIONS

- 1) **Keys.** Provide keys to the Town for all locked areas within the Premises.
- 2) **Non Emergency Repairs.** Concessionaire shall request prior written approval from the Town for any non emergency repairs to be made to the Premises at Concessionaire's expense. If the work is scheduled between April 15th and Labor Day the Town must also sign off on any non emergency repairs. Pending the status of the State and Federally listed species and the description of the non emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the said repairs.
- 3) **Emergency Repairs.** Any emergency repairs Concessionaire will confirm in writing; responsibility for payment of such repairs will be determined in accordance with the terms herein. If the work is scheduled between April 15th and Labor Day the Town must also sign off on any emergency repairs. Pending the status of the State and Federally listed species and the description of the non emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the said repairs.
- 4) **Accidents.** Concessionaire shall report any emergencies, accidents or incidents that occur within the Premises to the Town in a timely manner. Exhibit E



Town of Nantucket

References to be included with the Technical (non-price) Proposal:

Please include a list of all clients for whom you have provided a similar service during the past five years. Please include a contact name, company name, address, and telephone number.

The Town expects to check references. One or more poor references may be a basis for determining that a proposer is not responsible and result in a rejection of the proposal. Reference questions will include but may not be limited to service quality and general customer satisfaction.

Proposer must also include proof of financial stability in the Technical Proposal. This shall be in the form of a bank reference or audited financial statements of the business entity.

Price Proposal:

Please provide separate prices for each year of the lease as a lump sum amount. **Offerors must use the price proposal form contained within this RFP.**

Insurance Required:

- (a) Workers' Compensation, covering the obligations of the CONTRACTOR in accordance with applicable Workers' Compensation or Benefits laws.
- (b) Commercial General Liability Insurance on an occurrence basis with a combined single limit of not less than \$2 million. Coverage is to include premises and operations, coverage for liability of subcontractors. The policy shall contain an endorsement stating that the aggregate limits will apply separately to the work being performed under this Agreement.
- (c) Automobile Liability Insurance of not less than \$1 million combined single limit covering owned, hired and non-hired vehicle use.

III. PROPOSAL EVALUATION PROCEDURE

The Chief Procurement Officer shall designate one or more persons to evaluate responsive non-price proposals according to the evaluation criteria contained below. Once evaluations are complete, the Chief Procurement Officer shall open and review price proposals, and make an award to the successful vendor.

Submittals that comply with the quality requirements will be further evaluated based on the comparative criteria detailed below. Each proposal will be assigned a rating for each comparative criterion and a composite rating.

Finalists will be identified from the evaluation of comparative criteria. The Town will rank these finalists. Price proposals will then be considered. The Town will negotiate a contract with the highest ranked finalist who proposes a price within the Town's budgeted amount. The Town reserves the right to reject any and all proposals if such rejection is in its best interest.



Town of Nantucket

Minimum Quality Criteria/Requirements

Proposals must meet the following minimum criteria/requirements:

Proposals must provide all of the items described in Section I and below. This **includes but is not limited to**:

Bid deposit of 10%
Certificate of non-collusion
Tax compliance form
Evidence of financial stability
List of References

Proposals must identify a Plan of Services taking into consideration all of the items required in Section I and Section II Scope of Services.

Technical Proposals must provide proof that the business, as currently constituted, has been regularly and actively engaged on a full-time basis in the concessions business operating under the same business name and organization structure; and performing the type of work described in the section of this RFP entitled "SCOPE OF SERVICES" for a minimum of the past five (5) years. Such proof must include contact information for all owners for whom the offeror has performed services over the past five (5) years.

Technical Proposals must provide proof of Insurance(s).

Comparative Criteria

HA – Highly Advantageous

A – Advantageous

NA – Not Advantageous

Quality Control:

HA – Proposal demonstrates superior quality control and availability of resources and staff to perform the services requested.

A – Proposal demonstrates excellent quality control and some availability of resources and staff to perform the services requested.

NA – Proposal demonstrates adequate quality control, limited availability of resources and staff to perform the services requested.

Experience working with municipalities:

HA – Proposer has had more than three (3) municipal clients in the concessions business in the past five years.

A -- Proposer has had between one (1) and three (3) municipal clients in the concessions business in the



Town of Nantucket

past five years.

NA -- Proposer has had no municipal clients in the concessions business in the past five years.

Plan of Services:

HA – Proposer has shown the resources and ability to meet the requirements of a concession business able to operate a fully staffed restaurant and bar from the third weekend in May through Columbus Day with the potential limitation of hours to Thursday – Sunday from mid-September through Columbus Day.

A - Proposer has shown the resources and ability to meet the requirements of a concession business able to operate a fully staffed restaurant and bar from the beginning of June through September 30.

NA – Proposer has not shown the resources or ability to meet the requirements of a concession business able to operate a fully staffed restaurant and bar beyond the dates of mid June through Labor Day.

IV. RULE FOR AWARD

The Town will determine the most advantageous proposal from a responsible and responsive proposer, taking into consideration price and all evaluation criteria set forth in the RFP.

V. TERM OF CONTRACT

The lease agreement awarded will be for five years ending on December 31, 2021.



Town of Nantucket

PROPOSAL RESPONSE FORM

JETTIES BEACH CONCESSION

The undersigned proposes to the Town of Nantucket the lease price specified below for the specifications contained herein.

**Proposal Price must include all costs and all other expenses.
There will be no reimbursable expenses allowed in the lease.**

| CONTRACT YEAR | PERCENTAGE OF MONTHLY SALES ABOVE ANNUAL CONCESSION FEE TO BE PAID |
|---|--|
| Year 1: Jan. 1, 2017 – Dec. 31, 2017 | Annual Fee of \$108,380 PLUS % of monthly sales |
| Year 2: Jan. 1, 2018 – Dec. 31, 2018 | Annual Fee of \$111,631 PLUS % of monthly sales |
| Year 3: Jan. 1, 2019 – Dec. 31, 2019 | Annual Fee of \$114,980 PLUS % of monthly sales |
| Year 4: Jan. 1, 2020 – Dec. 31, 2020 | Annual Fee of \$118,430 PLUS % of monthly sales |
| Year 5: Jan. 1, 2021 – Dec. 31, 2021 | Annual Fee of \$121,983 PLUS % of monthly sales |
| TOTAL PROPOSAL PERCENTAGE AMOUNT FOR 5 YEAR LEASE: | Annual Fee PLUS: % of monthly sales |

Total proposal percentage amount in words:

Name of proposer

Telephone Number



Town of Nantucket

FEIN or SSN

Address, City, State and Zip Code

Signature of proposer's authorized individual

Date

Printed Name & Title

***NOTE:** If the proposer is a corporation, indicate state of incorporation under signature and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address.*



Town of Nantucket

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of person signing bid or proposal

Name of Business



Town of Nantucket

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Federal Employer ID Number

Name of Corporation

By: _____
President's Signature

Date: _____

**Exhibit C
BEACH & PAVILION – BEACH EVENT FORM**

One of these forms must be completed and submitted to the Beach Manager for each event; either before the initial May 15th deadline or directly after any event at Jetties Beach has been scheduled. Failure to do so may result in the loss of Jetties Beach use for future events.

It is required by the state that the Town of Nantucket implement a Beach Management Plan, including an Endangered Species Program, to protect both state and federally listed species. The following information will be required for any event held within proximity of any state or federally listed species habitat, nesting adults, juvenile chicks, and or unfledged chicks. Each event must hire endangered species monitor(s) through the Town to be present during the event and, if necessary, during the set up and removal of any tent(s), tables, floors and etc. There will be a **\$15/hr fee (per monitor)*** for any additional use of the monitors outside of their scheduled times, usually 8am-6pm. If needed, alterations may be made to this information within 48 hours of the event.

BASIC INFORMATION

| | | | |
|--------------------|-------------------------------|----------------------------|--|
| Location of Event: | | Type of Event: | |
| Date of Event: | Time of Event (start-finish): | Number of Expected Guests: | |

TENT INFORMATION

| | | |
|--|-----------------------------------|--|
| Is a Tent being used; if yes what Company? No Yes, _____ | | Contact person of Tent Company and Phone Number: |
| If yes to tent : | Date to set up Tent: | Time to set up Tent: |
| | Contingency date to set up Tent: | Contingency time to set up Tent: |
| | Date to remove Tent: | Time to remove Tent: |
| | Contingency date to remove Tent:: | Contingency time to remove Tent:: |

FLOOR INFORMATION

| | | |
|---|------------------------------------|---|
| Is a Floor being used; if yes what Company? No Yes, _____ | | Contact person of Floor Company and Phone Number: |
| If yes to Floor: | Date to set up Floor: | Time to set up Floor: |
| | Contingency date to set up Floor: | Contingency time to set up Floor: |
| | Date to remove Floor: | Time to remove Floor: |
| | Contingency date to remove Floor:: | Contingency time to remove Floor:: |

MUSIC INFORMATION

| | | | |
|------------------------------------|-------------------|---------------------------|---------------------------------------|
| Is there going to be Music? No Yes | | If yes by whom/what type? | Contact name & information for Music: |
| If yes to Music: | Sound Check Date: | Sound Check Time: | |

CATERING INFORMATION

| | | | | |
|-------------------------|--|------------------|-----------------|-----------------|
| Is it Catered? No Yes | | If yes, by whom? | Contact Number: | |
| If yes to Caterer | Number of Caterers Staff: | | Set up time: | Take down time: |
| | Are there going to be other structures used at the event, if yes what type (tables, chairs, generators, etc.) and how many? No Yes, _____ | | | |

REMINDER: A THOROUGH CLEAN UP PLAN IS REQUIRED FOR EVERY EVENT!

Note: Monitors are usually scheduled to be on the beaches from 8:00am to 6:00pm 7 days a week. It is suggested that any preparations for the event, such as tent erection, be done between the hours when monitors are scheduled to be present on the beach. Anything before or after these hours will be **\$15 per hour/per monitor***, and will be charged to the event. No event, or setting up/taking down of an event, can take place without a monitor present first. Be sure to contact the Beach Manager beforehand to be sure the appropriate people will be present.

CONCESSIONAIRE: _____ DATE: _____ BEACH MANAGER: _____ DATE: _____



**Exhibit D
Nantucket Endangered Species Program
Beach Event Detail**

**Employer-Billing Information
Event/Detail Information**

| | | |
|--|---------------------------|----------------------------|
| Type of detail: (wedding, cocktail party, Co. event, cookout) | | Location: |
| Date of detail: | Actual detail start time: | Actual detail finish time: |
| Total hours to be invoiced: | Detail rate*: | Total due: |

| | |
|--|--|
| Name of company or person to be invoiced for this detail: | |
| Federal tax ID number of company or social security number of person to be invoiced for this detail: | |
| Has the invoice company/person previously Hired detail beach monitors? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Contact name of person to be invoiced for this detail: | |
| Billing Mailing Street Address: | |
| City, State, & Zip Code: | |

* RATES: 2 hour minimum charge: 0600 to 2400 \$15.00. 0001 to 0600 \$18.00.

** The Town of Nantucket has a 10% Administration Surcharge and a Medicare Charge of 1.45% on all details. This will be added to the total due.

Beach Monitor Information

| | |
|--------------------------|-------|
| Beach monitor name: | Date: |
| Beach monitor signature: | |

Exhibit E
BEACH & PAVILION - INCIDENT REPORT FORM

INSTRUCTIONS:

1. This form should be completed by the Concessionaire, Beach Manager and Town of Nantucket when they or their employees are involved with an incident in the vicinity of Jetties Beach.
2. Keep a copy for your records and submit a completed form to the Town of Nantucket, 16 Broad Street, Nantucket, MA

GENERAL INFORMATION

| | | |
|--|------------------|---|
| 1. Individual(s) Involved in the Incident: | | |
| 2. Address: | | |
| 3. Home Phone: | 4. Work Phone: | 5. <input type="checkbox"/> Concessionaire <input type="checkbox"/> Beach Management <input type="checkbox"/> Town of Nantucket <input type="checkbox"/> Other: _____ |
| 6. Date and Time of Incident: | | |
| 7. Exact Location of Incident: | | |
| 8. Witness Name: | 9. Phone Number: | 10. Other Contact Information: |

INCIDENT

| | |
|--|---|
| 11. How did the incident occur? Describe fully the events that took place; give details on all facts that led to the incident/accidents. Identify the individuals involved in the incident/accident and what their roles were. | |
| 12. Describe the immediate action taken and state by whom: | |
| 13. Was an Officials Agency Contacted? No Yes | 14. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____ |
| 15. Contact person at the Official Agency: | 16. Phone Number: |

DAMAGE OR THEFT

| | | |
|---|---|--|
| 17. Exact Description of Damage or Loss: | | |
| 18. Describe the property/location in detail: | | |
| 19. Was an Official Agency Contacted? No Yes | 20. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____ | 21. Was there a case number and if yes, what was it? No Yes, _____ |
| 22. First Noticed by Whom? | 23. Phone Number: | |

ADDITIONAL INFORMATION

| | |
|-------------------------------|--|
| 24. Person Completing Report: | 25. Concessionaire <input type="checkbox"/> Beach Management <input type="checkbox"/> Town of Nantucket <input type="checkbox"/> |
| 26. Phone Number: | 27. E-mail Address: |
| 28. Additional Information: | |

29. I attest that the information given here is accurate to the best of my knowledge.

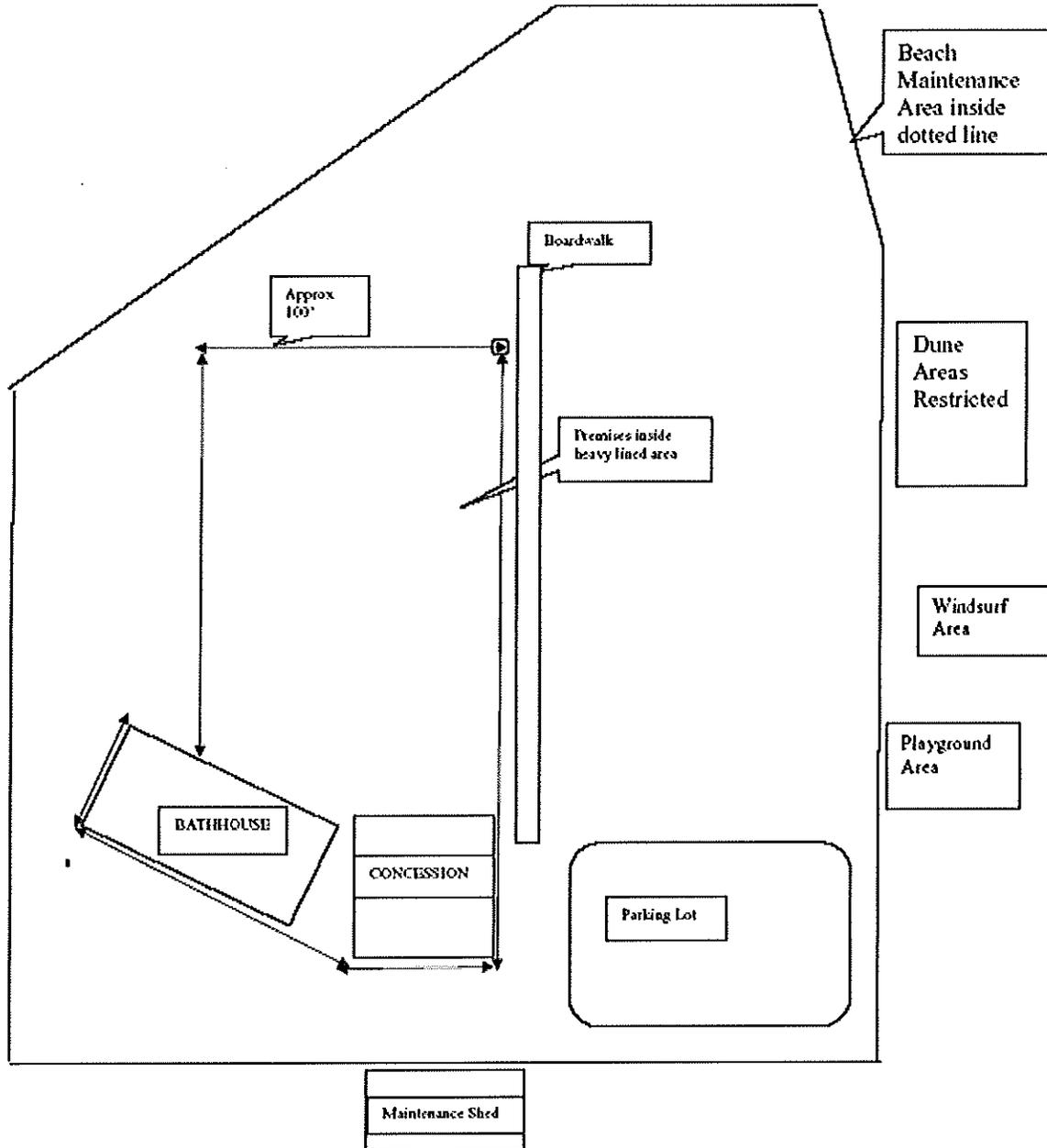
30. Person receiving the Incident Report Form:

31. Date Received:

EXHIBIT F
JETTIES BEACH
CONCESSION AREA

(Not to Scale)

Concession Premises: The Concession premises (hereinafter called the Premises) shall include the Concession building and the Bathhouse and the tent function area; beginning at the corner of the concession deck closest to the Parking lot walking approximately 180' perpendicular towards the ocean at that point turning West, parallel to the Ocean, walking approximately 100' thence turning South heading approximately 180' to the corner to Bathhouse squaring off the parameters of the tent function area. as shown in Exhibit "F".



LEASE EXHIBIT G

All Concessions:

General Maintenance: All equipment is cleaned and oiled as needed.
Concessionaire responsible for maintaining screen doors and windows

End of Each Season:

Hoods and fan are cleaned; Hood fan wrapped for winter, Grease traps emptied walls and floors scrubbed to remove any and all grease; all equipment shall be cleaned and oiled, i.e. fryolator and/or grill.

Concessionaire meets with Town of Nantucket's designee to go over premises and repairs needed prior to next season

Specific to

Jetties: Nothing is to be stored under buildings; Ice Machine and bin are to be moved inside.

Children's: Nothing is to be stored under building

Surfside: Nothing is to be left outside.

LEASE EXHIBIT H
Town & County of Nantucket
16 Broad Street, Nantucket, MA 02554
(508)-228-7256

Guidelines, Rules, and Regulations for Property Use

General Guidelines

If you pack it in, pack it out. Keeping any property you use clean is only polite. Please help keep Nantucket clean for the next user.

The Town is committed to bringing all properties into compliance with ADA regulations, and work is proceeding in this area. If you have any questions about the accessibility of any area please call the office.

The Town welcomes the use of properties by the public and encourages small parties to use these areas at any time for recreational use during daylight hours. All users of Town properties are subject to the following general regulations:

- 1) Parking is allowed only in designated areas.
- 2) Alcohol is not allowed on Town property except as noted below.
- 3) All users of Town property are required to adhere to Town bylaws, especially those regarding noise and signs.
- 4) Overnight camping is prohibited.
- 5) No hunting is allowed on any Town property.
- 6) The selling of goods or services without the prior written consent of the Town is prohibited.
- 7) Any temporary event structure must be assembled and disassembled in 24 hours unless a time extension is granted by the Town prior to the event.
- 8) For Tom Nevers and the Jetties Parking Area a \$500 dollar security deposit is required in case of damage.
- 9) To schedule the Youth Fields each year each organization must send a letter of request to the Town by mid January, and submit a game schedule 4 weeks before the season opener.

Functions

Larger functions, including groups that wish exclusive use of a property, use of the facilities, to charge admission, or to allow the use of alcohol, are required to have their events approved by the Town prior to advertising the event. Sponsors wishing to put on such an event will be asked to meet with the Town's designee, to discuss the event, at which time the processes needed to approve the event will be established. The sponsor will need to fill out an application stating various information about the event, including the name of the activity (if any), the sponsor's name and address, and a general description of the event, including the use and/or setting up of buildings or other temporary structures, consumption of food, and other pertinent details.

Large Events

If more than 250 people are expected at an event, the Board of Selectmen's approval is required this process will require receipt of a completed Special Event Application at least sixty days prior to the event.

Alcohol

The Town **does not allow the use of alcohol** on any property under its jurisdiction without approval of the Town Administration and/or Board of Selectmen.

Parking and Vehicle Use

Other than designated parking areas, vehicle use on Town property is prohibited. Driving on beaches under is

subject to the Beach Vehicle bylaw, Chapter 56. Handicapped parking areas are available at most properties.

Beaches

Town beaches are open from 9:00 am to 5:00 pm seven days per week during the summer season. Lifeguards are administered through the Marine Department. Lifeguard Services at the beaches may be discontinued during inclement weather. Driving is not allowed on any life-guarded beach; flotation devices, boogie boards and "water wings" are also not allowed while lifeguards are on duty.

Security and Insurance

The Town may, at its discretion, require that event sponsors pay a security deposit and/or obtain written liability insurance naming the Town as insured parties. Whether or not such insurance is required by the Town, all sponsors will be required to sign an Indemnification agreement. All sponsors will be required to supervise the people at their event and ensure that restricted areas are kept restricted.

Property Use

The Town welcomes the use of its property for recreational purposes. Items may not be left on Town property without prior approval by vote of the Town. Changes or alterations of Town property also require vote of the Town, and any improvements made to property or buildings become the property of the Town.

Finally, all users of Town property should be aware that the Town reserves the right to restrict or deny use of its properties.

Additional Conditions

Visitors are welcome on all Town properties with the understanding that they use the areas at their own risk, respect the rights of private property owners within and abutting these areas, and comply with all published and posted regulations. The Town does not assume responsibility for injuries, or for the loss, theft, or damage of personal property.

Notice: Limitation of Liability

Entry upon or use of any property of the Town by any person shall constitute a release by such person of the Town, its agents, the Town of Nantucket, and any of its employees from any and all claims for personal injuries, property loss, theft, or damage sustained on Town property, and such release shall be binding upon such person, his personal representatives, and all persons claiming through or under him

7. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

The undersigned swears under the pains of penalties of perjury that this form is complete and accurate in all respects.

| | | |
|--------------|--|-------|
| Signature | | Date: |
| Printed Name | | |
| Title | | |



**AGREEMENT BETWEEN
THE TOWN OF NANTUCKET
AND
JETTIES BEACH INC.**

THIS AGREEMENT made effective January 1, 2012, by and between the **TOWN OF NANTUCKET, MASSACHUSETTS**, a municipal corporation, acting by and through its Town Administrator, with offices at 16 Broad Street, Nantucket, Massachusetts 02554 (hereinafter called the "TOWN"), and **JETTIES BEACH INC.** whose principal office address and state of incorporation are as set forth on Exhibit A (hereinafter called the "Concessionaire").

General: The Concessionaire is responsible for the Operation of a typical snack bar, restaurant and retail concession with the ability to have functions in the function area after 5pm at Jetties Beach, 4 Bathing Beach Road, Nantucket, MA. The Concessionaire is responsible for the Operation of food service in order to offer breakfast, lunch and dinner service. The Concessionaire is also responsible for custodial maintenance of the Beach Maintenance area, as indicated on Exhibit A. Note: The Beach Maintenance area is within a traditional habitat area for both State and Federally protected shorebirds.

The Town of Nantucket's agent will be the Procurement Office or his/her designee.

Concession Premises: The Concession premises (hereinafter called the Premises) shall include the Concession building and the Bathhouse and the tent function area; beginning at the corner of the concession deck closest to the Parking lot walking approximately 180' perpendicular towards the ocean at that point turning West, parallel to the Ocean, walking approximately 100' thence turning South heading approximately 180' to the corner to Bathhouse squaring off the parameters of the tent function area as shown in Exhibit "A".

A. CONCESSION FEE AND OTHER CHARGES

- 1) **Concession Fee:** The Concessionaire shall pay an annual Fee in the amount set forth on the payment Form attached to this Lease as Exhibit B for each occupancy period during the term hereof, as well as a payment of \$500.00 (Five Hundred Dollars) for each function, except the Nantucket Cottage Hospital's Annual Boston Pops Event, held on the Concession Premises during the term of this lease, hereinafter referred to as "Event Fee".
 - a) The Annual Concession Fee shall be payable in two equal installments, the first due on or before July 1 and the second due on or before August 1 of each year.
 - b) The \$500.00 Event Fee shall be payable on or before the start of each Event.

The Concessionaire's 10% bid deposit will be credited toward the first payment of the first year's annual concession fee.

- 2) **Security Deposit:** The Concessionaire shall file with the Town of Nantucket a \$5,000.00 security deposit; refundable at the end of the lease term, without interest to the Concessionaire within sixty (60) days, after determination has been made that the Concessionaire has fulfilled all of the terms of the Lease and left the premises in adequate condition according to the Town and after presenting proof that all utility payments have been made and no defaults are left outstanding.
- 3) **Utility Payments:** The Concessionaire shall pay all water, power, gas, sewer, landfill, oil and telephone costs incidental to its operation hereunder. This obligation includes but is not limited to payment of water and electric bills, Landfill and Sewer User Fees for both the Concession and the Bathhouse portions of

the premises. The Concessionaire is also responsible for all turning on and turning off of all utilities and any and all utility deposits required doing so. The Concessionaire shall present proof of payment of all utilities to the Town of Nantucket within thirty days of closing for the season. Should proof of payment not be presented the Concessionaire shall be considered in default and the Town of Nantucket has the right at its discretion to pay any outstanding amounts from the security deposit as stated in Section A3 above.

- 4) **Other Fees and Utilities:** The Concessionaire shall also be responsible of all licensing fees as determined by the Town, "all" utilities and all other costs associated with the operation of the premises; including any additional fees brought on by the presence of listed shorebirds and the protection plan implemented by the Town of Nantucket's Endangered Species Program, through the Beach Management Plan. Those items specifically provided herein are excluded.

B. TERM

- 1) **Lease Term:** Five years beginning January 1, 2012 and expiring on December 31, 2016.
- 2) **Operation Dates:** Concessionaire shall be permitted to occupy the Premises only during the Occupancy periods, which run from the third weekend in May through the Monday after Columbus Day each calendar year.

C. CONCESSIONAIRE'S OBLIGATIONS **OBLIGATIONS**

- 1) **Concession Facility:** Concessionaire agrees to operate a Concession facility of a typical snack bar and a small retail business in accordance with the applicable rules and regulations and to obtain appropriate licenses before operating the facility and presenting the Town of Nantucket with the same. Small retail sales are allowed. The Concessionaire is responsible to offer food service in order to offer breakfast, lunch and dinner service. The concessionaire shall operate the premises so as to enhance the public's use and enjoyment of the adjacent public beach facility and in the best interest of the Town of Nantucket. The Concessionaire is responsible for compliance with all laws and regulations applicable to the operation of the premises, including but not limited to compliance with applicable ADA regulations.
- 2) **Private Functions/Special Events:** Prior to holding any Private Function, Special Event or activity of less than 250 people the Concessionaire shall obtain in writing approval from the Town of Nantucket and the Beach Manager. A list of upcoming events, as well as completed Beach Event Forms (Exhibit C) must be submitted to both the Beach Manager by May 15th. Any additional events after May 15th will require a Beach Event Form to be completed and submitted to the Town of Nantucket as soon as the event is scheduled. The Town of Nantucket shall have full discretion to deny permission to hold any Private Function, Special Event, or activity. Should the Town of Nantucket approve such a function all of the following conditions must be met:
 - a) If a fire on the beach is planned the Concessionaire must obtain a permit from the Fire Department. A copy of the permit will be give to the Town of Nantucket prior to the day of the function.
 - b) Concessionaire will be responsible for compliance with all Massachusetts, County and Town laws regulations and ordinances governing noise.
 - c) Private functions at the concession will be held in the premises only as shown on Exhibit A and not on the remainder beach. The Town of Nantucket's policy is to disallow private functions on the remainder of the property.
 - d) Section C 2 Private Functions above may be overridden by the additional provisions of this lease.

Not any other part of the lease is affected by any such changes.

- e) A completed copy of the Beach Event Form must be submitted to the Beach Manager.
 - f) Depending on the status of the State & Federally listed species and after the review of the Beach Manager, the Concessionaire may be required to hire monitor(s) through the Town's Endangered Species Program. If the hiring of monitor(s) is deemed necessary a completed Detail Form must be completed and submitted to the Beach Manager before the event. Exhibit D "
- 3) **Public Restrooms, Bathhouse and Shower facilities:** All areas designated as Public Restrooms, Bathhouse and Shower facilities shall be available as such for the public's use. At a minimum the Concessionaire shall operate the Bathhouse, toilet and shower facilities between the hours of 9:00 am and 5:30 pm seven (7) days per week from the Friday prior to Memorial Day through Columbus Day Weekend each year. The Concessionaire shall open the Bathhouse and toilet facilities at all times while the concession is operating. The Town of Nantucket reserves the right to open and staff the toilet facilities only, at other hours for special events. Toilet room facilities must remain open even in inclement weather. The Concessionaire shall be responsible for the cleanliness of the Public Restroom facility and area surrounding the Public Restroom facility.
- 4) **Kitchen Equipment:** The Concessionaire shall provide and install all kitchen equipment and food and drink equipment not already provided by the Town of Nantucket. Any purchase of equipment by Concessionaire from previous Concessionaire would be a private agreement and is not part of the Lease for the facilities. Concessionaire is responsible for maintenance; replacement and removal of his/her own equipment. Any equipment affixed permanently to the premises shall immediately become the property of the Town of Nantucket subject only to the Concessionaire's right to use such equipment during the term hereof. The Concessionaire is responsible for preventive maintenance for the equipment provided by the Town of Nantucket. In addition the Concessionaire agrees to perform annual maintenance prior to closing the building each fall. A schedule of the minimum annual maintenance requirements is attached hereto, and incorporated herein, marked Exhibit "G". Any such equipment remaining after the expiration of this Lease shall, at the option of the Town of Nantucket, either become the property of the Town of Nantucket or be removed and disposed of by the Town of Nantucket at the expense of the Concessionaire.
- 5) **Custodial Services:** The Concessionaire shall clean the restrooms as often as required to maintain them in a condition satisfactory to the Town of Nantucket. The Concessionaire shall supply and maintain paper, soap and supplies as needed.
- 6) **Maintenance:** The Concessionaire shall provide all custodial maintenance inside the buildings and outside the buildings in the Beach Maintenance Area indicated on Exhibit A, Policing the beach and parking areas at least twice daily to keep it free of all litter and other trash generated by the patrons of the beach. All rubbish/trash collected by the Concessionaire or generated from the concession's operation will be secured, removed from the beach and disposed of at the Concessionaire's expense including landfill fees. The Concessionaire is responsible for repairing and maintaining any and all windows and door screens and must inform the Town of Nantucket immediately of any and all repairs so made. The Concessionaire will be required to provide a work order for all exterior and structural repair work to be performed by the Town of Nantucket. Once a pair of potentially nesting listed shorebirds has been recognized, all cleaning of the beach's litter must be done by hand. NO beach raking will be permitted until the status of the State and Federally listed shorebirds has been examined by the Beach Manager and has been deemed permissible. Removal of the rake line by hand or machine is prohibited. Said raking is contracted to an outside Contractor by the Visitor Services. All repairs, maintenance

construction, power washing, or any other action that may involve excessive noise must be completed prior to April 15th

- 7) **Signs and Structures:** Before any temporary or permanent signs or structures are erected the Concessionaire shall first obtain such written approvals as may be required under existing Town regulations including but not limited to a Certificate of Appropriateness from the Historic District Town. The Concessionaire shall then obtain the written permission of the Town of Nantucket.

- 8) **State and Federally Protected Species:** The Concessionaire must be aware that Jetties Beach is a known traditional habitat area for State and Federally listed species, such as the Piping Plover. Such listed species are protected under the Endangered Species Act and are monitored and protected by the Town of Nantucket's Endangered Species Program, via the Beach Manager. The Town's Endangered Species Program is based on set State and Federal Guidelines. Failure to follow the rules, regulations and guidelines created by the State and Federal Government and implemented by the Town of Nantucket's Endangered Species Program may result in the potential closure of Jetties Beach. The Concessionaire is required to abide by all rules and regulations set forth regarding the "State and Federally listed species" and therefore must notify the Beach Manager of any "Private Function, Special Event or Activity" as soon as they are scheduled and no later than one week in advance of the event.

- 9) **Alcoholic Beverages:** In accordance with Section 54-1C of the Nantucket Code, the Town of Nantucket hereby grants its consent to the Concessionaire to serve alcoholic beverages for possession and consumption on the premises subject to the following conditions.
 - a) Concessionaire must obtain a liquor license from the Nantucket Board of Selectmen in accordance with all local, state and federal rules and regulations.
 - b) The area of the Premises in which alcoholic beverages will be served and consumed shall be limited and clearly delineated to the satisfaction of the Town of Nantucket. Appropriate precautions shall be taken to assure that alcoholic beverages are not consumed outside the premises.
 - c) The Concessionaire will be responsible for compliance with all Massachusetts and Nantucket laws, regulations and ordinances governing the serving and consumption of alcoholic beverages on the premises including the consumption of alcoholic beverages by minors.
 - d) Alcohol may only be served between the hours of 5:00 pm and 9:30 pm during the Minimum Operating Hours governing the Concession Facility; i.e. the third week in June, or June 21st, whichever is later, and the Sunday Following Labor Day. Prior to the third week in June, or June 21st, whichever is later, and the Sunday Following Labor Day, the Town will consider requests to commence service of Alcohol earlier than 5:00 pm. Alcohol may only be served in conjunction with meals consumed within the premises.
If it is the intent of the concessionaire to extend the liquor license hours they will be required to obtain Board of Selectmen approval.
The current License for Alcoholic Beverages states the following;
April 1 to June 30 from 11:00 AM to 10:00PM (Private Functions Only); July 1 to August 30 from 5:00PM to 9:30PM (Private Functions and Dinner Service to the Public); September 1 to January 15 from 11:00AM to 10:00PM (Private Functions Only).
 - e) The Concessionaire shall hire a police detail for any private function at which alcohol will be served where more than 150 persons are expected to attend. The cost of such police detail will be paid by the Concessionaire or the sponsor of the function.
 - f) The Concessionaire hereby agrees to indemnify and hold harmless the Town and

County of Nantucket and all of their officials, members, officers, employees and agents from any and all claims arising out of the sale or consumption of alcoholic beverages on the premises and all other costs (including legal fees) related thereto. The Concessionaire will maintain liability insurance with respect to the serving of alcoholic beverages as required by the laws and regulations of the Commonwealth of Massachusetts and the Town and County of Nantucket. All Such policies of liability insurance shall name the Town and County of Nantucket and all other indemnified parties as additional insured parties under the policy. The Concessionaire shall deliver written proof of such insurance, by a certificate of insurance or otherwise as required by the Town, to the Town's designee on or before March 1 of each year during the term herein.

- g) Such provisions are subject to review, modification or termination by the Town of Nantucket at its sole discretion at any time.
- h) Tents set up on the beach portion of the premises cannot be set up until the day of the event for which they are being used and must be removed by Noon on the day after the event. Problems with this provision should be brought to the attention of the Town of Nantucket at least one week prior to the event if not previously addressed during the permitting process. Before erecting or removing a tent and/or floor on Jetties Beach, the Beach Manager must be notified of the size of the tent(s), the times and the date(s). If the Beach Manager feels it is necessary, the Concessionaire will hire monitor(s) through the Town's Endangered Species Program to be present during both the erection of the tent and/or floor and the removal. Failure to contact the Beach Manager regarding a tent and/or floor may result in the loss of future tent/floor use.

11) **Use for dwelling purposes:** The Concessionaire is expressly prohibited from using any part of the premises for dwelling purposes except upon the following terms and conditions.

- a) Only that portion of the second floor of the main building known as the apartment may be used for dwelling purposes and may be so used only by the Concessionaire or employees of the Concessionaire during the period of Occupancy. The Concessionaire with immediate family only may enter the apartment two weeks prior to the occupancy period or two weeks prior to opening the concession whichever is later for the sole purpose of preparing the buildings for the summer season. The Concessionaire with immediate family only may remain in the apartment for up to two weeks after the occupancy period or two weeks after closing the concession whichever is earlier for the sole purpose of closing and winterizing the buildings.
- b) Use of the apartment is specifically restricted to a single family occupancy with the number of occupants allowed determined by the Nantucket Building Inspector.
- c) Leasing of rooms or space to transients or in any temporary basis is strictly prohibited.
- d) The apartment may not be sublet.
- e) Occupancy of the apartment for dwelling purposes may commence only after it has been inspected and approved by the Nantucket Building Inspector. Concessionaire shall be responsible for requesting this inspection by the Nantucket Building Inspector and for complying with all required safety requirements. The Nantucket Building Inspector shall have the right from time to time and upon reasonable notice to the Concessionaire to inspect the premises to see that all terms and conditions of these specifications are being met.
- f) No structural changes or improvements may be made to the apartment by the Concessionaire without written consent of the Town of Nantucket. Any improvements

made to the apartment including those necessary to meet building codes are the sole responsibility of the Concessionaire.

- 12) **Beach Access:** The Town of Nantucket and Beach Manager will hold keys to the gate at the vehicle access to the beach and the Concessionaire will contact the Town of Nantucket and Beach Manager if he/she requires access to the beach through the gate. The Town of Nantucket and Beach Manager may deny access to the beach for motorized vehicles at the Beach Manager's discretion.
- 13) **Tennis Courts:** The Town of Nantucket reserves the right to sell liquid refreshments at the Town of Nantucket office building located at Jetties Beach.
- 14) **Hospital Event:** The Nantucket Cottage Hospital will have the use of the beach and the concession for two days during the summer to use for a major fund raiser. The Town of Nantucket will be responsible for providing the Concessionaire with up to three alternate dates for this event six months prior to the date of the event and providing the concessionaire the final date and dollar amount of compensation to be paid to the Concessionaire at least six months prior to the event.
- 15) **Boardwalk:** The Boardwalk will be installed each season by April 15th by the Department of Public Works in concert with the Town of Nantucket. The boardwalk will be placed to the far right, between the Pavilion and the parking area, and will be flush with the sand. The boardwalk will remain in place for the summer season. The only event for which the boardwalk may be moved is the Hospital Fundraiser. Problems with this provision should be brought to the attention of the Town of Nantucket at least 48 hours prior to the event.
- 16) **No Pets** - The Concessionaire and/or its employees are prohibited from bringing his/her pet (s) to work.
- 17) **End of Season Inspection:** The Concessionaire shall schedule with the Town of Nantucket a date and time for the end of season inspection. The purpose of the inspection is;
 - a. To ascertain any and all repairs necessary prior to opening for the upcoming season.
 - b. To make sure the premises are clean and all items are secured prior to closing for the season.

D. IMPROVEMENTS

- 1) **Consent:** The Concessionaire shall not undertake any improvements to the premises without having first received the written consent of the Town of Nantucket. Should the Town of Nantucket consent to such improvements the Concessionaire shall obtain all required permits and present copies of all permits to the Town of Nantucket prior to starting work. Any improvements to the premises shall be completed before April 15th. Should there be an emergency need for improvements after April 15th the Town must be provided with copies of the permits and details of the work. Before any work begins an assessment may be made by the Beach Manager based on the current status of the State and Federally listed species and the effect the work may have on their habitat/productivity.
- 2) **Ownership:** Any improvements made by the Concessionaire to the premises during the term of the Lease including any structure, fixture or equipment affixed permanently to the premises shall become the property of the Town of Nantucket except as agreed upon in writing prior to installation.

E. INSURANCE

Insurance: The Concessionaire will maintain insurance as listed below and will deliver certificates to the Town of Nantucket, on or before March 1 of each year during the term, stating this insurance is in force, in any calendar year for the duration of this Agreement before he enters the premises:

- 1) **Worker's Compensation:** Worker's Compensation insurance in accordance with Massachusetts General Laws Chapter 152, as amended.
- 2) **Liability:** Comprehensive General Liability insurance including products liability for a combined single amount of \$1,000,000. This policy must have as one of its terms a provision that the Town and County of Nantucket and its Town of Nantucket are additional insured parties. A copy of this policy is to be provided to the Town of Nantucket annually on or before March 1. Such policy must also contain a provision that the Town of Nantucket will be provided with ten (10) days written notice by the insurer of any intent to cancel or a determination that such insurance will not be renewed.

F. OPERATING HOURS

- 1) **Concession Facility:** At a minimum the Concessionaire shall operate the Concession between the hours of 10:00 am and 5:00 pm seven (7) days per week from the third week in June, or June 21st, whichever is later, through the Sunday following Labor Day each year. The Concessionaire will offer breakfast service which will require expanding the hours of operation. The Town of Nantucket agrees to support expansion of the hours of operation necessary to provide breakfast and/or dinner service. The Concessionaire may extend the hours of operation subject to the written approval of the Town of Nantucket. In the event of the beach being unoccupied and closed due to inclement weather the Concessionaire may close after notifying the Town of Nantucket.

G. INDEMNIFICATION

- 1) **Indemnification:** The Concessionaire agrees at all times during the term of this Lease to indemnify, hold and save harmless, the Town of Nantucket and the Town of Nantucket and its officials, employees and agents from and against any and all action or causes of actions, claims, demands, liabilities, losses, damages or expense of whatsoever kind and nature including all legal costs arising out of or in connection with the operation and rental by Concessionaire of the premises or its performance or failure to perform or any provision of this Lease.
- 2) **Waiver of Rights of Recovery:** The Concessionaire also agrees to waive all rights of recovery it may have against the Town of Nantucket and the Town and County of Nantucket for any loss to property or person for which the Concessionaire is insured.

H. TOWN OF NANTUCKET OBLIGATIONS

The Town of Nantucket agrees to the following:

- 1) **Repairs:** To make exterior and structural repairs to the premises subject to funding by Town Meeting. This would include boardwalk repair, parking lot maintenance, bike rack maintenance and safety inspections (with 24 hour notice to the Concessionaire). The Town of Nantucket is also responsible for sewer and water lines, repair of plumbing and wiring faults due to normal use, recreational equipment, as well as providing trash barrels during occupancy period.
- 2) **Special Events:** To inform the Concessionaire of any and all special events taking place on the premises.
- 3) **Improvements:** Any improvements or replacement of equipment made to the premises at the Town of

Nantucket's expense will become the property of the Town of Nantucket.

Waiver of Liability

- 1) **Town of Nantucket's Obligation:** Except as a result of its failure to perform the obligations specifically provided herein within a reasonable period after receipt of written notice thereof, the Town of Nantucket shall not be liable to the Concessionaire for any injury or damage to the Premises or to any property of the Concessionaire or to any property of any third person, firm, association or corporation on or about the Premises.
- 2) **Beach Use:** Operation of the Premises by the Concessionaire is independent of the operation of the beach. The Town of Nantucket of Town may from time to time close the beach, acting in the public's interest or in the interest of the State and Federal regulations and guidelines set in place for the protection of listed species. The Town of Nantucket shall not be financially or otherwise liable to the Concessionaire or to the Concessionaire or its agents for any such closure, and such closure shall not change the Concessionaire's obligations as detailed elsewhere in this lease.

I. DEFAULT, DETERMINATION & REMEDIES

- 1) **Events of Default.** The occurrence of any of the following shall constitute an Event of Default by the Concessionaire hereunder:
 - 2) **Failure to Make Payment.** The Concessionaire shall default in the payment of any installment of rent, utility, fee, or other sum herein specified on or before the date such payment is due; or
 - 3) **Failure to Operate in the Public Interest or to Fulfill Other Non-Monetary Terms:** The Town of Nantucket determines that the Concessionaire has failed to operate the Premises in the best interest of the Town and/or has failed to operate in accordance to the guidelines set for the management/protection of the State and Federally listed species, or the Concessionaire shall default in the observance or performance of the Concessionaire's non-financial covenants, agreements or obligations hereunder, and such default shall not be corrected within twenty (20) days after written notice thereof; or
 - 4) **Failure to comply with the TOWN's Regulations:** The Concessionaire agrees to comply with the current TOWN Guidelines. The most recent version of said guidelines is attached hereto and marked as Exhibit "B".
 - 5) **Bankruptcy.** The Concessionaire shall be declared bankrupt or insolvent according to the law, or, if any assignment be made of the Concessionaire's property for the benefit of creditors.
 - 6) **Termination.** Upon the occurrence of any Event of Default hereunder, the Town of Nantucket shall have the right thereafter, in its discretion, to re-enter and take complete possession of the Premises, to declare the term of this Agreement ended, and to remove the Concessionaire's effects, without prejudice to any remedies which might otherwise be used for arrears of rent or other default.
 - 7) **Remedies.** The Concessionaire shall indemnify the Town of Nantucket against all loss of rent and other payments which the Town of Nantucket may incur by reason of such termination during the residue of the term. If the Concessionaire shall default (after reasonable notice thereof in the case of non-monetary default) in the observance or performance of any conditions or covenants on Concessionaire's part to be observed or performed under or by virtue of any of the provisions in any article of this lease, the Town of Nantucket, without being under any obligation to do so and without thereby waiving such default, may

remedy such default for the account and at the expense of the Concessionaire. If the Town of Nantucket makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of the Prime Rate plus two percent (2%) per annum and costs, shall be paid to the Town of Nantucket by the Concessionaire as additional rent. "Prime Rate" shall be the interest rate published from time to time in the Wall Street Journal as the prime rate charged by the US money center commercial banks.

J. GENERAL PROVISIONS

- 1) **Late Charges.** A late charge of three percent (3%) of any amount due and unpaid fifteen (15) days after due date shall be added to the amount due from Concessionaire and a finance charge of one point five percent (1½%) per month will be added to all amounts remaining unpaid thirty (30) days after the date the amount was originally due, such charge constituting a charge equal to eighteen percent (18%) per annum.
- 2) **Compliance with M.G.L. Ch. 7.** The Concessionaire covenants and agrees that it will comply with the requirements of M.G.L. Ch. 7, § 40J, including but not limited to, the filing with the Massachusetts Executive Office for Administration and Finance, Division of Capital Asset Management of a disclosure statement in connection with the disposition of an interest in real property by the Town of Nantucket. A copy of the Disclosure Statement is attached hereto.
- 3) **Independent Concessionaire Relationship.** There is no relationship of joint venture, partnership, employment or agency between the Town of Nantucket, on the one hand, and the Concessionaire on the other, and neither party shall have nor exercise any control or direction over the method by which the other performs its work or functions, aside from such control or direction as provided in this Agreement, which the parties view as consistent with their independent Concessionaire relationship.
- 4) **Binding Obligations, Related Obligors.** It is further intended by the Concessionaire and its principals as a condition to this Agreement, that any corporations or other entities which control or are under direct or indirect common control of or with the Concessionaire or which may otherwise be reasonably considered to be a part of its operating business, shall be jointly and severally liable with the Concessionaire for its liabilities as a party to the Town of Nantucket hereunder.
- 5) **Successors and Assigns; No Right to Assign.** Concessionaire shall have no right to assign this Agreement or the rights granted hereby with respect to the Premises, or otherwise delegate any of its duties hereunder without the prior written consent of the Town of Nantucket, which may be withheld at the sole discretion of the Town of Nantucket. Any such attempted disposition without the consent of the Town of Nantucket in writing shall be null and void and of no force and effect. The terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the respective parties hereto.
- 6) **Decisions by the Town of Nantucket.** Except as otherwise expressly provided in this Agreement, any decision or action taken by the Town of Nantucket relating to this Agreement or its operation or its termination shall be made by a majority vote of the Board of Selectmen. Responsibilities to monitor obligations shall be undertaken by the Procurement Office.
- 7) **Notices.** All notices required or permitted to be given to Town of Nantucket or Concessionaire shall be in writing and shall be given personally, or sent by certified mail return receipt requested, addressed to such

party at its latest address of record. Notices to and payments to the Town of Nantucket shall be addressed to the Town of Nantucket at its offices, Two Bathing Beach Road, Nantucket, MA 02554 and notices to the Concessionaire addressed to it at its principal business address, which Concessionaire represents as appearing on the first page of this Agreement, or to such other addresses as the parties may designate to each other by such notice from time to time.

- 8) **Governing Law.** This Agreement is governed by the laws of the Commonwealth of Massachusetts. In any controversy, litigation or action arising hereunder, each party, including successors and assigns, irrevocably consents to the jurisdiction of the courts of Massachusetts, agrees that venue shall be proper only there; and waives personal service of any summons, complaint or other process and agrees that service thereof may be made in the manner of other notice given hereunder.
- 9) **Entire Agreement; Amendment Interpretation.** This Agreement and the specifications advertised by the Town of Nantucket constitute the entire agreement between the parties superseding all prior or contemporaneous oral or written understandings. No amendment or other modification of the terms of the Agreement shall be binding unless in writing, and duly executed by the parties hereto. No waiver of default by either party of any of the terms, covenants, and conditions of this Agreement shall be deemed continuing or extending beyond the terms specifically waived in writing. If any provision of this Agreement shall be held unlawful, invalid, or unenforceable, the remainder of the Agreement shall not be affected thereby. Paragraph headings contained herein are for reference only and are not intended to define or limit the scope of any provisions of this Agreement.

K. OTHER CONCESSIONAIRE'S OBLIGATIONS

- 1) **Keys.** Provide keys to the Town for all locked areas within the Premises.
- 2) **Non Emergency Repairs.** Concessionaire shall request prior written approval from the Town for any non emergency repairs to be made to the Premises at Concessionaire's expense. If the work is scheduled between April 15th and Labor Day the Beach Manager must also sign off on any non emergency repairs. Pending the status of the State and Federally listed species and the description of the non emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the said repairs.
- 3) **Emergency Repairs.** Any emergency repairs Concessionaire will confirm in writing; responsibility for payment of such repairs will be determined in accordance with the terms herein. If the work is scheduled between April 15th and Labor Day the Beach Manager must also sign off on any emergency repairs. Pending the status of the State and Federally listed species and the description of the non emergency repairs, the Concessionaire may be required to hire monitor(s) through the Endangered Species Program to be present during the said repairs.
- 4) **Accidents.** Concessionaire shall report any emergencies, accidents or incidents that occur within the Premises to the Town in a timely manner. **Exhibit E**

Agreement: The Concessionaire shall be responsible for adhering to all of the provisions stated in the Lease.

LEASE EXHIBIT A

1. **Name of Concessionaire:** Jetties Beach Inc.
2. **State of Incorporation:** MA
3. **Principal Office Address:** 40 Main Street, Nantucket, MA 02554
4. **Description of Services (§2.1):** Jetties Beach Concession lease as described herein
5. **Person, Department, or Committee, if any, to whom Concessionaire reports (§ 2.2):**
Diane A. O'Neil, Project Manager/Chief Procurement Officer or Jeff Carlson, Beach Manager
6. **Term of Agreement (§3.1):** 5 year Lease (January 1, 2012 through December 31, 2016)
7. **Completion Date (§3.2):** December 31, 2016
8. **Additional Insurance Coverage (§6.2(e)):**

**LEASE EXHIBIT B
JETTIES BEACH CONCESSION**

The undersigned proposes to in pay the Town of Nantucket the Lease price below for the concession operation specifications contained herein.

The Annual Concession Fee shall be payable in two equal installments, the first due on or before July 1 and the second due on or before August 1 of each year.

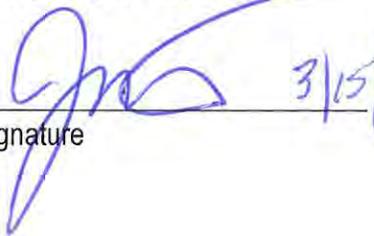
Year 1's first installment shall be \$47,500.50 less the bid deposit of \$9,502.00 = \$37,998.50.

| Lease Year | Annual Lease Amount | Payment due July 1 | Payment due August 1 |
|-------------------------------|---------------------|--|----------------------|
| Year 1 - 2012 | \$ 95,001.00 | \$47,500.50 - \$9,502 = \$37,998.50 | \$47,500.50 |
| Year 2 - 2013 | \$ 97,376.03 | \$48,688.02 | \$48,688.01 |
| Year 3 - 2014 | \$ 99,810.43 | \$49,905.22 | \$49,905.21 |
| Year 4 - 2015 | \$ 102,305.69 | \$51,152.85 | \$51,152.84 |
| Year 5 - 2016 | \$ 105,222.69 | \$52,611.35 | \$52,611.34 |
| Total for 5 Year Lease | \$ 499,715.84 | | |

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

TOWN OF NANTUCKET, MASSACHUSETTS

CONCESSIONAIRE


 Signature 3/15/11

Approved As To Form:


 Libby Gibson, Town Manager

Org. /Obj

Approved as To Funds Available:


 Finance

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and Concessionaires, and withholding and remitting child support.

Federal Employer ID Number

04-1952565

Jetties Beach Inc
Name of Corporation

JM 3/15/11
President's Signature Date

J. Marshall Thompson
Please Print Name

Exhibit C BEACH & PAVILION – BEACH EVENT FORM

One of these forms must be completed and submitted to the Beach Manager for each event; either before the initial May 15th deadline or directly after any event at Jetties Beach has been scheduled. Failure to do so may result in the loss of Jetties Beach use for future events.

It is required by the state that the Town of Nantucket implement a Beach Management Plan, including an Endangered Species Program, to protect both state and federally listed species. The following information will be required for any event held within proximity of any state or federally listed species habitat, nesting adults, juvenile chicks, and or unfledged chicks. Each event must hire endangered species monitor(s) through the Town to be present during the event and, if necessary, during the set up and removal of any tent(s), tables, floors and etc. There will be a **\$15/hr fee (per monitor)*** for any additional use of the monitors outside of their scheduled times, usually 8am-6pm. If needed, alterations may be made to this information within 48 hours of the event.

BASIC INFORMATION

| | | |
|--------------------|-------------------------------|----------------------------|
| Location of Event: | | Type of Event: |
| Date of Event: | Time of Event (start-finish): | Number of Expected Guests: |

TENT INFORMATION

| | | |
|--|--|--|
| Is a Tent being used; if yes what Company? No Yes, _____ | | Contact person of Tent Company and Phone Number: |
| If yes to tent : | Date to set up Tent: | Time to set up Tent: |
| | <i>Contingency date to set up Tent:</i> | <i>Contingency time to set up Tent:</i> |
| | Date to remove Tent: | Time to remove Tent: |
| | <i>Contingency date to remove Tent::</i> | <i>Contingency time to remove Tent::</i> |

FLOOR INFORMATION

| | | |
|---|---|---|
| Is a Floor being used; if yes what Company? No Yes, _____ | | Contact person of Floor Company and Phone Number: |
| If yes to Floor: | Date to set up Floor: | Time to set up Floor: |
| | <i>Contingency date to set up Floor:</i> | <i>Contingency time to set up Floor:</i> |
| | Date to remove Floor: | Time to remove Floor: |
| | <i>Contingency date to remove Floor::</i> | <i>Contingency time to remove Floor::</i> |

MUSIC INFORMATION

| | | | |
|------------------------------------|-------------------|---------------------------|---------------------------------------|
| Is there going to be Music? No Yes | | If yes by whom/what type? | Contact name & information for Music: |
| If yes to Music: | Sound Check Date: | Sound Check Time: | |

CATERING INFORMATION

| | | | |
|-----------------------|--|------------------|-----------------|
| Is it Catered? No Yes | | If yes, by whom? | Contact Number: |
| If yes to Caterer | Number of Caterers Staff: | Set up time: | Take down time: |
| | Are there going to be other structures used at the event, if yes what type (tables, chairs, generators, etc.) and how many? No Yes, _____ | | |

REMINDER: A THOROUGH CLEAN UP PLAN IS REQUIRED FOR EVERY EVENT!

Note: Monitors are usually scheduled to be on the beaches from 8:00am to 6:00pm 7 days a week. It is suggested that any preparations for the event, such as tent erection, be done between the hours when monitors are scheduled to be present on the beach. Anything before or after these hours will be **\$15 per hour/per monitor***, and will be charged to the event. No event, or setting up/taking down of an event, can take place without a monitor present first. Be sure to contact the Beach Manager beforehand to be sure the appropriate people will be present.

CONCESSIONAIRE: _____ DATE: _____ BEACH MANAGER: _____ DATE: _____



**Exhibit D
Nantucket Endangered Species Program
Beach Event Detail**

**Employer-Billing Information
Event/Detail Information**

| | | |
|--|------------------------------|-------------------------------|
| Type of detail: (wedding, cocktail party, Co. event, cookout) | | Location: |
| Date of detail: | Actual detail start time: | Actual detail finish time: |
| Total hours to be invoiced: | Detail rate*: | Total due: |

| | |
|---|--|
| Name of company or person to be invoiced for this detail: | |
| Federal tax ID number of company or social security number of person to be invoiced for this detail: | |
| Has the invoice company/person previously Hired detail beach monitors? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Contact name of person to be invoiced for this detail: | |
| Billing Mailing Street Address: | |
| City, State, & Zip Code: | |

* RATES: 2 hour minimum charge: 0600 to 2400 \$15.00. 0001 to 0600 \$18.00.

** The Town of Nantucket has a 10% Administration Surcharge and a Medicare Charge of 1.45% on all details. This will be added to the total due.

Beach Monitor Information

| | |
|--------------------------|-------|
| Beach monitor name: | Date: |
| Beach monitor signature: | |

Exhibit E
BEACH & PAVILION - INCIDENT REPORT FORM

INSTRUCTIONS:

1. This form should be completed by the Concessionaire, Beach Manager and Town of Nantucket when they or their employees are involved with an incident in the vicinity of Jetties Beach.
2. Keep a copy for your records and submit a completed form to the Town of Nantucket, 16 Broad Street, Nantucket, MA

GENERAL INFORMATION

| | | |
|--|------------------|---|
| 1. Individual(s) Involved in the Incident: | | |
| 2. Address: | | |
| 3. Home Phone: | 4. Work Phone: | 5. <input type="checkbox"/> Concessionaire <input type="checkbox"/> Beach Management <input type="checkbox"/> Town of Nantucket <input type="checkbox"/> Other: _____ |
| 6. Date and Time of Incident: | | |
| 7. Exact Location of Incident: | | |
| 8. Witness Name: | 9. Phone Number: | 10. Other Contact Information: |

INCIDENT

| | |
|--|---|
| 11. How did the incident occur? Describe fully the events that took place; give details on all facts that led to the incident/accidents. Identify the individuals involved in the incident/accident and what their roles were. | |
| 12. Describe the immediate action taken and state by whom: | |
| 13. Was an Officials Agency Contacted? No Yes | 14. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____ |
| 15. Contact person at the Official Agency: | 16. Phone Number: |

DAMAGE OR THEFT

| | | |
|---|---|--|
| 17. Exact Description of Damage or Loss: | | |
| 18. Describe the property/location in detail: | | |
| 19. Was an Official Agency Contacted? No Yes | 20. If yes, which Officials were Contacted? NPD USF&W EPO Other: _____ | 21. Was there a case number and if yes, what was it? No Yes, _____ |
| 22. First Noticed by Whom? | 23. Phone Number: | |

ADDITIONAL INFORMATION

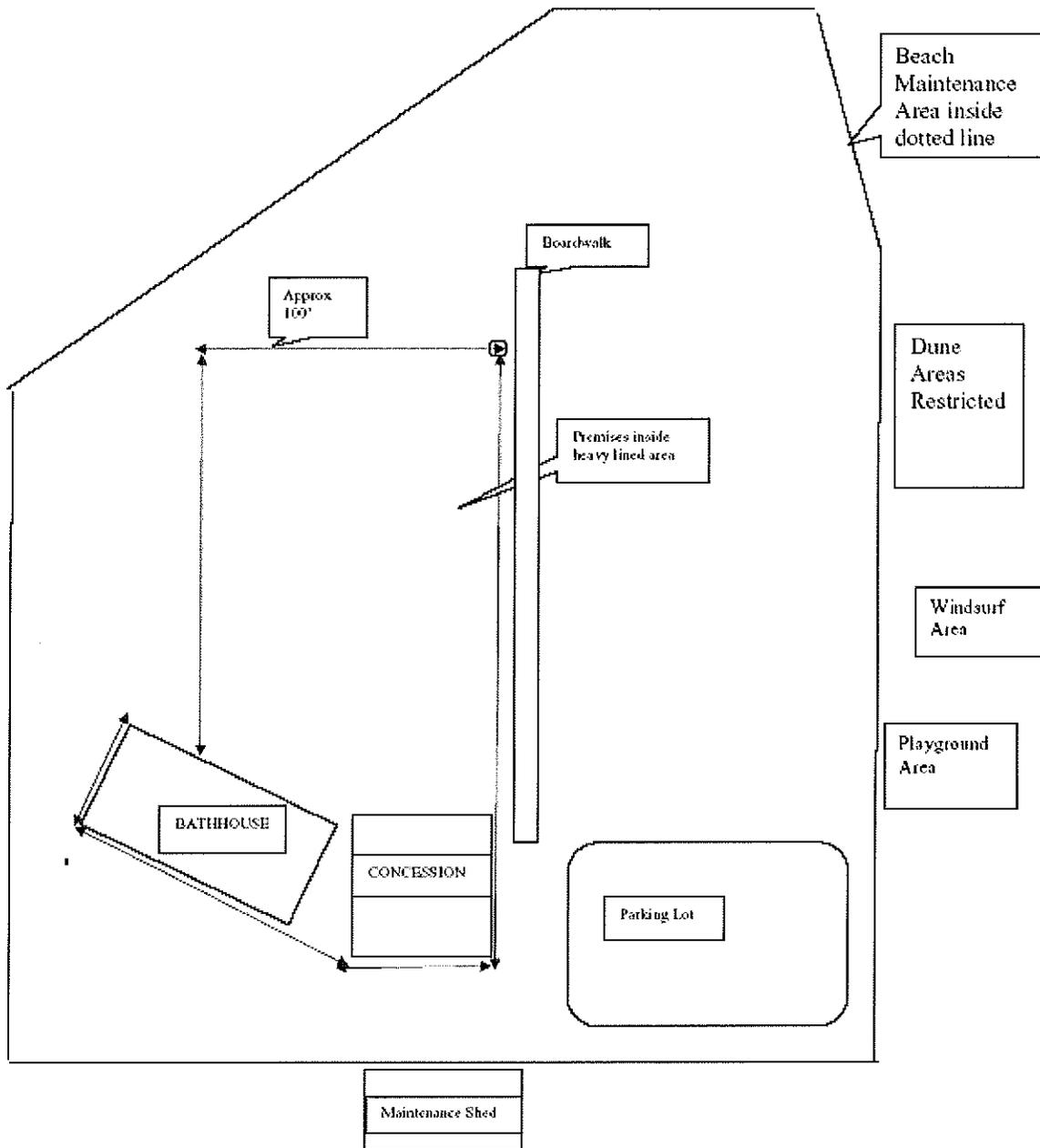
| | |
|-------------------------------|--|
| 24. Person Completing Report: | 25. Concessionaire <input type="checkbox"/> Beach Management <input type="checkbox"/> Town of Nantucket <input type="checkbox"/> |
| 26. Phone Number: | 27. E-mail Address: |
| 28. Additional Information: | |

| | |
|---|--------------------|
| 29. I attest that the information given here is accurate to the best of my knowledge. | |
| 30. Person receiving the Incident Report Form: | 31. Date Received: |

**EXHIBIT F
JETTIES BEACH
CONCESSION AREA**

(Not to Scale)

Concession Premises: The Concession premises (hereinafter called the Premises) shall include the Concession building and the Bathhouse and the tent function area; beginning at the corner of the concession deck closest to the Parking lot walking approximately 180' perpendicular towards the ocean at that point turning West, parallel to the Ocean, walking approximately 100' thence turning South heading approximately 180' to the corner to Bathhouse squaring off the parameters of the tent function area. as shown in Exhibit "F".



LEASE EXHIBIT G

All Concessions:

General Maintenance: All equipment is cleaned and oiled as needed.
Concessionaire responsible for maintaining screen doors and windows

End of Each Season:

Hoods and fan are cleaned; Hood fan wrapped for winter, Grease traps emptied walls and floors scrubbed to remove any and all grease; all equipment shall be cleaned and oiled, i.e. fryolator and/or grill.

Concessionaire meets with Town of Nantucket's designee to go over premises and repairs needed prior to next season

Specific to

Jetties: Nothing is to be stored under buildings; Ice Machine and bin are to be moved inside.

Children's: Nothing is to be stored under building

Surfside: Nothing is to be left outside.

LEASE EXHIBIT H
Town & County of Nantucket
16 Broad Street, Nantucket, MA 02554
(508)-228-7256

Guidelines, Rules, and Regulations for Property Use

General Guidelines

If you pack it in, pack it out. Keeping any property you use clean is only polite. Please help keep Nantucket clean for the next user.

The Town is committed to bringing all properties into compliance with ADA regulations, and work is proceeding in this area. If you have any questions about the accessibility of any area please call the office.

The Town welcomes the use of properties by the public and encourages small parties to use these areas at any time for recreational use during daylight hours. All users of Town properties are subject to the following general regulations:

- 1) Parking is allowed only in designated areas.
- 2) Alcohol is not allowed on Town property except as noted below.
- 3) All users of Town property are required to adhere to Town bylaws, especially those regarding noise and signs.
- 4) Overnight camping is prohibited.
- 5) No hunting is allowed on any Town property.
- 6) The selling of goods or services without the prior written consent of the Town is prohibited.
- 7) Any temporary event structure must be assembled and disassembled in 24 hours unless a time extension is granted by the Town prior to the event.
- 8) For Tom Nevers and the Jetties Parking Area a \$500 dollar security deposit is required in case of damage.
- 9) To schedule the Youth Fields each year each organization must send a letter of request to the Town by mid January, and submit a game schedule 4 weeks before the season opener.

Functions

Larger functions, including groups that wish exclusive use of a property, use of the facilities, to charge admission, or to allow the use of alcohol, are required to have their events approved by the Town prior to advertising the event. Sponsors wishing to put on such an event will be asked to meet with the Town's designee, to discuss the event, at which time the processes needed to approve the event will be established. The sponsor will need to fill out an application stating various information about the event, including the name of the activity (if any), the sponsor's name and address, and a general description of the event, including the use and/or setting up of buildings or other temporary structures, consumption of food, and other pertinent details.

Large Events

If more than 250 people are expected at an event, the Board of Selectmen's approval is required this process will require receipt of a completed Special Event Application at least sixty days prior to the event.

Alcohol

The Town **does not allow the use of alcohol** on any property under its jurisdiction without approval of the Town Administration and/or Board of Selectmen.

Parking and Vehicle Use

Other than designated parking areas, vehicle use on Town property is prohibited. Driving on beaches under is

subject to the Beach Vehicle bylaw, Chapter 56. Handicapped parking areas are available at most properties.

Beaches

Town beaches are open from 9:00 am to 5:00 pm seven days per week during the summer season. Lifeguards are administered through the Marine Department. Lifeguard Services at the beaches may be discontinued during inclement weather. Driving is not allowed on any life-guarded beach; flotation devices, boogie boards and "water wings" are also not allowed while lifeguards are on duty.

Security and Insurance

The Town may, at its discretion, require that event sponsors pay a security deposit and/or obtain written liability insurance naming the Town as insured parties. Whether or not such insurance is required by the Town, all sponsors will be required to sign an Indemnification agreement. All sponsors will be required to supervise the people at their event and ensure that restricted areas are kept restricted.

Property Use

The Town welcomes the use of its property for recreational purposes. Items may not be left on Town property without prior approval by vote of the Town. Changes or alterations of Town property also require vote of the Town, and any improvements made to property or buildings become the property of the Town.

Finally, all users of Town property should be aware that the Town reserves the right to restrict or deny use of its properties.

Additional Conditions

Visitors are welcome on all Town properties with the understanding that they use the areas at their own risk, respect the rights of private property owners within and abutting these areas, and comply with all published and posted regulations. The Town does not assume responsibility for injuries, or for the loss, theft, or damage of personal property.

Notice: Limitation of Liability

Entry upon or use of any property of the Town by any person shall constitute a release by such person of the Town, its agents, the Town of Nantucket, and any of its employees from any and all claims for personal injuries, property loss, theft, or damage sustained on Town property, and such release shall be binding upon such person, his personal representatives, and all persons claiming through or under him

**Exhibit I
DISCLOSURE STATEMENT
DISPOSITION OF REAL PROPERTY**

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Planning and Operations, as required by M.G.L. c. 7 §40J, prior to the conveyance of or execution of a lease for the real property described below. Attach additional sheets if necessary.

1. Public agency involved in this transaction: Town of Nantucket, Massachusetts
2. Complete Legal Description of Real Property: Concession Facilities
4 Bathing Beach Road,
Nantucket, Massachusetts
3. Type of Transaction: Sale Lease or rental for Five years: (term)
4. Seller(s) or Lessor(s):

Purchaser(s) or Lessee(s):

6. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above. *Note: if a corporation has, or will have a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock or corporation is listed for sale to the general public, the name of any person holding less than ten percent of the outstanding voting shares need **not** be disclosed.*

| Name | | Address |
|------|--|---------|
| | | |
| | | |
| | | |

None of the person(s) is an official elected to public office in the Commonwealth of Massachusetts, except as listed below"

| Name | | Title or Position |
|------|--|-------------------|
| | | |
| | | |
| | | |

7. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in item 1. If this form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

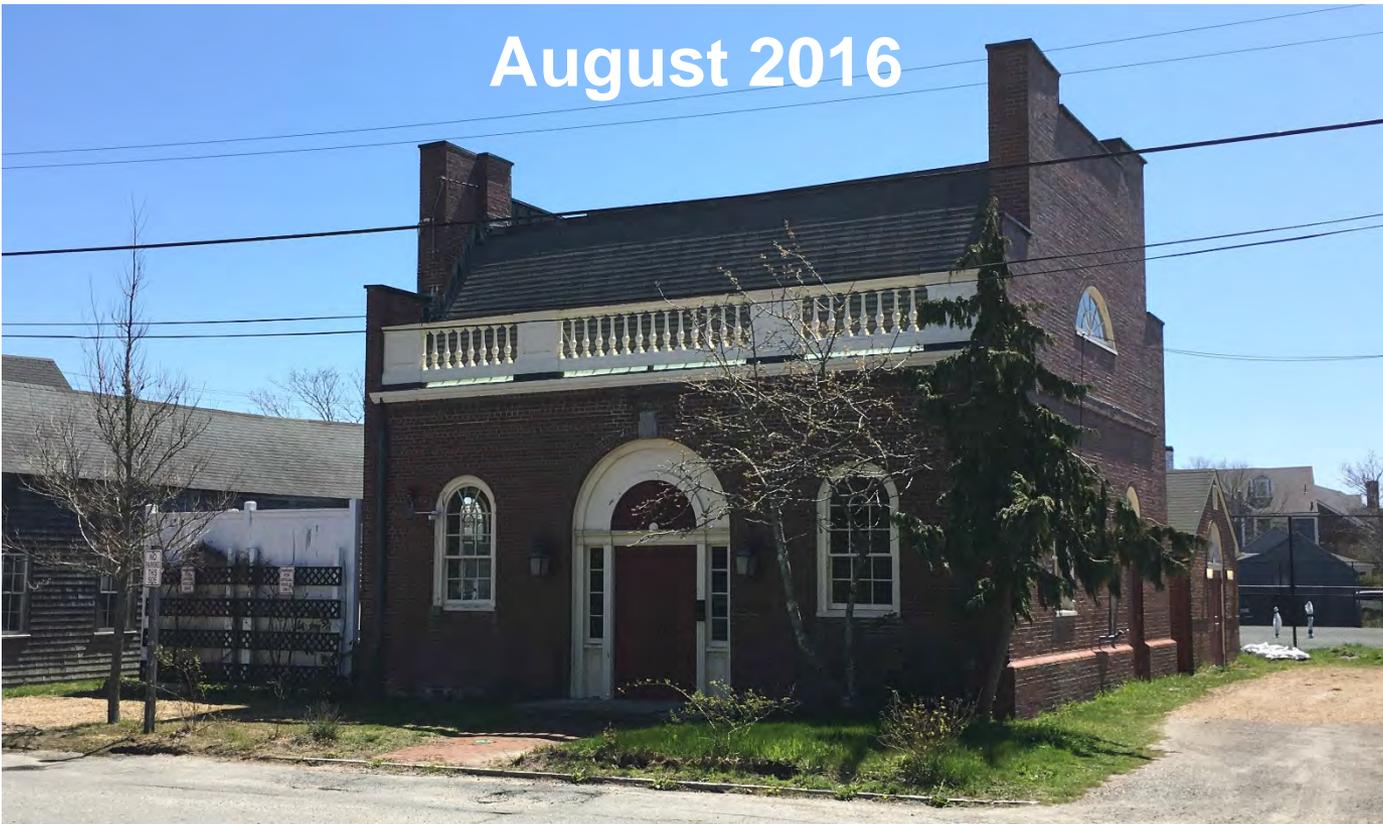
The undersigned swears under the pains of penalties of perjury that this form is complete and accurate in all respects.

| | | |
|--------------|--|-------|
| Signature | | Date: |
| Printed Name | | |
| Title | | |



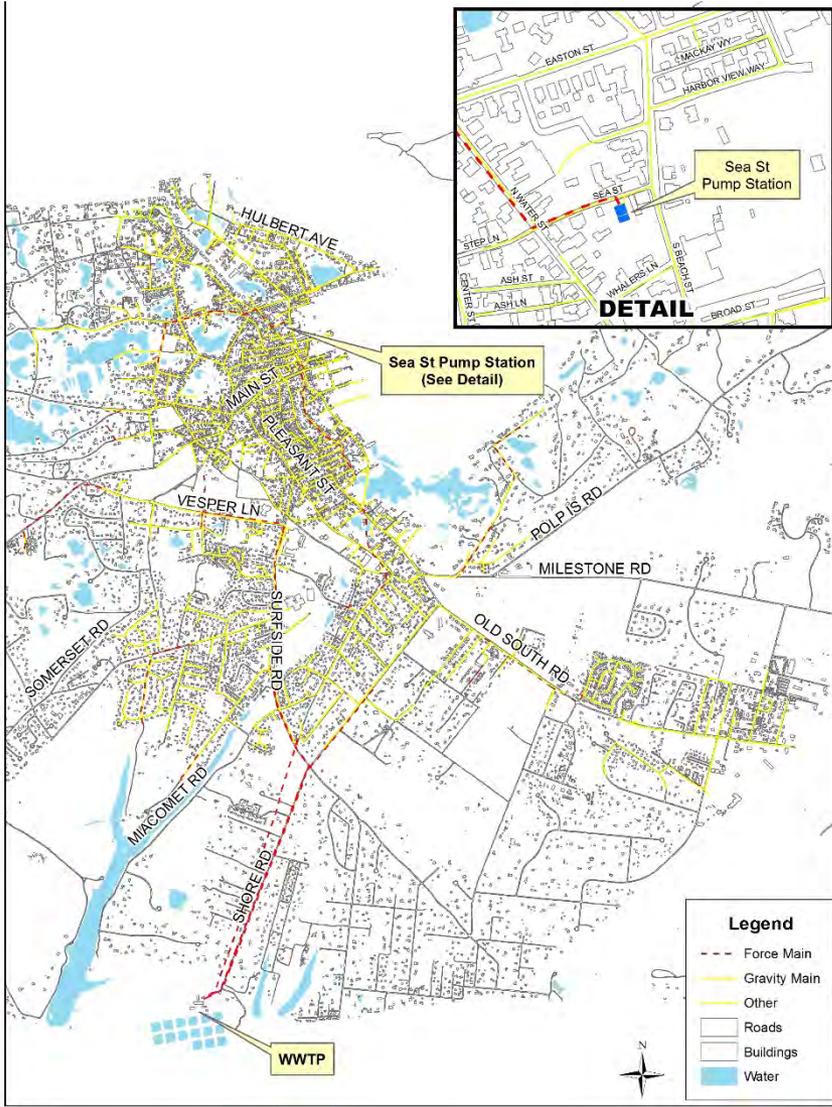
Hazen

SEA STREET PUMP STATION RENOVATION AND UPGRADES



Project Background

02



- **Sea Street Pump Station**
- **Built in 1920s**
 - Upgrades 1980s, 1990s
 - Pumps ~70% of Island Sewage Flow to WWTF
- **Force Mains to WWTF**
 - 16" lined (17,300 LF)
 - 20" unlined (21,100 LF)

Consequence of Failure

3



Basis of Design Report (BODR)

03



FINAL
Sea Street Pump
Station Upgrade
Nantucket, Massachusetts
Basis of Design Report
January 8, 2016

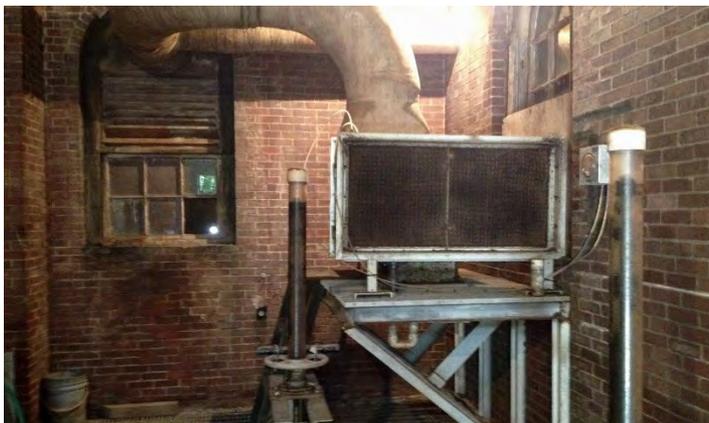
- **Full Inspections**
 - **Architectural**
 - **Structural**
 - **Mechanical**
 - **Electrical**
- **Recommendations**

Architectural Inspections

22



Replace Wet Well Ceiling



Replace Wet Well Windows

Above grade structure in good condition except:

- **Replace roof and gutters**
- **Replace interior ceilings**
- **Replace wet well windows**
- **Scrape and paint wood trim**
- **Repoint exterior brick**
- **Door Sills below FEMA 100-yr Flood Elevation 8.00**

Structural Inspections

23



Exposed Reinforcing



Spalled Concrete

Below grade structure in good condition except:

- **Reinforcing needs spot repair**
- **Spalled concrete needs spot repair**
- **Stairs need repair**

Mechanical Inspections

24



Force Mains Leaking



Wet Well Leaking

Components beyond repair

- Pump 1 is OK
- Pumps 2 and 3 beyond useful life
- Force mains leaking
- Wet well wall pipes leak
- Valves: several leak and/are inoperable

Electrical Inspections

25



MCC below flood level



Motors below flood level

Components beyond repair

- Transformer not to code
- **Emergency generator not to code**
- **No gas detection**
- **VFDs beyond repair**
- **Motors below flood level**
- **Equipment and wiring below flood level**

Rear Building Inspection

26



Slab below Flood Level



Silencer at Ceiling

Rear Building

- Walls unreinforced block
- Generator and comminutor areas are separate foundations
- **Fuel Tank not to Code**
- **Generator not to Code and below flood level**
- **Louvers and doors below flood level**

Existing Conditions Summary

04

- **Architectural:** above grade pump station structure in good condition but aging from harsh salt environment
- **Structural:** below grade pump station structure in good condition but aging from harsh salt environment
- **Mechanical:** equipment beyond useful life
- **Electrical:** equipment beyond useful life
- **Rear Building:** needs to be removed
- **Flood Risk:** water has reached building floor slabs and equipment subject to flooding

Recommendations

05

Architectural and Structural

- Replace roof, gutters
- Paint interior walls, floors
- Repair windows
- Repoint mortar, seal brick
- Repair concrete
- **Install flood barrier wall with stop logs at doors**

Recommendations

06

Mechanical – Pumping System Components

- Replace gate valves with salt resistant plug valves
- Replace piping, check valves and flow meter
- New actuators for remote force main selection
- Replace channel grinder
- **Replace pumps with dry pit submersible pumps, pumps will operate if submerged by flood waters**

Recommendations

07

Mechanical – HVAC Components

- New air handlers **(above flood level)**
- New electric unit heaters **(above flood level)**
- New FRP Odor Control Fan **(above flood level)**
- Relocate Odor Control Unit **(above flood level)**
and replace activated carbon

Recommendations

08

Electrical and Instrumentation

- New Transformer - National Grid (**above flood level**)
- New Emergency Generator with sound attenuation enclosure (**above flood level**)
- New Pump Controls (**above flood level**)
- Hazardous gas detection
- New CCTV security system

Recommendations

09

Remove Rear Building and Relocate Equipment

- **Remove Rear Building**
- **Raise comminutor slab and cover influent channels with removable cover plate**
- **New Emergency Generator**
- **Relocate Odor Control Unit and Fan to rear of pump station building**
- **Provide access to existing sewer manholes**
- **Enclose equipment located at rear building within fence**

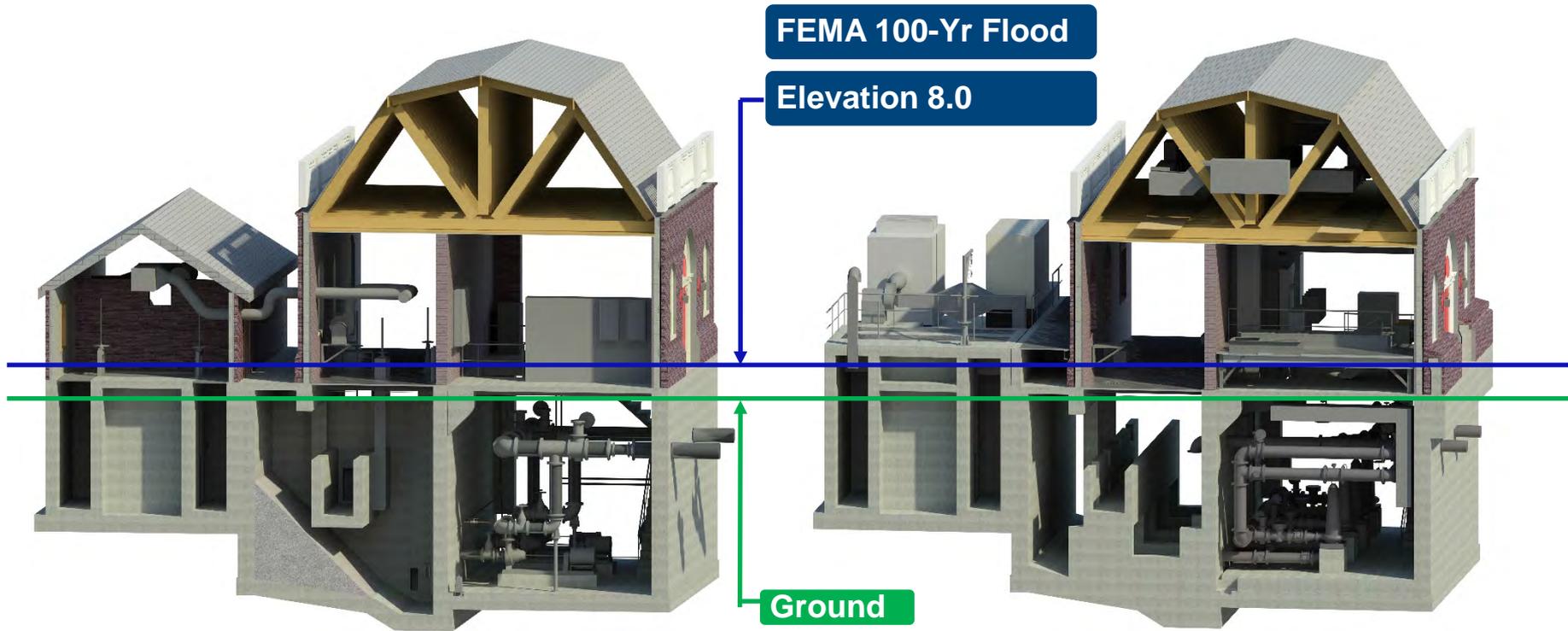
Recommendations Summary

10

- **Architectural:** spot repair, paint and repoint brick
- **Structural:** spot repair, reconfigure wet well
- **Mechanical:** replace pumps, valves and piping
- **Electrical:** replace all equipment and wiring
- **Rear Building:** remove and raise comminutor
- **Flood Mitigation:** barrier wall, raise electrical equipment, dry pit submersible pumps

Flood Mitigation – Flood Elevation

11



Existing - Looking West

Proposed - Looking West

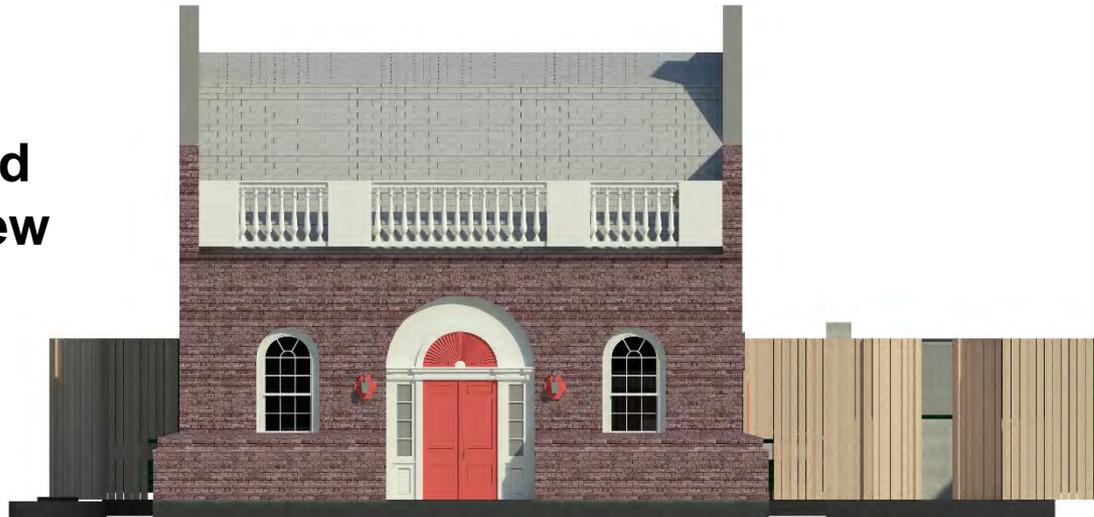
3D Design – North Renderings

18

**Existing
Street View**



**Proposed
Street View**



3D Design – East Renderings

19

Existing Side View

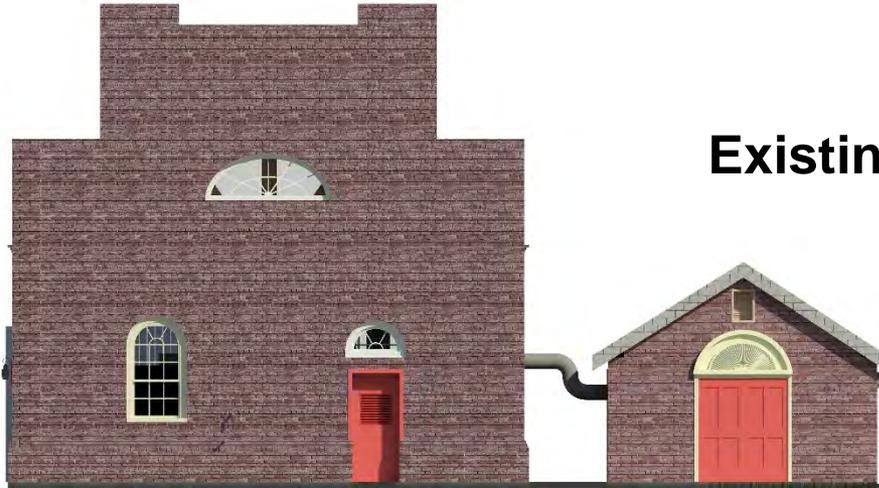


Proposed Side View



3D Design – West Renderings

20



Existing Side View



Proposed Side View

3D Design – South Rendering

21

**Existing
Rear View**

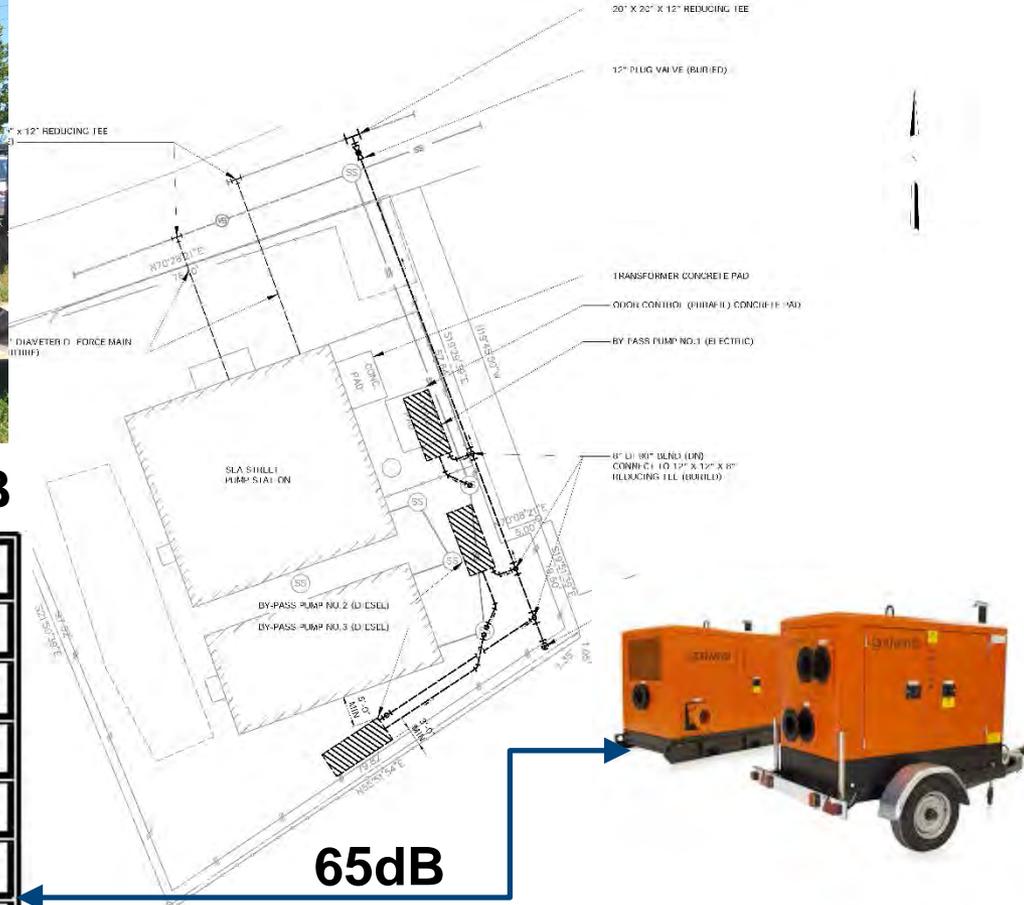


**Proposed
Rear View**



Bypass Pumping with Enclosure

22



Plymouth Bypass Pump 65dB

| | |
|-------|---------------------|
| 10 dB | Breathing |
| 20 dB | Falling Leaves |
| 30 dB | Whisper |
| 40 dB | Raindrops |
| 50 dB | Average Home |
| 60 dB | Normal Conversation |
| 70 dB | Vacuum Cleaner |

65dB



Sound Chart in Decibels (dB)

Construction Cost Estimate

18

- AACE Class 4 estimate
- 5% Construction Contingency included

| | |
|---------------------------|--------------------|
| Construction | \$4,797,000 |
| Engineering | \$1,176,000 |
| Total Project Cost | \$5,973,000 |

Questions?

20

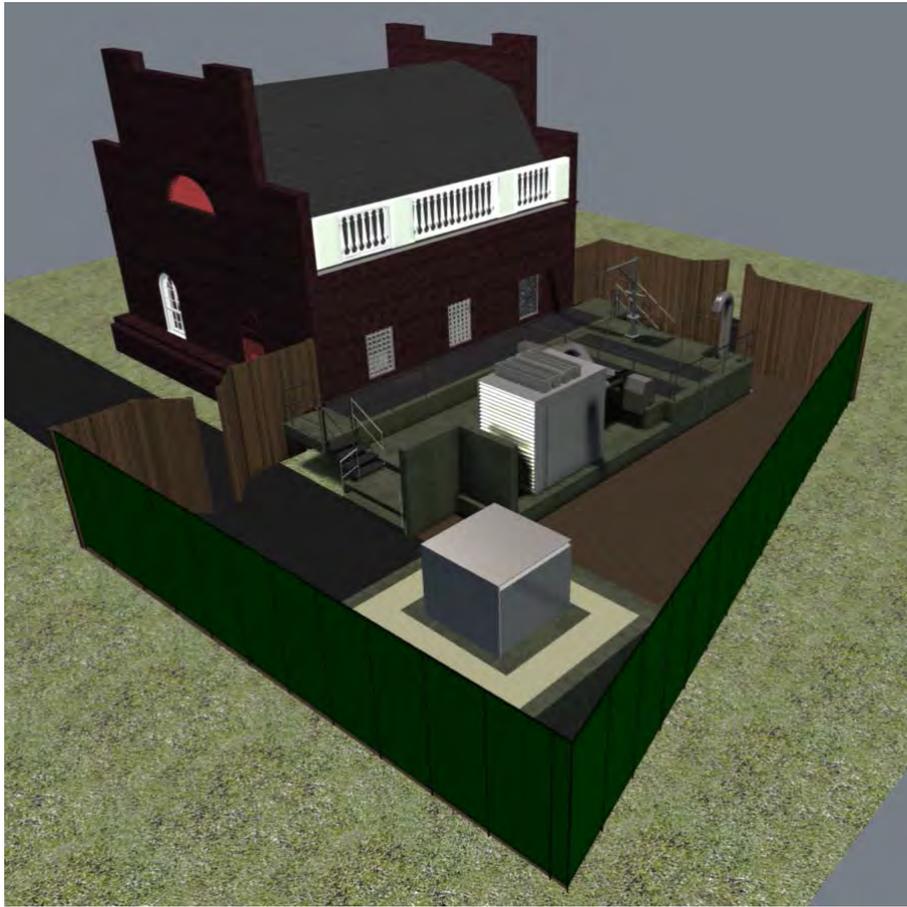


Hazen

SUPPORTING SLIDES (IF NEEDED)

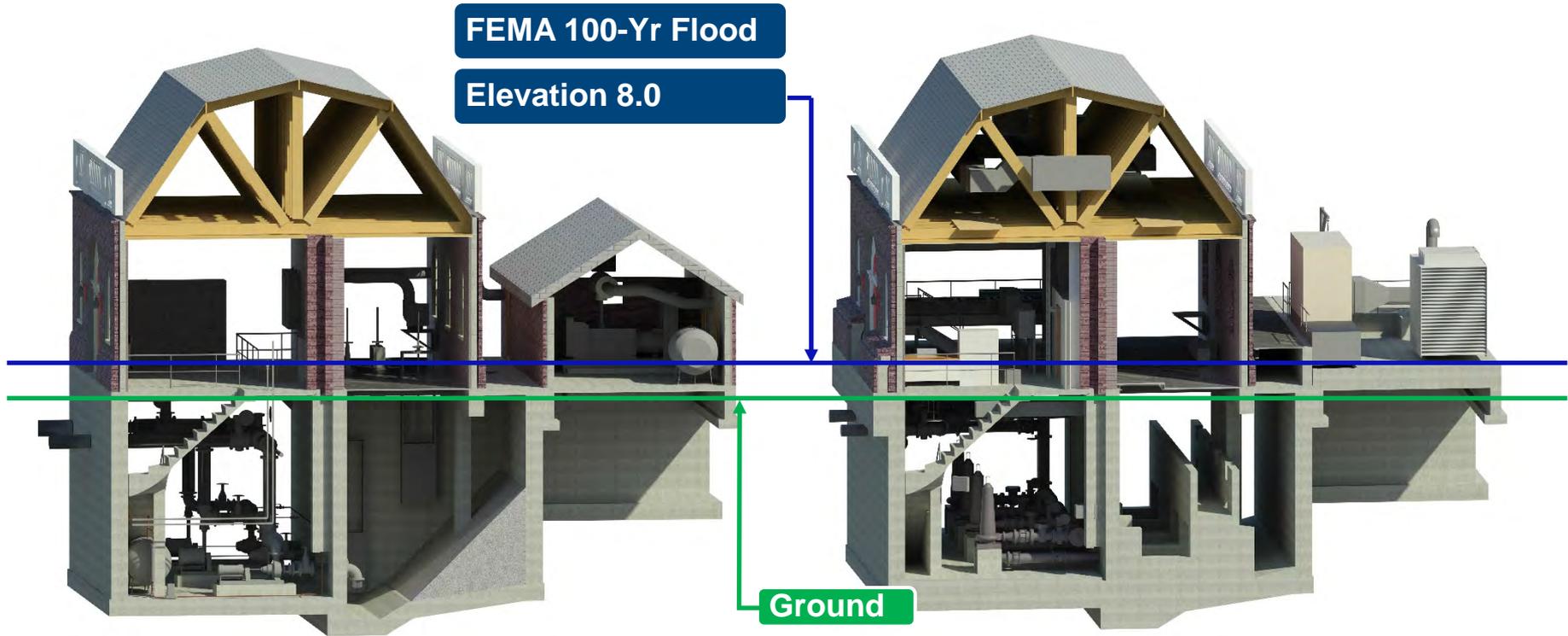
3D Design – Aerial View Renderings

27



Flood Mitigation – Flood Elevation

28



Existing - Looking East

Proposed - Looking East

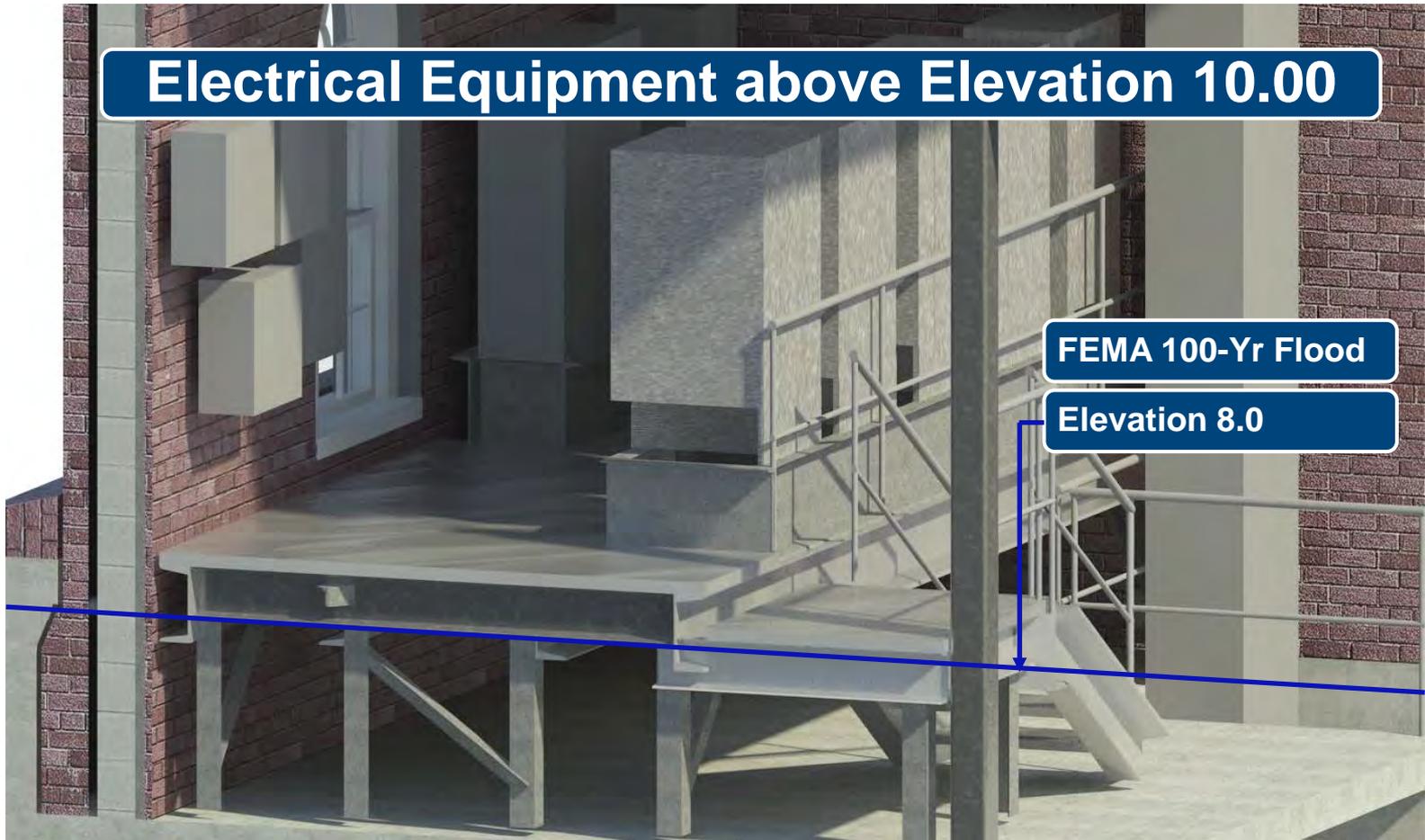
Flood Mitigation – Raise Equipment

29

Electrical Equipment above Elevation 10.00

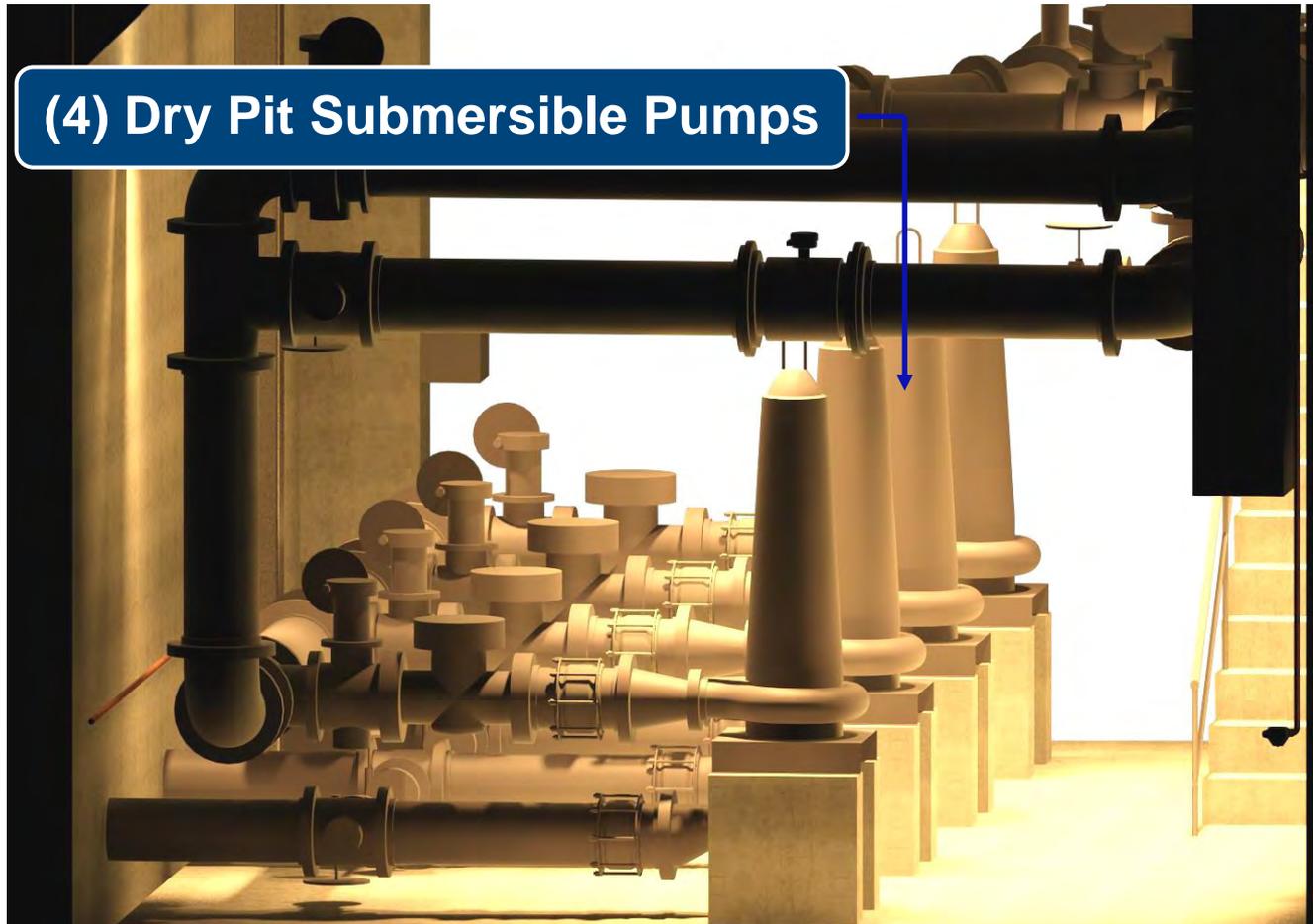
FEMA 100-Yr Flood

Elevation 8.0

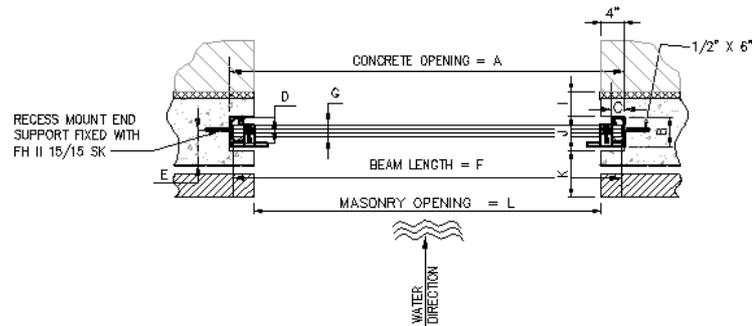
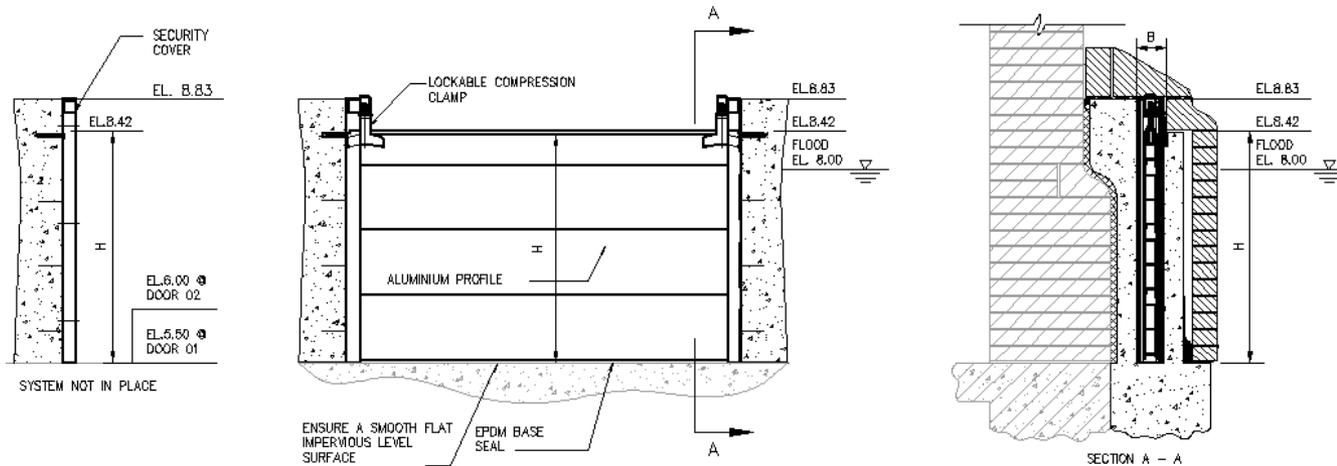


Flood Mitigation – Submersible Pumps

30



Flood Mitigation – Barrier Wall



STOP LOG FLOOD BARRIER (AT DOOR)

STOP LOG FLOOD BARRIER SCHEDULE

| | # | DOOR 01 | DOOR 02 |
|-----------|---|---------|---------|
| EQUIPMENT | A | 10'-0" | 4'-6" |
| | B | 5.91" | 5.91" |
| | C | - | - |
| | D | 4.72" | 4.72" |
| | E | 5" | 5" |
| | F | - | - |
| | G | - | - |
| STRUCT | H | 3'-4" | 2'-10" |
| | I | 4" | 4" |
| | J | 6" | 6" |
| | K | 8" | 6" |
| | L | 9'-4" | 3'-10" |

Monthly Town Management Activities Report

8/3/16 -- BOS

Highlights:

Personnel

- Various grievance and disciplinary actions
- Beginning prep for upcoming 2016 union negotiations
- Seasonal hires
- Vacancies: Procurement Officer
- Initiation of hiring process for some of the new positions budgeted for FY 17 (Sewer Director, Human Resources Assistant)

Meetings:

- Department head weekly & monthly mtgs
- Nantucket Community Association annual forum
- Cape Cod Managers (Harwich)
- Projects meetings with OPM
- Continuing discussion with USCG re: transfer of Loran barracks property; Sconset WWTF property
- ACNVT
- Access Nantucket substance abuse consultant

Projects:

- Hummock Pond Rd (aka Milk St ext) bike path ext
- Fire Station
- Sconset Rotary flagpole
- Boulevarde
- First Way
- Brant Point Boat House
- 6FG Housing
- OIH financial analysis; siting
- E-permitting
- Visitor Services operational assessment
- Land Bank – Town properties transfer
- Financial policies (Compact Community project)
- Strategic planning initiative

Other:

- 2016 STM prep
- Concession leases (upcoming)

Town of Nantucket

MEMO



TO: Board of Selectmen
FROM: C. Elizabeth Gibson *Jy.*
Town Manager
DATE: July 29, 2016
RE: Disclosure & Request for Exemption

My brother, Robert Ranney, has applied for a clerk position in the Assessor's office of the Finance Department. I consulted with Town Counsel when this occurred and was advised to file a disclosure with my appointing authority when and if he was a successful candidate. In the meantime I abstained from all involvement in this. I prepared the disclosure statement when I learned that Mr. Ranney was a successful candidate and sent it to Town Counsel for review. Upon further legal review I was advised as follows by Attorney Goldberg:

In my opinion, you will want to request and be granted a G.L. c.268A, s.19(b)(1) exemption prior to taking any action on the appointment of your family member to a position with the Town, including delegation of any authority you might have under the Charter.

In short, where you are an appointed official, you are a "municipal employee" for purposes of the Conflict of Interest Law. You are prohibited pursuant to the provisions of G.L. c.268A, s.19 from participation in any matter involving the financial interest of a family member, including a sibling. Participation has been interpreted by the State Ethics Commission to include the action of "delegating" authority to another. While an elected official with sole authority to accomplish something under law can simply invoke the Rule of Necessity to "delegate" the responsibility, the Ethics Commission takes a different position with respect to appointed officials. Instead, the Commission would, in my opinion, take the position that you will need to request from your appointing authority and be granted a G.L. c.268A, s.19(b)(1) exemption in order to take any action on the appointment matter, including delegation of such authority. This request for exemption would need to be acted upon by the Board of Selectmen at a meeting for which the request appeared on the meeting notice.

Further, I would recommend that both Gregg and Brian file disclosures under G.L. c.268A, s.23(b)(3) stating the facts that might cause a reasonable person to believe that they would act or fail to act on the appointment matter, or on any supervisory matter, because of their relationship with/to you.

From the desk of.....

C. Elizabeth Gibson
Town Manager
16 Broad Street
Nantucket, MA 02554
508-228-7255
lgibson@nantucket-ma.gov

The exemption request is for me to be able to delegate any and all personnel responsibilities under the charter, bylaws, and personnel regulations of the town to the Asst. Town Manager and/or the Human Resources Director as the Asst. Town Manager may determine, on a permanent basis while Mr. Ranney is employed by the Town.

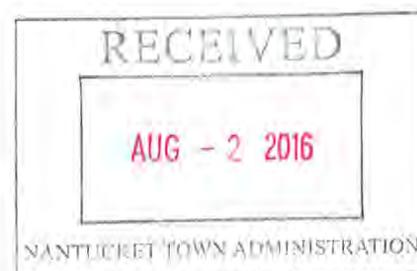
From the desk of.....

C. Elizabeth Gibson
Town Manager
16 Broad Street
Nantucket, MA 02554
508-228-7255
lgibson@nantucket-ma.gov

*Robert F. Ranney
6 West Way
Nantucket, Massachusetts 02554*

August 1, 2016

Nantucket County Commissioners
Nantucket Board of Selectmen
16 Broad Street
Nantucket, Massachusetts 02554



Re: Disclosures in accordance with the State Conflict of Interest Law

Dear County Commissioners and Board of Selectmen:

I am providing this written disclosure to both the Nantucket County Commissioners and the Nantucket Board of Selectmen in accordance with Mass. G.L. c. 268A, § 23.

1. My position as the Steamship Authority's Nantucket Member.

I was appointed as the Nantucket Member of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (the "SSA") by the Nantucket County Commissioners in December 2012, and I continuously have been the SSA's Nantucket Member since January 1, 2013. As an SSA Member, I am a "state employee" as that term is defined in G.L. c. 268A, § 1(q). Because SSA Members serve without compensation, I also am a "special state employee" as that term is defined in G.L. c. 268A, § 1(o).

The SSA is a state authority created and existing pursuant to St. 1960, c. 701, as amended (the SSA's "Enabling Act") in order to provide adequate transportation of persons and necessities of life for the islands of Nantucket and Martha's Vineyard. The SSA is a "state agency" as that term is defined in G.L. c. 268A, § 1(p). Under the SSA's Enabling Act, the Authority consists of five (5) persons who are appointed as follows:

- one (1) resident of the county of Dukes County by the county commissioners thereof;
- one (1) resident of the county of Nantucket by the county commissioners thereof;
- one (1) resident of the town of Barnstable by the town council thereof;
- one (1) resident of the town of Falmouth by the selectmen thereof; and
- one (1) resident of the city of New Bedford by the mayor of the city of New Bedford with the approval of the city council thereof.

The votes of the SSA's Members are weighted such that the votes of the Nantucket and Dukes County Members each count as 35% of the whole, and the votes of the Barnstable, Falmouth and

New Bedford Members each count as 10% of the whole. A vote of greater than 50% of the weighted vote is necessary for any action taken by the SSA.

Under the SSA's Enabling Act, the SSA's Members have ultimate responsibility for the SSA's maintenance and operation. Although the SSA employs a General Manager, and other employees who report to the General Manager, to manage the SSA's day-to-day operations and make recommendations to the SSA's Members regarding the SSA's policies and other matters involving the SSA, the SSA's Members have the final say as to any and all matters that arise which may require any decision or action by the SSA. Any such decision or action, however, may only be taken by the SSA's Members at a duly constituted meeting.

2. My potential employment in the Town of Nantucket's Assessor's Office.

I also have applied for employment with the Town of Nantucket as a Senior Clerk in the Assessor's Office. If I were to be employed by the Town in that capacity, I would be expected to take certain actions in the performance of my official duties with respect to property owned by SSA employees. Under the circumstances, a reasonable person might conclude that, because I am also the SSA's Nantucket Member, those SSA employees could unduly enjoy my favor or improperly influence me when I perform my official duties as a Senior Clerk in the Assessor's Office, or that I am likely to act or fail to act as a result of kinship, rank, position or undue influence of those SSA employees.

Conversely, a reasonable person might also conclude that, because of my employment with the Town of Nantucket, the Town could unduly enjoy my favor or improperly influence me when I perform my official duties as the SSA's Nantucket Member with respect to matters involving the Town of Nantucket, or that I am likely to act or fail to act as the SSA's Nantucket Member with respect to those matters due to my employment with the Town of Nantucket.

3. My ability to be the SSA's Nantucket Member and also be employed by the Town of Nantucket.

Mass. G.L. c. 268A, § 4, expressly does "not prohibit a state employee from holding an ... appointive office in a ... town ..., nor in any way prohibit such an employee from performing the duties of or receiving the compensation provided for such office." There would, however, be certain restrictions on my actions if I were both the SSA's Nantucket Member and a Town employee:

- (a) As a Town employee, I would be prohibited from voting or acting on any matter which is within the purview of the SSA or over which I, as the SSA's Nantucket Member, have official responsibility. However, because the SSA's properties on Nantucket are exempt from taxation, I doubt that there will arise any matters that I will be required to act on as a Town employee in the Assessor's Office that involve the SSA.

- (b) Mass. G.L. c. 268A, § 4(c), also prohibits me, as the SSA's Nantucket Member, from acting "as agent or attorney" for anyone other than the SSA in prosecuting any claim against the SSA or "in connection with any particular matter in which [the SSA] is a party or has a direct and substantial interest." In turn, Mass. G.L. c. 268A, § 17(c), would prohibit me, as a Town employee from acting "as agent or attorney" for anyone other than the Town in prosecuting any claim against the Town or "in connection with any particular matter in which the [T]own is a party or has a direct and substantial interest." Thus, in matters where both the SSA and the Town have "a direct and substantial interest," I could not act as an agent or attorney for either of them. This means that I would not be able to do such things as act "as spokesperson, negotiating, signing documents and submitting applications." By contrast, however, "merely discussing or voting as a Board member on a matter is not an act of agency." See EC-COI-06-3 (June 12, 2006), fn 59. Therefore, I should be able to fully discharge my responsibilities as the SSA's Nantucket Member, as opposed to being the SSA's agent, in connection with any such matters that might arise.
- (c) Mass. G.L. c. 268A, § 23(b)(3), prohibits me from acting in my capacity as the SSA's Nantucket Member or as a Town employee "in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy [my] favor in the performance of [my] official duties, or that [I am] likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person." However, that section further provides that "It shall be unreasonable to so conclude if [I have] disclosed in writing to [my] appointing authority ... the facts which would otherwise lead to such a conclusion." Thus, before I participate in any matter as the SSA's Nantucket Member in which the Town is a party or has a financial or other significant interest, I will disclose in writing to the Nantucket County Commissioners the fact of my employment with the Town and the relevant circumstances of my participation. Similarly, before I participate in any matter as a Town employee involving the SSA or an SSA employee, I will disclose in writing to the Nantucket Board of Selectmen the fact of my position as the SSA's Nantucket Member and the relevant circumstances of my participation. And, of course, I will act fairly, objectively and impartially in all such matters.

I hope this satisfies any concerns that either the Nantucket County Commissioners or the Nantucket Board of Selectmen might have regarding my potential employment with the Town of Nantucket while I continue to serve as the SSA's Nantucket Member.

Very truly yours,



Robert F. Ranney

Town of Nantucket

MEMO



TO: Board of Selectmen

FROM: C. Elizabeth Gibson *CEG*
Town Manager

Brian Turbitt *BT (2/2)*
Director of Municipal Finance

DATE: July 29, 2016

RE: Fire Station Project - Funding

At the July 20, 2016 Board meeting, we discussed the shortfall in funding (approximately \$1,300,000) for the Fire Station. The Board voted to proceed to execute a contract with the lowest eligible bidder (J&J Contractors, Inc.) provided that we could fund the immediate shortfall (approximately \$142,000). A request to the Finance Committee for use of the Reserve Fund was subsequently made, the FinCom met on July 27, discussed it with us, and tabled its consideration to Monday, August 1 pending being able to discuss the project further with the Owner's Project Manager (he was unavailable on July 27).

Provided that the Finance Committee ultimately approves the transfer, the recommendation to fund the entire shortfall (including replenishing the Reserve Fund) is to seek an appropriation from the Capital Projects Stabilization Fund (current balance is approximately \$1,500,000) of \$950,000 at the October Special Town Meeting; and to transfer \$350,000 from the FY 17 General Fund property insurance budget (we have recently realized a savings of this amount in that line item).

We would then recommend that we seek to replenish the Capital Projects Stabilization Fund, either fully or partially at the April 2017 Annual Town Meeting. The funding source for this could be Free Cash.

From the desk of.....

C. Elizabeth Gibson
Town Manager
16 Broad Street
Nantucket, MA 02554
508-228-7255
lgibson@nantucket-ma.gov

Nantucket Fire Station
Project Update

July 20, 2016

Bid Results

Project was bid on June 22, 2016; the following bids were received:

| Contractor | Base Bid | Alternate 1 | Alternate 2 | Total (B+1+2) |
|------------------------------|---------------|--------------|-------------|---------------|
| Maron Construction Co., Inc. | \$ 15,218,470 | \$ 1,282,795 | \$ 48,000 | \$ 16,549,265 |
| J & J Contractors, Inc. | \$ 15,707,000 | \$ 1,100,000 | \$ 50,000 | \$ 16,857,000 |
| Brait Builders Corporation | \$ 16,860,000 | \$ 949,000 | \$ 46,000 | \$ 17,855,000 |

Notes:

- *Alternate 1 was for the construction of a separate storage building.*
- *Alternate 2 was for repainting the existing Police Station window and door trim.*

Project Budget

| Description | Budget Amount |
|---------------------------------|---------------------|
| Construction Budget | \$14,433,125 |
| Designer Fees | \$976,000 |
| OPM Fees | \$458,860 |
| Other Soft Costs (FFE, etc.) | \$440,140 |
| Soft Cost Contingency (2%) | \$37,500 |
| Construction Contingency (4.5%) | <u>\$654,375</u> |
| Total Project Budget | \$17,000,000 |

Appropriations:

| | |
|-------------------------------------|---------------------|
| 2015 Annual Town Meeting: | \$15,000,000 |
| November 2016 Special Town Meeting: | <u>\$2,000,000</u> |
| Total: | \$17,000,000 |

Bid Results

Construction budget was \$14,433,125.

Low bidder was deemed non-responsive, making J&J the low bidder.

Results in a budget deficiency of \$1,273,875 between J&J and the construction budget.

| Contractor | Base Bid | Alternate 1 | Alternate 2 | Total (B+1+2) |
|---|--------------------------|-------------------------|----------------------|--------------------------|
| Maron Construction Co., Inc. | \$ 15,218,470 | \$ 1,282,795 | \$ 48,000 | \$ 16,549,265 |
| J & J Contractors, Inc. | \$ 15,707,000 | \$ 1,100,000 | \$ 50,000 | \$ 16,857,000 |
| Brait Builders Corporation | \$ 16,860,000 | \$ 949,000 | \$ 46,000 | \$ 17,855,000 |

Problem - Insufficient funds to award the contract.

Next Steps & Options

Problem: Construction budget shortfall of \$1,273,875

Option 1:

Remove paving and fencing from scope – Town to procure separately.

Rebid the project and seek additional monies for paving and fencing at Special Town Meeting in October or Annual Town Meeting in April.

Pros:

- *Opportunity to increase number of bidders.*
- *Opportunity to capitalize on Town contracts for paving.*

Cons:

- *Need to begin prequalification immediately.*
- *No guarantee of lowering or maintaining shortfall.*
- *Still need to locate a funding source for removed items.*

Next Steps & Options

Problem: Construction budget shortfall of \$1,273,875

Option 2:

Utilize non-committed funds from other areas of the Project Budget in combination with monies from the FY 17 Reserve Fund to be able to execute the \$15.7M contract with J&J.

Return to Special Town Meeting to appropriate additional funds to replenish the remainder of the project budget.

Pros:

- *Work begins immediately at a price that is known.*

Cons:

- *No guarantee the Town approves the appropriation in October resulting in depleted budget line items and possible cessation of the project mid stream.*

Uncommitted Costs

| Description | Budget Amount | Uncommitted |
|---------------------------------|---------------------|--------------------|
| Construction Budget | \$14,433,125 | |
| Designer Fees | \$976,000 | |
| OPM Fees | \$458,860 | |
| Other Soft Costs (FFE, etc.) | \$440,140 | \$440,140 |
| Soft Cost Contingency (2%) | \$37,500 | \$37,500 |
| Construction Contingency (4.5%) | <u>\$654,375</u> | <u>\$654,375</u> |
| Total Project Budget | \$17,000,000 | \$1,132,015 |
| Plus FY 17 Reserve Funds | | <u>\$141,860</u> |
| Budget shortfall | | \$1,273,875 |

Next Steps & Options

Problem: Construction budget shortfall of \$1,273,875

Option 3:

Redesign the project and re-bid to stay within the appropriation.

Pros:

- *Would not need additional funds.*

Cons:

- *Disregard for programmatic items that have been developed over the past year and a half (e.g. building a new version of what you already have).*
- *Additional design fees of approximately \$200-\$300K.*
- *No guarantee of savings and a loss of economy as removal of square footage would NOT be at the bid price per square foot.*
- *End up with a building that does not meet current and future needs.*

Next Steps & Options

Problem: Construction budget shortfall of \$1,273,875

Option 4:

Do not proceed with any project.

Pros:

- *None*

Cons:

- *Increased cost at a later date – labor and materials only go up.*
- *New building code coming into effect at some point this year – resulting in a stale design and possibly non-compliant design.*
- *Monies spent to date are wasted.*
- *Project cost would have been approximately \$9.7M in 2008.*

TO: James Kelly, Chairman
Board of Selectmen

FROM: David Worth, Chairman
Finance Committee

RE: Fire Station Reserve Fund Transfer

DATE: August 3, 2016

At its August 1st meeting the Finance Committee for the Town of Nantucket voted not to approve the request to transfer approximately \$142,000 from the Town's reserve fund for the purposes of funding a budget shortfall in the construction costs for the new fire station.

I would like to provide you with the rationale of the Finance Committee in denying this request and offer some observations from the meeting that may be useful in your deliberations moving forward.

- In the 20 months since the November 2014 Summary of Recommendations and Findings from the New Fire Station Workgroup was issued which explicitly called for seeking potential costs savings through alternative structural materials no opportunities for significant cost savings were identified by the architect/engineer.

(The report stated "A new facility at 4 Fairgrounds will cost approximately \$14 million, based on the 2008 design... That estimated cost could be lowered in several ways - through cost engineering..." The report's recommendations to Board of Selectman included funding "the necessary architectural and engineering studies to update the 2008 plan, seeking potential cost savings by using alternative structural materials").

Based on questioning the OPM at the meeting the Committee was unable to see where more than small alterations to the building footprint and some reprogramming had taken place and not the more significant cost savings implicit in the Work Group's report.

- The single highest cost bid item - HVAC - was estimated to cost \$1,352,000 due in large part to the difficulty with tying the new system to the existing geothermal system. Vertex reported that a standalone system was more expensive on a life cycle basis than tying into the existing system but no breakeven or payback analysis was prepared to support this claim.
- The actual bid for the HVAC system was \$2,187,850 and exceeded the estimate by more than 110%. Vertex explained the higher bid was the result of only one manufacturer for the necessary HVAC equipment. In our opinion the potential for this type of price gouging should have been foreseen and alternative systems should have been investigated more thoroughly.
- An analysis of the "all-in" construction costs (including design, project management, contingencies) to construct similarly sized fire stations in 4 nearby towns is \$529/sf; a significantly lower costs than the Nantucket facility whose cost is \$18,273,875 (\$822/sf).

Nantucket's costs are 55% higher than the average and more than 100% higher than the lowest cost facility completed on Martha's Vineyard in December 2015

- Hyannis - 33,265 sf - \$18,515,000 - \$557/sf
 - Brewster - 22,500 sf - \$13,900,000 - \$618/sf
 - Chatham - 20,800 sf - \$11,000,000 - \$529/sf
 - Oak Bluff - 20,250 sf - \$8,300,000 - \$410/sf
- Most notably the Oak Bluff facility, completed by JK Scanlan, the general contractor for the 4 Fair Grounds Public Safety Facility and the fire station at Nantucket Memorial Airport, was completed at 50% (per square foot) less than the Nantucket estimate for a similarly sized and equipped facility.

Reached by phone the project manager told committee member Stephen Maury the OB fire station was pre-engineered which has numerous cost reduction benefits included allowing a good portion of the construction to take place off-site.

- Construction on Nantucket is not significantly more expensive than on Martha's Vineyard according to the OB project manager who is also the project manager at Sachem's Path. He said freight shipping costs via Cape Cod Express and Steamship Authority are just about the same to either island. Additionally, because there are more daily ferry connections, transporting subcontractors to Nantucket is easier.

The Committee felt that redesigning the fire station to a wholly or partially pre-engineered building will result in very significant cost savings to the extent that it would compensate for the added time and expense to re-specify the building.

The Committee felt that failure to consider such an option as part of the value engineering process is a potential flaw in the process that should be reviewed as it applies to facilities that might be designed and constructed in the future.

- Even without any redesign the Committee felt there is reason to believe that additional bidders would participate if the project is put out to bid again. Of the 8 general contractors pre-qualified to bid this project only 3 submitted bids. The low bidder was disqualified due to an error filing paperwork necessary for DCAM certification. Two others report having run out of time to complete their bid proposals before the deadline.

The Finance Committee recognizes and appreciates the costs and risks involved with rebidding this project including the risk that bid prices are higher and that fewer contractors will bid. We believe the risk is worth the potential savings that might be achieved through a lower cost building using different construction methods. Further, if additional new contractors bid, the added competition will help control the costs.

The Committee specifically asked if there were any public safety issues associated with delaying the project and Fire Chief Rhude said there were none.

The Committee asked if there were plans for satellite operations in the next 3-5 years and should that have some bearing on the programming for a new station. The Chief responded that there were plans for satellite operations but that the decision on a central facility had been made before his arrival.

The Committee spent very little time on this question but offers the observation that perhaps this is a propitious time to rethink of public safety deployment strategy to best meet the burgeoning needs of the island before committing to such a major expense.



TOWN OF NANTUCKET
BOARD OF SELECTMEN

POLICY FOR BANNERS HUNG ON LIGHT
POLES ON MAIN STREET, NANTUCKET

Adopted: April 15, 2015

Applicability: Any and all applicants who seek to hang banners from light poles on Main Street, Nantucket to advertise an event.

I. Purpose.

This policy is implemented to ensure that banners are not hung on Main Street, Nantucket without approval of the Board of Selectmen.

II. Policy.

Applicants must be non-profit 501(c)(3) organizations. Applicants are only allowed to apply for banners once every five (5) years, and should be an established organization on the island for a minimum of three (3) years before applying.

Only one applicant will be allowed to hang banners at a specific time, which means that if more than one applicant applies for the same period, the first applicant would be given priority. There shall never be more than one applicant hanging banners during the same period.

The maximum period of time for the banners to be hanging is one week, and must be removed on the last day of the festival. All applicants for banners must first appear before the Sign Advisory Committee and then receive approval from the Historic District Commission prior to applying to the Board of Selectmen. Banners must not exceed 19 inches by 34 inches, and must be canvas (per the Sign Advisory Committee).

III. Fee

\$500 per application



July 13, 2016

From:

Nantucket Cottage Hospital Foundation
57 Prospect Street
Nantucket, MA 02554

To:

Jim Kelly, Chairman
Nantucket Board of Selectman
16 Broad Street
Nantucket, MA 02554

On behalf of Nantucket Cottage Hospital, we respectfully request the opportunity to display temporary event banners on six Main Street light poles to celebrate the 20th annual Boston Pops on Nantucket from Monday, August 8 – Sunday, August 14. The actual date of the event is Saturday, Aug. 13th.

It being the 20th anniversary for this event, which is the largest fundraiser for the island's hospital, we hope these banners will help build on the excitement for the concert and help celebrate two decades of community support for the Boston Pops on Nantucket.

In reference to the attached policy, the six canvas signs we would like to display do not exceed 19 inches by 34 inches, and we have worked with the Historic District Commission's Sign Committee on the design.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Courtney O'Neill'. The signature is written in a cursive style with a large initial 'C'.

Courtney O'Neill
Executive Director, Nantucket Cottage Hospital Foundation
(508) 825-8250

Certificate No. _____

Date Issued _____

APPLICATION TO HISTORIC DISTRICT COMMISSION
 Nantucket, Massachusetts for
CERTIFICATE OF APPROPRIATENESS
 for Erection or Display of a
SIGN

Application is hereby made for the issuance of a Certificate of Appropriateness under Section 7 of Chapter 394, Acts and Resolves of Massachusetts 1970, for erection or display of an occupational or other sign as described below and on drawings and photographs accompanying this application.

TAX MAP #: _____ PARCEL #: _____
 Street & Number of Proposed Sign: Main Street Light Poles
 Owner of Building: Town of Nantucket
 Mailing Address: _____

Telephone: _____ (on island) _____ (off island)

I hereby authorize the agent named below to act on my behalf to make changes in the specifications or the plans contained in this application in order to bring the application into compliance with the HDC guidelines.

 Signature of Owner of Record

Agent/Owner of Business
 Name: Nantucket Cottage Hospital
 Mailing Address: 57 Prospect Street
Nantucket, MA 02554
 Telephone: 875-8250 (on island) _____ (off island)

| FOR OFFICE USE ONLY | |
|--|--------------------|
| Date application received: _____ | Fee Paid: \$ _____ |
| Must be acted on by: _____ | |
| Extended to: _____ | |
| Approved: _____ | Disapproved: _____ |
| Chairman: _____ | |
| Member: _____ | |
| Member: _____ | |
| Member: _____ | |
| Member: _____ | |
| Notes - Comments - Restrictions - Conditions: _____ _____ _____ | |

A. TYPE OF SIGN

- | | |
|--|--------------------------|
| 1. Wall Sign | 5. Flag Sign |
| 2. Projecting Sign | 6. Fence Sign |
| 3. Window Sign | 7. Other (specify) _____ |
| <input checked="" type="radio"/> 4. Temporary Sign | |

F. COLOR(S)

- | | |
|----------------------|-------|
| 1. Lettering _____ | _____ |
| 2. Ground _____ | _____ |
| 3. Edgebanding _____ | _____ |
| 4. Moulding _____ | _____ |

B. MATERIAL

- | | |
|-----------------------|----------------------------------|
| 1. Wood (not plywood) | 2. Other (specify) <u>Canvas</u> |
|-----------------------|----------------------------------|

G. WORDING ON SIGN

Celebrating 20 years - Boston Pops
on Nantucket benefiting Nantucket
Cottage Hospital - August 13, 2010

C. EDGING DETAILS

- | | |
|----------------|--------------------------|
| 1. Edgebanding | 3. Beveled |
| 2. Moulding | 4. Other (specify) _____ |

H. SIZE OF SIGN

19" wide x 30" high

D. LETTER TYPE

- | | |
|------------|------------|
| 1. Applied | 3. Incised |
| 2. Painted | 4. Carved |

I. SHAPE OF SIGN

Rectangle

E. FINISH

- | | |
|----------------|--------------------------|
| 1. Lettering | a. Gold Leaf |
| | b. Paint |
| 2. Ground | a. Paint |
| | b. Sand Paint |
| 3. Edgebanding | a. Paint |
| | b. other (specify) _____ |
| 4. Moulding | a. Paint |
| | b. other (specify) _____ |

J. LOCATION OF SIGN ON BUILDING

Main Street Light Poles

K. TYPE OF SUPPORT BRACKETS

L. TYPE OF LIGHTING AND LOCATION (if any)

Date: _____

Signature of Applicant _____

Signed under penalties of perjury

July 12, 2016

HDC Sign Committee:

Thanks for your input this morning about temporary banners on Main Street for the Boston Pops on Nantucket. We have a call into Rhoda Weinman to learn specifics of quantity and location.

In the meantime, attached are updated drawings using antique white instead of bright white.

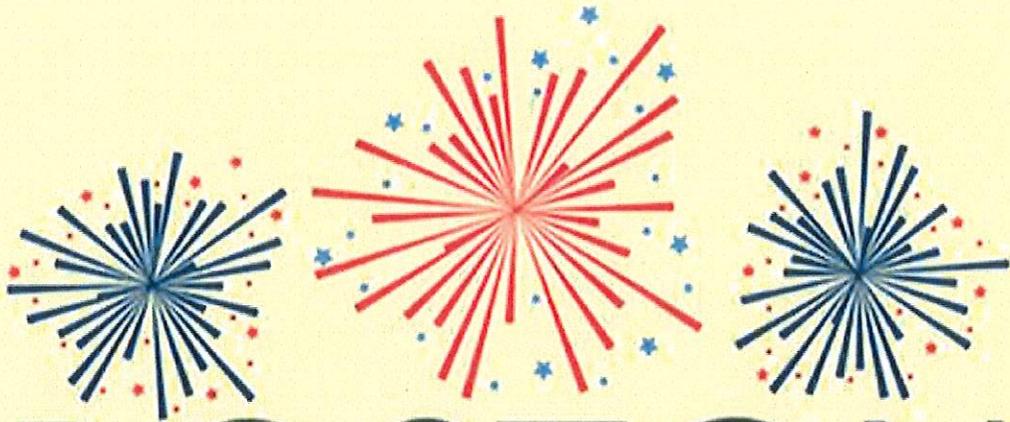
Thank you,

A handwritten signature in black ink, appearing to read "Shay Maguire" followed by a stylized signature that likely represents "Jason Graziadei".

Shay Maguire & Jason Graziadei,
Nantucket Cottage Hospital
(508) 825-8250

19" w x 30" h
"Antique
White"

CELEBRATING 20 YEARS

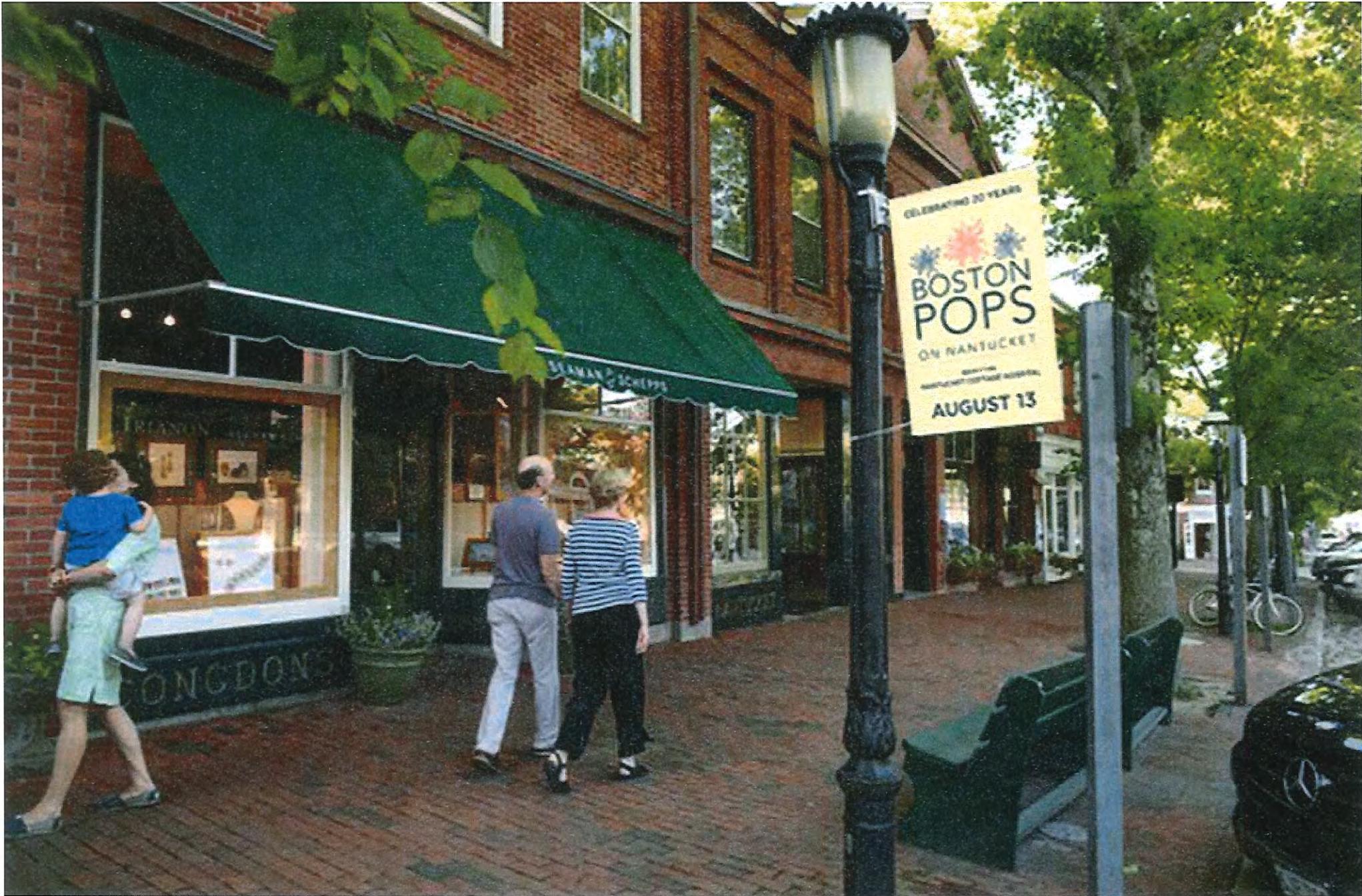


**BOSTON
POPS**

ON NANTUCKET

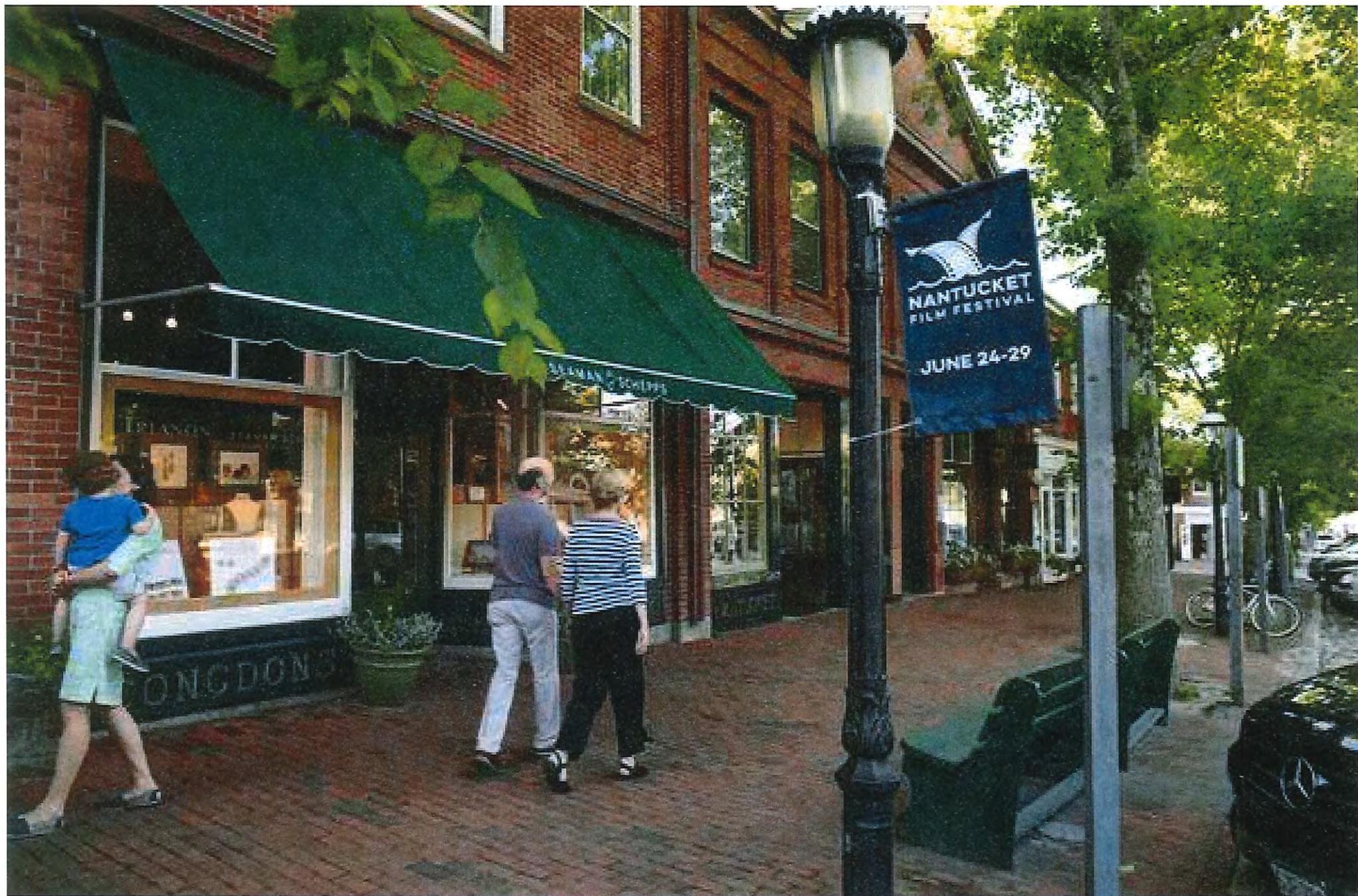
**BENEFITTING
NANTUCKET COTTAGE HOSPITAL**

AUGUST 13



CELEBRATING 20 YEARS
BOSTON POPS
ON NANTUCKET
AUGUST 13

LONDON



Certificate No. 66200

Date Issued 7/26/16

APPLICATION TO HISTORIC DISTRICT COMMISSION Nantucket, Massachusetts for CERTIFICATE OF APPROPRIATENESS for Erection or Display of a SIGN

Application is hereby made for the issuance of a Certificate of Appropriateness under Section 7 of Chapter 394, Acts and Resolves of Massachusetts 1970, for erection or display of an occupational or other sign as described below and on drawings and photographs accompanying this application.

TAX MAP #: _____ PARCEL #: _____
Street & Number of Proposed Sign: Main Street Light Poles
Owner of Building: Town of Nantucket
Mailing Address: _____
Telephone: _____ (on island) _____ (off island)

I hereby authorize the agent named below to act on my behalf to make changes in the specifications or the plans contained in this application in order to bring the application into compliance with the HDC guidelines.

May Nag
Signature of Owner of Record

Agent/Owner of Business
Name: Nantucket Cottage Hospital
Mailing Address: 57 Prospect Street
Nantucket MA 02554
Telephone: 825-8250 (on island) _____ (off island)

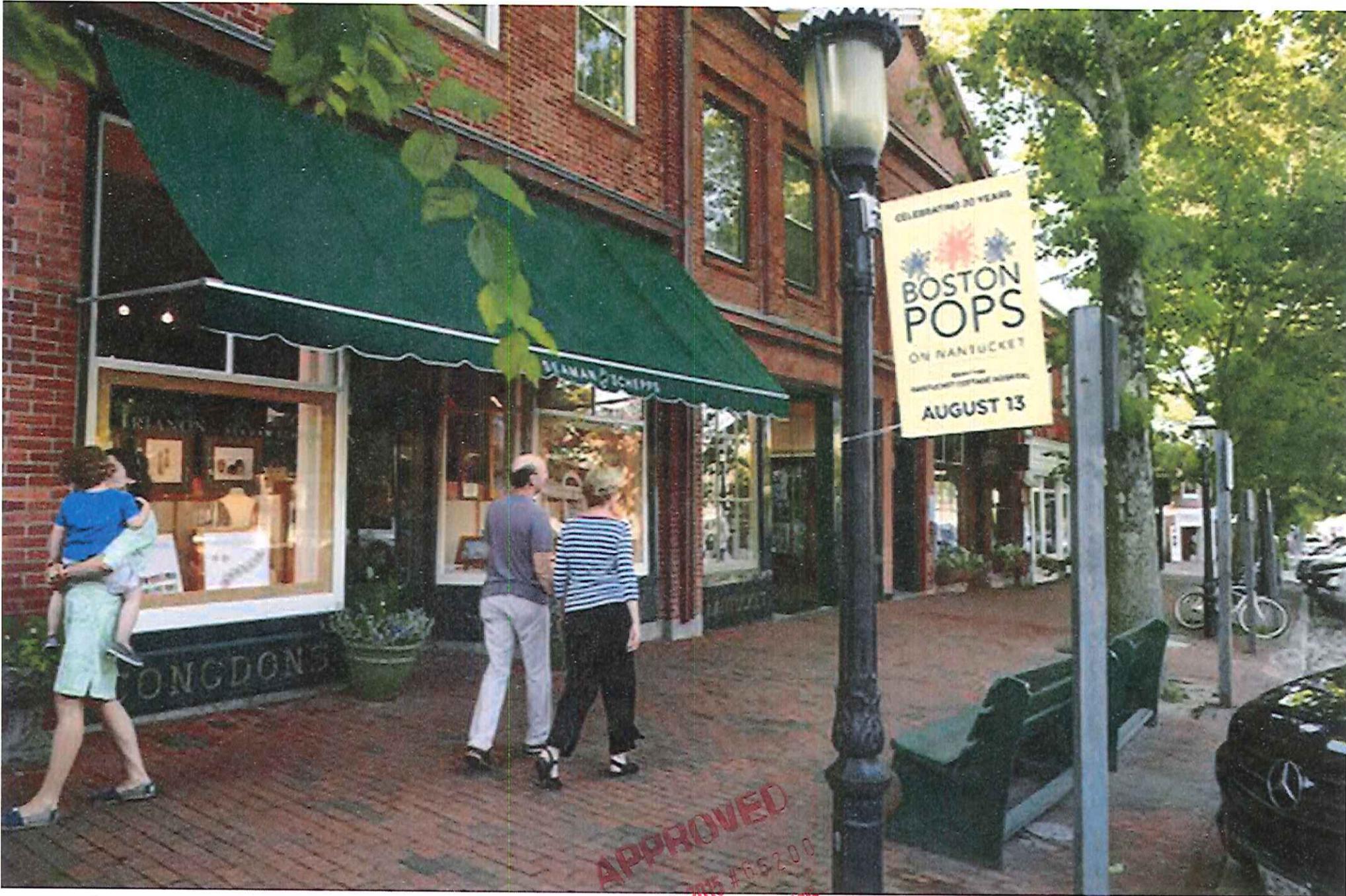
| FOR OFFICE USE ONLY | |
|---|-------------------------|
| Date application received: <u>7/12/16</u> | Fee Paid: \$ <u>50-</u> |
| Must be acted on by: _____ | <u>9/12/16</u> |
| Extended to: _____ | |
| Approved: _____ | Disapproved: _____ |
| Chairman: <u>William J. Ryan</u> | |
| Member: _____ | |
| Notes - Comments - Restrictions - Conditions: | |
| | |
| | |
| | |

- | | | |
|--|--|---|
| <p>A. TYPE OF SIGN</p> <p>1. Wall Sign 2. Projecting Sign 3. Window Sign <input checked="" type="radio"/> 4. Temporary Sign</p> | <p>5. Flag Sign 6. Fence Sign 7. Other (specify) _____</p> | <p>F. COLOR(S)</p> <p>1. Lettering _____ 2. Ground _____ 3. Edgebanding _____ 4. Moulding _____</p> |
| <p>B. MATERIAL</p> <p>1. Wood (not plywood) <input checked="" type="radio"/> 2. Other (specify) <u>Canvas - 07#</u></p> | <p>C. EDGING DETAILS</p> <p>1. Edgebanding 2. Moulding</p> <p>3. Beveled 4. Other (specify) _____</p> | <p>G. WORDING ON SIGN</p> <p><u>Celebrating 20 years - Boston Pops on Nantucket benefiting Nantucket Cottage Hospital - August 13, 2016</u></p> |
| <p>D. LETTER TYPE</p> <p><input checked="" type="radio"/> 1. Applied 2. Painted</p> | <p>3. Incised 4. Carved</p> | <p>H. SIZE OF SIGN</p> <p><u>19" wide x 30" high</u></p> <p>I. SHAPE OF SIGN</p> <p><u>Rectangle</u></p> |
| <p>E. FINISH</p> <p>1. Lettering 2. Ground 3. Edgebanding 4. Moulding</p> | <p>a. Gold Leaf b. Paint a. Paint b. Sand Paint a. Paint b. other (specify) _____</p> <p>a. Paint b. other (specify) _____</p> | <p>J. LOCATION OF SIGN ON BUILDING</p> <p><u>Main Street light poles</u></p> <p>K. TYPE OF SUPPORT BRACKETS</p> <p>_____</p> <p>L. TYPE OF LIGHTING AND LOCATION (if any)</p> <p>_____</p> |

Date: 7/12/16

Signature of Applicant William J. Ryan

Signed under penalties of perjury



CELEBRATING 20 YEARS
BOSTON POPS
ON NANTUCKET
AUGUST 13

APPROVED
JUL 26 2015 #165200
NO EXTENSION CHANGE
WITHOUT THE APPROVAL

19" w x 30" h

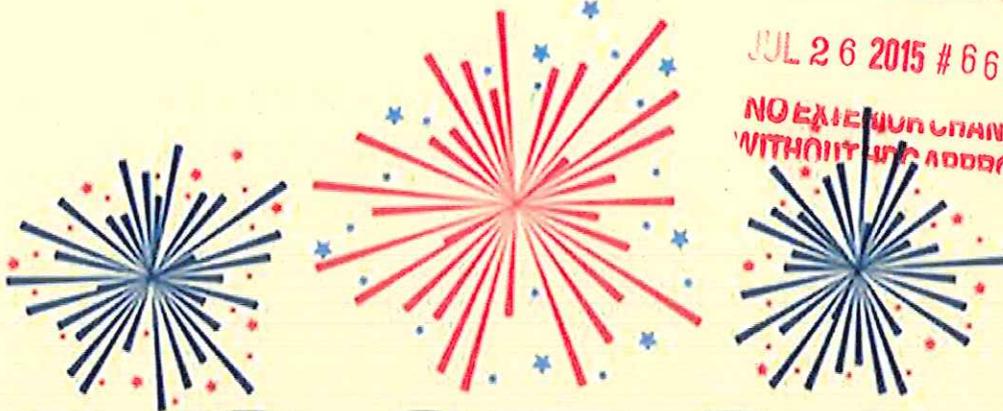
"Antique
White"

CELEBRATING 20 YEARS

APPROVED

JUL 26 2015 # 66200

NO EXTENSION CHANGES
WITHOUT THE APPROVAL



BOSTON
POPS

ON NANTUCKET

BENEFITTING
NANTUCKET COTTAGE HOSPITAL

AUGUST 13

LICENSE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2016, by and between the TOWN OF NANTUCKET, a Massachusetts municipal corporation, acting by and through its Board of Selectmen, having an address of Town & County Building, 16 Broad Street, Nantucket, Massachusetts 02554 (the “Licensor”) and FORSYTH 48 LLC, a Massachusetts limited liability company, with a mailing address c/o Whitney A. Gifford, Post Office Box 2669, Nantucket, Massachusetts 02584 (the “Licensee”), the owner of property located at 48 Madequecham Valley Road, Nantucket, Massachusetts (the “Property”) by virtue of Certificate of Title No. 25841 at the Nantucket Registry District of the Land Court (the “Licensee’s Land”);

WHEREAS, Licensor is the owner of land shown as Lots 108 and 109 (the “Licensed Premises”) on a plan of land entitled “Plan of Taking and Disposition for the Town of Nantucket in Nantucket, Mass.”, by Earle & Sullivan, Inc., dated October 30, 2013, recorded with the Nantucket Registry of Deeds as Plan No. 2014-04 (the “Plan”), by virtue of an Order of Taking by Eminent Domain dated April 24, 2013, filed with the Nantucket Registry District of the Land Court as Document No. 140941 and recorded with said Deeds in Book 1383, Page 29 (the “Licensor’s Property”);

WHEREAS, Lot 108 and a portion of Lot 109 on the Plan, formerly portions of Barker Street, are registered land and the Land Court has not yet approved and accepted for filing a plan showing Lot 108 as a lot for conveyance by the Licensor to the Licensee and issued a Certificate of Title for Lot 108 in the name of the Licensor;

WHEREAS, Licensor is willing to grant permission to Licensee to use the Licensor’s Property for the purposes of (a) relocating a travelled path for pedestrian and vehicular use which now runs across portions of Lots 108, 109 and 110 on the Plan to a location within Lot 109 between Madequecham Valley Road and land now owned by the Licensor approximately shown on Nantucket Assessor’s Map 88 as Parcel 77, and (b) for the Licensee to be able to use Lot 108 for pedestrian and vehicular access to the Licensee’s Land, and (c) to generally use Lot 108 for all purposes, except the construction of structures, until such time as the land within Lot 108 is created as a new Land Court lot shown upon an approved Land Court Plan and can be conveyed by Licensor to Licensee free of all easements; and

NOW, THEREFORE, in consideration of the mutual promises and covenants herein made, the parties hereto agree as follows:

1. Licensor hereby grants Licensee a non-exclusive license to enter upon and use Lot 109 and an exclusive license on Lot 108 for location of an unpaved pathway within Lot 109 for pedestrian and vehicular access to and from Madequecham Valley Road and Parcel 88-77, and for use of said pathway within Lots 108 and 109 for vehicular and pedestrian access to the Licensee’s Land. Licensee shall have no continuing maintenance obligations with respect

to such access. Licensee shall also have general use of Lot 108 for all purposes except the construction of structures, and specifically may place a barrier, which may include vegetation, fencing or utility poles laid down on the ground within the easterly boundary of Lot 108. Such entry and use shall be exercised from the date of the execution of this License. Licensor makes no representation or warranty, by said grant of license hereby or otherwise, that the Licensor has title to or rights in the Licensed Premises or that the Licensed Premises may be used for a particular purpose. Licensee acknowledges it has have not relied upon any warranties or representations of the Licensor nor any person acting on behalf of the Licensors, and that Licensee agrees to accept the Licensed Premises “as is”, with no liability on the part of the Licensor for any condition or defect or title in the Licensed Premises, whether or not known to the Licensor or any representative of the Licensor. The terms of this paragraph shall survive the termination of this License.

2. Licensee hereby releases Licensor from any and all claims and liabilities of any nature whether known or unknown, both in law or in equity, which Licensee has or may have had from the beginning of the world to the date of execution of this license. Licensee also agrees to indemnify, defend and hold Licensor harmless from and against all claims, demands, losses, costs, damages, causes of action, or liabilities whatsoever, including but not limited to mechanic’s liens and reasonable attorney’s fees and expenses, which may be imposed upon, incurred by, or asserted against the Licensor or its agents, employees, successors and assigns by reason of (a) any failure on the part of the Licensee and its contractors, agents, representatives or invitees to comply with any provision or term required to be performed or complied with by Licensee and its contractors, agents, representatives or invitees under this License; (b) for the death, injury or property damage suffered by any person on account of or based upon the act, omission, fault, negligence or misconduct of any person whomsoever, other than the Licensor relating in any way, to the Licensee’s exercise of its rights under this License; (c) the discharge, release or threatened release at or from the Licensed Premises of oil or hazardous material as defined under federal, state or local law which is caused by Licensee and their successor under this License. Licensee will be solely responsible for any hazards created through Licensee’s conduct in connection with this License. Furthermore, Licensee hereby releases the Licensor from any responsibility or liability for Licensee’s losses or damages related to the condition of the Licensed Premises, and Licensee agrees and covenants that it will not assert or bring, nor cause any third-party to assert or bring any claim, demand, lawsuit or cause of action against the Licensor including without limitation, claims for property damages, diminution in property, value claims, personal injury damages and any other damages relating to or arising from the Licensee’s use of the Licensed Premises. The provisions of this Paragraph shall survive the termination of this License.

3. The Licensee agrees that it shall use the Licensed Premises in a manner typical and customary in which a pathway is used for pedestrian and vehicular access purposes, and as described in Paragraph 1, above. Licensee agrees that it shall use the Licensed Premises at its own risk, and the Licensor shall not be liable to Licensee for any injury or death to persons entering the Licensed Premises pursuant to the License, or loss or damage to vehicles or other personal property of any nature whatsoever of the Licensee, or of anyone claiming by or through the Licensee, that are brought upon the Licensed Premises pursuant to the License. Licensee agrees not to place or construct any structures in, on, under, over or across the Licensed Premises. During the exercise of the rights hereby granted, the use of the Licensed Premises by Licensee shall not unreasonably interfere with the use of Lot 109 by the Licensor, and observe and obey directives of the Licensor as well as all applicable laws, statutes, ordinances, and regulations.
4. The Licensee shall maintain during the term of this License public liability insurance with coverage for bodily injury, wrongful death and property damage, in the minimum amount set forth herein to support the obligations of the Licensee under the terms and conditions of this License to indemnify, defend and hold harmless the Licensor pursuant to insurance coverage on the Licensee's Land held by the Licensee: General Liability: one million (\$1,000,000.00) dollars per occurrence: Bodily injury two million (\$2,000,000.00) dollars cumulative and shall deliver to the Town of Nantucket a certificate of insurance indicating the Licensor as an additional insured on the policy prior to the exercise of this License by the Licensee. The insurance coverage required hereunder shall be placed with insurance companies licensed by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and have a Best's rating of B+ or better.
5. This License shall not be construed as creating or vesting in the Licensee any estate in the Licensed Premises, but only the limited right of possession as hereinabove stated.
6. This License is personal and exclusive to the Licensee and is not intended to run with the land; the Licensor shall negotiate in good faith a new license with any subsequent owner of the Licensee's Land.
7. This License is to be interpreted under and construed in accordance with the laws of the Commonwealth of Massachusetts. The parties agree that venue for any dispute arising from this License will be the Nantucket District Court.
8. The parties agree that Licensee shall deliver to Licensor within thirty (30) days after the approval of the Land Court Plan and the issuance of an Order of Land Court to issue a new Certificate of Title for Lot 108, a One Big Beach Easement in form acceptable to Licensor over Lot 108 and 48 Madequecham Valley Road and Licensor shall deliver to Licensee a deed to Lot 108, at

which time the License shall be terminated. This obligation shall survive the termination of this License

EXECUTED as an instrument under seal as of the date first above written.

LICENSOR:

LICENSEE:

TOWN OF NANTUCKET
By its Board of Selectmen

Owner of 48 Madequecham Valley Road:
FORSYTH 48, LLC

James R. Kelly

By:_____
Holly H. Nelson, Manager

Dawn E. Hill Holdgate

Rick Atherton

Robert DeCosta

Matthew G. Fee

559081v2/NANT19713/0001

The General Laws of Massachusetts

Search the Laws

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XX. PUBLIC SAFETY AND GOOD ORDER

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| Go To: |
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| Mass.gov |

CHAPTER 140. LICENSES

THEATRICAL EXHIBITIONS, PUBLIC AMUSEMENTS, ETC.

Chapter 140: Section 181. Theatrical exhibitions, etc.; licenses; fees; applications; suspension or revocation; workers' compensation coverage

Section 181. The mayor or selectmen may, except as provided in section one hundred and five of chapter one hundred and forty-nine, grant and set the fee for, upon such terms and conditions as are described hereinafter, a license for theatrical exhibitions, public shows, public amusements and exhibitions of every description, to be held upon weekdays only, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or in which, after free admission, amusement is furnished upon a deposit of money in a coin controlled apparatus, but in no event shall any such fee be greater than one hundred dollars. Notwithstanding the limitations of this paragraph, a license granted to a movie theater, including any drive-in theater, for the exhibition of motion pictures shall permit such exhibition seven days per week. The fee for such license shall not exceed the total amounts paid by a licensee for licenses issued in 1997 under this section and section 4 of chapter 136 then in effect; provided, however, that the fee for such license shall not be greater than \$500.

The application for such a license shall be in writing and shall fully and specifically describe the conditions of the proposed exhibition, show, or amusement and the premises upon which the proposed exhibition, show, or amusement is to take place, to the extent that such conditions or premises would affect the public safety, health or order. Upon written request of the mayor or selectmen, the applicant shall in addition furnish reasonable information concerning the conditions of the premises and actions to be taken in order to prevent danger to the public safety, health, or order. Within thirty days following receipt of such application, the mayor or selectmen shall grant a license or shall order a hearing preceded by at least ten days written notice to the applicant. Within forty-five days next following the close of such hearing, the mayor or selectmen shall grant such license or shall deny such license upon a finding that issuance of such a license would lead to the creation of a nuisance or would endanger the public health, safety or order by:

if denying must use this criteria

- (a) unreasonably increasing pedestrian traffic in the area in which the premises are located or
- (b) increasing the incidence of disruptive conduct in the area in which the premises are located or
- (c) unreasonably increasing the level of noise in the area in which the premises are located.

Notice of such a denial shall be delivered to the applicant in writing and shall be accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The mayor or selectmen may impose conditions upon a license but said conditions may only relate to compliance with applicable laws or ordinances, or to public safety, health or order, or to steps required to be taken to guard against creation of a nuisance or

to insure adequate safety and security for patrons or the affected public.

No applicant having been denied a license as aforesaid shall submit the same or a similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.

The mayor or selectman may revoke or suspend a license granted pursuant to the provisions of this section upon finding, after a hearing preceded by ten days written notice to the licensee, that conditions exist which would have justified denial of the original application for such license provided, that the mayor or selectmen may petition the superior court department of the trial court to enjoin any violation of this section.

No license shall issue, however, for a traveling carnival, circus or other such traveling amusement which does not have its principal place of business within the commonwealth unless the licensee certifies that he has provided by insurance for the payment of compensation and the furnishing of other benefits under chapter one hundred and fifty-two to all persons to be employed by said licensee and that such insurance shall continue in full force and effect during the term of the license; and the licensee further certifies that he has obtained a policy of public liability insurance in the amount of at least twenty-five thousand dollars to pay any claims or judgments rendered against the licensee in favor of patrons or others to recover damages resulting from the negligence of the licensee. The amount of insurance of the policy hereinbefore required or in effect shall not limit or impair any right of recovery to which any plaintiff may be entitled in excess of such amount.

Memo

To: Board of Selectmen

From: Amy Baxter, Licensing Administrator

cc: Libby Gibson, Town Manager; William Pittman, Chief of Police

Date: July 27, 2016

Re: White Elephant Residences Entertainment License Application

BACKGROUND:

On July 20, 2016, the Nantucket Board of Selectmen conducted a public hearing on Nantucket Island Management, LLC's Entertainment License Application for White Elephant Residences located at 19 South Beach St, 29 North Water Street, and 72 Easton Street, Nantucket MA. Following the hearing, the Board requested :

CONSIDERATIONS:

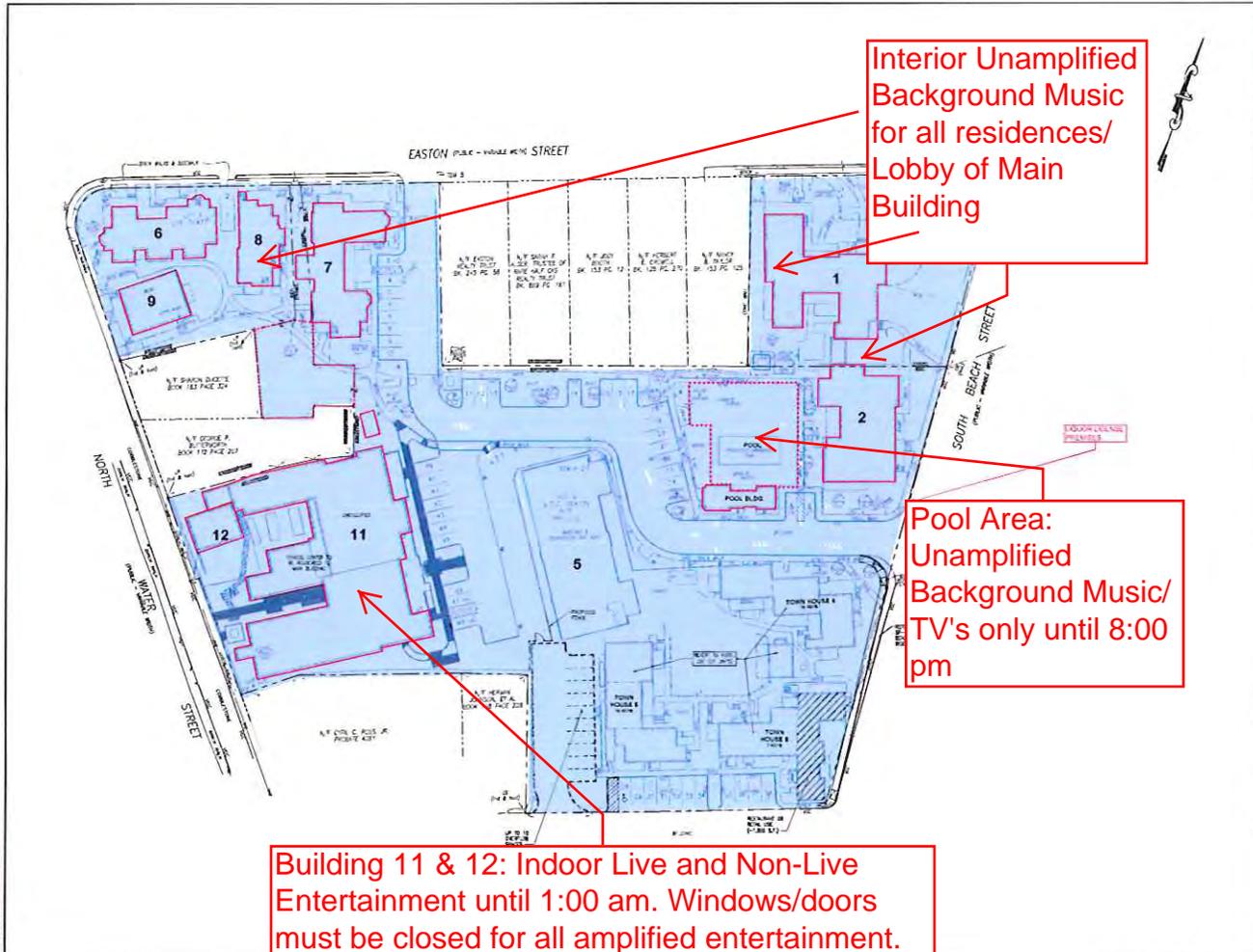
The following parameters were used to determine the recommended conditions of the Entertainment License:

1. Special Permit 12-05:
 - a. 2.6: That the hours of operation shall be from 8:00 am – 8:00 pm for the spa and the hours of operation for the restaurant and the function rooms shall be from 6:00 am – 1:00 am.
 - b. That there shall be no outdoor music after 8:00 pm. If amplified music is being played within the interior of the function room or other on-site structure, all doors and windows must be closed to minimize the impact of the sound exterior to the structure(s). No music shall be plainly audible beyond the property line of the site after 10:00 pm.
2. Harbor House Entertainment License conditions per BOS 5-29-02:
 - a. At no time does this permit allow live music in either the pool area or the Hearth Terrace. Amplified music permitted in those two areas is for background purposes only.
 - b. The motion also grants the use of background music in the pool and terrace areas.

RECOMMENDATION:

The following agreement of Entertainment License conditions was reached between representatives of Nantucket Island Management, LLC and the Town of Nantucket Licensing Department:

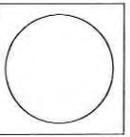
1. The applicant has removed the Lawn area adjacent to Building 11 and 12 from the requested license premises for Entertainment. In consideration of neighbors' concerns, there will be no request for Live or Background Music in the outdoor area adjacent to Buildings 11 and 12 at this time.
2. Approval of Indoor Live and Non-Live Entertainment per the application is recommended within the special conditions outlined in Special Permit 12-05 listed above.
3. Approval of indoor entertainment hours until 1:00 am as has been permitted on the property in previous years and is permitted at neighboring establishments to include the Nantucket Hotel and Lola 41 restaurant.
4. Approval of unamplified background music in the pool area until 8:00 pm as was permitted on the property in previous years.
5. As the facility is still under final construction, an approved Entertainment License is conditional upon final inspections and approval of the premises by the Building and Fire Departments before a final License can be issued.



WHITE ELEPHANT HOTEL RESIDENCE

WHITE ELEPHANT PHASE 3

PERMIT DOCUMENTS



RJO'CONNELL & ASSOCIATES, INC.
 CIVIL ENGINEERS & LAND PLANNERS
 85 MONROE ST. AVE.
 BOSTON, MA 02109
 TEL: 617-271-0700
 FAX: 617-271-0700

| | |
|-------------|------------------|
| Project No: | 11028 |
| Drawn By: | WCR |
| Checked By: | JJA |
| Issue Date: | 14 NOVEMBER 2012 |

| Revision No. | Date | Description | By |
|--------------|----------|---------------------------|----|
| 1 | 11/14/12 | ISSUED FOR REISSUE PERMIT | |
| 2 | 11/14/12 | ISSUED FOR REISSUE PERMIT | |

Drawing Title:
SITE PLAN PHASE 3

SCALE: 1" = 30'
 Drawing Number:
CP-1

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VAUGHAN, DALE, HUNTER AND BEAUDETTE

PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

WHALER'S LANE

P.O. BOX 659

NANTUCKET, MASSACHUSETTS 02554

TEL: (508) 228-4455

FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN

KEVIN F. DALE

RICHARD P. BEAUDETTE

—
LORI D'ELIA

BRYAN J. SWAIN

WILLIAM F. HUNTER

OF COUNSEL

July 12, 2016

BY HAND DELIVERY

Nantucket Board of Selectmen
Town and County Building
16 Broad Street
Nantucket, Massachusetts 02554

*Re: Nantucket Island Management, LLC
d/b/a White Elephant Hotel Residences
19 North Water Street / 19 South Beach,
29 North Water Street & 72 Easton Street,
Nantucket, MA 02554
Entertainment License Application
Supplemental Letter*

Dear Nantucket Board of Selectmen:

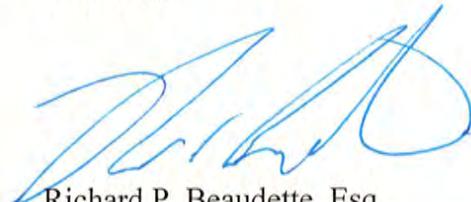
I represent Nantucket Island Management, LLC d/b/a *White Elephant Hotel Residences*, a Massachusetts Limited Liability Company. My client is to appear before the Board on July 20, 2016 for the hearing for an Entertainment License at 19 North Water Street / 19 South Beach, 29 North Water Street & 72 Easton Street Nantucket, MA 02554 ("The Premises").

The Applicant desires to have entertainment throughout the interior of all buildings located thereon, and the lawn area adjacent to the function space as well as around the

pool area located at 19 North Water Street / 19 South Beach Street, 29 North Water Street, and 72 Easton Street. The entertainment will include live entertainment, with vocals and instruments, a disc jockey, karaoke, dancing by patrons, exhibitions and trade shows, radio, dxm, cd player, ipod usage and floor shows. The Special Permit for the Premises limits outdoor music to 8:00 p.m. Please see the Entertainment License for a more detailed description of the entertainment to be held on the Premises.

Thank you for your help and if you have any question, please do not hesitate to call me at 774-236-9035. Please note that I reserve the right to supplement this application with further materials at a later time.

Sincerely,



Richard P. Beaudette, Esq.

RPB/BJS

Encl:

cc: Nantucket Island Management LLC

TOWN AND COUNTY OF NANTUCKET
NEW ENTERTAINMENT LICENSE APPLICATION
APPLICATION FOR LIVE AND NON-LIVE ENTERTAINMENT LICENSE

Please complete this application, sign, date and return with all requested documents to
LICENSING OFFICE, 4 FAIRGROUNDS ROAD, NANTUCKET MA 02554
Office hours: Monday-Friday 8:00AM – 4:00PM
508-325-4137
amcandrew@police.nantucket-ma.gov

1. Describe specifically where on the premises you wish to have Entertainment (Indoors? Outdoors?)

The Applicant desires to have entertainment throughout the interior of all buildings located thereon,

in and around the pool area, and throughout the exterior of the Premises located at 19 North Water Street / 19 South Beach Street, 29 North Water Street, and 72 Easton Street.

2. Telephone number for business establishment: 508-228-1500

Please check below; Categories of Entertainment for which you are applying:

All commonly used band instruments, including but not limited to: Piano, Guitar, Saxophone,

3. Instrumental Music Types of Instruments: String Instruments, Drums, Electronic Synthesizer
Total Number of Instruments? Eight or less

4. Vocal Music Number of Vocalists? Four

5. Disc Jockey Karaoke 6. Dancing by Patrons Describe Size/Location of
The Applicant occasionally rents a temporary dance floor for weddings and other
Dance Floor on premises: events that require a dance floor.

with each event.
Hours of Dancing by Patrons: 8:00 a.m to 1:00 a.m

7. Exhibition or Trade Show Describe The applicant will have trade shows, fund raisers and seminars on an occasional basis.

8. Movie Theatre Number of Screens? _____

9. Stage Plays Number of Stages? _____

10. Radio DMX CD Player I-Pod Other _____

11. Number of Widescreen TV's and Locations? 4 Widescreen TVs & 3 Projector in the interior Ball Room
6 Widescreen TVs in the Pool area; one in each Cabana.

12. Floor Shows Describe Type/Hours (i.e. Comedian, etc.) The Applicant will host weddings
and other similar events where a professional performer will entertain guests.

13. Will Entertainment be AMPLIFIED via speakers, sound system, other? Yes No
The respective style of music, as indicated above, will be amplified for dancing, background music & ambiance.
If YES, please explain details Vocals will be amplified for weddings, Exhibitions & Trade Shows, Karaoke and Floor Shows.

14. If athletic event(s) are to be held, please describe _____

15. Will an Admission/Cover fee be charged? Yes No

If YES, describe types of Entertainment and \$ Amount of Cover Charge: _____

15. Hours during which Entertainment will be offered (A.M. and P.M.)?

| | | | | |
|-----------|------|----------|----|---------|
| Monday | From | 8:00 a.m | To | 1:00 am |
| Tuesday | From | 8:00 a.m | To | 1:00 am |
| Wednesday | From | 8:00 a.m | To | 1:00 am |
| Thursday | From | 8:00 a.m | To | 1:00 am |
| Friday | From | 8:00 a.m | To | 1:00 am |
| Saturday | From | 8:00 a.m | To | 1:00 am |
| Sunday | From | 8:00 a.m | To | 1:00 am |

16. Please list all other business licenses associated with the premises (Liquor, CV, Sunday Entertainment License from State, etc.):

Liquor, CV, Sunday Entertainment

LICENSE MANAGER OF RECORD

1. Proposed Manager of Record Bettina Landt Email: blandt@niresorts.com

c/o Vaughan, Dale, Hunter and Beaudette, P.C.

2. Home Address 2 Whalers Lane, Nantucket, MA 02554

3. Telephone/Cell Phone 508-228-4455 / _____ SSN [REDACTED]

4. Date of Birth [REDACTED] Place of Birth [REDACTED]

5. Mother's Maiden Name [REDACTED]

WITHIN THE PAST SEVEN (7) YEARS, HAS THE PROPOSED MANAGER BEEN CONVICTED OF A FELONY OR A VIOLATION OF A STATE OR FEDERAL NARCOTICS LAW?

Yes: (Please explain) _____

No:

OPERATIONS

- 1) Proposed capacity of premises: 405
- 2) Number of Restrooms 7 Number of Egresses 7
- 3) Days/Hours of Operation for Liquor License? Monday - Saturday 8:00 a.m. to 1:00 a.m. & Sunday 11:00 a.m. to 1:00 a.m.
- 4) Days/Hours of Operation for CV License? Monday - Sunday 8:00 a.m. to 1:00 a.m.
- 5) a. Number of employees on premises during peak hours? 34
7:00 a.m - 3:00 p.m.: 27 Employees
- b. Number of employees on premises at any given time? 3:00 p.m. - 11:00 p.m.: 16 employees. 1 over night employee
- c. Number of Managers or designated person in charge at any given time? 2

BUSINESS ORGANIZATION

Please check the applicable section:

- 1. The business for which this application is being filed is a:
 - Sole Proprietorship (Please state owner's name) _____
DBA _____
 - Partnership (List Partner names) _____
DBA _____
 - Corporation, LLC (If the applicant is a corporation, give the name and home address of each Officer, Director and Shareholder and the % of stock held by each person)
Nantucket Island Management, LLC
DBA White Elephant Hotel Residences
- 2. Employer EIN/FID: 04-3436262
- 3. If new ownership, please indicate previous d/b/a, owner and date you assumed ownership _____
- 4. Was there an approved transfer of an Alcoholic Beverages or CV license within the past 12 months?
 Y N If YES, when? _____
- 5. Do you have any financial or corporate relationship with the prior owner? Select
If YES, please describe: _____
- 6. Does any person who holds direct or indirect interest in this premises hold direct or indirect interest in any other premises which has an Entertainment license in the Town of Nantucket?
Select If YES, please describe: White Elephant Hotel / Brant Point Grill, THE WAUWINET INN, JARED COFFIN HOUSE

7. Has any person who holds direct or indirect interest in the premises ever been denied an Entertainment license or had an Entertainment license suspended, revoked, or voluntarily surrendered an Entertainment license in any jurisdiction? **Select** If YES, please attach an explanation on a separate page with dates and the name of the person with the aforementioned interest.

8. Has the applicant, or officer of the applicant: (If YES, please attach an explanation.
 - a. Been convicted of a felony in the past seven (7) years? **Select**
 - b. Held any interest in an Alcoholic Beverage or CV license which has been suspended or revoked or voluntarily surrendered? **Select**
 - c. Have any knowledge of illegal activity by its principals which may effect this license or the licensed premises? **Select**

STATEMENT OF APPLICANT

Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief, and that there are no other indirect interests in this license other than those indicated in this application.

Signature of Applicant: *Richard P. Beaudette* Date: June 28, 2016

Print Applicant's Full Name: Nantucket Island Management LLC by Richard P. Beaudette, Esq.

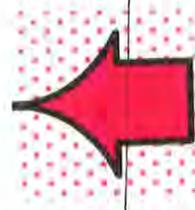
Applicant's Relationship to Business Entity: Attorney

TOWN OF NANTUCKET BOARD OF SELECTMEN

Approved: YES NO Date: _____

Town Manager Signature: _____

Licensing Board Conditions/Restrictions/Comments: _____



Libby Gibson

From: Rick Atherton
Sent: Thursday, July 28, 2016 3:17 PM
To: Libby Gibson
Cc: 'Jim Kelly'
Subject: NP&EDC Agenda
Attachments: NPEDC.pdf

I believe it appropriate for the BOS to be informed of the parameters of the corridor plan referred to in the attached agenda.

Rick

RICK ATHERTON
PO Box 3126
Nantucket MA 02584
508.228.2366
ratherton@nantucket-ma.gov



MEETING POSTING

RECEIVED
2016 JUL 28 PM 02:24
NANTUCKET TOWN CLERK
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TOWN OF NANTUCKET
Pursuant to MGL Chapter 30A, § 18-25
All meeting notices and agenda must be filed and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays)

Committee/Board/s | **Nantucket Planning & Economic Development Commission**

Day, Date, and Time | **Monday, August 1, 2016, at 6:00pm**

Location / Address | **2 Fairgrounds Road, Nantucket, MA
Conference Room**

□

Signature of Chair or Authorized Person | **Mike Burns, Transportation Planner**

WARNING: **IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!**

NP&EDC

AGENDA

www.nantucket-ma.gov

Please list below the topics the chair reasonably anticipates will be discussed at the meeting

- I. **Call to Order:**
- II. **Establishment of Quorum:**
- III. **Approval of Agenda:**
- IV. **Approval of Minutes:**
- V. **Public Comment:**
- VI. **Action / Discussion Items:**

- A. South Eastern Economic Development (SEED) Corporation and Cape Cod Five Cents Savings Bank – Business workshops for entrepreneurs
- B. NRTA – review potential revenue sources for existing and expanded service
-  C. Old South Road Corridor Study – Review draft study area and scope
- D. Housing Production Plan – contract with Edward Marchant

VII. Other Business:

VIII. Adjournment