

CITY COUNCIL CALENDAR

Thursday, September 26, 2019

NOTE:

***THE MEETING IS HELD AT 7 P.M. CITY COUNCIL CHAMBERS - ROOM 214, CITY HALL,
133 WILLIAM STREET, NEW BEDFORD, MA. FOR OFFICIAL POSTING, PLEASE SEE
CITY'S WEBSITE***

OPENING OF SESSION BY:

LINDA M. MORAD, CITY COUNCIL PRESIDENT

PRAYER LED BY:

REVEREND DAN LACROIX - ST. MARY'S PARISH

PLEDGE OF ALLEGIANCE

*

CITATIONS

CITATIONS, Councillor Gomes and Council President Morad, honoring, MATTHEW SYLVIA, KYLE KING, and JENNY SOUSA in recognition of their appointment as a New Bedford Police Officer.

MAYOR'S PAPERS

M1. COMMUNICATION, Mayor Mitchell, to City Council, submitting a draft First Amendment to the Host Community Agreement between the City of New Bedford and Beacon Compassion, Inc., that would permit Beacon to proceed with the State application process for the sale of adult-use marijuana at its proposed facility at 366 Hathaway Road.

M1a. HOST COMMUNITY AGREEMENT, First Amendment

M2. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER, for a two-year short-term Tenancy Agreement between the City of New Bedford, acting through its Airport Commission and the Commonwealth of Massachusetts acting by and through the Commissioner of its Division and Capital Asset Management and Maintenance on behalf of Bridgewater State University.

M2a. AN ORDER,

M3. COMMUNICATION, Mayor Mitchell to City Council, submitting the APPOINTMENT of DOMINIK SULLIVAN-SOUZA, Acushnet, MA 02743

as a SPECIAL POLICE OFFICER.

M3a. AN APPLICATION,

M4. COMMUNICATION, Mayor Mitchell, to City Council, submitting the REAPPOINTMENT of JEFFREY LAWRENCE KING, South Dartmouth, MA 02748 as a CONSTABLE.

M4a. AN APPLICATION,

NEW BUSINESS

2. REPORT, Committee on Ordinances, recommending to the City Council WITHDRAWAL WITHOUT PREJUDICE of the request that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residence “B” to Mixed-Use Business in its entirety.

2a. WRITTEN MOTION, Councillor Lima, requesting that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residential “B” to MIXED-USE BUSINESS in its entirety. (Referred to the Committee on Ordinances and the Planning Board – August 15, 2019.)

3. REPORT, Committee on Ordinances, recommending to the City Council APPROVAL of the Ordinance, Relative to Vehicles for Hire, amending Section 24-16 of Chapter 24, to reduce the license fee for GATRA certified drivers from \$50 to \$25; and that this Ordinance be passed to a second reading.

3a. AN ORDINANCE, Referred to the Committee on Ordinances – March 28, 2019.)

4. REPORT, Committee on Ordinances, recommending to the City Council ADOPTION, as Amended, of the Ordinance Relative to Plastic Bags.

4a. AN ORDINANCE,

5. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council to Grant a One-Year Waiver of Residency for Melissa Batchilder, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA.

5a. COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE-YEAR WAIVER OF RESIDENCY for MELISSA BATCHILDER, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA. (Referred to the Committee on Public Safety and Neighborhoods – July 18, 2019.)

6. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council that all new hires that are seeking a waiver of residency, that the Personnel Director attend the Committee meeting and provide the full City Council with the total number of applicants, the total number of applicants from New Bedford, the total number of applicants interviewed and the total number of New Bedford residents interviewed; and further, that a copy of the full job description be part of all Communications to the City Council.

7. REPORT, Committee on City Property, recommending to the City Council APPROVAL of the Servedwell New Bedford LLC, proposal related to lease vacant land on East Rodney French Boulevard.

7a. PROPOSAL, Servedwell New Bedford, LLC, 307 Smith Neck Road,

Dartmouth, MA 02748, to lease vacant land on East Rodney French Boulevard.

8. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Southcoast Apothecary LLC to operate a recreational marijuana dispensary at 115 Coggeshall Street, New Bedford, MA 02746.

8a. HOST COMMUNITY AGREEMENT,

9. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Tree Beard, Inc. to operate a recreational marijuana dispensary at 1 Nauset Street, New Bedford, MA 02746.

9a. HOST COMMUNITY AGREEMENT,

10. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Metro Harvest, Inc., to operate a recreational marijuana dispensary at 606 Tarkiln Hill Road, New Bedford, MA 02745.

10a. HOST COMMUNITY AGREEMENT,

11. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council to take **“NO FURTHER ACTION”** on the WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford’s law-enforcement with Federal monies for equipment and public safety personnel.

11a. WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring

safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford's law-enforcement with Federal monies for equipment and public safety personnel. (Referred to the Committee on Public Safety and Neighborhoods – September 14, 2017.)

12. REPORT, Committee on Finance, recommending to the City Council to take “No Further Action” on the COMMUNICATION, Councillor Morad, submitting a letter from Members of the City of New Bedford's EMS Department, regarding Group IV Retirement Benefits.

12a. COMMUNICATION, Councillor Morad, submitting a letter from Members of the City of New Bedford's EMS Department, regarding Group IV Retirement Benefits. (Referred to the Committee on Finance – October 26, 2017.)

13. REPORT, Committee on Finance, recommending to the City Council to take “**NO FURTHER ACTION**” on a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES.

13a. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES.

13b. AN ORDER, (Referred to the Committee on Finance – March 28, 2019.)

14. REPORT, Committee on Finance, recommending to the City Council to take “**NO FURTHER ACTION**” on a RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center.

14a. RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center. (Referred to the Committee on Finance – March 28, 2019.)

15. REPORT, Committee on Finance, recommending to the City Council to take “**NO FURTHER ACTION**” on a COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding.

15a. COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding. (Referred to the Committee on Finance – April 11, 2019.)

16. REPORT, Special Committee on the Airport, recommending to the City Council to take **NO FURTHER ACTION** on the WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the

current status and operation of the New Bedford Regional Airport.

16a. WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport. (Referred to the Special Committee on the Airport – April 25, 2019.)

17. WRITTEN MOTION, Councillors Dunn and Coelho, requesting, that the City increase the Police presence around the Carlos Pacheco school due to the risk of children being harmed by vehicle traffic during pick up and drop off times, especially on Mt. Pleasant Street and Sawyer Street. (To be Referred to Committee on Public Safety and Neighborhoods).

18. WRITTEN MOTION, Councillors Coelho and Rebeiro, requesting that the Committee on Ordinances, invite Election Commissioner Manuel DeBrito, to a meeting to discuss changing the City charter that candidates can only file for one office per Municipal Election.

19. WRITTEN MOTION, Councillor Gomes, requesting that the Committee on Public Safety & Neighborhoods meet with the Boys and Girls Club Director Robert Mendes; Parks, Recreation and Beaches Director Mary Rapoza, and a representative from the Catholic Diocese of Fall River that runs the CYO Kennedy Youth Center to discuss programming for the youth in the City, this request comes on behalf of Community Conversation Come Together In Peace which is sponsored by P.A.C.E. YouthBuild Youth Development Center and many other outreach organizations that come together to discuss solutions and action on behalf of local youth in the south and west end of the City. (To Be Referred to the Committee on Public Safety and Neighborhoods.)

20. WRITTEN MOTION, Councillor Gomes, requesting that the Health Department notify all fast food and coffee shop establishments, that they have 30 days to be in compliance with City Ordinance Chapter 12, Section 12-38: Owners maintain premises free of litter, by providing trash receptacles with slots which should be located before and after the drive thru windows and that this law be enforced by the Health Department, which is the governing body of this Section of the City Code, with all existing and new franchise businesses coming to the City. (To be Referred to the Director of the Health Department for immediate enforcement.)

21. COMMUNICATION/DEMOLITION, New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW – 4208 ACUSHNET AVENUE (Map 136/Lot 200) Circa 1912 two story wood framed structure, the original owners and land developers associated with the subject property are a common reflection of the City's rapidly expanding immigrant population in the early twentieth century to accommodate the textile industry workforce; the building does not embody distinctive characteristics of its type, yet retains general integrity relative to its location, setting, materials and association with the historic development of the northern part of the City in the early 20th century therefore, **in light of these findings, the New Bedford Historical Commission has determined that the building at 4208 Acushnet Avenue is neither an Historically Significant nor a Preferably Preserved**

Historic Building.

22. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **Flor D. Pineda, 7 Upton Street, New Bedford, MA 02746 d/b/a BETHEL TRANSPORTATION, 7 Upton Street, New Bedford, MA 02746**, hereby submit a copy of the Application requesting a **NEW PRIVATE LIVERY LICENSE** to carry passengers for hire over the streets of New Bedford. **(This license will expire June 30, 2020.)**

23. PETITION/INDEMNITY AGREEMENT, Ab Koka, Inc d/b/a Café Arpeggio, 800 Purchase Street, New Bedford, MA 02740, to encroach on the City sidewalk with a wheelchair ramp to extend the sidewalk by 11 ft x 5 ft. (Submitted by Councillor Rebeiro.)

23a. AN ORDER,

24. COMMUNICATION, Councillor Lopes, submitting a copy of letter from Carla S. Mourao, Administrative Manager, New Bedford Fire Department to Mayor Mitchell, requesting a Waiver of Residency. (To Received and Placed on File.)

TABLED BUSINESS

01/10/2019 WRITTEN MOTION, Councillor Gomes, requesting that the City Council forward a letter of request to the Commonwealth of Massachusetts' Cannabis Commission as to whether the City is following State Law regarding marijuana establishments in the City; and further, enclosed in the letter, please include a copy of the 11-page "Screening Form/Application for a Marijuana Establishment Host Community Agreement", and a copy of the City's zoning map that has been put forth by the Mayor's Review Committee, comprised of the City Solicitor, the City Planner, the Chief of Police, the Chief Financial Officer, the Director of Inspectional Services, the Director of Planning, Housing and Community Development and the City's Health Director; asking that the Cannabis Control Commission review the application and the zoning map and report back to the City Council as to whether this Application process and zoning map applies to the laws of the Commonwealth of Massachusetts' Cannabis Control Commission; and further, that Steven Hoffman, Chairman of the Massachusetts Cannabis Control Commission or a representative, meet with the Special Committee on Licensing and Zoning for Cannabis to discuss whether the City has followed Massachusetts Laws and policies regarding marijuana establishments in the City of New Bedford.

***In accordance with the Americans with Disabilities Act (ADA),
if any accommodations are needed, please contact the City Council Office at
508-979-1455. Requests should be made as soon as possible but at least 48
hours prior to the scheduled meeting.***



Item Title:

THE MEETING IS HELD AT 7 P.M. CITY COUNCIL CHAMBERS - ROOM 214, CITY HALL, 133 WILLIAM STREET, NEW BEDFORD, MA. FOR OFFICIAL POSTING, PLEASE SEE CITY'S WEBSITE

Item Detail:

Additional Information:



Item Title:

LINDA M. MORAD, CITY COUNCIL PRESIDENT

Item Detail:

Additional Information:



Item Title:
REVEREND DAN LACROIX - ST. MARY'S PARISH

Item Detail:

Additional Information:



Item Title:

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Item Detail:

Additional Information:



Item Title:
CITATIONS - NEW BEDFORD POLICE OFFICERS

Item Detail:
CITATIONS, Councillor Gomes and Council President Morad, honoring, MATTHEW SYLVIA, KYLE KING, and JENNY SOUSA in recognition of their appointment as a New Bedford Police Officer.

Additional Information:

ATTACHMENTS:

Description	Type
▣ CITATIONS - MATTHEW SYLVIA, KYLE KING, JENNY SOUSA - NEW BEDFORD POLICE OFFICERS	Cover Memo

New Bedford City Council



Official Resolutions

Be it hereby known to all that:

The City Council of New Bedford, Massachusetts
hereby offers its sincerest congratulations to:

MATTHEW SYLVIA

in recognition of

Your Appointment as a New Bedford Police Officer

The Entire Citizenry extends its very best wishes
on this memorable occasion and expresses the hope
for continued good fortune.

on this 26th day of SEPTEMBER, 2019

by:

Linda M. Ward

New Bedford City Council



Official Resolutions

Be it hereby known to all that:

The City Council of New Bedford, Massachusetts
hereby offers its sincerest congratulations to:

KYLE KING

in recognition of

Your Appointment as a New Bedford Police Officer

The Entire Citizenry extends its very best wishes
on this memorable occasion and expresses the hope
for continued good fortune.

on this 26th day of SEPTEMBER, 2019

by:

Linda M. Ward

New Bedford City Council



Official Resolutions

Be it hereby known to all that:
The City Council of New Bedford, Massachusetts
hereby offers its sincerest congratulations to:
JENNY SOUSA

in recognition of

Your Appointment as a New Bedford Police Officer

The Entire Citizenry extends its very best wishes
on this memorable occasion and expresses the hope
for continued good fortune.

on this 26th day of SEPTEMBER, 2019

by:

David M. Ward



Item Title:

BEACON COMPASSION INC, - 1ST AMENDMENT TO HOST COMMUNITY AGREEMENT

Item Detail:

M1. COMMUNICATION, Mayor Mitchell, to City Council, submitting a draft First Amendment to the Host Community Agreement between the City of New Bedford and Beacon Compassion, Inc., that would permit Beacon to proceed with the State application process for the sale of adult-use marijuana at its proposed facility at 366 Hathaway Road.

M1a. HOST COMMUNITY AGREEMENT, First Amendment

Additional Information:

ATTACHMENTS:

Description	Type
Communication-Amendment Host Community Agr. -Beacon Compassion	Cover Memo



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

September 19, 2019

City Council President Morad and
Honorable Members of the City Council
City of New Bedford
133 William Street
New Bedford, MA 02740

Dear Council President Morad and Honorable Members of the Council:

As you know, in 2017 the City Council approved a Host Community Agreement ("HCA") with Beacon Compassion ("Beacon") that permitted it to engage in the dispensing of marijuana for medical purposes. [See Attachment A] I am enclosing for your consideration a draft First Amendment to Host Community Agreement ("Amendment") between the City and Beacon Compassion, Inc. that would permit Beacon to proceed with the state application process for the sale of adult-use marijuana its proposed facility at 366 Hathaway Road (the "Site"). [See Attachment B]

When the Commonwealth enacted the recent law governing recreational marijuana establishments, it made special provision for medical marijuana establishments that had already received state regulatory approval under a prior state law. Specifically, the state forbid municipalities from enacting local regulations that would prohibit an adult-use marijuana establishment that cultivates, manufactures or sells marijuana or marijuana products in any location in which a medical marijuana treatment center is registered to engage in the same activity. G.L. c. 94G, § 3(a)(1)(i).

It is important to note that, while the City cannot prevent Beacon from exercising its rights under state law to engage in the sale of adult-use marijuana products at its Site, it can, however, still subject adult-use operations to other reasonable time, place, and manner restrictions. G.L. c. 94G, § 3(a)(1). In this case, the City's marijuana zoning ordinance and the City's ordinance establishing a local licensing authority (to the extent that their provisions do not conflict with state law) still apply to Beacon as it proceeds with the development and operation of its facility. These local regulations include the requirement to obtain a Special Permit from the Planning Board and an annual license review/approval by the City's Licensing Board. Beacon will also count toward the cap on the total number recreational marijuana establishments located in the City as set by the marijuana zoning ordinance.

Beacon is subject to the state requirement that all adult-use marijuana establishments enter into Host Community Agreements with the municipalities in which they are located, G.L. c. 94G, §

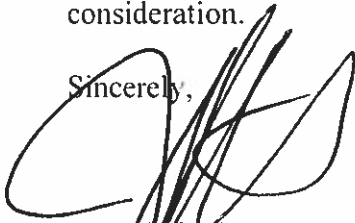
3(d), as well as state regulations that specify that an adult-use marijuana establishment's application for a license to the Cannabis Control Commission ("CCC") is not complete without an executed adult-use Host Community Agreement. 935 CMR 500.101.

Beacon has therefore requested that the City agree to a modification of the 2017 Agreement between the City and Beacon so that its terms and conditions conform with requirements of state law that were not in effect when the Agreement was originally executed. The attached Amendment retains all material terms and conditions of the original Agreement except that it:

- (1) caps the annual host community payment to the City at three percent of gross revenue; and
- (2) limits the term of the host community agreement to five years as called for in state law. G.L. c. 94G, § 3(d).

The Council's approval of this Amendment is hereby requested. Thank you for your consideration.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Jon Mitchell', is written over the word 'Sincerely,' and extends down over the name 'Jon Mitchell'.

Jon Mitchell
Mayor

Attachments: A -- 2017 Beacon Compassion Host Community Agreement
B -- "First Amendment to Host Community Agreement"



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

February 22, 2017

City Council President Joseph Lopes and
Honorable Members of the City Council
City of New Bedford
133 William Street
New Bedford, MA 02740

Dear Council President Lopes and Honorable Members of the Council:

I write to inform the Council that my Administration has negotiated a Host Community Agreement with Beacon Compassion Center of Norwood. Beacon Compassion Center is presently seeking approval from the Massachusetts Department of Public Health to operate a medical marijuana dispensary facility at 366 Hathaway Road.

In return for the attached Letter of Support, Beacon Compassion Center has agreed to provide substantial benefits to the City and residents of New Bedford. Among these benefits:

- Beacon will not exercise its exemption from local taxes. Notwithstanding its nonprofit status, Beacon will pay all local taxes, and in doing so, help the City in its efforts to broaden the tax base and reduce the burden on residents and businesses.
- Once the facility is fully operational, Beacon will make annual payments to the City in an amount equal to 3.75% of gross sales. At a minimum the City will receive \$325,000 during the first five years of the agreement.
- It would be operated under a strong facility security plan, and the agreement requires Beacon to operate only at its designated location, which will have little or no neighborhood-level impact.
- Beacon will also work toward employment and vendor goals that advantage local residents and small businesses and support the City's job-creation efforts.

While the Host Community Agreement represents an important step, it is important to also note that many steps remain which are outside the ability of the City to control.

I ask for your support so that we can secure these benefits for New Bedford residents and businesses. Thank you for your consideration on this important matter.

Sincerely,



Jon Mitchell
Mayor

Attachments:

Letter of Support w/ cover letter
Host Community Agreement



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

February 22, 2017

Catherine Cametti, President/CEO
Beacon Compassion Center
900 Washington Street, Suite A
Norwood, MA 02062

Dear Ms. Cametti,

The City of New Bedford has concluded negotiations with Beacon Compassion on a Host Community Agreement that provides substantial benefits to New Bedford residents in conjunction with Beacon's operation of a medical marijuana dispensary facility at 366 Hathaway Road.

To ensure that the review of ARL's application continues to advance without delay at the Massachusetts Department of Public Health (MassDPH), I am providing the attached Letter of Support in advance of the New Bedford City Council's approval of the Agreement. I have directed City staff to work with Beacon to ensure the Council is fully briefed on the Agreement's terms so that the Council is in a position to provide its approval.

Sincerely,



Jon Mitchell
Mayor



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

February 22, 2017

Catherine Cametti, President/CEO
Beacon Compassion Center
900 Washington Street, Suite A
Norwood, MA 02062

Dear Ms. Cametti,

I do hereby confirm the City of New Bedford's support for Beacon Compassion Center, Inc. to operate a Registered Marijuana Dispensary ("RMD") in New Bedford at 366 Hathaway Road.

I have verified with the appropriate local officials that the proposed RMD facility at 366 Hathaway Road is located in a zoning district that allows such use by right or pursuant to local permitting.

Sincerely,


Jon Mitchell
Mayor

HOST COMMUNITY AGREEMENT (HCA)

This Agreement entered into this the 10th day of February, 2017 by and between the CITY OF NEW BEDFORD, acting by and through its Mayor, with a principal address of 133 William Street, New Bedford, Massachusetts (hereinafter the "City") and BEACON COMPASSION CENTER, INC., a Massachusetts not-for-profit corporation with a principal office address of 900 Washington Street, Suite A, Norwood, MA 02062 (hereinafter "Company").

WHEREAS, COMPANY wishes to locate a licensed medical marijuana dispensary at 366 Hathaway Road, New Bedford MA 02740 (hereinafter the "Facility") in the City in accordance with the laws of the Commonwealth of Massachusetts and those of the City;

WHEREAS, COMPANY does not wish to cultivate medical marijuana at the Facility;

WHEREAS, COMPANY, notwithstanding any exempt status, intends to pay all local taxes attributable to its operation, including real estate taxes on the space within which it is located;

WHEREAS, COMPANY desires to be a responsible corporate citizen and contributing member of the business community of the City consistent with the City "New Bedford Works" policy, and in the event the contingencies noted below are met, intends to provide certain benefits to the City over and above the increased employment base and other typical economic development benefits attributable with similar new manufacturing concerns locating in the City; and

WHEREAS, the City believes that the COMPANY'S operation of a medical marijuana dispensary at the Facility location, coupled with its various contributions to the City, as set forth herein, would advance the public good;

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth below, the parties agree as follows:

1. **Host Community Payment.** In the event that COMPANY obtains a final Certificate of Registration for the operation of the Facility in the City by the Massachusetts Department of Public Health (hereinafter "DPH") and receives any and all necessary and required permits and licenses of the City, and at the expiration of any final appeal period related thereto said matter not being appealed further, which said permits and/or licenses allow COMPANY to locate, occupy and operate the Facility in the City, then COMPANY agrees to:

- a. For the first three (3) calendar years of this Agreement after the issuance of a Certificate as called forth above, the COMPANY shall make a host community payment in an amount equal to three percent (3%) of the total gross sales of the Facility, or \$50,000.00, whichever is greater. Payment for the first year shall be due on the June 30 following at least 12 months after the issuance of a Certificate. Payments for years 2 and 3 shall be due in two installments to be made on December 31 and June 30 of those years. For the purposes of this agreement, "gross sales" shall be the number reported to the Commonwealth as gross sales of the Facility.

- b. For the fourth (4th) year of this Agreement after the issuance of a Certificate as called forth above, the COMPANY shall make a host community payment in an amount equal to three and one quarter percent (3.25%) of the total gross sales of the Facility, or \$75,000.00, whichever is greater. Said payment shall be due in two installments to be made on December 31 and June 30.
- c. For the fifth (5th) year of this Agreement after the issuance of a Certificate as called forth above, the COMPANY shall make a host community payment in an amount equal to three and three quarter percent (3.75%) of the total gross sales of the Facility, or \$100,000.00, whichever is greater. Said payment shall be due in two installments to be made on December 31 and June 30.
- d. For each successive fiscal year of the agreement, payments shall be made as required in paragraph "c" above, with the minimum payment increased or decreased each year by the percentage increase or decrease, if any, during the preceding 12 month period beginning July 1, in the Consumer Price Index for all Urban Consumers-Boston SMSA, published by the Bureau of Labor Statistics.
- e. For so long as the Facility is the sole licensed medical marijuana facility within the City, there shall be no maximum payment under the payments called for above. In the event that the Facility ceases to be the sole such facility licensed in the City, the maximum yearly payment under the percentages called for above shall be \$300,000.00 with the maximum payment increased each year after year 5 by the percentage increase, if any, during the preceding 12 month period beginning July 1, in the Consumer Price Index for all Urban Consumers-Boston SMSA, published by the Bureau of Labor Statistics.
- f. The COMPANY shall, at least biannually, provide the City with copies of all reports submitted to DPH with respect to the financial performance of the Facility.

2. **Payments.** The COMPANY shall make the payments set forth in Paragraph 1 above, to the City of New Bedford. The parties understand and acknowledge that the City is under no obligation to use the foregoing payments in any particular manner.

3. **Other Payments.** COMPANY anticipates that it will make annual purchases of water, and sewer from all local government agencies. COMPANY will pay any and all fees associated with the local permitting of the Facility.

4. **Review.** At least once during every 48 month period, the City and COMPANY will meet to review the commitments and allocations set forth herein. The parties agree to discuss in good faith adjustments to this Agreement, if necessary to maintain the viability of COMPANY business, support local employment, allocate City and COMPANY resources and otherwise secure COMPANY as a member of the business community in the City.

5. **Local Taxes.** The COMPANY shall pay and all local taxes that are imposed upon the operations and/or sales at the Facility. At all times during the Term of this Agreement, property,

both real and personal, owned or operated by COMPANY shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by COMPANY or by its landlord, and neither COMPANY nor its landlord shall object or otherwise challenge the taxability of such property and shall not seek a non-profit exemption from paying such taxes. Notwithstanding the foregoing, (i) if real or personal property owned, leased or operated by COMPANY is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii) if COMPANY is determined to be entitled or subject to exemption with the effect of reducing or eliminating the tax which would otherwise be due if not so exempted, then COMPANY shall pay to the CITY an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by COMPANY under Section 1 of this Agreement.

6. **Community Support.** COMPANY will provide the following indirect support to the City:

- a. Local Vendors – To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, COMPANY will make every effort in a legal and non-discriminatory manner to give priority to local businesses and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility. COMPANY shall use good faith efforts to ensure that at least twenty-five percent (25%) of the vendors and/or contractors utilized by the Facility will be based in the City.
- b. Employment/Salaries - To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, COMPANY shall use good faith efforts to ensure that at least twenty-five percent (25%) of the qualified employees of the Facility will be City residents.
- c. COMPANY shall provide the City with annual reports indicating the percentages of vendors and employees in accordance with paragraphs (a) and (b) above.
- d. The numbers called forth above are based upon the representations of COMPANY. The parties understand and acknowledge that the percentages listed in the preceding paragraphs (a) and (b) constitute a portion of the consideration for the City entering into the within Agreement. In the event that COMPANY fails to meet the percentages called for herein, the parties shall review the Agreement pursuant to Section 4 herein.

7. **Support.** The City agrees to submit to DPH a letter supporting the COMPANY'S application for a Certificate to operate the Facility. The City agrees to support COMPANY's application with DPH but makes no representation or promise that it will act on any other license or permit request in any particular way other than by the City's normal and regular course of conduct and in accordance with their rules and regulations and any statutory guidelines governing them. The

City agrees to use best effort to work with COMPANY, if approved, to help advise COMPANY on their community support and employee outreach programs.

8. **Security.** COMPANY shall maintain security at the Facility at least in accordance the security plan presented to the City and approved by DPH. In addition, COMPANY shall at all times comply with all applicable laws and regulations regarding the operations of the Facility and the security thereof. Such compliance shall include, but will not be limited to: coordinating with the City regarding panic alarms; providing hours of operation; after-hours contact information and access to surveillance operations; and requiring dispensary agents to produce their Program ID Card to law enforcement upon request.

COMPANY shall promptly report the discovery of the following to City police within 24 hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security.

9. **Signage and Hours:** The Company shall be allowed not more than one (1) exterior sign with the following requirements:

- a. No more than twenty-five (25) square feet
- b. Shall be attached to the building and shall not extend past the height of eleven (11) feet from the ground.
- c. Shall not extend more than twelve (12) inches from the face of the building.
- d. Shall be externally lit and shall not be lit more than one-half hour before or after hours of operation.

Hours of operation shall be 10 a.m. to 7 p.m.

10. **Approval of Manager:** Within five business days of any request by the City, COMPANY shall provide to the CITY the name and contact information, including but not limited to the information set forth in 105 CMR 725.030, of the person designated as the on-site manager of the Facility. Any such designated manager shall comply with all regulations promulgated by the Massachusetts Department of Public Health, including but not limited to 105 CMR 725.030.

11. **Term and Termination.** This Agreement shall take effect on the day above written, subject to the contingencies noted herein. This agreement shall continue in effect for so long as COMPANY operates the Facility at 366 Hathaway Road. In the event COMPANY no longer does business in the City or in any way loses or has its license revoked by the State, this agreement shall become null and void. The City may terminate this Agreement at any time. COMPANY shall not be required to cease operations at the termination of this Agreement.

12. **Governing Law.** This Agreement shall be governed in accordance with the laws of the Commonwealth of Massachusetts and venue for any dispute hereunder shall be in the courts of Bristol County.

13. **Amendments/Waiver.** Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all signatories to the original Agreement, prior to the effective date of the amendment.

14. **Severability.** If any term or condition of the Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.

15. **Successors/Assigns.** This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the City nor COMPANY shall assign or transfer any interest in the Agreement without the written consent of the other.

16. **Entire Agreement.** This Agreement constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

17. **Notices.** Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To City: Mayor, City of New Bedford
133 William Street
New Bedford, MA 02740
(508) 979-1410
Facsimile (508) 961-3078

With a copy to: City Solicitor, City of New Bedford

To Licensee: Catherine Cametti, President
Beacon Compassion Center Inc.
900 Washington Street, Suite A
Norwood, MA 02062
(508) 735-8682

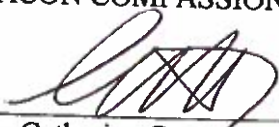
Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, (c) upon the date personal delivery is made, or (d) upon the date when it is sent by facsimile, if the sender receives a facsimile report confirming such delivery has been successful and the sender mails a copy of such notice to the other party by U.S. first-class mail on such date.

In witness whereof, the parties have hereafter set faith their hand as of the date first above written.

CITY OF NEW BEDFORD

BEACON COMPASSION CENTER, INC.

Jonathan F. Mitchell
Mayor



By: Catherine Cametti
Its: President

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

February 2017

On this _____ day of February, 2017, before me, the undersigned Notary Public, personally appeared the above-named Jonathan F. Mitchell, proved to me by satisfactory evidence of identification, being (check whichever applies): ☐ driver's license or other state or federal governmental document bearing a photographic image, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, as the duly authorized Mayor of the City of New Bedford.

Notary Public

My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

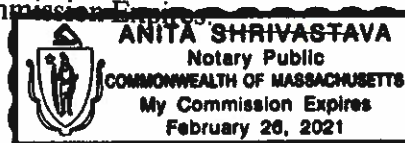
February 2017

On this 10th day of February, 2017, before me, the undersigned Notary Public, personally appeared the above-named Catherine Cametti proved to me by satisfactory evidence of identification, being (check whichever applies): ☒ driver's license or other state or federal governmental document bearing a photographic image, ☒ oath or affirmation of a credible witness known to me who knows the above signatory, or ☒ my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose, as the duly authorized President/CEO of Beacon Compassion Center, Inc.



Notary Public

My Commission Expires: _____



FIRST AMENDMENT TO **HOST COMMUNITY AGREEMENT**

THIS FIRST AMENDMENT is entered into as of July __, 2019 by and between the **City of New Bedford**, acting by and through its Mayor, with a principal address of 133 Williams Street, New Bedford, Massachusetts 02740 (hereinafter the “City”) and **Beacon Compassion Inc.**, a Massachusetts corporation with a principal office address of 900 Washington Street, Ste. A, Norwood, Massachusetts 02062 (hereinafter the “Company”) (collectively, the “Parties”).

WHEREAS, on or about February 10, 2017, the Parties executed a Host Community Agreement (“HCA”) pertaining to the Company’s proposed medical marijuana dispensary at 366 Hathaway Road (“the Premises”); and

WHEREAS, the HCA requires in Section 1 thereof certain Host Community Payments; and

WHEREAS, in light of changes in Massachusetts law and regulation, the HCA may no longer comply with certain provisions of Mass. Gen. Law ch. 94G § 3(d) and 935 CMR 500.000 et seq.; and

WHEREAS, the Parties desire to keep the HCA in full force and effect, and to amend the HCA to conform it to Massachusetts law and regulation; and

WHEREAS, the Parties desire that the HCA apply to both the medical marijuana dispensary operations and adult use recreational dispensary operations at the Premises.

NOW WHEREFORE, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth below, the parties agree as follows:

1. The HCA is hereby amended by adding, after Section 17, a new section containing in its entirety the following text:

The Parties agree that the HCA, as amended, shall pertain to and allow the operation of an adult use recreational dispensary in accordance with 935 CMR 500.000 et seq. and Mass. Gen. Laws ch. 94G, and subject to the Company’s receipt of all necessary and required permit and licenses of the City and the Massachusetts Cannabis Control Commission (“CCC”).

2. In accordance with Mass Gen. Law. Ch 94G § 3(d), and notwithstanding the provisions of Section 1, the Host Community Payments shall not exceed three percent (3%) of the gross annual sales of the Facility.


3. In accordance with Mass Gen. Law. Ch 94G § 3(d), and notwithstanding any provisions within the HCA to the contrary, the HCA shall be effective for a period of five (5) years commencing upon the date that the Company commences sales operation at the Premises.
4. Notwithstanding any references to 105 CMR 725.000 et seq., the Parties agree that the HCA shall be subject to the supervision of the CCC, and shall be interpreted in accordance with Mass. Gen. Laws ch. 94G and 935 CMR 500.000 et seq.
5. All other terms and conditions of the HCA not inconsistent with this Amendment are hereby ratified and confirmed.

In witness whereof, the Parties have hereafter set faith their hand.

CITY OF NEW BEDFORD

BEACON COMPASSION, INC.

By: Jonathan F. Mitchell
Its: Mayor
Date: ____/____/2019



By: Catherine Cametti
Its: President
Date: 09 / 18 /2019



Item Title:

BRIDGEWATER STATE UNIVERSITY - TWO-YEAR SHORT-TERM TENANCY AGREEMENT

Item Detail:

M2. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER, for a two-year short-term Tenancy Agreement between the City of New Bedford, acting through its Airport Commission and the Commonwealth of Massachusetts acting by and through the Commissioner of its Division and Capital Asset Management and Maintenance on behalf of Bridgewater State University.

M2a. AN ORDER,

Additional Information:

ATTACHMENTS:

Description	Type
Communication-Short Term Tenancy Agr. DCMA-Bridgewater University	Cover Memo



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

September 10, 2019

Council President Linda M. Morad
Members of the City Council
City of New Bedford
133 William Street, Room 215
New Bedford, MA 02740

RE: BRIDGEWATER STATE UNIVERSITY

Dear Council President Morad and Honorable Members:

Enclosed for your consideration is a Short Term Tenancy Agreement between the City of New Bedford, its Airport Commission and the Commonwealth of Massachusetts/DCAM (on behalf of Bridgewater State University). As you know Bridgewater operates a flight school at the airport.

Although a one year lease was proposed and circulated last year, it was unfortunately misplaced either by Bridgewater or by DCAM and never finalized. Therefore, I am submitting to the Council for its consideration a two year lease commencing retroactively on June 1, 2018.

I would appreciate it if you would place this on the City Council Agenda for consideration.

Very truly yours,

Jonathan F. Mitchell
Mayor

EJ/bar

enclosure



CITY OF NEW BEDFORD

CITY COUNCIL

September 26, 2019

Ordered, that the Mayor is authorized to execute on behalf of the City of New Bedford a Two Year Short Term Tenancy Agreement between the City of New Bedford, acting through its Airport Commission and the Commonwealth of Massachusetts acting by and through the Commissioner of its Division of Capital Asset Management and Maintenance on behalf of Bridgewater State University. A copy of the Two Year Short Term Tenancy Agreement is attached hereto and made a part hereof.

THIS OFFICIAL FORM MUST NOT BE ALTERED.
ALL MODIFICATIONS MUST BE MADE BY SEPARATE RIDER.

COMMONWEALTH OF MASSACHUSETTS

SHORT-TERM TENANCY AGREEMENT

SUMMARY SHEET: REFERENCE DATA AND CONTENTS

Subjects Referred To:

Each reference in this Short-Term Tenancy Agreement (this Tenancy) to any of the following subjects incorporates the data stated for that subject in this Summary Sheet (the Summary Sheet of this Tenancy).

COMMENCEMENT DATE: June 1, 2018, at 12:01 a.m.

TERMINATION DATE: As defined in Exhibit A, unless earlier terminated as provided in 5 of this Tenancy

LANDLORD: City of New Bedford

ADDRESS OF LANDLORD: 133 William Street
New Bedford, Massachusetts 02740

TENANT: The Commonwealth of Massachusetts acting by and through the Commissioner of its Division of Capital Asset Management and Maintenance (DCAMM) of the Executive Office for Administration and Finance on behalf of the User Agency

ADDRESS OF TENANT: Division of Capital Asset Management and Maintenance
One Ashburton Place, 15th Floor
Boston, Massachusetts 02108-1518

TENANT'S REPRESENTATIVE: Name: Martha Goldsmith, Director
Address: Division of Capital Asset Management
Office of Leasing and State Office Planning
One Ashburton Place, Room 1411
Boston, Massachusetts 02018
Such other representatives as Tenant may designate in writing from time-to-time.

USER AGENCY: Bridgewater State University

**ADDRESS OF
USER AGENCY:** 131 Summer Street
Bridgewater, Massachusetts 02325

BUILDING (ADDRESS): 1852 Shawmut Avenue
New Bedford, Massachusetts 02747

PREMISES: The entire building, grounds, and parking lot at 1852 Shawmut Avenue, the general aviation ramp adjacent to the parking lot and the unpaved area adjacent to the general aviation ramp as depicted in Exhibit C.

USABLE AREA OF PREMISES: Office Space: 10,480 square feet
Storage Space: 0 square feet

RESERVED PARKING SPACES: Location: Entire parking area adjacent to the Premises

PERMITTED USES: Subject to the provisions of the Prior Lease Documents, as that term is defined in 4 of this Tenancy. Tenant must use the Premises for the following purposes: educational and community-service offerings to students and community members relating to the Bridgewater State University Aviation Science Flight Training Program.

RENT: \$5.73 per square foot, resulting in a monthly fixed rent of \$5,000.00.

SHORT-TERM TENANCY AGREEMENT

This Tenancy is made on __

Dec 11
will

between Landlord and Tenant.

1. PREMISES: In consideration of the sum of _____ Dollars, Landlord rents to Tenant, the Premises described in the Summary Sheet of this Tenancy.

enter the
Date

agreements contained in this Tenancy, and, the Premises described in the

2. TERM: The term of this Tenancy shall commence on the _____ Commencement Date and ends on the _____ Termination Date. As of the Termination Date, this Tenancy automatically and immediately terminates, and the obligations and liabilities of the parties ends, except for those which, under this Tenancy, continue after the Termination Date.

3. RENT PAYMENT: Tenant agrees to pay, and Landlord agrees to accept, Rent described in the Summary Sheet of this Tenancy. Equal monthly installments of Rent are payable on or before the tenth day of the month for which it is due. Rent is prorated with respect to any fractional month during the Term.

4. PRIOR LEASE DOCUMENTS INCORPORATED BY REFERENCE: Landlord and Tenant agree that the provisions of the lease agreement for the Premises by and between Landlord and Tenant, together with each of the amendments to such lease and the respective attachments to such lease and such amendments (collectively, the Prior Lease Documents), *except as otherwise expressly provided in this Tenancy*, are incorporated by reference into this Tenancy, provided, however, that none of the Prior Lease Documents are extended or renewed by such incorporation by reference. The Prior Lease Documents are described in Exhibit B to this Tenancy. The rights, duties, and obligations of Landlord and Tenant under this Tenancy are governed by the provisions, covenants, and conditions of the Prior Lease Documents.

5. TERMINATION BEFORE THE ORIGINALLY DESIGNATED TERMINATION DATE:

- (a) Tenant may terminate this Tenancy before the originally designated Termination Date by giving sixty-days-prior-written notice to Landlord.
- (b) The fiscal year of the Commonwealth is the twelve-month period ending June 30 of each year. Appropriations and authorizations for expenditures by agencies of the Commonwealth are made on a fiscal-year basis. In accordance with G. L. c. 29, §27, the obligations of Tenant under this Tenancy, and under any amendment to, or extension or renewal of, this Tenancy, for any fiscal year, are subject to the appropriation and the allotment of sufficient funds to the User Agency. If, for any fiscal year during the Term, sufficient funds for the discharge of Tenant's obligations under this Tenancy are not appropriated and authorized, then Tenant may terminate this Tenancy before the originally designated Termination Date by written notice to Landlord.
- (c) This Tenancy terminates automatically and immediately on the earlier Termination Date that is designated in the notice given under 5(a) or 5(b).
- (d) Termination pursuant to 5(a) and 5(b) is without any liability whatsoever for damages, penalties, and other charges arising from early termination, and without further recourse to either party; provided, however, that Tenant must pay all Rent and any other charges due to Landlord for the period before Tenant's surrender of the Premises, and Tenant

must comply with the provisions of the Prior Lease Documents regarding the surrender and delivery of the Premises to Landlord.

6. LANDLORD'S WARRANTIES AND REPRESENTATIONS; CHANGES:

- (a) Landlord warrants and represents that Landlord has record title to the Premises (or if this Tenancy is a subtenancy, Landlord warrants and represents that Landlord holds a current and valid lease of the Premises), and that there are no encumbrances affecting the Premises, the Building, or both, that would prohibit or interfere with the construction of the Landlord's Improvements, or both, or with the use of the Premises for the Permitted Uses, or with both.
- (b) Landlord warrants and represents that Landlord's name appears in this Tenancy exactly as Landlord's name appears on Landlord's record title to the Premises if Landlord owns the Premises, or exactly as Landlord's name appears in Landlord's lease if this Tenancy is a subtenancy.
- (c) Landlord warrants and represents that Landlord has full legal capacity to enter into this Tenancy.
- (d) If Landlord is not a natural person or natural persons, but Landlord is, rather, a so-called "creature of the law" (e.g., a corporation, a general or limited partnership, a trust, a limited liability company, etc.), Landlord warrants and represents that Landlord is validly organized and existing, that Landlord is in good standing in the state, commonwealth, province, territory, or jurisdiction of its organization, and that Landlord is authorized and qualified to do business in the state, commonwealth, province, territory, or jurisdiction in which the Premises are located.
- (e) Landlord warrants and represents that the execution of this Tenancy is duly authorized and that each person executing this Tenancy on behalf of Landlord has full authority to do so and to fully bind Landlord.
- (f) Landlord warrants and represents that Landlord is neither debarred nor suspended from contracting with the Commonwealth of Massachusetts under any applicable debarment statute or regulation.
- (g) Landlord warrants and represents that Landlord knows of no pending or threatened action, suit, proceeding, inquiry, or investigation before or by any judicial court or administrative or law enforcement agency against or affecting Landlord or Landlord's properties wherein any unfavorable decision, ruling, or finding would materially and adversely affect the validity, enforceability, or both, of this Tenancy, Landlord's ability to carry out Landlord's obligations under this Tenancy, or both.
- (h) If the status of any warranty and representation by Landlord in this § 6 changes or ceases to be accurate during the Term, Landlord must notify Tenant in writing of each such change or cessation within ten business days after the occurrence of such change or cessation and must thereafter, within an additional ten business days, complete and submit to Tenant all commercially reasonable documentation that is necessary and appropriate to such change or cessation, all at no cost or expense to Tenant.

7. NOTICES:

- (a) Unless otherwise expressly permitted under this Tenancy, all notices or other communication required or permitted to be given under this Tenancy must be in writing, signed by a duly authorized representative of the party giving notice, and given by hand delivery (including without limitation, courier and overnight delivery service), or mailed by United States certified mail, postage prepaid, return receipt requested.
- (b) Unless otherwise expressly stated in this Tenancy, notices must be addressed and sent to Landlord at the address appearing for Landlord in the Summary Sheet of this Tenancy and to Tenant at the address appearing for Tenant in the Summary Sheet of this Tenancy, with copies to the User Agency (i) at the address of the Premises (after the Date of Occupancy) and (ii) at the address set forth for the User Agency in the Summary Sheet of this Tenancy if different from the address of Tenant.
- (c) Under this 7, Landlord and Tenant, at any time and from time-to-time, may designate a different address or different addresses to which notices must be sent. Notices sent in this manner are deemed given, for all purposes, (i) on the date shown on the receipt for delivery or (ii) as of the date notice is sent if delivery is refused.
- (d) Special Notice Where Failure to Reply Results in Consent or Approval

If the consent or approval of Landlord or Tenant is deemed under this Tenancy to be given to a request or submission following a period of non-reply, such consent or approval is effective only if the outside of the envelope containing the request or submission bears the following legend with the appropriate time period filled in, printed in bold-face all-uppercase type at least one-quarter inch high (28-point font):

**NOTICE: THIS REQUEST
FOR APPROVAL REQUIRES
IMMEDIATE REPLY.
FAILURE TO RESPOND
WITHIN ____ DAYS SHALL
RESULT IN AUTOMATIC
APPROVAL.**

8. AMENDMENTS: None of the covenants, agreements, provisions, and conditions of this Tenancy can be altered, waived, changed, or abandoned in any manner except by a written instrument that is signed, sealed, and mutually agreed upon by the parties to this Tenancy, and such instrument is not void for lack of a recital of consideration. Each capitalized word and

phrase used in this Tenancy has the same meaning as the meaning that is given to it in the Prior Lease Documents, unless otherwise indicated in this Tenancy.

9. **TENANT'S QUIET ENJOYMENT:** Tenant must have peaceful and quiet use and possession of the Premises without hindrance or interruption on the part of Landlord, by any other person for whose actions Landlord is legally responsible, or by any person claiming by, through, or under Landlord, except that Landlord has the right to enter the Premises upon not less than 48-hours notice, at such time and in such manner as does not unreasonably interfere with the conduct of the Tenant's business, for the purpose of maintenance, making repairs, or both. Landlord has the right to enter the Premises without notice upon the occasion of any emergency endangering life, property, or both.
10. **RIDER, EXHIBITS, AND OTHER ACCOMPANYING DOCUMENTS:** Other than the "Landlord's Beneficial-Interest-Disclosure Statement" and the "Certificate of Tax-and-Employment-Security Compliance," each rider, exhibit, and other accompanying document is an integral part of this Tenancy for all lawful intents and purposes.

The "Landlord's Beneficial-Interest-Disclosure Statement" and the "Certificate of Tax-and-Employment-Security Compliance" are required by the General Laws of the Commonwealth of Massachusetts for rental agreements and for agreements that extend or renew rental agreements in which the Commonwealth of Massachusetts is the tenant, but these required documents are not part of the documents for which they are required and therefore are not attached to them.

11. **WAIVER OF SUBROGATION:** To the extent that insurance proceeds are actually recovered under insurance maintained by or for the benefit of Landlord or Tenant (Tenant being under no obligation to maintain any insurance), Landlord and Tenant each releases the other from any and all liability paid for on account of such proceeds, and to such extent (and only to such extent), each waives all claims by way of subrogation. All insurance that is carried by Landlord with respect to the Premises, whether or not required by this Tenancy, must include provisions that deny to the insurer acquisition by subrogation of rights of recovery against Tenant to the extent such rights have been waived by Landlord, insofar as and to the extent that such provisions may be effective without making it impossible for Landlord to obtain insurance coverage from responsible companies qualified to do business in Massachusetts, even though extra premium may result from such provisions.
12. **AFFIRMATIVE ACTION; NON-DISCRIMINATION IN HIRING AND EMPLOYMENT:** Landlord must comply with all federal and state laws, rules, and regulations promoting fair-employment practices or prohibiting employment discrimination and unfair-labor practices and must not discriminate in the hiring of any applicant for employment or demote, discharge, or otherwise subject any qualified employee to discrimination in the tenure, position, promotional opportunities, wages, benefits, or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, handicap, sexual orientation, gender identity, as defined by chapter 199 of the Acts of 2011, or for exercising any rights afforded by law. Landlord commits to exercise diligent efforts in purchasing supplies and services from certified minority or women-owned businesses, small businesses, or businesses owned by socially or economically disadvantaged persons or persons with disabilities.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Landlord and Tenant have executed multiple counterparts of this document, under seal in accordance with the laws of the Commonwealth of Massachusetts, Tenant having done so by the Commissioner of the Division of Capital Asset Management and Maintenance, who was joined by an authorized representative of the User Agency as an adjunctive signatory, neither of whom incurs any personal liability as a result of such signature.

LANDLORD: CITY OF NEW BEDFORD ACTING THROUGH ITS AIRPORT COMMISSION

By: 

Printed Name: Paul Barton

Title: Chairman, New Bedford Airport Commission

CITY OF NEW BEDFORD ACTING THROUGH ITS MAYOR'S OFFICE

By: _____

Printed Name: Jonathan F. Mitchell

Title: Mayor, City of New Bedford

Approved as to form and legality
on behalf of the City of New Bedford:


Eric Jaikes, Assistant City Solicitor

TENANT: COMMONWEALTH OF MASSACHUSETTS ACTING BY AND THROUGH THE COMMISSIONER OF ITS DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE

By: _____
Carol W. Gladstone, Commissioner

USER AGENCY: BRIDGEWATER STATE UNIVERSITY

By: _____

Printed Name: _____

Title: _____

Approved as to Matters of Form:

Martha J. McMahon, Deputy General Counsel
Division of Capital Asset Management and Maintenance

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE
DIVISION OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE
OFFICE OF LEASING AND STATE OFFICE PLANNING

CERTIFICATE OF COMPLIANCE WITH EXECUTIVE ORDER NO. 481

Pursuant to Executive Order No. 481,

Jonathan F. Mitchell

(name(s) of person(s) who signed the document to which this Certificate is attached for Landlord, Licensor, Mortgagee, or Prospective Lender)

Magee
(title(s) of person(s) who signed the document to which this Certificate is attached for Landlord, Licensor, Mortgagee, or Prospective Lender)

of

New Bedford MA
(name of Landlord, Licensor, Mortgagee, or Prospective Lender named in the document to which this Certificate is attached)

(Contractor),

whose principal place of business is located at

133 William Street New Bedford MA
(address of principal place of business of Landlord, Licensor, Mortgagee or Prospective Lender named in the document to which this Certificate is attached)

certifies, as a condition of receiving Commonwealth funds under (a) the lease or (b) the short-term tenancy agreement or (c) the license or (d) the amendment or (e) the subordination, non-disturbance, and attornment agreement or (f) the change-of-ownership documents to which this Certificate is attached (this Contract) for the premises located at

880 Shawmut Ave New Bedford MA

(address of the premises as stated in

Short Term Tenancy Agreement that:
the document to which this Certificate is attached)

1. The following provisions of this certification are ancillary to this Contract and will be and are binding upon Contractor as if literally included among the provisions of this Contract.
2. Contractor must not and will not knowingly use undocumented workers in connection with Contractor's performance under this Contract.
3. Pursuant to federal requirements, Contractor must and will verify the immigration status of all workers assigned to Contractor's performance under this Contract without engaging in unlawful discrimination, and Contractor must not and will not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker.
4. Contractor is aware that any breach of item 2, item 3, or both item 2 and item 3 during the term of this Contract may be regarded as a material breach of this Contract, subjecting Contractor to sanctions, including by way of example only and not limitation, monetary penalties, withholding of Commonwealth funds and other payments, suspension or termination of this Contract or both, and any other remedy available to Tenant or Licensee under this Contract, at law, or in equity.

Signed under the penalties of perjury on _____, 20____.

(signature(s) of person(s) whose name(s) and title(s) appear at the beginning of this Certificate)

EXHIBIT A

Termination Date of Short-Term Tenancy Agreement

Subject to earlier termination as provided in 5 of this Tenancy, the Termination Date is at 11:59 p.m. on the earlier of May 31, 2020

EXHIBIT B

The Prior Lease Documents, as defined in 4 of this Tenancy, are described as follows:

Lease dated June 20, 2008, between Landlord and Tenant

First Amendment to Lease and Lease Extension dated June 23, 2014, between Landlord and Tenant

NEW BEDFORD R

NEW BEDFORD R



Item Title:

DOMINIK SULLIVAN-SOUZA - APPOINTMENT SPECIAL POLICE OFFICER

Item Detail:

M3. COMMUNICATION, Mayor Mitchell to City Council, submitting the APPOINTMENT of DOMINIK SULLIVAN-SOUZA, Acushnet, MA 02743 as a SPECIAL POLICE OFFICER.

M3a. AN APPLICATION,

Additional Information:

ATTACHMENTS:

Description	Type
 Communication-Appointment-Dominik-Sullivan-Souza-Special Police Officer	Cover Memo



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

September 17, 2019

City Council President Linda M. Morad and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

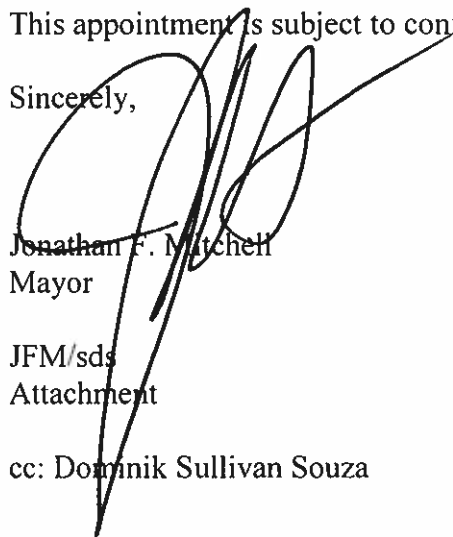
Dear Council President Morad and Honorable Members of the City Council:

I am submitting for your approval the **APPOINTMENT** as **SPECIAL POLICE OFFICER** for:

DOMINIK SULLIVAN-SOUZA
ACUSHNET, MASSACHUSETTS

This appointment is subject to confirmation by the City Council.

Sincerely,


Jonathan F. Mitchell
Mayor

JFM/sds
Attachment

cc: Dominik Sullivan Souza



TO BE MADE OUT IN INK BY THE APPLICANT
APPLICATION FOR APPOINTMENT ☒ OR REAPPOINTMENT _____
AS SPECIAL POLICE OFFICER

New Bedford, MA _____

To the Mayor and City Council of the City of New Bedford:

I hereby make application under provisions of The New Bedford City Code Chapter 19, Sections 13-20 inclusive, for appointment as a Special Police Officer of the City of New Bedford, to serve without pay for the City for the term of one year, and I subscribe to the truth of the following facts:

Age 22 years Date of Birth 07/02/1996 Resident of New Bedford _____ years

Citizen-native born or naturalized Citizen-Native Born

If naturalized, date and court of naturalization _____

Education Bachelor's Degree in Criminal Justice

Present Occupation Security Officer at St. Luke's Hospital

Name of Employer SouthCoast Health - St. Luke's Hospital

Employment for five years preceding date of application Fall River Diocese (Landscaping)
Transportation (Franklin Pierce University)

If a former employee of the City of New Bedford, were you retired for physical disability? N/A

Ever arrested or summonsed to court within the past five years? No

If so, please state when, where and reason: _____

Reason for requesting appointment Employment Requirement

Is this a renewal? No If so, give badge number _____

Print Name Dominik Sullivan-Souza

Signature [Signature]

Residence _____

Phone Number _____

Appointment requested by SouthCoast Health System
(NAME OF FIRM OR EMPLOYER)

By William T. Coimbra Security Ops Manager
(TITLE)

Date referred to Chief of Police for report AUG 27 2019

[Signature]
City Clerk

REPORT OF CHIEF OF POLICE

City of New Bedford, Office of Chief of Police _____

To the City Clerk:

I hereby report on the fitness of the application as follows _____

I hereby report on the necessity of such appointment as follows _____

Investigated by Sgt. Norman Duchonneau

[Signature]
Chief of Police



Item Title:

JEFFREY LAWRENCE KING - REAPPOINTMENT - CONSTABLE

Item Detail:

M4. COMMUNICATION, Mayor Mitchell, to City Council, submitting the REAPPOINTMENT of JEFFREY LAWRENCE KING, South Dartmouth, MA 02748 as a CONSTABLE.

M4a. AN APPLICATION,

Additional Information:

ATTACHMENTS:

Description	Type
 Communication-Re-Appointment-Jeffrey King-Constable	Cover Memo



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

September 17, 2019

City Council President Linda M. Morad and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Morad and Honorable Members of the Council:

I am submitting for your approval the application for the **RE-APPOINTMENT** as a
CONSTABLE for

JEFFREY LAWRENCE KING
S. DARTMOUTH, MA 02748

This appointment is subject to confirmation by the City Council.

Sincerely,



Jonathan F. Mitchell
Mayor

JFM/sds
Attachment

cc: Jeffrey Lawrence King

APPLICATION FOR REAPPOINTMENT AS CONSTABLE

**REQUIREMENT:
TWO 2x2 PASSPORT PICTURES
NEEDED AT TIME OF OATH**



Item Title:

REPORT - REZONING 183 WASHINGTON STREET - WITHDRAWN WITHOUT PREJUDICE

Item Detail:

2. REPORT, Committee on Ordinances, recommending to the City Council WITHDRAWAL WITHOUT PREJUDICE of the request that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residence “B” to Mixed-Use Business in its entirety.

2a. WRITTEN MOTION, Councillor Lima, requesting that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residential “B” to MIXED-USE BUSINESS in its entirety. (Referred to the Committee on Ordinances and the Planning Board – August 15, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
□ REPORT, COMMITTEE ON ORDINANCES	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Ordinance at a Meeting held on Monday, September 16, 2019, held a PUBLIC HEARING on a WRITTEN MOTION, Councillor Lima, requesting that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residential "B" to MIXED-USE BUSINESS in its entirety. (To be Referred to the Committee on Ordinances and the Planning Board.) (Ref'd 8/15/19) (Duly advertised in The Standard-Times on Monday, September 2, 2019 and Monday, September 9, 2019.)

On motion by Councillor Morad and seconded by Councillor Lopes, the Committee VOTED: To recommend to the City Council WITHDRAWAL WITHOUT PREJUDICE of the request that 183 Washington Street (Plot 36/Lot 378) be rezoned from Residence "B" to Mixed-Use Business in its entirety. This motion passed on a voice vote.

IN COMMITTEE ON ORDINANCE

Hugh Dunn

Councillor Hugh Dunn, Chairman

HD: dmb

Michael Medeiros

Attorney and Counselor at Law

286 Union Street
New Bedford, Massachusetts 02740
Telephone (508) 992-0023 Fax (508) 990-7930

Email: mmlaw2002@yahoo.com

September 16, 2019

Scott Lima
Ward 5 City Councilor
133 William Street, Rm 215
New Bedford, MA

Re: David Sousa, motion for rezoning of 183 Washington Street

Dear Councilman Lima,

Per our discussion regarding the current motion before city council to rezone the parcel located at 183 Washington Street, New Bedford, MA, from Res-B to MUB; please withdraw said motion from the New Bedford City Council. As we have discussed, the City has instructed us to move forward with an application for variance/special permit, and as such the rezoning of the lot is no longer required. I appreciate your attention in this matter.

Sincerely,



MICHAEL MEDEIROS

MM/ab



Item Title:

REPORT/ORDINANCE - GATRA CERTIFIED DRIVERS - LICENSE FEE

Item Detail:

3. REPORT, Committee on Ordinances, recommending to the City Council APPROVAL of the Ordinance, Relative to Vehicles for Hire, amending Section 24-16 of Chapter 24, to reduce the license fee for GATRA certified drivers from \$50 to \$25; and that this Ordinance be passed to a second reading.

3a. AN ORDINANCE, Referred to the Committee on Ordinances – March 28, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> REPORT, COMMITTEE ON ORDINANCES	Cover Memo
<input type="checkbox"/> AN ORDINANCE,	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Ordinance at a Meeting held on Monday, September 16, 2019, held a COMMUNICATION/ORDINANCE, Council President Morad, submitting AN ORDINANCE, amending Chapter 24, Section 24-16 RELATIVE TO VEHICLES FOR HIRE. (To be Referred to the Committee on Ordinances.) (Ref'd 3/28/19)

On motion by Councillor Morad and seconded by Councillor Carney, the Committee VOTED: To recommend that the City Council APPROVE the Ordinance, Relative to Vehicles For Hire, amending Section 24-16 of Chapter 24, to reduce the license fee for GATRA certified drivers from \$50 to \$25; and that this Ordinance be passed to a second reading. This motion passed on a voice vote.

IN COMMITTEE ON ORDINANCE

A handwritten signature in cursive script, reading "Hugh Dunn".

Councillor Hugh Dunn, Chairman

HD: dmb



CITY OF NEW BEDFORD

In the Year Two Thousand and Nineteen

AN ORDINANCE

RELATIVE TO VEHICLES FOR HIRE

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Section 24-16 of Chapter 24 of the Code of Ordinances is hereby amended by inserting, in the first sentence after the word “\$50”, the following words: -

“or upon payment of a fee as otherwise provided in this Section.”

SECTION 2. Section 24-16 of Chapter 24 of the Code of Ordinances is hereby amended by inserting at the end thereof, the following paragraph: -

The City Clerk shall reduce the fee for the license from \$50 to \$25 if the applicant produces with the application, a letter from The Greater Attleboro Taunton Regional Transit Authority (GATRA) that is dated within 15 business days of the applicant filing the application detailing, to the satisfaction of the City Clerk, that the applicant has met all the suitability requirements for drivers set forth in a contract between GATRA and a company that employs the applicant.

SECTION 3. This Ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.



Item Title:

REPORT/ORDINANCE - RELATIVE TO PLASTIC BAGS

Item Detail:

4. REPORT, Committee on Ordinances, recommending to the City Council ADOPTION, as Amended, of the Ordinance Relative to Plastic Bags.
- 4a. AN ORDINANCE,

Additional Information:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> REPORT, COMMITTEE ON ORDINANCES	Cover Memo
<input type="checkbox"/> AN ORDINANCE, AS AMENDED	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Ordinance at a Meeting held on Monday, September 16, 2019, held a WRITTEN MOTION, Councillor Lopes requesting that the Committee on Ordinances begin the process of drafting and approving an Ordinance that would require multi-state and national chain stores that are 10,000 square feet or larger begin phasing out the use of single-use plastic bags in the City of New Bedford; said Ordinance would require multi-state and national chain stores that are 10,000 square feet or larger adhere to the proposed Ordinance that prohibit from providing lightweight, single-use plastic bags to customers in the city of New Bedford by December 31, 2019. (Ref'd 2/14/19) (7/9/19-tabled 30 days)

On motion by Councillor Lopes and seconded by Councillor Lima, the Committee VOTED: To amend section 17-19.1 under single use plastic bag to strike the word "to" after the word "location" and add a period; and on letter c reduce "18" months to "6" months. This motion passed on a voice vote.

On motion by Councillor Lopes and seconded by Councillor Giesta, the Committee VOTED: To recommend to the City Council ADOPTION, as Amended, of the Ordinance Relative to Plastic Bags. This motion passed on a voice vote.

IN COMMITTEE ON ORDINANCE

A handwritten signature in cursive script, reading "Hugh Dunn".

Councillor Hugh Dunn, Chairman

HD: dmb



CITY OF NEW BEDFORD

In the Year Two Thousand and Nineteen

AN ORDINANCE

RELATIVE TO PLASTIC BAGS

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 17 of the Code of Ordinances is hereby amended by inserting, after section 17-19, the following new section:-

17-19.1. Single-use plastic bag distribution.

(a). Definitions. For the purposes of this section, the following terms, phrases, words, and their derivations, shall have the meaning given herein.

Establishment — means any commercial entity with retail space of 10,000 square feet or larger or with at least two (2) locations under the same name within the city with retail space that totals 10,000 square feet or larger, whether for or not for profit, including, but not limited to retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses.

Single-use plastic bag — A plastic film-type bag with or without handles, which is 4 mils thick or less, provided by a retail establishment to customers at its business location.

(b) Single-use plastic bags shall not be distributed or sold at any establishment within the city.

(c) Existing stock of single-use plastic bags shall be phased out within 6 months of adoption of this article any remaining stock shall be disposed of properly by the establishment.

(d) Each day a violation occurs shall constitute a separate offense.

(e) Fines for violations shall be imposed pursuant to section 17-18 (j).

SECTION 2. Paragraph (j) of section 17-18 of Chapter 17 is hereby amended by inserting into the table, the following line(s):-

17-19.1	Plastic Bag Distribution	
	First Offense	\$100.00
	Second Offense	\$200.00
	Third and any subsequent offense	\$300.00

Section 3

This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.



Item Title:

REPORT - MELISSA BATCHILDER - WAIVER OF RESIDENCY - COMMUNITY RELATIONS SPECIALIST

Item Detail:

5. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council to Grant a One-Year Waiver of Residency for Melissa Batchilder, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA.

5a. COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE-YEAR WAIVER OF RESIDENCY for MELISSA BATCHILDER, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA. (Referred to the Committee on Public Safety and Neighborhoods – July 18, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
REPORT, COMMITTEE ON PUBLIC SAFETY & NEIGHBORHOODS	Cover Memo
COMMUNICATION	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Public Safety & Neighborhoods at a Meeting held on Wednesday, September 18, 2019 considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE-YEAR WAIVER OF RESIDENCY for MELISSA BATCHILDER, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA. (Ref'd 7/18/19)

On motion by Councillor Lopes and seconded by Councillor Coelho, the Committee VOTED: To recommend to the City Council to Grant a One-Year Waiver of Residency for Melissa Batchilder, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA. This motion passed on a Roll Call Vote of Yeas 6, Nays 2, with Councillors Morad and Carney opposed.

IN COMMITTEE ON PUBLIC SAFETY &
NEIGHBORHOODS

Brian K. Gomes

Councillor Brian K. Gomes, Chairman

BKG: dmb



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

July 10, 2019

City Council President Linda M. Morad
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Morad and Honorable Members of the City Council:

I would like to request a one-year **WAIVER OF RESIDENCY** for Melissa Batchilder, Compliance Officer (Community Relations Specialist), for the New Bedford Police Department who currently resides in Fairhaven, Massachusetts.

Given the exceptional circumstances detailed in the attached letter from Ms. Batchilder and Chief Cordeiro, I believe a waiver is appropriate and justified.

Ms. Batchilder and Chief Cordeiro will be available at the meeting to answer any questions.

Sincerely,



Jon Mitchell
Mayor

JFM/sds
Enclosures

cc: Police Department
Melissa Batchilder

CITY CLERK

2019 JUL 11 P 2:52

CITY CLERKS OFFICE
NEW BEDFORD, MA



New Bedford Police Department

Office of the Chief of Police

871 Rockdale Avenue, New Bedford, MA 02740
Phone: 508-991-6330 Fax: 508-961-3022

Jonathan F. Mitchell
Mayor

Joseph C. Cordeiro
Chief of Police

Paul J. Oliveira
Deputy Chief of Police

July 2, 2019

Jonathan F. Mitchell
Mayor
City of New Bedford
133 William Street
New Bedford, MA 02740

Dear Mayor Mitchell:

I am requesting a Residency Waiver for Melissa Batchilder, Compliance Officer (Community Relations Specialist), for the New Bedford Police Department. Mrs. Batchilder resides at : Fairhaven.

She submitted a letter explaining her challenges in relocating to New Bedford. I have attached it for your consideration. In summary, her husband is disabled, and their home accommodates his mobility needs. Additionally, they have guardianship of their six-year-old granddaughter who is a victim to the opioid addiction. Mrs. Batchilder is concerned with moving and impacting her stability and creating an additional hardship on her granddaughter.

Should you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Cordeiro", with a long horizontal flourish extending to the right.

Joseph C. Cordeiro
Chief of Police



New Bedford Police Department Office of the Chief of Police

871 Rockdale Avenue, New Bedford, MA 02740
Phone: 508-991-6300 Fax: 508-961-3022

Jonathan F. Mitchell
Mayor

Joseph C. Cordeiro
Chief of Police

Paul J. Oliveira
Deputy Chief of Police
July 2, 2019

Police Chief Joseph Cordeiro
New Bedford Police Department
817 Rockdale Ave.
New Bedford, MA 02740

Dear Chief Cordeiro,

I am beyond grateful for the possible opportunity to become a part of your remarkable and visionary efforts to modernize the New Bedford Police Department.

As it relates to the residency requirement, I appreciate your willingness to make the effort to obtain the waiver. Following are some details that may help.

In 2012, I married my husband, Rob Gray. At the time he was the General Manager of the Fairhaven Shipyard. Just a few days after our wedding, he fell 15 feet from the back of a boat in dry-dock onto concrete when a ladder collapsed. He became permanently disabled and I moved to Massachusetts. While Robbie is mobile, it is to a limited degree and deteriorating. When we purchased our house in late 2012, it was to accommodate his needs in terms of wide-open concept and we continue to upgrade it as necessary for his health. We're currently in the midst of planned renovation to the bathroom to accommodate his challenges.

The day Robbie returned home from his last surgery at the end of 2013, DCF approached us to become guardians to Avery, Robbie's granddaughter. Prior to this we had very limited contact, because of her parents' condition. Avery was just an infant at the time and both parents are opioid-addicted. We have faced all the challenges that go along with opioid addiction, court appearances, balancing what's best for Avery and her parents, the roller coaster her parents ride and most significantly how this all impacts the life of the sweetest little 6-year-old who just finished kindergarten at St. Joseph's School. She was baptized at our parish, St. Joseph's in Fairhaven. We live around the corner and she has been attending St. Joseph's school since pre-school. The street, the neighbors, the parishioners and the school are very much the only community she has ever known.

What we didn't realize about children who experience these circumstances is the attachment disorder they face. When separation from the mother occurs, despite the infancy, the child

becomes psychologically impacted and struggles greatly with attachment and trust. The child (Avery) really hungers for stability/routine. It's as if she is always on a hunt to reclaim the sense of security she lost as an infant. We've had her assessed and while the psychologist, Dr. Andrea McCauley of New Bedford, praises her resilience and coping skills, the attachment issues are evident and something she will face for years to come. Having a stable and consistent environment is key to ensuring she succeeds in the years ahead.

Moving anywhere would be a significant risk to Avery's mental health, which is why I hesitate to quickly say we would just pick up and move. It is so much more than just selling our house and moving across the bridge.

Thank You.

Sincerely,

Melissa Batchilder



Item Title:

REPORT - NEW HIRES SEEKING WAIVER OF RESIDENCY

Item Detail:

6. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council that all new hires that are seeking a waiver of residency, that the Personnel Director attend the Committee meeting and provide the full City Council with the total number of applicants, the total number of applicants from New Bedford, the total number of applicants interviewed and the total number of New Bedford residents interviewed; and further, that a copy of the full job description be part of all Communications to the City Council.

Additional Information:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> REPORT, COMMITTEE ON PUBLIC SAFETY & NEIGHBORHOODS	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Public Safety & Neighborhoods at a Meeting held on Wednesday, September 18, 2019 considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting a ONE-YEAR WAIVER OF RESIDENCY for MELISSA BATCHILDER, Compliance Officer (Community Relations Specialist) for the New Bedford Police Department, who currently resides in Fairhaven, MA. (Ref'd 7/18/19)

On a Related Motion by Councillor Lopes and seconded by Councillor Carney, the Committee VOTED: To recommend to the City Council that all new hires that are seeking a waiver of residency, that the Personnel Director attend the Committee meeting and provide the full City Council with the total number of applicants, the total number of applicants from New Bedford, the total number of applicants interviewed and the total number of New Bedford residents interviewed; and further, that a copy of the full job description be part of all Communications to the City Council. This motion passed on a voice vote.

IN COMMITTEE ON PUBLIC SAFETY &
NEIGHBORHOODS

A handwritten signature in cursive script that reads "Brian K. Gomes".

Councillor Brian K. Gomes, Chairman

BKG: dmb



Item Title:

REPORT - SERVEDWELL NEW BEDFORD LLC PROPOSAL - LEASE VACANT LAND

Item Detail:

7. REPORT, Committee on City Property, recommending to the City Council APPROVAL of the Servedwell New Bedford LLC, proposal related to lease vacant land on East Rodney French Boulevard.

7a. PROPOSAL, Servedwell New Bedford, LLC, 307 Smith Neck Road, Dartmouth, MA 02748, to lease vacant land on East Rodney French Boulevard.

Additional Information:



Item Title:

REPORT - SOUTHCOST APOTHECARY LLC - HOST COMMUNITY AGREEMENT

Item Detail:

8. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Southcoast Apothecary LLC to operate a recreational marijuana dispensary at 115 Coggeshall Street, New Bedford, MA 02746.

8a. HOST COMMUNITY AGREEMENT,

Additional Information:

ATTACHMENTS:

Description	Type
REPORT, SPECIAL COMMITTEE ON CANNABIS & HCA	Cover Memo
HOST COMMUNITY AGREEMENT	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Special Committee on Cannabis Regulation and Host Community Agreements Review at a Meeting held on Monday, September 23, 2019, considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting a copy of a Host Community Agreement with Southcoast Apothecary, LLC; the company is currently seeking a license from the Marijuana Cannabis Control Commission to operate a recreational marijuana dispensary at 115 Coggeshall Street, under the agreement substantial benefits will be provided to the City and to the residents of New Bedford (Ref'd 9/12/19) and a HOST COMMUNITY AGREEMENT, Southcoast Apothecary LLC to operate a recreational marijuana dispensary at 115 Coggeshall Street, New Bedford, MA 02746 (Ref'd 9/12/19).

On motion by Councillor Giesta and seconded by Councillor Rebeiro, the Committee VOTED: To recommend to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Southcoast Apothecary LLC to operate a recreational marijuana dispensary at 115 Coggeshall Street, New Bedford, MA 02746. This motion passed on a Roll Call Vote of Yeas 8, Nays 1, with Councillor Coelho opposed and Councillor Lima not present for the vote.

IN SPECIAL COMMITTEE ON CANNABIS
REGULATION AND HOST COMMUNITY
AGREEMENTS REVIEW

A handwritten signature in cursive script that reads "Ian Abreu".

Councillor Ian Abreu, Chairman

IA: at

CITY OF NEW BEDFORD

SOUTHCOAST APOTHECARY, LLC HOST COMMUNITY AGREEMENT FOR THE SITING OF A RECREATIONAL MARIJUANA RETAILER IN THE CITY OF NEW BEDFORD

This Host Community Agreement (the “**Agreement**”) is entered into this 4th day of September, 2019 (the “**Effective Date**”) by and between the City of New Bedford, a Massachusetts municipal corporation acting by and through its Mayor, with a business address of 133 William Street, New Bedford, MA 02740 (the “**City**”) and Southcoast Apothecary, LLC, a Massachusetts limited liability company with a business address of 170 Hadley Street, New Bedford, MA 02745 (the “**Company**”) (City and Company each a “**Party**” and collectively the “**Parties**”).

RECITALS

WHEREAS, the Company desires to locate a Recreational Marijuana Retailer (“**RMR**”) at 115 Coggeshall Street, New Bedford, MA 02746 (the “**Property**” and together with the proposed RMR the “**Facility**”), for the retail sale of recreational marijuana in accordance with the laws of the Commonwealth of Massachusetts (“**MA Law**”) and those of the City (“**Local Law**”);

WHEREAS, the Company desires to provide community impact fee payments to the City pursuant to M.G.L. c. 94G, § 3(d), that shall be reasonably related to the costs imposed upon the City by Company’s operations in the City;

WHEREAS, the Company desires to provide additional payments directly to the community at large to aid in education and treatment programs; and

WHEREAS, the City supports the Company’s intention to operate an RMR at the Facility for the retail sale of recreational marijuana.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual promises set forth below, the parties agree as follows:

AGREEMENT

1. Host Community Payments. If the Company obtains a final license, or its equivalent, for the operation of the Facility from the Cannabis Control Commission (“**CCC**”), and receives all necessary approvals from the City to operate the Facility, then the Company agrees to the following:

- a) Pursuant to M.G.L. ch. 94G, § 3(d), and as the same may be amended from time to time, the Company shall pay a fee to the City equal to, but not greater than, Three Percent (3%) of its annual Gross Sales (as defined herein) (the “**RMR Payment**”). The RMR Payment shall be made in two installments as follows: (a) Annually seven (7) months after the anniversary of the Sales Commencement Date (as defined herein) in an amount equal to

Three Percent (3%) of the Company's Gross Sales through the prior six (6) months of operations, and (b) annually within thirty (30) days of the anniversary of the Sales Commencement Date in an amount equal to Three Percent (3%) of the Company's Gross Sales through the prior six (6) months of operations.

b) Notwithstanding anything herein to the contrary, the Company shall make a one-time payment to the City in the sum of Twenty-five Thousand and 00/100 Dollars (\$25,000.00) upon the Sales Commencement Date (the "**Initial Payment**"), which amount shall be deducted from the first annual RMR Payment described above. If and to the extent that the first RMR Payment due to the City is for an amount less than Twenty-five Thousand and 00/100 Dollars (\$25,000.00), the second RMR Payment due to the City shall be reduced by an amount equal to the difference of Twenty-five Thousand Dollars and 00/100 (\$25,000.00) less the amount due under the first RMR Payment.

c) For the purposes of this Agreement, the term "**Sales Commencement Date**" shall mean the date in which the Company sells Marijuana or Marijuana-infused Product (each as defined in 935 CMR 500.002) to a natural person who is twenty-one (21) years of age or older (a "**Consumer**").

d) For purposes of this Agreement, the term "**Gross Sales**" shall mean the total of all sales of Marijuana or Marijuana-infused Products. Gross Sales shall not include: (a) the amounts of all refunds, credits, allowance and adjustments made to customers; and (b) the amounts of state or local sales tax or similar tax imposed by any governmental authority.

e) The Company shall provide written notice to the City at least thirty (30) days in advance of the anticipated opening date of the Facility, and thereafter shall, within seven (7) days of the Sales Commencement Date, provide written notice to the City setting forth the official Sales Commencement Date.

f) In the event that the Company enters into an HCA with another City in the Commonwealth of Massachusetts that contains financial terms more favorable than the financial term contained in this Agreement, then the Parties agree that this Agreement shall be amended so as to result in its financial terms being equally favorable to the City as those contained in the other City's HCA. The Company represents and warrants to the City that it is not presently under an HCA with another Massachusetts City providing more favorable financial terms.

2. **Term and Termination.** The Term of this Agreement shall be five (5) years from the Effective Date (the "**Term**"). In the event the Company loses or has its license(s), approvals, and/or permits to operate in the City revoked by the CCC or the City, this Agreement shall become null and void and any outstanding RMR Payments shall become due and payable within thirty (30) days of the termination of this Agreement. Prior to the end of the Term, the Parties shall negotiate, in good faith, a successor agreement, including an extension of the Payments called for herein.

3. **Payments.** The Company shall make the payments to the City as set forth in Section 1 of this Agreement.

4. **Failure to Remit Payments.** The Parties acknowledge the Payments are expressly included as “other municipal charges” pursuant to G.L. c. 40, § 57. A City of New Bedford licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of the Company or agent thereof if the Company’s fails to timely pay any RMR Payments.

5. **Acknowledgements.** The City understands and acknowledges that payments due pursuant to this Agreement are contingent upon the Company’s receipt of all state and local approvals required to operate the Facility.

6. **Review.** If under applicable Massachusetts law the terms relating to payment under this Agreement are determined to any extent to be illegal, otherwise invalid, or incapable of being enforced, which unenforceability would materially and adversely affect the economic substance of the transactions contemplated by this Agreement, the City and the Company shall negotiate, in good faith, amendments to this Agreement so as to result in neutral economic impact to the City to the extent permissible by law.

7. **Local Taxes.** At all times during the Term of this Agreement, real estate and personal property taxes owed by the Company shall be due and payable.

8. **Other Payments.** The Company shall pay any and all fees associated with its annual purchases of utility services from all local government agencies.

The Company shall reimburse the City for any and all reasonable and customary consulting costs and fees related to any land use applications concerning the Facility, negotiation of this Agreement, and review concerning the Facility, including planning, engineering, and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility. In no event shall the Company be responsible for reimbursing the City for costs associated with the operating of the City’s offices in their regular and customary course, including, but not limited to wages for City employees.

The Company shall reimburse the City for the actual costs incurred by the City in connection with holding public meetings not held in public buildings and forums not within the City’s regularly scheduled public hearings and meetings, which are solely devoted to discussing the Facility. Such costs shall be limited to advertising costs and consultant attendance at the aforementioned meetings.

The Company acknowledges that time is of the essence with respect to their timely payments of all funds required by this Agreement. If any such payments are not fully made within ten (10) business days of the date written demand has been actually received by the Company, the Company shall be required to pay the City a late payment penalty equal to five percent (5%) of that payment in addition to the required payment.

9. **Annual Charitable/Non-Profit Contributions.** The Company, in addition to any funds otherwise specified herein, agrees to make an annual contribution of \$50,000.00 or 1½ % of the establishment's gross sales, whichever is greater, in charitable donations per year to New Bedford based organizations that deliver substance abuse prevention and education programs in the City's public-school district. The first \$25,000.00 portion of the payment for the first year of operation shall be paid on the facility's opening date and the remaining balance must be made within 12 months of opening. Company shall submit annual reports to the City indicating payments made under this provision. In any year where the Company reaches gross sales of \$2,500,000.00, the Company shall make an additional charitable contribution of \$50,000.00 and in a year where the Company reaches \$5,000,000.00 in gross sales, the Company shall make an additional charitable contribution of \$100,000.00. Any charitable payment will not reduce the Community Impact Fee amount nor is it considered a payment in response to a community impact.

10. **Accounting and Review.** The Company shall keep and maintain financial records in accordance with generally accepted accounting principles. Such records shall be available for inspection by the City, upon request, and shall include, but not be limited to, all financial records required in any section of 935 CMR 500.000, and business records, in accordance with 935 CMR 500.105(e), which shall include manual or computerized records of: (1) Assets and liabilities; (2) Monetary transactions; (3) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers; (4) Sales records including the quantity, form, and cost of marijuana products; and (5) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a Marijuana Establishment, including members of the nonprofit corporation, if any (together these shall be referred to as the **"Financial Records"**).

Following the closure of the Facility, the Company shall keep all records for at least two (2) years at the Company's expense and in a form and location acceptable to the CCC.

So long as this Agreement is in effect and for a period of two (2) years thereafter, the City shall have the right to examine and audit the Company's Financial Records. Examinations may be made upon not less than thirty (30) days prior written notice from the City and shall occur only during normal business hours at such place where said books and financial records are maintained. The City's examination or audit, as aforesaid, shall be conducted in such manner as to not interfere with Company's normal business activities.

In the event that the Parties disagree as to the accuracy of the certification of the Company's annual sales, the City may conduct an audit of such sales at the expense of the Company. If, after such audit and re-computation, an additional fee or payment is owed to the City, a penalty of ten percent (10%) or five thousand dollars (\$5,000), whichever is greater, not to exceed \$10,000, will be added to the amount due.

11. Community Support and Additional Obligations.

a. Local Vendors – to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to qualified local businesses and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility.

b. Employment: except for senior management, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to hire qualified residents of the City as employees of the Facility. Company shall use its best efforts to comply with the New Bedford Works policy, the terms of which are incorporated herein.

c. The Company shall, at least annually, provide the City with copies of all reports submitted to the CCC regarding the Company's operations in the City.

d. The Company will work cooperatively with all necessary municipal departments, boards, commissions, and agencies to ensure that the Company's operations are compliant with the City's codes, rules, and regulations.

e. The Company will comply with the City's non-discrimination ordinance in hiring, transacting business and entering into contracts and to the extent allowed by law, the Company will seek to hire employees and engage in contracts with a preference for diversity and supporting minority and women-owned businesses.

f. The Facility shall be designed, constructed, renovated, or improved to reflect high quality construction standards and seek to improve the general design aesthetic of the neighborhood. The facility shall, at a minimum, reflect the following:

i. Facade Variation: For all development and redevelopment involving new construction, the massing, façades, and roof configuration of a building shall be varied via constructed or two-dimensional means. If a building façade is more than 50 feet in length, it shall include a minimum of 10 feet of variation in the building footprint (set-back or projection in the building wall) for every 50 feet of façade length, and related changes in the roofline in order to reduce the apparent mass of the building.

ii. Building Materials: Use high quality, traditional materials that weather naturally on the exterior of the building to reflect regional building traditions. Alternatively, incorporate low-reflective, neutral, and earth tones to retain the subtle character of the region's traditional materials. In areas not visible from regional roadways or distinctive community districts, use of nontraditional materials, forms, and site designs may be appropriate. In such areas, maintenance of adequate landscape buffers on the subject

property shall be required to ensure that the proposed development is screened from view. Metal and vinyl siding are prohibited.

iii. Historic Buildings: For all projects located in historic buildings, design guidelines of the Bedford Landing 40C district shall apply.

iv. Temporary Signage: The only temporary signage allowed shall be banner signage bearing the company logo, no greater than 25 SF, at a designated adults-only City permitted special event and may only remain up for no longer than two days.

v. On-Site Signage: Ground mounted, pylon, internally lit and/or flashing signs shall not be permitted. Wall signs shall be limited in size to be read at a pedestrian scale. The size and color of all signs shall be in scale and compatible with the surrounding buildings and street. When more than one sign is used, the graphics shall be coordinated to present a unified image. All signage shall, at a minimum, be subject to requirements of New Bedford Code of Ordinances S. 3200 and Cannabis Control Commission. In the event of any conflict between said requirements and this Agreement, the more restrictive requirement shall prevail. Logos shall be tasteful and ambiguous in nature. All proposed signage (Wall, ground, blade, or otherwise) is subject to administrative approval by the Planning department.

vi. Off-Premises Signage: The Company agrees that neither it nor its agents will erect, place or otherwise establish any off-premises sign, other than the temporary signage permitted herein.

vii. Lighting: Site lighting and window displays shall be tasteful and conform with dark sky guidelines. No up lights, flashing or colored LED lights allowed on the premises. A photometric lighting plan is required under site plan review and shall not be waived.

viii. Site Landscaping: Use substantial landscape buffers to screen new development. Loading areas should be sited outside primary visual corridors or shielded from view by separate structures, projecting building wings, or distinctive landscaping and fencing. Outdoor storage of any kind is prohibited.

ix. Parking: Ample parking shall be provided via an engineered site plan filed under Site Plan Review. Parking plan must be peer reviewed for traffic implications via an engineered traffic study at the Special Permit approval stage. A transportation management plan will also be required for all Companies which addresses anticipated peak traffic during grand opening and holidays.

x. To the fullest extent practicable, the facility's power supply shall use renewable power sources.

12. Community Health Impact Assessment. Prior to the Sales Commencement Date, the Company must conduct a Health Impact Assessment (HIA) for the neighborhood of their

proposed location. The HIA must be conducted by a firm approved by the City Health Department and undertaken in cooperation with the Board of Health. The HIA may utilize the most recent Community Health Needs Assessment (CHNA) prepared by Southcoast Hospitals Group as a baseline but every effort shall be made to make the assessment as site specific as possible with no greater a radius than one mile of the site. The HIA must include at least two community meetings regarding the proposed operation with notice to the neighborhood and conducted in a City location as close as possible to the proposed site. The Company must make every effort to incorporate the recommendations of the Board of Health in the operations plan for the Facility.

13. Support. The City agrees to submit to the CCC all documentation and information required by the CCC from the City for the Company to obtain approval to operate. The City agrees to support Company's application(s) with the CCC but makes no representation or promise that it will act on any other license or permit request in any way other than by the City's normal and regular course of conduct and in accordance with their codes, rules, and regulations and any statutory guidelines governing them.

14. Local Authority. This Agreement does not waive, limit, control, govern or in any way describe the legal authority of any municipal board, commission, committee, officer or official to regulate, authorize, restrict, inspect, investigate, enforce against, or issue, deny, suspend or revoke any permit, license or other approval with respect to the Company or the premises on which the Company will operate; nor does it waive, limit, control, govern or in any way describe the legal authority of the New Bedford Police Department to investigate, prevent or take action against any criminal activity with respect to the Company or, the premises on which the Company will operate.

15. On-site Consumption. The Company agrees that, even if permitted by statute or regulation, it will prohibit on-site consumption of marijuana and marijuana-infused products at the Facility.

16. Security. The Company shall maintain security at the Facility in accordance with a security plan approved by the CCC and the City. In addition, the Company shall comply with MA Law and Local Law regarding security of the Facility. At a minimum, the Company shall:

- i. Provide a security plan to be reviewed and approved by the Chief of Police initially and anytime there is a substantive change thereto.
- ii. Engage in periodic meetings with the Police Department to review operational concerns or other issues.
- iii. Promptly report the discovery of the following to City police within twenty-four (24) hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, distribution, and delivery of

marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security

iv. Site interior and exterior security cameras in coordination with the Police Department, subject to final approval by the CCC, and provide access to all security camera feeds to the Police Department.

iv. Comply with all the CCC's requirements regarding Criminal Offender Record Information (CORI) review for any new manager hired and the Police Chief shall review, within thirty days of receiving said CORI report, and provide recommendations as to whether the individual is suitable to hold the position.

v. Refuse to complete a transaction to any customer if the customer reasonably believes to be under the influence of drugs or alcohol.

vi. Verify the legal age of all customer using a government-issued identification prior to the customer being admitted into the facility and again prior to the completion of a transaction. Company must utilize electronic identification verification measures when possible.

17. Governing Law. This Agreement shall be governed and construed and enforced in accordance with the currently applicable laws of the Commonwealth of Massachusetts, without regard to the principals of conflicts of law thereof. The Parties expressly waive any defense to enforcement of this Agreement based upon nonconformance with federal law regarding the illegality of marijuana.

18. Amendments/Waiver. Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all Parties prior to the effective date of the amendment.

19. Severability. The Company agrees not to contest any term or condition of this Agreement, however, if any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby with the exception of any term or condition regarding payment; provided that in the event any term or condition regarding payment of fees or annual charitable contributions shall be held invalid, illegal or unenforceable by a court of competent jurisdiction or the Cannabis Control Commission, said payment, fees or charitable contribution shall be made a part of the Company's Positive Impact Plan undertaken and submitted in connection with its license from the Cannabis Control Commission. To the extent the validity of this Agreement is challenged by the Company in a court of competent jurisdiction, and the

validity of this Agreement is upheld, the Company shall be required to pay for any fees and costs incurred by the City in enforcing this Agreement.

20. Successors/Assigns. This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives. The City shall not assign or transfer any interest or obligations in this Agreement without the prior written consent of the Company, which shall not be unreasonably delayed, conditioned, or withheld. The Company shall not assign or transfer any interest or obligation in this Agreement without the prior written consent of the City, which shall not be unreasonably delayed, conditioned, or withheld; provided however, such consent shall not be required in the event such transfer or assignment is between the Operator and another entity which is authorized by the CCC or other authorizing entity to operate the Facility, or if such assignment or transfer is the result of: (i) an affiliate entity of the Company; or (ii) an entity which controls, is controlled by, or is under the common control of the Company; or (iii) to an entity into or with which Company may be merged or consolidated or by which it is acquired.

21. Entire Agreement. This Agreement constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto. This Agreement may be signed in multiple counterparts.

22. Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the City:

City of New Bedford
Office of City Solicitor
133 William Street
New Bedford, MA 02740

To the Company:

Southcoast Apothecary, LLC
Attn: Troy DeMelo
170 Hadley Street
New Bedford, MA 02745

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if sent by overnight delivery, or (c) upon the date personal delivery is made and accepted.

23. No Joint Venture. The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to

establish the City, or the City and any other successor, affiliate or corporate entity, as joint ventures or partners with the Company.

24. Indemnification. Upon the Effective Date, the Company shall defend, indemnify, and hold harmless the City, its officers, employees, and agents (“**Indemnified Parties**”) against any claims, actions, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits against or involving the Indemnified Parties, including reasonable attorneys’ fees, reasonable experts’ fees, and associated court costs (“**Liabilities**”) that arise from or relate in any way to the Company’s violation of this Agreement and/or any Massachusetts law or regulation governing medical marijuana and/or non-medical marijuana. This indemnification shall survive the termination or expiration of this Agreement for a period equal to the applicable statute of limitations period. If any action or proceeding is brought against the City arising out of any occurrence described in this section, upon notice from the City, the Company shall, at its expense, defend such action or proceeding using legal counsel approved by the City, provided that no such action or proceeding shall be settled without the approval of the City.


[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Host Community Agreement on the date set forth above.

FOR CITY OF NEW BEDFORD:

SOUTHCOAST APOTHECARY, LLC:

Signature



Signature

Jonathan Mitchell, Mayor


TROY DEMETRIO

Print Name

Date

9/4/19

Date



Signature

Michael DAMASO

Print Name

9/4/19

Date



Item Title:

REPORT - TREE BEARD, INC - HOST COMMUNITY AGREEMENT

Item Detail:

9. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Tree Beard, Inc. to operate a recreational marijuana dispensary at 1 Nauset Street, New Bedford, MA 02746.

9a. HOST COMMUNITY AGREEMENT,

Additional Information:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> REPORT, SPECIAL COMMITTEE ON CANNABIS & HCA	Cover Memo
<input type="checkbox"/> HOST COMMUNITY AGREEMENT	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Special Committee on Cannabis Regulation and Host Community Agreements Review at a Meeting held on Monday, September 23, 2019, considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting a copy of a Host Community Agreement with Tree Beard, Inc.; the company is currently seeking a license from the Marijuana Cannabis Control Commission to operate a recreational marijuana dispensary at 1 Nauset Street, under the agreement substantial benefits will be provided to the City and to the residents of New Bedford (Ref'd 9/12/19) and a HOST COMMUNITY AGREEMENT, Tree Beard, Inc. to operate a recreational marijuana dispensary at 1 Nauset Street, New Bedford, MA 02746 (Ref'd 9/12/19).

On motion by Councillor Dunn and seconded by Councillor Lima, the Committee VOTED: To recommend to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Tree Beard, Inc. to operate a recreational marijuana dispensary at 1 Nauset Street, New Bedford, MA 02746. This motion passed on a Roll Call Vote of Yeas 8, Nays 2, with Councillors Coelho and Morad opposed.

IN SPECIAL COMMITTEE ON CANNABIS
REGULATION AND HOST COMMUNITY
AGREEMENTS REVIEW

A handwritten signature in cursive script that reads "Ian Abreu a.".

Councillor Ian Abreu, Chairman

IA: at

CITY OF NEW BEDFORD
TREE BEARD INC., HOST COMMUNITY AGREEMENT FOR THE SITING OF A
RECREATIONAL MARIJUANA ESTABLISHMENT
IN THE CITY OF NEW BEDFORD

This Host Community Agreement (the “**Agreement**”) is entered into this 4th day of September, 2019 (the “**Effective Date**”) by and between the City of New Bedford, a Massachusetts municipal corporation acting by and through its Mayor, with a business address of 133 William Street, New Bedford, MA 02740 (the “**City**”) and Tree Beard, Inc., a Massachusetts business entity with a business address of 319A Union Street, New Bedford, MA 02740 (the “**Company**”) (City and Company, collectively the “**Parties**”).

RECITALS

WHEREAS, the Company desires to locate a Recreational Marijuana Establishment (“**RME**”) at 1 Nauset Street, New Bedford, MA 02746 MA (hereinafter the “**Facility**”), for the operation of a RME as a Marijuana Retailer, Marijuana Cultivator, Marijuana Product Manufacturer and Marijuana Transporter in accordance with the laws of the Commonwealth of Massachusetts (“**MA Law**”) and those of the City (“**Local Law**”);

WHEREAS, the Company desires to provide community impact fee payments to the City pursuant to M.G.L. c. 94G, § 3(d) in order to address any reasonable costs imposed upon the City by Company’s operations in the City;

WHEREAS, the Company desires to be a responsible corporate citizen in the City through its community outreach efforts and will aid in education and treatment programs designed to deliver substance abuse prevention and education in the City’s public school district; and

WHEREAS, the City supports the Company’s intention to operate an RME at the Facility with licenses to operate as a Marijuana Retailer, Marijuana Cultivator, Marijuana Product Manufacturer and Marijuana Transporter.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual promises set forth below, the parties agree as follows:

AGREEMENT

1. Host Community Payments.

RME Related Payments. If the Company obtains final licenses, or their equivalent, for the operation of a RME as a Marijuana Retailer, Marijuana Cultivator, Marijuana Product Manufacturer and Marijuana Transporter at the Facility from the Cannabis Control Commission (“**CCC**”), and receives all necessary approvals from the City to operate a RME as a Marijuana Retailer, Marijuana Cultivator, Marijuana Product Manufacturer and Marijuana Transporter at the Facility, then the Company agrees to the following:

i. The Company shall provide written notice to the City at least thirty (30) days in advance of the anticipated opening date of the Facility, and thereafter shall provide written notice to the City of the actual date of its first sale from the Facility (hereinafter the “**Sales Commencement Date**”).

ii. The Company shall make a minimum of two annual payments to the City in the total amount of three percent (3%) of the gross sales of recreational marijuana at the Facility (the “**RME Payment**”).

iii. The Company will make a one-time payment to the City in the sum of twenty-five thousand dollars (\$25,000) upon the Sales Commencement Date, and the initial RME Payment, less the aforementioned one-time payment of twenty-five thousand dollars (\$25,000), regarding the first twelve months of operations, shall be due on the first day of the fourteenth (14th) month following the Sales Commencement Date.

iv. Subsequent RME Payments shall be made in two installments, one in month 7 of the agreement year to reflect the first six months of sales of that year, and the second reflecting the balance of sales payable within 60 days after the end of the year. For the purposes of this agreement, a year shall be the annual twelve (12) month period starting at the anniversary of the Sales Commencement Date.

v. The term “gross sales” previously referenced shall mean the total of all retail sales of recreational marijuana transactions by the Company at the Facility and shall include the sale of adult-use marijuana, marijuana infused products, and any other products containing marijuana sold at the facility. The term shall not apply to sales between related business entities provided the company has informed the City of said relationship.

vi. In the event that the Company enters into an HCA with another City in the Commonwealth of Massachusetts that contains financial terms more favorable than the financial term contained in this Agreement, then the Parties agree that this Agreement shall be amended so as to result in its financial terms being equally favorable to the City as those contained in the other City’s HCA. The Company represents and warrants to the City that it is not presently under an HCA with another Massachusetts City providing more favorable financial terms.

2. Term and Termination. The Term of this Agreement shall be five (5) years from the Effective Date (the “**Term**”), provided however Section 1 of this Agreement shall survive until the fifth annual RME Payment has been remitted to the City. In the event the Company loses or has its license(s), approvals, and/or permits to operate in the City revoked by the CCC or the City, this Agreement shall become null and void and all payments must be made. The Parties shall meet on the third year from the date of signing to review the terms of the HCA in good faith for compliance to MA Law and to see if any term amendments are required including, an increase of the community impact fee payments based on equitable principles and actual gross sales. Prior to the end of the Term, the Parties shall negotiate in good faith and unless prohibited

by Massachusetts General Law, a successor agreement, including an extension of the Payments called for herein.

If the Parties are unable to reach an agreement on a successor Agreement before the conclusion of the five (5) year term, the Annual Community Impact Fee shall be set at the average fee paid by Company over the previous three (3) years until such time as the Parties negotiate a successor Community Impact Fee.

3. Payments. The Company shall make the payments to the City as set forth in Section 1 of this Agreement. The Company acknowledges that the impacts of its operation may be impracticable to ascertain and assess as unique impacts may result in budgetary increases, though not separately identified; consequently, the Company acknowledges that the Payments due under this Agreement are reasonably related to Municipal impacts.

4. Failure to Remit Payments. The Parties acknowledge the Payments are expressly included as "other municipal charges" pursuant to G.L. c. 40, § 57. A City of New Bedford licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of the Company or agent thereof if the Company's name appears on a list furnished to the licensing authority from the City Treasurer of individuals delinquent on their taxes and/or other municipal charges.

5. Acknowledgements. The City understands and acknowledges that payments due pursuant to this Agreement are contingent upon the Company's receipt of all state and local approvals required to operate a RME as a Marijuana Retailer, Marijuana Cultivator, Marijuana Product Manufacturer and Marijuana Transporter in the City.

6. Review. If under applicable Massachusetts law the terms relating to payment under this Agreement are determined to any extent to be illegal, otherwise invalid, or incapable of being enforced, which unenforceability would materially and adversely affect the economic substance of the transactions contemplated by this Agreement, the City and the Company shall negotiate, in good faith and in accordance to MA Law. Provided, however, any amendments to this Agreement shall result in neutral economic impact to the City.

7. Local Taxes. At all times during the Term of this Agreement, property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Company or by its landlord, and neither the Company nor its landlord shall object or otherwise challenge the taxability of such property. Company shall pay all sales taxes, if applicable, when due. Company reserves the right to contest only the amount of any local real and personal property taxes assessed.

8. Other Payments. The Company shall pay any and all fees associated with its annual purchases of utility services from all local government agencies. The Company will pay any and all municipal fees associated with the local permitting and licensing of the Marijuana Establishment.

The Company shall reimburse the City for any and all reasonable and customary consulting costs and fees related to any land use applications concerning the Facility, negotiation of this and any other related agreements, and review concerning the Facility, including planning, engineering, and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility. Said costs shall not involve work performed by City employees.

The Company shall reimburse the City for the actual outside costs incurred by the City in connection with holding public meetings not held in public buildings and forums not within the City's regularly scheduled public hearings and meetings, which are solely devoted to discussing the Facility. The Company shall also reimburse the City for costs incurred reviewing the proposed Facility applications and related equipment and systems and for any reasonable and customary consulting costs and fees.

The Company acknowledges that time is of the essence with respect to their timely payments of all funds required by this Host Community Agreement. If any such payments are not fully made within ten (10) business days of the date written demand has been received, the Company shall be required to pay the City a late payment penalty equal to five percent (5%) of that payment in addition to the required payment.

9. Annual Charitable/Non-Profit Contributions. The Company, in addition to any funds otherwise specified herein, agrees to make an annual contribution of \$50,000.00 or 1½ % of the establishment's gross sales, whichever is greater, in charitable donations per year to New Bedford based organizations that deliver substance abuse prevention and education programs in the City's public school district. The first \$25,000.00 portion of the payment for the first year of operation shall be paid on the facility's opening date and the remaining balance must be made within 12 months of opening. Company shall submit annual reports to the City indicating payments made under this provision. In any year where the Company reaches gross sales of \$2,500,000.00, the Company shall make an additional charitable contribution of \$50,000.00 and in a year where the Company reaches \$5,000,000.00 in gross sales, the Company shall make an additional charitable contribution of \$100,000.00. Any charitable payment will not reduce the Community Impact Fee amount nor is it considered a payment in response to a community impact.

10. Accounting and Review. The Company shall submit with each payment to the City under this Agreement, both a certification of the accurate payment amount and the gross sales during the time period the payment represents. The City shall have the right to inspect the Company's financial records it is required to submit to the CCC, including, but not limited to the Metrc seed to sale tracking system. for the time period the payment to the City under this Agreement represents. The Company shall maintain its books, financial records and other compilations of data pertinent to the requirements of this Agreement in accordance with standard accounting practices and the regulations or guidelines of the CCC. All records shall be retained for a period of at least seven (7) years.

So long as this Agreement is in effect and for a period of three (3) years thereafter, the City shall have the right to examine audit and copy any portion(s) of Company's books and financial

records, including but not limited to all sales transaction records, to determine the accuracy of the Payments. Examinations may be made upon not less than thirty (30) days prior written notice from the City and shall occur only during normal business hours at such place where said books and financial records are maintained. The City's examination, copying or audit, as aforesaid, shall be conducted in such manner as to not interfere with Company's normal business activities.

In the Event that the Parties disagree as to the accuracy of the certification of the Company's annual sales, the City may conduct an audit of such sales at the expense of the Company. The City shall first notify the Company of any proposed inaccuracy and the Company shall have thirty days to respond prior to the City conducting an audit. If, after such audit and re-computation, an additional fee or payment is owed to the City, a penalty of five percent (5%) or five thousand dollars (\$5,000), whichever is greater, will be immediately due in addition to any amounts owed.

11. Additional Obligations.

a. Local Vendors – to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to qualified local businesses and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility.

b. Employment – except for senior management, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to hire qualified residents of the City as employees of the Facility. Company shall use its best efforts to comply with the New Bedford Works policy, the terms of which are incorporated herein.

c. The Company shall, at least annually, provide the City with copies of all reports submitted to the CCC regarding the Company's operations in the City.

d. The Company will work cooperatively with all necessary municipal departments, boards, commissions, and agencies to ensure that the Company's operations are compliant with the City's codes, rules, and regulations.

e. The Company will comply with the City's non-discrimination ordinance in hiring, transacting business and entering into contracts and will seek to hire employees and engage in contracts with a preference for diversity and supporting minority and women-owned businesses.

f. The facility shall be designed, constructed, renovated, or improved to reflect high quality construction standards and seek to improve the general design aesthetic of the neighborhood. The facility shall, at a minimum, reflect the following:

- i. Facade Variation: For all development and redevelopment involving new construction, the massing, façades, and roof configuration of a building shall be varied via constructed or two-dimensional means. If a building façade is more than 50 feet in length, it shall

include a minimum of 10 feet of variation in the building footprint (set-back or projection in the building wall) for every 50 feet of façade length, and related changes in the roofline in order to reduce the apparent mass of the building.

- ii. Building Materials: Use high quality, traditional materials that weather naturally on the exterior of the building to reflect regional building traditions. Alternatively, incorporate low-reflective, neutral, and earth tones to retain the subtle character of the region's traditional materials. In areas not visible from regional roadways or distinctive community districts, use of nontraditional materials, forms, and site designs may be appropriate. In such areas, maintenance of adequate landscape buffers on the subject property shall be required to ensure that the proposed development is screened from view. Metal and vinyl siding are prohibited.
- iii. Historic Buildings: For all projects located in historic buildings, design guidelines of the Bedford Landing 40C district shall apply.
- iv. Temporary Signage: The only temporary signage allowed shall be banner signage bearing the company logo, no greater than 25 SF, at a designated adults-only City permitted special event and may only remain up for no longer than three days.
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- vi. Off-Premises Signage: The Company agrees that neither it nor its agents will erect, place or otherwise establish any off-premises sign, other than the temporary signage permitted herein.
- vii. Lighting: Site lighting and window displays shall be tasteful and conform with dark sky guidelines. No up lights, flashing or colored LED lights allowed on the premises. A photometric lighting plan is required under site plan review and shall not be waived.
- viii. Site Landscaping: Use substantial landscape buffers to screen new development. Loading areas should be sited outside primary visual corridors or shielded from view by separate structures, projecting building wings, or distinctive landscaping and fencing. Outdoor storage of any kind is prohibited.
- ix. Parking: Ample parking shall be provided via an engineered site plan filed under Site Plan Review. Parking plan must be peer reviewed for traffic implications via an

engineered traffic study at the Special Permit approval stage. A transportation management plan will also be required for all Companies which addresses anticipated peak traffic during grand opening and holidays.

- x. To the fullest extent practicable, the facility's power supply shall use renewable power sources.

12. Community Health Impact Assessment. Prior to the Sales Commencement Date, the Company must conduct a Health Impact Assessment (HIA) for the neighborhood of their proposed location. The HIA must be conducted by a firm approved by the City Health Department and undertaken in cooperation with the Board of Health. The HIA may utilize the most recent Community Health Needs Assessment (CHNA) prepared by Southcoast Hospitals Group as a baseline but every effort shall be made to make the assessment as site specific as possible with no greater a radius than one mile of the site. The HIA must include at least two community meetings regarding the proposed operation with notice to the neighborhood and conducted in a City location as close as possible to the proposed site. The Company is responsible for all costs associated with the community meetings and the HIA. The Company must make every effort to incorporate the recommendations of the Board of Health in the operations plan for the Facility.

13. Support. The City agrees to submit to the CCC all documentation and information required by the CCC from the City for the Company to obtain approval to operate. The City agrees to support Company's application(s) with the CCC but makes no representation or promise that it will act on any other license or permit request in any way other than in the City's normal and regular course of conduct in accordance with the applicable laws, codes, rules, and regulations.

14. Local Authority. This Agreement does not waive, limit, control, govern or in any way describe the legal authority of any Municipal board, commission, committee, officer or official to regulate, authorize, restrict, inspect, investigate, enforce against, or issue, deny, suspend or revoke any permit, license or other approval with respect to the Company or the premises on which the Company will operate; nor does it waive, limit, control, govern or in any way describe the legal authority of the New Bedford Police Department to investigate, prevent or take action against any criminal activity with respect to the Company or, the premises on which the Company will operate.

15. On-site Consumption. The Company agrees that, even if permitted by statute or regulation, it will prohibit on-site consumption of marijuana and marijuana-infused products at the Facility except for quality control conducted in accordance to the Company's strict policies and procedures including employee training, testing protocols, dosage requirements and diversion prevention.

16. Security. The Company shall maintain security at the Facility in accordance with a security plan approved by the CCC and the City. In addition, the Company shall comply with MA Law and Local Law regarding security of the Facility. At a minimum, the Company shall:

- i. Provide a security plan to be reviewed and approved by the Chief of Police annually. The Company shall present all proposed amendments to the security plan to the Chief of Police for prior approval.
- ii. Engage in periodic meetings with the Police Department to review operational concerns or other issues and shall promptly report the discovery of the following to City police within twenty-four (24) hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, distribution, and delivery of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security.
- iii. Site interior and exterior security cameras in coordination with the Police Department and provide unimpeded access to all security camera feeds to the Police Department.
- iv. Comply with all the CCC's requirements regarding Criminal Offender Record Information (CORI) review for any new manager hired and the Police Chief shall review and approve, within thirty days of receiving said CORI report, whether the individual is suitable to hold the position, such approval not to be unreasonably denied, conditioned, or delayed.
- v. Refuse to complete a transaction to any customer if the customer appears to be under the influence of drugs or alcohol.
- vi. Verify the legal age of all customer using a government-issued identification prior to the customer being admitted into the facility and again prior to the completion of a transaction. Company must utilize electronic identification verification measures when possible.

17. Governing Law. This Agreement shall be governed and construed and enforced in accordance with the currently applicable laws of the Commonwealth of Massachusetts, without regard to the principals of conflicts of law thereof. The parties hereto expressly understand and agree that said law may change and place each party in a different financial position and have chosen to enter into this Agreement taking such possible change into account. The Parties expressly waive any defense to enforcement based upon nonconformance with federal law regarding the illegality of marijuana.

18. Amendments/Waiver. Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all Parties, prior to the effective date of the amendment.

19. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby with the exception of any term or condition regarding payment; provided that in the event that any term or condition regarding the payment of fees or annual charitable contributions shall be held invalid, illegal or unenforceable by a court of competent jurisdiction or the Cannabis Control Commission, this Agreement shall cease. To the extent the validity of this Agreement is challenged by the Company in a court of competent jurisdiction, and the validity of this Agreement is upheld, the Company shall be required to pay for any fees and costs incurred by the City in enforcing this Agreement.

20. Successors/Assigns. This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives. The City shall not assign or transfer any interest or obligations in this Agreement without the prior written consent of the Company, which shall not be unreasonably delayed, conditioned, or withheld. The Company shall not assign or transfer any interest or obligation in this Agreement without the prior written consent of the City, which shall not be unreasonably delayed, conditioned, or withheld.

Events deemed an assignment include, without limitation: final and adjudicated bankruptcy whether voluntary or involuntary; takeover or merger by or with any other entity; outright sale of assets and equity, majority stock sale to another organization or entity for which the Company does not maintain a controlling equity interest; or any other change in ownership; and/or any other assignment not approved in advance in writing by the City.

21. Entire Agreement. This Agreement constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto.

22. Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the City:

City of New Bedford
Office of City Solicitor
133 William Street
New Bedford, MA 02740

To the Company:

Tree Beard Inc.
Attn: Nicholas A. Gomes, Esquire
319A Union Street
New Bedford, MA 02740

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if next business day delivery is required, or (c) upon the date personal delivery is made before 1:00p.m..

23. **No Joint Venture.** The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the City, or the City and any other successor, affiliate or corporate entity, as joint ventures or partners with the Company.

24. **Indemnification.** Upon the Effective Date, the Company shall defend, indemnify, and hold harmless the City, its officers, employees, and agents ("Indemnified Parties") against any claims, actions, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits against or involving the Indemnified Parties, including reasonable attorneys' fees, reasonable experts' fees, and associated court costs ("Liabilities") that arise from or relate in any way to the Company's violation of this Agreement and/or any Massachusetts law or regulation governing medical marijuana and/or non-medical marijuana. This indemnification shall survive the termination or expiration of this Agreement for a period equal to the applicable statute of limitations period. If any action or proceeding is brought against the City arising out of any occurrence described in this section, upon notice from the City, the Company shall, at its expense, defend such action or proceeding using legal counsel approved by the City, provided that no such action or proceeding shall be settled without the approval of the City.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Host Community Agreement on the date set forth above.

FOR CITY OF NEW BEDFORD:

Signature

Jonathan Mitchell
Mayor of New Bedford

Date

FOR TREE BEARD INC:

Nicholas A. Gomes
Signature

Nicholas A. Gomes, Esquire
Chief Legal Officer (duly authorized)

9/4/2019
Date



Item Title:

REPORT - METRO HARVEST, INC. - HOST COMMUNITY AGREEMENT

Item Detail:

10. REPORT, Special Committee on Cannabis Regulation and Host Community Agreements Review, recommending to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Metro Harvest, Inc., to operate a recreational marijuana dispensary at 606 Tarkiln Hill Road, New Bedford, MA 02745.

10a. HOST COMMUNITY AGREEMENT,

Additional Information:

ATTACHMENTS:

Description	Type
REPORT, SPECIAL COMMITTEE ON CANNABIS & HCA	Cover Memo
HOST COMMUNITY AGREEMENT	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Special Committee on Cannabis Regulation and Host Community Agreements Review at a Meeting held on Monday, September 23, 2019, considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting a copy of a Host Community Agreement with Metro Harvest, Inc.; the company is currently seeking a license from the Marijuana Cannabis Control Commission to operate a recreational marijuana dispensary at 606 Tarkiln Hill Road, under the agreement substantial benefits will be provided to the City and to the residents of New Bedford (Ref'd 9/12/19) and a HOST COMMUNITY AGREEMENT, Metro Harvest, Inc., to operate a recreational marijuana dispensary at 606 Tarkiln Hill Road, New Bedford, MA 02745 (Ref'd 9/12/19).

On motion by Councillor Giesta and seconded by Councillor Dunn, the Committee VOTED: To recommend to the City Council APPROVAL of the HOST COMMUNITY AGREEMENT, Metro Harvest, Inc., to operate a recreational marijuana dispensary at 606 Tarkiln Hill Road, New Bedford, MA 02745. This motion passed on a Roll Call Vote of Yeas 7, Nays 3, with Councillors Coelho, Gomes and Rebeiro opposed.

IN SPECIAL COMMITTEE ON CANNABIS
REGULATION AND HOST COMMUNITY
AGREEMENTS REVIEW

A handwritten signature in cursive script that reads "Ian Abreu".

Councillor Ian Abreu, Chairman

IA: at

CITY OF NEW BEDFORD

METRO HARVEST, INC. HOST COMMUNITY AGREEMENT FOR THE SITING OF A RECREATIONAL MARIJUANA RETAILER IN THE CITY OF NEW BEDFORD

This Host Community Agreement (the “**Agreement**”) is entered into this 4th day of September, 2019 (the “**Effective Date**”) by and between the City of New Bedford, a Massachusetts municipal corporation acting by and through its Mayor, with a business address of 133 William Street, New Bedford, MA 02740 (the “**City**”) and Metro Harvest, Inc., a Massachusetts limited liability company with a business address of 292 Bedford Street, Bridgewater, MA 02324 (the “**Company**”) (City and Company each a “**Party**” and collectively the “**Parties**”).

RECITALS

WHEREAS, the Company desires to locate a Recreational Marijuana Retailer (“**RMR**”) at 606 Tarkiln Hill Road, New Bedford, MA 02745 (the “**Property**” and together with the proposed RMR the “**Facility**”), for the retail sale of recreational marijuana in accordance with the laws of the Commonwealth of Massachusetts (“**MA Law**”) and those of the City (“**Local Law**”);

WHEREAS, the Company desires to provide community impact fee payments to the City pursuant to M.G.L. c. 94G, § 3(d), that shall be reasonably related to the costs imposed upon the City by Company’s operations in the City;

WHEREAS, the Company desires to provide additional payments directly to the community at large to aid in education and treatment programs; and

WHEREAS, the City supports the Company’s intention to operate an RMR at the Facility for the retail sale of recreational marijuana.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the mutual promises set forth below, the parties agree as follows:

AGREEMENT

1. Host Community Payments. If the Company obtains a final license, or its equivalent, for the operation of the Facility from the Cannabis Control Commission (“**CCC**”), and receives all necessary approvals from the City to operate the Facility, then the Company agrees to the following:

a) Pursuant to M.G.L. ch. 94G, § 3(d), and as the same may be amended from time to time, the Company shall pay a fee to the City equal to, but not greater than, Three Percent (3%) of its annual Gross Sales (as defined herein) (the “**RMR Payment**”). The RMR Payment shall be made in two installments as follows: (a) Annually seven (7) months after the anniversary of the Sales Commencement Date (as defined herein) in an amount equal to Three Percent (3%) of the Company’s Gross Sales through the prior six (6) months of

operations, and (b) annually within thirty (30) days of the anniversary of the Sales Commencement Date in an amount equal to Three Percent (3%) of the Company's Gross Sales through the prior six (6) months of operations.

b) Notwithstanding anything herein to the contrary, the Company shall make a one-time payment to the City in the sum of Twenty-five Thousand and 00/100 Dollars (\$25,000.00) upon the Sales Commencement Date (the "**Initial Payment**"), which amount shall be deducted from the first annual RMR Payment described above. If and to the extent that the first RMR Payment due to the City is for an amount less than Twenty-five Thousand and 00/100 Dollars (\$25,000.00), the second RMR Payment due to the City shall be reduced by an amount equal to the difference of Twenty-five Thousand Dollars and 00/100 (\$25,000.00) less the amount due under the first RMR Payment.

c) For the purposes of this Agreement, the term "**Sales Commencement Date**" shall mean the date in which the Company sells Marijuana or Marijuana-infused Product (each as defined in 935 CMR 500.002) to a natural person who is twenty-one (21) years of age or older (a "**Consumer**").

d) For purposes of this Agreement, the term "**Gross Sales**" shall mean the total of all sales of Marijuana or Marijuana-infused Products. Gross Sales shall not include: (a) the amounts of all refunds, credits, allowance and adjustments made to customers; and (b) the amounts of state or local sales tax or similar tax imposed by any governmental authority.

e) The Company shall provide written notice to the City at least thirty (30) days in advance of the anticipated opening date of the Facility, and thereafter shall, within seven (7) days of the Sales Commencement Date, provide written notice to the City setting forth the official Sales Commencement Date.

f) In the event that the Company enters into an HCA with another City in the Commonwealth of Massachusetts that contains financial terms more favorable than the financial term contained in this Agreement, then the Parties agree that this Agreement shall be amended so as to result in its financial terms being equally favorable to the City as those contained in the other City's HCA. The Company represents and warrants to the City that it is not presently under an HCA with another Massachusetts City providing more favorable financial terms.

2. **Term and Termination.** The Term of this Agreement shall be five (5) years from the Effective Date (the "**Term**"). In the event the Company loses or has its license(s), approvals, and/or permits to operate in the City revoked by the CCC or the City, this Agreement shall become null and void and any outstanding RMR Payments shall become due and payable within thirty (30) days of the termination of this Agreement. Prior to the end of the Term, the Parties shall negotiate, in good faith, a successor agreement, including an extension of the Payments called for herein.

3. **Payments.** The Company shall make the payments to the City as set forth in Section 1 of this Agreement.

4. **Failure to Remit Payments.** The Parties acknowledge the Payments are expressly included as “other municipal charges” pursuant to G.L. c. 40, § 57. A City of New Bedford licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of the Company or agent thereof if the Company’s fails to timely pay any RMR Payments.

5. **Acknowledgements.** The City understands and acknowledges that payments due pursuant to this Agreement are contingent upon the Company’s receipt of all state and local approvals required to operate the Facility.

6. **Review.** If under applicable Massachusetts law the terms relating to payment under this Agreement are determined to any extent to be illegal, otherwise invalid, or incapable of being enforced, which unenforceability would materially and adversely affect the economic substance of the transactions contemplated by this Agreement, the City and the Company shall negotiate, in good faith, amendments to this Agreement so as to result in neutral economic impact to the City to the extent permissible by law.

7. **Local Taxes.** At all times during the Term of this Agreement, real estate and personal property taxes owed by the Company shall be due and payable.

8. **Other Payments.** The Company shall pay any and all fees associated with its annual purchases of utility services from all local government agencies.

The Company shall reimburse the City for any and all reasonable and customary consulting costs and fees related to any land use applications concerning the Facility, negotiation of this Agreement, and review concerning the Facility, including planning, engineering, and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility. In no event shall the Company be responsible for reimbursing the City for costs associated with the operating of the City’s offices in their regular and customary course, including, but not limited to wages for City employees.

The Company shall reimburse the City for the actual costs incurred by the City in connection with holding public meetings not held in public buildings and forums not within the City’s regularly scheduled public hearings and meetings, which are solely devoted to discussing the Facility. Such costs shall be limited to advertising costs and consultant attendance at the aforementioned meetings.

The Company acknowledges that time is of the essence with respect to their timely payments of all funds required by this Agreement. If any such payments are not fully made within ten (10) business days of the date written demand has been actually received by the Company, the Company shall be required to pay the City a late payment penalty equal to five percent (5%) of that payment in addition to the required payment.

9. **Annual Charitable/Non-Profit Contributions.** The Company, in addition to any funds otherwise specified herein, agrees to make an annual contribution of \$50,000.00 or 1½ % of the

establishment's gross sales, whichever is greater, in charitable donations per year to New Bedford based organizations that deliver substance abuse prevention and education programs in the City's public-school district. The first \$25,000.00 portion of the payment for the first year of operation shall be paid on the facility's opening date and the remaining balance must be made within 12 months of opening. Company shall submit annual reports to the City indicating payments made under this provision. In any year where the Company reaches gross sales of \$2,500,000.00, the Company shall make an additional charitable contribution of \$50,000.00 and in a year where the Company reaches \$5,000,000.00 in gross sales, the Company shall make an additional charitable contribution of \$100,000.00. Any charitable payment will not reduce the Community Impact Fee amount nor is it considered a payment in response to a community impact.

10. Accounting and Review. The Company shall keep and maintain financial records in accordance with generally accepted accounting principles. Such records shall be available for inspection by the City, upon request, and shall include, but not be limited to, all financial records required in any section of 935 CMR 500.000, and business records, in accordance with 935 CMR 500.105(e), which shall include manual or computerized records of: (1) Assets and liabilities; (2) Monetary transactions; (3) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers; (4) Sales records including the quantity, form, and cost of marijuana products; and (5) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a Marijuana Establishment, including members of the nonprofit corporation, if any (together these shall be referred to as the "**Financial Records**").

Following the closure of the Facility, the Company shall keep all records for at least two (2) years at the Company's expense and in a form and location acceptable to the CCC.

So long as this Agreement is in effect and for a period of two (2) years thereafter, the City shall have the right to examine and audit the Company's Financial Records. Examinations may be made upon not less than thirty (30) days prior written notice from the City and shall occur only during normal business hours at such place where said books and financial records are maintained. The City's examination or audit, as aforesaid, shall be conducted in such manner as to not interfere with Company's normal business activities.

In the event that the Parties disagree as to the accuracy of the certification of the Company's annual sales, the City may conduct an audit of such sales at the expense of the Company. If, after such audit and re-computation, an additional fee or payment is owed to the City, a penalty of ten percent (10%) or five thousand dollars (\$5,000), whichever is greater, not to exceed \$10,000, will be added to the amount due.

11. Community Support and Additional Obligations.

a. Local Vendors – to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to qualified local businesses

and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility.

b. Employment: except for senior management, and to the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company shall use good faith efforts in a legal and non-discriminatory manner to give priority to hire qualified residents of the City as employees of the Facility. Company shall use its best efforts to comply with the New Bedford Works policy, the terms of which are incorporated herein.

c. The Company shall, at least annually, provide the City with copies of all reports submitted to the CCC regarding the Company's operations in the City.

d. The Company will work cooperatively with all necessary municipal departments, boards, commissions, and agencies to ensure that the Company's operations are compliant with the City's codes, rules, and regulations.

e. The Company will comply with the City's non-discrimination ordinance in hiring, transacting business and entering into contracts and to the extent allowed by law, the Company will seek to hire employees and engage in contracts with a preference for diversity and supporting minority and women-owned businesses.

f. The Facility shall be designed, constructed, renovated, or improved to reflect high quality construction standards and seek to improve the general design aesthetic of the neighborhood. The facility shall, at a minimum, reflect the following:

i. Facade Variation: For all development and redevelopment involving new construction, the massing, façades, and roof configuration of a building shall be varied via constructed or two-dimensional means. If a building façade is more than 50 feet in length, it shall include a minimum of 10 feet of variation in the building footprint (set-back or projection in the building wall) for every 50 feet of façade length, and related changes in the roofline in order to reduce the apparent mass of the building.

ii. Building Materials: Use high quality, traditional materials that weather naturally on the exterior of the building to reflect regional building traditions. Alternatively, incorporate low-reflective, neutral, and earth tones to retain the subtle character of the region's traditional materials. In areas not visible from regional roadways or distinctive community districts, use of nontraditional materials, forms, and site designs may be appropriate. In such areas, maintenance of adequate landscape buffers on the subject property shall be required to ensure that the proposed development is screened from view. Metal and vinyl siding are prohibited.

iii. Historic Buildings: For all projects located in historic buildings, design guidelines of the Bedford Landing 40C district shall apply.

iv. Temporary Signage: The only temporary signage allowed shall be banner signage bearing the company logo, no greater than 25 SF, at a designated adults-only City permitted special event and may only remain up for no longer than two days.

v. On-Site Signage: Ground mounted, pylon, internally lit and/or flashing signs shall not be permitted. Wall signs shall be limited in size to be read at a pedestrian scale. The size and color of all signs shall be in scale and compatible with the surrounding buildings and street. When more than one sign is used, the graphics shall be coordinated to present a unified image. All signage shall, at a minimum, be subject to requirements of New Bedford Code of Ordinances S. 3200 and Cannabis Control Commission. In the event of any conflict between said requirements and this Agreement, the more restrictive requirement shall prevail. Logos shall be tasteful and ambiguous in nature. All proposed signage (Wall, ground, blade, or otherwise) is subject to administrative approval by the Planning department.

vi. Off-Premises Signage: The Company agrees that neither it nor its agents will erect, place or otherwise establish any off-premises sign, other than the temporary signage permitted herein.

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viii. Site Landscaping: Use substantial landscape buffers to screen new development. Loading areas should be sited outside primary visual corridors or shielded from view by separate structures, projecting building wings, or distinctive landscaping and fencing. Outdoor storage of any kind is prohibited.

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Group as a baseline but every effort shall be made to make the assessment as site specific as possible with no greater a radius than one mile of the site. The HIA must include at least two community meetings regarding the proposed operation with notice to the neighborhood and conducted in a City location as close as possible to the proposed site. The Company must make every effort to incorporate the recommendations of the Board of Health in the operations plan for the Facility.

13. **Support.** The City agrees to submit to the CCC all documentation and information required by the CCC from the City for the Company to obtain approval to operate. The City agrees to support Company's application(s) with the CCC but makes no representation or promise that it will act on any other license or permit request in any way other than by the City's normal and regular course of conduct and in accordance with their codes, rules, and regulations and any statutory guidelines governing them.

14. **Local Authority.** This Agreement does not waive, limit, control, govern or in any way describe the legal authority of any municipal board, commission, committee, officer or official to regulate, authorize, restrict, inspect, investigate, enforce against, or issue, deny, suspend or revoke any permit, license or other approval with respect to the Company or the premises on which the Company will operate; nor does it waive, limit, control, govern or in any way describe the legal authority of the New Bedford Police Department to investigate, prevent or take action against any criminal activity with respect to the Company or, the premises on which the Company will operate.

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16. **Security.** The Company shall maintain security at the Facility in accordance with a security plan approved by the CCC and the City. In addition, the Company shall comply with MA Law and Local Law regarding security of the Facility. At a minimum, the Company shall:

- i. Provide a security plan to be reviewed and approved by the Chief of Police initially and anytime there is a substantive change thereto.
- ii. Engage in periodic meetings with the Police Department to review operational concerns or other issues.
- iii. Promptly report the discovery of the following to City police within twenty-four (24) hours: diversion of marijuana; unusual discrepancies identified during inventory, theft, loss and any criminal action; unusual discrepancy in weight or inventory during transportation; any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport; any suspicious act involving the sale, distribution, and delivery of marijuana by any person; unauthorized destruction of marijuana; any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents; an alarm activation or other event that requires response by public

safety personnel; failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and any other breach of security

iv. Site interior and exterior security cameras in coordination with the Police Department, subject to final approval by the CCC, and provide access to all security camera feeds to the Police Department.

iv. Comply with all the CCC's requirements regarding Criminal Offender Record Information (CORI) review for any new manager hired and the Police Chief shall review, within thirty days of receiving said CORI report, and provide recommendations as to whether the individual is suitable to hold the position.

v. Refuse to complete a transaction to any customer if the customer reasonably believes to be under the influence of drugs or alcohol.

vi. Verify the legal age of all customer using a government-issued identification prior to the customer being admitted into the facility and again prior to the completion of a transaction. Company must utilize electronic identification verification measures when possible.

17. Governing Law. This Agreement shall be governed and construed and enforced in accordance with the currently applicable laws of the Commonwealth of Massachusetts, without regard to the principals of conflicts of law thereof. The Parties expressly waive any defense to enforcement of this Agreement based upon nonconformance with federal law regarding the illegality of marijuana.

18. Amendments/Waiver. Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by all Parties prior to the effective date of the amendment.

19. Severability. The Company agrees not to contest any term or condition of this Agreement, however, if any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby with the exception of any term or condition regarding payment; provided that in the event any term or condition regarding payment of fees or annual charitable contributions shall be held invalid, illegal or unenforceable by a court of competent jurisdiction or the Cannabis Control Commission, said payment, fees or charitable contribution shall be made a part of the Company's Positive Impact Plan undertaken and submitted in connection with its license from the Cannabis Control Commission. To the extent the validity of this Agreement is challenged by the Company in a court of competent jurisdiction, and the validity of this Agreement is upheld, the Company shall be required to pay for any fees and costs incurred by the City in enforcing this Agreement.

20. Successors/Assigns. This Agreement is binding upon the Parties hereto, their successors, assigns and legal representatives. The City shall not assign or transfer any interest or obligations in this Agreement without the prior written consent of the Company, which shall not be unreasonably delayed, conditioned, or withheld. The Company shall not assign or transfer any interest or obligation in this Agreement without the prior written consent of the City, which shall not be unreasonably delayed, conditioned, or withheld; provided however, such consent shall not be required in the event such transfer or assignment is between the Operator and another entity which is authorized by the CCC or other authorizing entity to operate the Facility, or if such assignment or transfer is the result of: (i) an affiliate entity of the Company; or (ii) an entity which controls, is controlled by, or is under the common control of the Company; or (iii) to an entity into or with which Company may be merged or consolidated or by which it is acquired.

21. Entire Agreement. This Agreement constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the Parties hereto. This Agreement may be signed in multiple counterparts.

22. Notices. Except as otherwise provided herein, any notices given under this Agreement shall be addressed as follows:

To the City:

City of New Bedford
Office of City Solicitor
133 William Street
New Bedford, MA 02740

To the Company:

Metro Harvest, Inc.
Attn: Steve LaBelle
292 Bedford Street, Bridgewater, MA 02324

Notice shall be deemed given (a) two (2) business days after the date when it is deposited with the U.S. Post Office, if sent by first class or certified mail, (b) one (1) business day after the date when it is deposited with an overnight courier, if sent by overnight delivery, or (c) upon the date personal delivery is made and accepted.

23. No Joint Venture. The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the City, or the City and any other successor, affiliate or corporate entity, as joint ventures or partners with the Company.

24. Indemnification. Upon the Effective Date, the Company shall defend, indemnify, and hold harmless the City, its officers, employees, and agents (“**Indemnified Parties**”) against any claims, actions, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits against or involving the Indemnified Parties, including reasonable attorneys’ fees, reasonable experts’ fees, and associated court costs (“**Liabilities**”) that arise from or relate in any way to the Company’s violation of this Agreement and/or any Massachusetts law or regulation governing medical marijuana and/or non-medical marijuana. This indemnification shall survive the termination or expiration of this Agreement for a period equal to the applicable statute of limitations period. If any action or proceeding is brought against the City arising out of any occurrence described in this section, upon notice from the City, the Company shall, at its expense, defend such action or proceeding using legal counsel approved by the City, provided that no such action or proceeding shall be settled without the approval of the City.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Host Community Agreement on the date set forth above.

FOR CITY OF NEW BEDFORD:

METRO HARVEST, INC:

Signature

Signature

Jonathan Mitchell, Mayor

Print Name

Date

Date

S. LaBelle

Steve LaBelle

9/4/19



Item Title:

REPORT - PUBLIC SAFETY SUMMIT - NO FURTHER ACTION

Item Detail:

11. REPORT, Committee on Public Safety & Neighborhoods, recommending to the City Council to take **“NO FURTHER ACTION”** on the WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford’s law-enforcement with Federal monies for equipment and public safety personnel.

11a. WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford’s law-enforcement with Federal monies for equipment and public safety personnel. (Referred to the Committee on Public Safety and Neighborhoods – September 14, 2017.)

Additional Information:

ATTACHMENTS:

Description	Type
 REPORT, COMMITTEE ON PUBLIC SAFETY & NEIGHBORHOODS	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Public Safety & Neighborhoods at a Meeting held on Wednesday, September 18, 2019 considered a WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford's law-enforcement with Federal monies for equipment and public safety personnel. (To be Referred to the Committee on Public Safety and Neighborhoods, and requesting that Rule 40 be Waived.) (Ref'd 9/14/17)

On motion by Councillor Giesta and seconded by Councillor Coelho, the Committee VOTED: To recommend to the City Council to take "No Further Action" on the WRITTEN MOTION, Councillor Gomes, notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford's law-enforcement with Federal monies for equipment and public safety personnel.

IN COMMITTEE ON PUBLIC SAFETY &
NEIGHBORHOODS

Councillor Brian K. Gomes, Chairman

BKG: dmb



CITY OF NEW BEDFORD

CITY COUNCIL

September 14, 2017

WRITTEN MOTION

Notifying the City Council that this Councillor is suspending a call at this time for a public safety summit, due to the lack of support from the Administration, ~~the Committee on Public Safety and Neighborhoods' Chairwoman~~, along with others that feel at this time the City is a safe place to live, work, raise a family and have a business; and further, requesting that the Administration and the Police Chief provide the City Council with documentation that agencies such as the FBI, State Police, Homeland Security and any other Federal or State public safety agencies located in New Bedford are working with our public safety officials to combat gang violence, illegal guns and drug dealers on a Federal level to collectively bring safety to the entire City with a zero tolerance approach; and furthermore, that letters be sent to Third District Court Judges requesting that they take every initiative under the law to protect the people of this City from the criminal elements, and that they be prosecuted to the full extent of the law sending a clear message to offenders that the court will not tolerate criminal activity or threats to life and property in the City and Region, also that our State and Federal Delegation be sent letters asking what is being done on the State and Federal level to assist the City of New Bedford's law-enforcement with Federal monies for equipment and public safety personnel. (To be Referred to the Committee on Public Safety and Neighborhoods, and requesting that Rule 40 be Waived.)

Brian K. Gomes, Councillor at Large



Item Title:

REPORT - GROUP IV RETIREMENT BENEFITS - NO FURTHER ACTION

Item Detail:

12. REPORT, Committee on Finance, recommending to the City Council to take "No Further Action" on the COMMUNICATION, Councillor Morad, submitting a letter from Members of the City of New Bedford's EMS Department, regarding Group IV Retirement Benefits.

12a. COMMUNICATION, Councillor Morad, submitting a letter from Members of the City of New Bedford's EMS Department, regarding Group IV Retirement Benefits. (Referred to the Committee on Finance – October 26, 2017.)

Additional Information:



Item Title:

REPORT - PLANNING DEPT TRANSFER - NO FURTHER ACTION

Item Detail:

13. REPORT, Committee on Finance, recommending to the City Council to take **“NO FURTHER ACTION”** on a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES.

13a. COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES.

13b. AN ORDER, (Referred to the Committee on Finance – March 28, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
❑ REPORT, COMMITTEE ON FINANCE,	Cover Memo
❑ COMMUNICATION	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Finance at a Meeting held on Wednesday, September 18, 2019, considered a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES. (Ref'd 3/28/19)

On motion by Councillor Morad and seconded by Councillor Giesta, the Committee VOTED: To recommend to the City Council to take "No Further Action" on a COMMUNICATION, Mayor Mitchell, to City Council, submitting AN ORDER for the TRANSFER of \$20,000.00 from PLANNING, SALARIES & WAGES, to PLANNING, CHARGES & SERVICES. This motion passed on a voice vote.

IN COMMITTEE ON FINANCE

A handwritten signature in dark ink, reading "Joseph P. Lopes".

Councillor Joseph P. Lopes, Chairman

JPL: dmb



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

March 21, 2019

City Council President Linda M. Morad and
Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Morad and Honorable Members of the City Council:

I am submitting for your approval an ORDER that the sum of **TWENTY THOUSAND DOLLARS (\$20,000)** now standing to the credit of the account from **PLANNING SALARIES AND WAGES** be and the same is hereby transferred and appropriated to as follows:

PLANNING CHARGES AND SERVICES..... \$20,000

To be certified and approved by the Department Head

Sincerely,

Jon Mitchell
Mayor



CITY OF NEW BEDFORD

CITY COUNCIL

March 28, 2019

ORDERED: That the sum of **TWENTY THOUSAND DOLLARS (\$20,000)** now standing to the credit of the account from **PLANNING SALARIES AND WAGES** be and the same is hereby transferred and appropriated to as follows:

PLANNING CHARGES AND SERVICES..... \$20,000

To be certified and approved by the Department Head



City of New Bedford

Department of Planning, Housing & Community Development

133 William Street · Room 303 · New Bedford, Massachusetts 02740

Telephone: (508) 979.1488 · Facsimile: (508) 979.1576

MAYOR
JON MITCHELL

DPHCD DIRECTOR
PATRICK J. SULLIVAN

TO: Ari Sky, Chief Financial Officer

From: Tabitha Harkin, City Planner

Date: March 11, 2019

Subject: Transfer from Vacancy savings to Consultant Contracts

I am requesting the transfer of \$20,000 from Vacancy Savings under Salaries and Wages to Consultant Contracts (520300). This surplus is the result of savings gained from a position vacancy in the department. The funds will be reallocated to assist with zoning ordinance changes to enable new development and increased tax base.



Item Title:

REPORT - CONSOLIDATED/CLOSED STATIONS - NEW SOUTH PUBLIC SAFETY CENTER -
NO FURTHER ACTION

Item Detail:

14. REPORT, Committee on Finance, recommending to the City Council to take **“NO FURTHER ACTION”** on a RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center.

14a. RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center. (Referred to the Committee on Finance – March 28, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
REPORT, COMMITTEE ON FINANCE,	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Finance at a Meeting held on Wednesday, September 18, 2019, considered a RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center. (Ref'd 3/28/19)

On motion by Councillor Morad and seconded by Councillor Giesta, the Committee VOTED: To recommend to the City Council to take "No Further Action" on a RELATED MOTION, Councillor Rebeiro, requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center. This motion passed on a voice vote.

IN COMMITTEE ON FINANCE

A handwritten signature in dark ink, reading "Joseph P. Lopes".

Councillor Joseph P. Lopes, Chairman

JPL: dmb



CITY OF NEW BEDFORD

CITY COUNCIL

March 28, 2019

RELATED MOTION

Requesting, that a member of the Administration appear before the Committee on Finance to determine which stations will be consolidated/closed due to the construction of the new South Public Safety Center.

Dana Rebeiro, Councillor Ward Four



Item Title:

REPORT - FRIENDS OF HAZELWOOD PARK - COMMUNITY PRESERVATION ACT
FUNDING - NO FURTHER ACTION

Item Detail:

15. REPORT, Committee on Finance, recommending to the City Council to take **“NO FURTHER ACTION”** on a COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding.

15a. COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding. (Referred to the Committee on Finance – April 11, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
 REPORT, COMMITTEE ON FINANCE,	Cover Memo



City of New Bedford
IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on Finance at a Meeting held on Wednesday, September 18, 2019, considered a COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding. (Ref'd 4/11/19)

On motion by Councillor Morad and seconded by Councillor Giesta, the Committee VOTED: To recommend to the City Council to take "No Further Action" on a COMMUNICATION, Council President Morad, submitting an email from the Friends of Hazelwood Park, regarding their upcoming request for Community Preservation Act funding. This motion passed on a voice vote.

IN COMMITTEE ON FINANCE

A handwritten signature in cursive script, reading "Joseph P. Lopes".

Councillor Joseph P. Lopes, Chairman

JPL: dmb

FRIENDS OF HAZELWOOD PARK, INC.

553 Brock Ave. New Bedford, MA 02744

Dear Council President,

The dedicated volunteers of Friends of Hazelwood Park, Inc. are committed to the long-term preservation of the park grounds and historical facilities that serve the residents of our greater New Bedford region. The unique character of Hazelwood including the multiple historic buildings, bowling-on-the-green pitches, heritage orchard, and ocean vista, make our efforts important to maintaining the quality of life for all who enjoy time in the park.

Hazelwood currently serves multiple user groups including active lifestyle exercisers, dog walkers, family outings for children at play, NB Parks & Recreation activities, and bowling-on-the-green programming conducted by Youth Opportunities Unlimited (Y.O.U.). We witness year-round activity and wish to improve upon the standard of living for our visitors; to improve upon this success, we ask for your support.

As you are aware, a portion of the current Community Preservation Act funds has been designated for the restoration of the historic bowling pitches, with significant leverage from a 2 to 1 anonymous matching grant (in addition to a \$50,000 grant already received by the NB Parks & Recreation Dept. restricted to the cost of this project).

The Friends of Hazelwood Park team already has received expressed interest for the use of the greens from the Veterans Transition House, NB Parks & Recreation Dept., Council of Aging, Community Boating Center, Youth Opportunities Unlimited, Bowls USA, and the Marion Mallet Club, all of whom recognize the potential to expose their respective constituents to the accessible, unrestrictive equal-opportunity physical play that bowling-on-the-green provides. Despite age, gender, socio-economic background or physical ability, bowling-on-the-green is one of the only sports that enables all folks to play simultaneously as the game requires only a keen eye and finely tuned sense of touch to roll their 'wood' to a precise destination in a fun and challenging competition! In addition to this exciting focus, we are in the midst of preparing a marketing appeal to city residents highlighting the benefits of spending time in Hazelwood and to encourage their involvement in this centuries old sport.

With your support, our team is prepared to serve our constituents in the long term vision to maintain and improve upon the aesthetic, programming, and historical precedent that make Hazelwood Park the asset so many people recognize. We appreciate your consideration and cooperation now and in the future as we together strengthen the fabric of community in New Bedford.

Best regards,

Chancery Perks, President - Friends of Hazelwood Park, Inc.



Item Title:

REPORT - STATUS/OPERATION REGIONAL AIRPORT - NO FURTHER ACTION

Item Detail:

16. REPORT, Special Committee on the Airport, recommending to the City Council to take **NO FURTHER ACTION** on the WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport.

16a. WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport. (Referred to the Special Committee on the Airport – April 25, 2019.)

Additional Information:

ATTACHMENTS:

Description	Type
 REPORT, SPECIAL COMMITTEE ON THE AIRPORT	Cover Memo



City of New Bedford

IN COMMITTEE

September 26, 2019

The Honorable City Council
133 William Street
New Bedford, MA 02740

Dear Honorable Members of the City Council:

The Committee on The Airport at a Meeting held on Wednesday, September 11, 2019, considered a WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport. (Ref'd 4/25/19)

On motion by Councillor Morad and seconded by Councillor Gomes, the Committee VOTED: To recommend to the City Council to take "No Further Action" on the WRITTEN MOTION, Councillor Markey, requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport. This motion passed on a voice vote.

IN COMMITTEE ON THE AIRPORT

Councillor William Brad Markey, Chairman

WBM: dmb



CITY OF NEW BEDFORD

CITY COUNCIL

April 25, 2019

WRITTEN MOTION

Requesting, that Airport Director, Scot Servis be invited to attend a Special Committee on the Airport meeting to update the Council on the current status and operation of the New Bedford Regional Airport.

Brad Markey, Councillor Ward One



Item Title:

WRITTEN MOTION - PACHECO SCHOOL - INCREASE POLICE PRESENCE

Item Detail:

17. WRITTEN MOTION, Councillors Dunn and Coelho, requesting, that the City increase the Police presence around the Carlos Pacheco school due to the risk of children being harmed by vehicle traffic during pick up and drop off times, especially on Mt. Pleasant Street and Sawyer Street. (To be Referred to Committee on Public Safety and Neighborhoods).

Additional Information:



Item Title:

WRITTEN MOTION - ONE FILING PER CANDIDATE

Item Detail:

18. WRITTEN MOTION, Councillors Coelho and Rebeiro, requesting that the Committee on Ordinances, invite Election Commissioner Manuel DeBrito, to a meeting to discuss changing the City charter that candidates can only file for one office per Municipal Election.

Additional Information:



Item Title:

WRITTEN MOTION - PROGRAMMING FOR THE YOUTH OF THE CITY

Item Detail:

19. WRITTEN MOTION, Councillor Gomes, requesting that the Committee on Public Safety & Neighborhoods meet with the Boys and Girls Club Director Robert Mendes; Parks, Recreation and Beaches Director Mary Rapoza, and a representative from the Catholic Diocese of Fall River that runs the CYO Kennedy Youth Center to discuss programming for the youth in the City, this request comes on behalf of Community Conversation Come Together In Peace which is sponsored by P.A.C.E. YouthBuild Youth Development Center and many other outreach organizations that come together to discuss solutions and action on behalf of local youth in the south and west end of the City. (To Be Referred to the Committee on Public Safety and Neighborhoods.)

Additional Information:



Item Title:

WRITTEN MOTION - ENFORCING CITY ORDINANCE - TRASH RECEPTACLES AT FAST FOOD & COFFE SHOP ESTABLISHMENTS

Item Detail:

20. WRITTEN MOTION, Councillor Gomes, requesting that the Health Department notify all fast food and coffee shop establishments, that they have 30 days to be in compliance with City Ordinance Chapter 12, Section 12-38: Owners maintain premises free of litter, by providing trash receptacles with slots which should be located before and after the drive thru windows and that this law be enforced by the Health Department, which is the governing body of this Section of the City Code, with all existing and new franchise businesses coming to the City. (To be Referred to the Director of the Health Department for immediate enforcement.)

Additional Information:



Item Title:

DEMOLITION REVIEW - 4208 ACUSHNET AVENUE

Item Detail:

21. COMMUNICATION/DEMOLITION, New Bedford Historical Commission, to City Council, re: BUILDING DEMOLITION REVIEW – 4208 ACUSHNET AVENUE (Map 136/Lot 200) Circa 1912 two story wood framed structure, the original owners and land developers associated with the subject property are a common reflection of the City’s rapidly expanding immigrant population in the early twentieth century to accommodate the textile industry workforce; the building does not embody distinctive characteristics of its type, yet retains general integrity relative to its location, setting, materials and association with the historic development of the northern part of the City in the early 20th century therefore, **in light of these findings, the New Bedford Historical Commission has determined that the building at 4208 Acushnet Avenue is neither an Historically Significant nor a Preferably Preserved Historic Building.**

Additional Information:

ATTACHMENTS:

Description	Type
 DEMOLITION REVIEW,	Cover Memo



PLANNING DIRECTOR
TABITHA HARKIN

CITY OF NEW BEDFORD DEPARTMENT OF CITY PLANNING

133 William Street • Room 303 • New Bedford, MA 02740
508-979-1488 • www.newbedford-ma.gov

HISTORICAL COMMISSION

MEMORANDUM

TO: New Bedford City Council
FROM: New Bedford Historical Commission
DATE: September 16, 2019
RE: **BUILDING DEMOLITION REVIEW**
4208 Acushnet Avenue (Map 136 Lot 200)
Circa 1912 two story wood framed residence

In accordance with the requirements of the New Bedford City Code, Article XI, Section 2-157 Demolition of Buildings, the New Bedford Historical Commission [NBHC] has examined the structure located at the above-captioned site in order to determine its historical significance and whether it is in the public interest to preserve such structures.

The NBHC reviewed the application for demolition at its September 9, 2019 meeting, and hereby forwards its findings and recommendation in this matter to the New Bedford City Council:

- The original owners and land developers associated with the subject property are a common reflection of the city's rapidly expanding immigrant population in the early twentieth century to accommodate the textile industry workforce.
- The building does not embody distinctive characteristics of its type, yet retains general integrity relative to its location, setting, materials and association with the historic development of the northern part of the city in the early 20th century.

In light of these findings, the New Bedford Historical Commission has determined that the building at 4208 Acushnet Avenue is neither an Historically Significant nor a Preferably Preserved Historic Building.

cc. Farland Corp., Inc., Applicant
Joan and Kevin Burgess, Property Owner
Department of Inspectional Service
Mayor's Office

Encl: NBHC Staff Report



CITY OF NEW BEDFORD DEPARTMENT OF CITY PLANNING

133 William Street • Room 303 • New Bedford, Massachusetts 02740
(508) 979-1488 • www.newbedford-ma.gov

STAFF REPORT

NEW BEDFORD HISTORICAL COMMISSION MEETING

September 8, 2019

CASE # 2019.22: DEMOLITION REQUEST

4208 Acushnet Avenue (Map 136 Lot 200)

APPLICANT: Farland Corporation, Inc
401 County Street
New Bedford, MA 02740

OWNER: Joan & Robert Burgess
4208 Acushnet Avenue
New Bedford, MA 02745

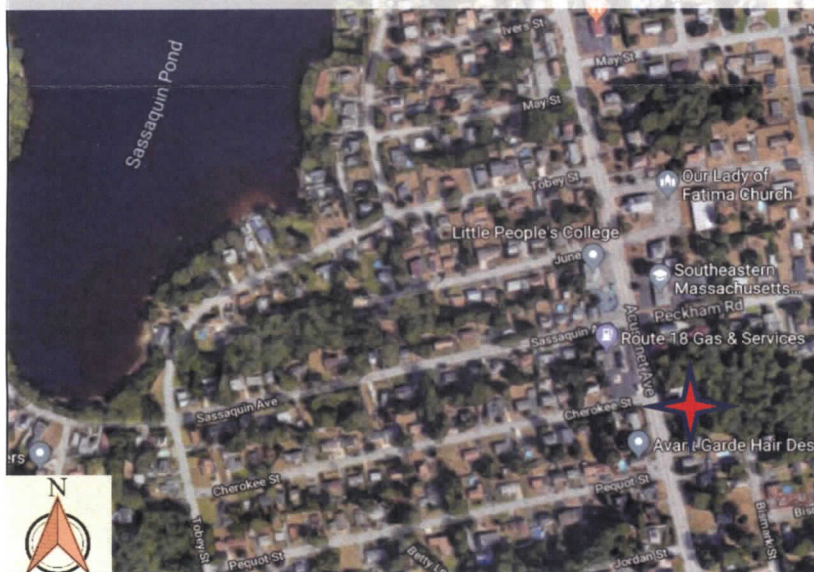


4208 Acushnet Avenue

OVERVIEW: According to the application, the property owner is seeking the demolition of a wood-framed circa 1912 Colonial Revival gambrel style single family residence due to a combination of age and neglect, resulting in the structure becoming dilapidated beyond repair. Citing an outdated electrical system, the potential for lead paint presence, and lack of energy efficiency, the applicant seeks the opportunity to demolish this property to erect a similar sized new single-family structure to reside in.

EXISTING CONDITIONS: The property is located in the northern section of the city on the east side of Acushnet Avenue, just south of Peckham Road and in proximity of Sassaquin Pond. The neighborhood is zoned for residential use and consists primarily of single-family homes and a few small businesses.

4208 ACUSHNET AVENUE LOCUS MAPS



The property is comprised of seven adjacent parcels of land with the house located on parcel #200. **See Parcel Map.** The land parcels are characterized by a mixture of open grass area, mature specimen trees, dense wooded areas and rock

walls. The house is a two-story wood-framed, front facing gambrel constructed circa 1912 with a full-width one story porch and a double- window roof dormer on the south façade. The house is clad with cedar shingles and has painted wood trim. The windows appear to be one over one, wood double-hung sashes with the addition of aluminum track storm windows.

In 1970 a 24' X 40' one and one-half story addition was built on the rear of the original house, more than doubling the square footage of the original house's floor plates. The addition's exterior finishes match the original house. A garage, which was located adjacent and north of the house, was demolished in 1992, and according to building permits, the building's roof was re-shingled with asphalt in 2001.

The building is currently occupied by the Burgess family who purchased the property in 1966. The property has experienced deferred maintenance, with evidence of gutter deterioration leading to water damage affecting the wood building envelope. There are no building code violations or make-safe orders found on record and the building appears to be structurally sound.

HISTORICAL CONTEXT: The subject property is located on the east side of what was then referred to as County Rd, or the road that leads to the Freetown Furnace. It was originally part of Dartmouth, then part of Fairhaven, then Acushnet, and eventually New Bedford. This portion of the city was used for farming throughout the 18th and 19th centuries with large tracts of open fields.

In the 1870's Otis T. Sisson built his suburban estate on the northwest corner of Old County Rd (Acushnet Ave) and Braley Road which eventually developed into the 23-acre Sylvan Grove Vineyard. Sylvan Grove grew into a popular destination resort featuring fishing, dancing, bowling, horseback riding and clambakes.

This area retained its rural character throughout the early twentieth century, until streets were laid out and land was subdivided for housing. A 23-acre parcel of land on the east side of Acushnet Avenue, across from Sylvan Grove, was subdivided in 1900 and named Sylvan Park.



Sylvan Park's parcels facing Acushnet Avenue were divided into 20' widths and Bismark Street was contemplated to the rear. The subject property parcels were transferred several times in the first decade of the 20th century to owners with Eastern European names such as Szleger and Kucharski. In 1911 Eustatis Zavas and Nicholas Chagaruly purchased 18 parcels within the development which are part of the subject property. Zavas and Chagaruly most likely constructed the house at this time, as they appear in the 1914 City Directory residing at 4208 Acushnet Avenue and both employed at the Puritan Confectionary Company, located at 1536 Acushnet Avenue, which is currently the site of Café Mimo.

The significance of the Eastern European surnames of those who purchased house lots within the development and built the subject residence is reflective of the city's rapidly expanding immigrant population in the early twentieth century to accommodate the textile industry workforce.

ARCHITECTURAL SIGNIFICANCE: The residence was constructed as a Colonial Revival with a front facing gambrel roof and a full width front porch. It is a good representative example of the gambrel type of Colonial Revival, however it is not unique or distinctive in its execution and a contemporary addition was constructed to the rear of the original building.

PROPOSED DEVELOPMENT PLANS: The applicant has indicated within the application, and with follow-up inquiries by staff, that a new two-story, single family residence will be constructed in close proximity to the existing building footprint and that the new structure will be code compliant, be clad in vinyl or similar siding, be more energy efficient and compliment the abutting properties.

STATEMENT OF APPLICABLE GUIDELINES: Sec. 2-157. Demolition Delay of Buildings and Structures-Purpose: The purpose of Sections 2-157 through 2-157.9 is preserving and protecting significant buildings and structures within New Bedford, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City and limiting the detrimental effect of demolition on the character of the City. Through Sections 2-157 through 2-157.9, owners of Preferably Preserved Historic Buildings and Structures are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings, and residents of the City are alerted to impending demolitions of significant buildings.

By preserving and protecting significant buildings, structures, streetscapes and neighborhoods, this Ordinance promotes the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes, the New Bedford Historical Commission is authorized to advise the City Council with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this Ordinance.

The provisions of the Demolition Delay Ordinance shall apply only to any building or structure that, in whole or in part, was built seventy-five (75) or more years prior to the date of the application for the demolition permit, and is:

- A building or structure listed or eligible to be listed on the National Register of Historic Places, or within an area listed on the National Register of Historic Places, or on the State Register of Historic Places;
- A building or structure importantly associated with one or more historic persons or events, or with the broad architectural, cultural, economic, political or social history of the city, or;
- A building or structure which is historically or architecturally significant in terms of period style, method of building construction or association with a significant architect or builder either by itself or as a part of a group of buildings, or;
- A building or structure located within one hundred fifty (150) feet of a federal, state or local historic district boundary.

STAFF RECOMMENDATION: The building does not embody distinctive characteristics of its type, yet retains its integrity relative to its location, setting, materials and association with the historic development of the northern part of the city in the early 20th century.

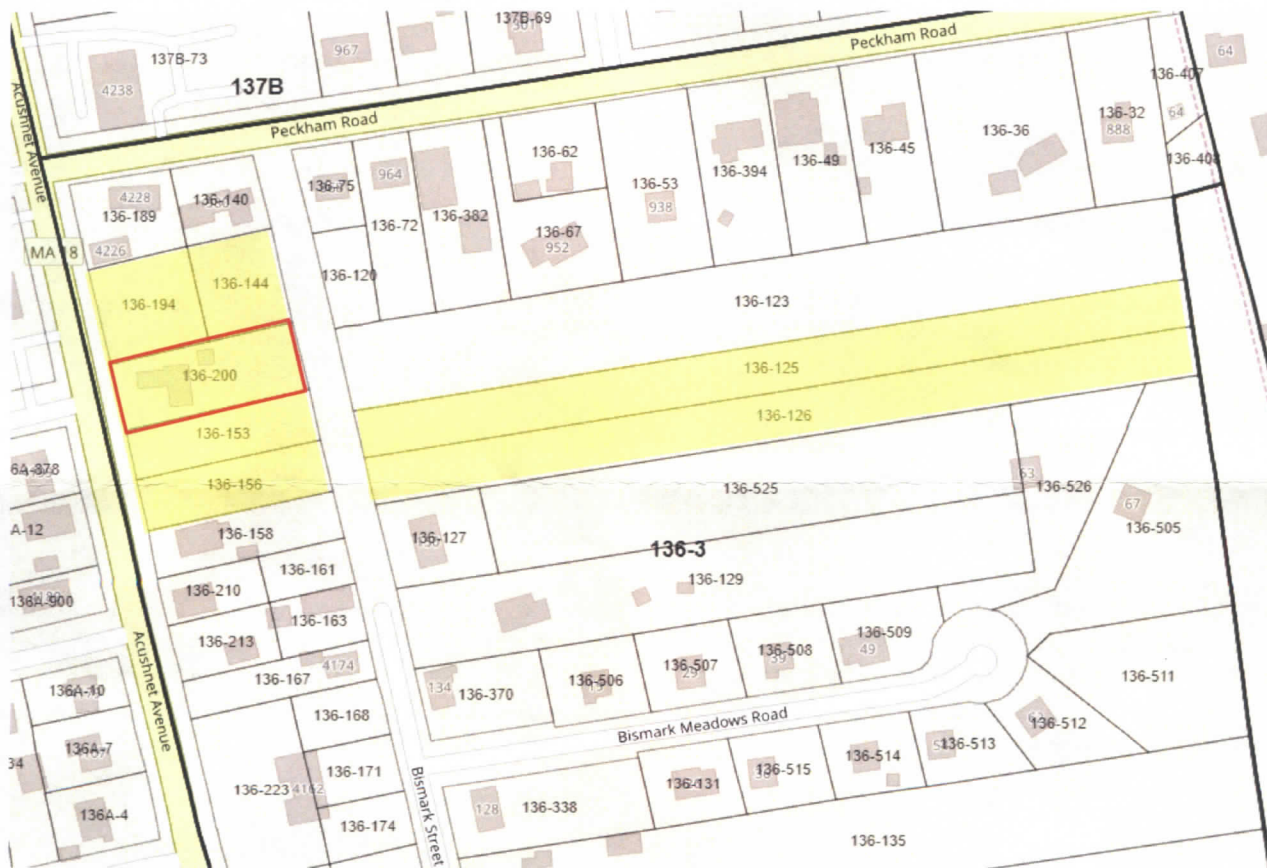
The applicant has stated that a new structure will provide additional space for the property owner's growing family and additionally a new structure will mitigate existing deterioration, outdated mechanical systems, and energy efficiency challenges. The applicant has not stated or demonstrated that the structure is structurally unsound.

A popular phrase attributed to Carl Elefante, Director of Sustainable Design at Quinn Evans Architects in Washington, D.C, is "**the greenest building is the one that is already built.**" The preservation and reuse of historic buildings reduces resource and material consumption, puts less waste in landfills, and consumes less energy than demolishing buildings and constructing new ones.

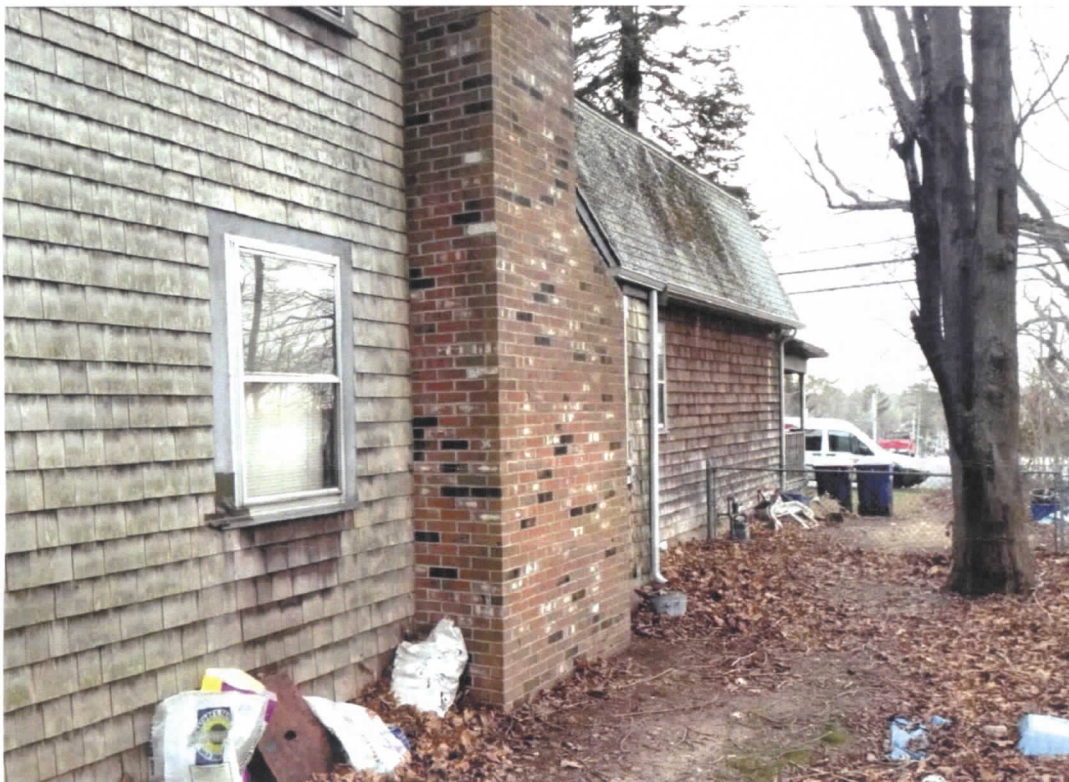
Historic preservation is inherently a sustainable practice and property owners should explore maintenance, repair and restoration prior to considering new construction. Historic buildings can be upgraded with new technologies to maximize energy performance. Historic features such as windows can be repaired and restored for higher efficiency. In addition to saving existing resources and historic character, historic preservation results in environmental, cultural and economic benefits to the community.



4208 Acushnet Avenue southwest façade.



Parcel Map = parcels in common ownership



North façade of building



Southwest façade of building where original structure and addition intersect.



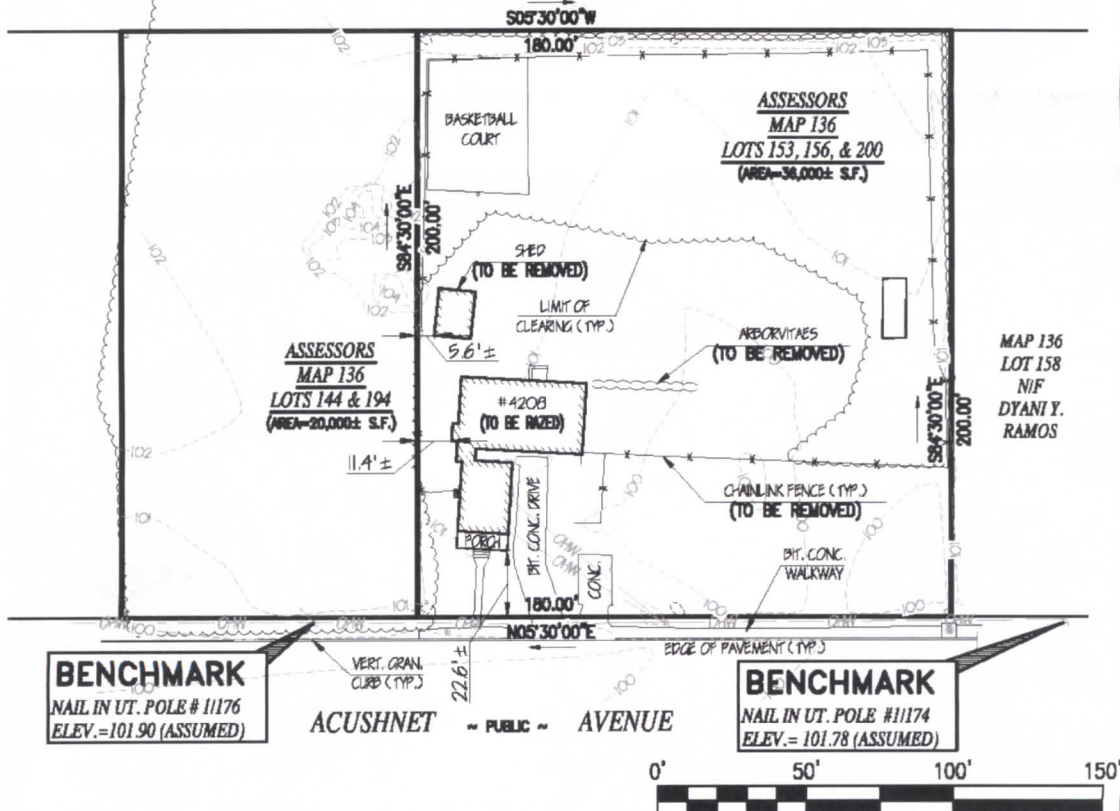
Example of deteriorated exterior envelope.



Rear yard of property.



BISMARK ~ PRIVATE - NOT CONSTRUCTED ~ **STREET**



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DEMOLITION PLAN
4208 ACUSHNET AVE.
ASSESSORS MAP 136 LOT 153, 156 & 200
NEW BEDFORD, MASSACHUSETTS



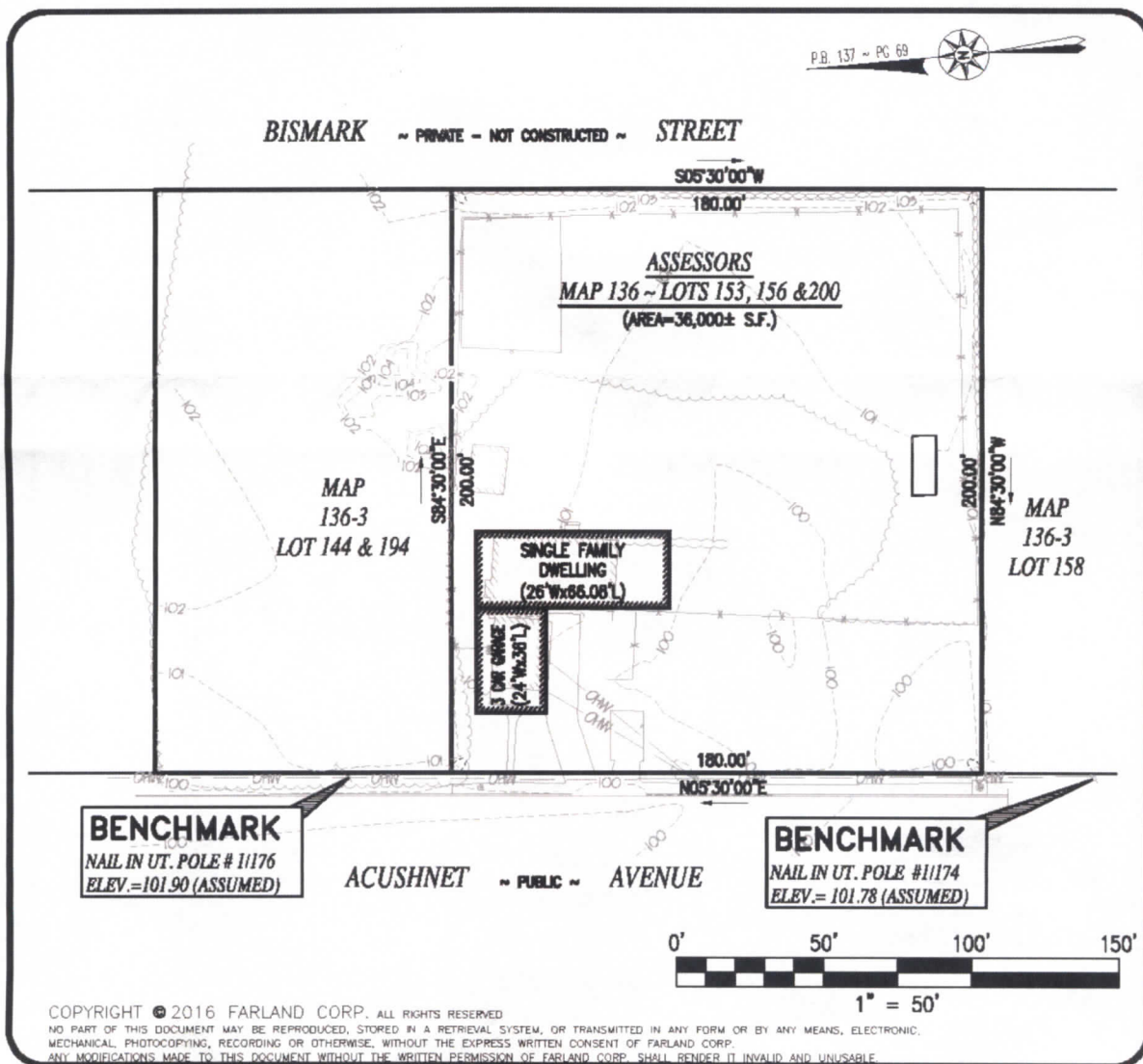
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401 COUNTY STREET
 NEW BEDFORD, MA 02740
 P.508.717.3479
 OFFICES IN:
 •TAUNTON
 •MARLBOROUGH
 •WARWICK, RI

DRAFT

PREPARED FOR:
 KEVIN BURGESS
 4208 ACUSHNET AVE
 NEW BEDFORD, MA 02740

SCALE: 1"=50'
AUGUST 1, 2019
JOB NO: 18-228



<p align="center">PROPOSED PLAN</p> <p align="center">4208 ACUSHNET AVE</p> <p align="center">ASSESSORS MAP 136 LOT 153, 156 & 200</p> <p align="center">NEW BEDFORD, MASSACHUSETTS</p>		<p align="center">DRAFT</p>
	<p>www.FarlandCorp.com</p> <p>401 COUNTY STREET NEW BEDFORD, MA 02740 P.508.717.3479 OFFICES IN:</p> <ul style="list-style-type: none"> •TAUNTON •MARLBOROUGH •WARWICK, RI 	
	<p>PREPARED FOR: KEVIN BURGESS 4208 ACUSHNET AVE NEW BEDFORD, MA 02740</p>	
	<p>SCALE: 1"=50'</p> <p>AUGUST 5, 2019</p> <p>JOB NO: 18-228</p>	



Item Title:

BETHEL TRANSPORTATION - NEW PRIVATE LIVERY LICENSE

Item Detail:

22. COMMUNICATION, City Clerk/Clerk of the City Council, to City Council, on behalf of **Flor D. Pineda, 7 Upton Street, New Bedford, MA 02746 d/b/a BETHEL TRANSPORTATION, 7 Upton Street, New Bedford, MA 02746**, hereby submit a copy of the Application requesting a **NEW PRIVATE LIVERY LICENSE** to carry passengers for hire over the streets of New Bedford. **(This license will expire June 30, 2020.)**

Additional Information:

ATTACHMENTS:

Description	Type
<input type="checkbox"/> NEW PRIVATE LIVERY LICENSE	Cover Memo



DATE: IN CITY COUNCIL, **SEPTEMBER 26, 2019**
TO: HONORABLE MEMBERS OF THE NEW BEDFORD CITY COUNCIL
FROM: CITY CLERK/CLERK OF CITY COUNCIL
SUBJECT: LIVERY LICENSE APPLICATION – **NEW**

The undersigned, on behalf of the Applicant, hereby submits a copy of the Application requesting a Private Livery License, under the provisions of MGL, Chapter 159A, Section 1 and amendments thereto, and MGL, Chapter 270, Section 22 (Smoke Free Workplace Law) and all other laws applicable to such operation, to carry passengers for hire over the streets of New Bedford.

NAME	FLOR D. PINEDA	
BUSINESS NAME	BETHEL TRANSPORTATION	
ADDRESS	7 UPTON STREET	
BUSINESS ADDRESS	7 UPTON STREET	
CITY/STATE/ZIP CODE	NEW BEDFORD, MA 02746	
BUSINESS CITY/STATE/ZIP	NEW BEDFORD, MA 02746	

Please note that the City Clerk's Office has the Original Application on File, as well as additional paperwork necessary to receive the Private Livery License (CORI, DOR TAX, Smoke-Free Info, etc.).
Thank you, in advance, for your attention to this matter.

Sincerely,

Dennis W. Farias,
City Clerk/Clerk of the City Council

DWF:smh



Item Title:

PETITION/INDEMNITY AGREEMENT - CAFE ARPEGGIO - WHEELCHAIR RAMP

Item Detail:

23. PETITION/INDEMNITY AGREEMENT, Ab Koka, Inc d/b/a Café Arpeggio, 800 Purchase Street, New Bedford, MA 02740, to encroach on the City sidewalk with a wheelchair ramp to extend the sidewalk by 11 ft x 5 ft. (Submitted by Councillor Rebeiro.)

23a. AN ORDER,

Additional Information:

ATTACHMENTS:

Description	Type
📎 PETITION/INDEMNITY AGREEMENT	Cover Memo
📎 PLAN - HANDICAP RAMP	Cover Memo

PETITION/INDEMNITY AGREEMENT

The undersigned respectfully petitions the City Council for permission to:

ENCROACH on City Sidewalk for a Wheelchair Ramp
to extend the sidewalk by 11ft x 5ft 800 Purchase St.
(Describe fully what the obstruction is & give dimensions. Give EXACT location of obstruction and specify street(s) involved.)

Ab Koka Inc. (Cafe Arpeggio)
(Name of Property Owner - Petitioner)

800 Purchase Street
(Street Address)

New Bedford, MA 02740
(City or town)

(508) 730-9515
(Telephone Number(s))

UPON THE APPROVAL AND ENTRY of an Order of the City Council granting the above mentioned petition, and in consideration of such approval by the City Council of the City of New Bedford, Massachusetts to: Ab Koka Inc (Cafe Arpeggio) New Bedford
(Name of Indemnitor)
his/its, successors, assigns, administrators and executors, hereby agree(s) to protect, save, and keep the City of New Bedford forever harmless and indemnified against and from any and all loss, cost, damage or expense arising out of or from any accident or other occurrence causing injury to any person or property whomsoever or whatsoever as a result of placing said obstruction on/over the sidewalk as described hereinbefore, with the understanding that said obstruction as described above will not interfere with pedestrian traffic or parking meters, if any, on Purchase Street
(Name of Street(s))
at any time.

Ab Koka Inc. (Cafe Arpeggio) further agrees to obtain, pay for,
(Name of Indemnitor) New Bedford
and keep in force a public liability insurance policy with limits of \$100,000/300,000 for bodily injury per occurrence and \$50,000 for property damage per occurrence, and shall provide the City Clerk with a Certificate of Insurance naming the City of New Bedford as an additional insured party.

IN WITNESS WHEREOF, Albus Koka, has caused his/its
(Name of Indemnitor)
seal to be hereto affixed and these presents to be signed this

17 day of Sept. 2019

Signed and sealed in
the presence of:

Witness

Albus Koka
(Name of Indemnitor)

Owner
Title

THE COMMONWEALTH OF MASSACHUSETTS

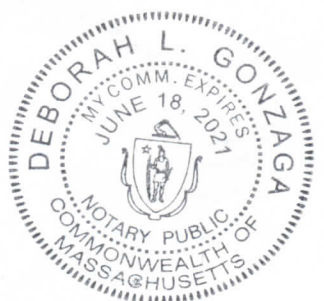
BRISTOL, ss.

Mass.

Then personally appeared the above-named Albus Koka
and acknowledged the foregoing instrument to be his/its free act and deed before me

Wojciech Romanowicz
Department of Inspectional Services

Deborah L. Gonzaga
Notary Public
My Commission Expires: 9-17-19





CITY OF NEW BEDFORD

CITY COUNCIL

September 26, 2019

ORDERED, That permission be granted to **Ab Koka, Inc., d/b/a CAFÉ ARPEGGIO**, 800 Purchase Street, New Bedford, MA 02740 for permission to encroach on the City sidewalk for a wheelchair ramp extending the sidewalk by 11 ft x 5 ft.

BE IT FURTHER ORDERED, That said permission is hereby granted subject to Petition/Indemnity Agreement of **Ab Koka, Inc. d/b/a CAFÉ ARPEGGIO**, to the City of New Bedford, approved by the City Council on September 26, 2019, a copy of which is attached hereto and made a part thereof, and subject to the approval of the Department of Inspectional Services.



HIGHPOINT ENGINEERING, INC.
LAND PLANNING
PERMIT EXPEDITING
CIVIL ENGINEERING
CONSULTING

CANTON CORPORATE PLACE
45 DAN ROAD, SUITE 140
CANTON, MA 02021
www.HighpointEng.com

CAFE ARPEGGIO NEW BEDFORD
HANDICAP RAMP IMPROVEMENTS

800 PURCHASE STREET
NEW BEDFORD, MA 02740

OWNER/APPLICANT: AB KOKA INC

ISSUE DATE:
09/03/2019

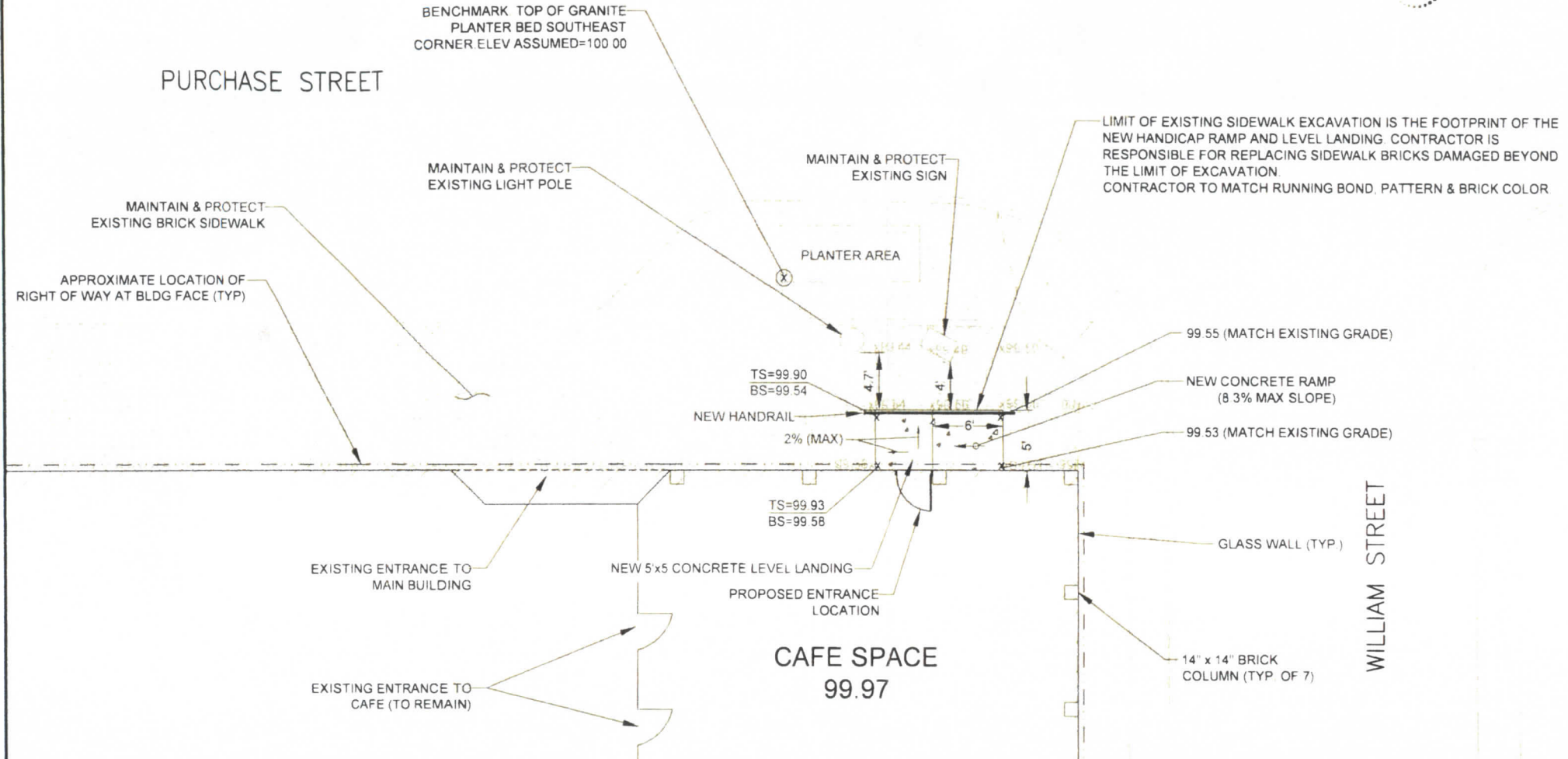
PROJECT NUMBER:
19028

SHEET TITLE:

HANDICAP RAMP
DESIGN PLAN

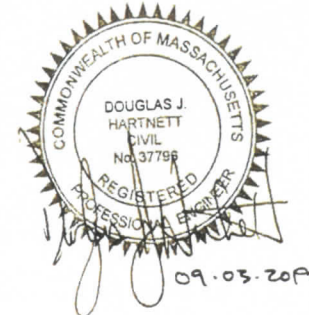
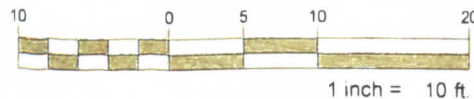
SHEET NUMBER:

C1.0



NOTES

1. EXISTING CONDITIONS SHOWN HEREON FOR 800 PURCHASE STREET, NEW BEDFORD MASSACHUSETTS DIGITIZED FROM AERIAL IMAGERY
2. SPOT GRADES SHOWN AS DETERMINED BY ON THE GROUND TOPOGRAPHIC SURVEY USING EXISTING SURFACE FEATURES TO APPROXIMATE LOCATIONS
3. APPROVAL OF A PETITION TO ENCROACH ON A CITY SIDEWALK WITHIN AN EXISTING RIGHT OF WAY IS REQUIRED FROM THE CITY OF NEW BEDFORD PRIOR TO CONSTRUCTION OF THE HANDICAP RAMP





Item Title:

COMMUNICATION - WAIVER OF RESIDENCY REQUEST

Item Detail:

24. COMMUNICATION, Councillor Lopes, submitting a copy of letter from Carla S. Mourao, Administrative Manager, New Bedford Fire Department to Mayor Mitchell, requesting a Waiver of Residency. (To Received and Placed on File.)

Additional Information:

ATTACHMENTS:

Description	Type
 COMMUNICATION,	Cover Memo

September 18, 2019

Mayor Jonathan Mitchell
City of New Bedford
133 William Street
New Bedford, MA 02740

Dear Mayor Mitchell:

I am writing to formally request a residency waiver to my Unit C agreement. As you are aware, due to a financial hardship, it has become necessary for my husband to purchase a home in Acushnet, MA that he built one year ago with the original homeowner.

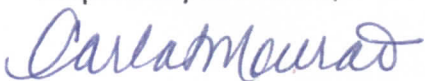
I have been a lifelong City of New Bedford resident and have owned property here since 2005. In 2006, my husband and I once again invested further in the City by purchasing rental property and in 2009, we bought another home - our very first home together in the far north end which is now for sale. In addition, I have worked in this City for 17 years - taking on several part time jobs throughout high school and then securing my first support staff job at GNBR Voc-Tech High School in 1995. From 2002-2015, I served as Headmaster's Secretary at NB High School and then Superintendent's Executive Secretary during an extremely challenging and troubling time at NB Public Schools. In addition, I served as Administrative Assistant to the NB School Committee and ultimately, transferring to NB Fire Department in January 2015 to present.

I have enjoyed giving back to my City and making a difference. I am not only professionally vested in this City; but personally, as well. I am an active member of my childrens' school - serving as the PTO Vice President for the past two terms. I am always looking for ways to help and selflessly giving back - especially to those less fortunate. During the holiday season, I help put baskets together for those in need at NB Public Schools and handle acquiring the donations and picking up the food items. In addition, and probably one of my most satisfying volunteer roles, was being elected as the Playground Chairperson last year to build a playground in memory of K9 Sgt Sean M. Gannon at Campbell School. I am happy to report that after a year of fundraising, the installers have begun putting the pieces together to our beautiful future "park", and this project will soon become a reality. It has been a lot of work but very rewarding.

I have followed and continue to follow the "New Bedford Way" of doing things and nothing will ever change that. If the waiver is granted, I will continue to do good work for this City in all capacities; more specifically, continuing to improve the lives of others. My work is certainly not done here and as a matter of fact - I feel like I am just getting started with community projects and servicing the needs of our residents. it is my hope that you will agree and support my request - for financial reasons- to grant me a residency waiver so that I may continue my employment with the NB Fire Department.

Thank you in advance for your consideration of my request for a residency waiver.

Respectfully submitted,



Carla S. Mourao
Administrative Manager
New Bedford Fire Department



Item Title:

WRITTEN MOTION - CANNABIS CONTROL COMMISSISON

Item Detail:

01/10/2019 WRITTEN MOTION, Councillor Gomes, requesting that the City Council forward a letter of request to the Commonwealth of Massachusetts' Cannabis Commission as to whether the City is following State Law regarding marijuana establishments in the City; and further, enclosed in the letter, please include a copy of the 11-page "Screening Form/Application for a Marijuana Establishment Host Community Agreement", and a copy of the City's zoning map that has been put forth by the Mayor's Review Committee, comprised of the City Solicitor, the City Planner, the Chief of Police, the Chief Financial Officer, the Director of Inspectional Services, the Director of Planning, Housing and Community Development and the City's Health Director; asking that the Cannabis Control Commission review the application and the zoning map and report back to the City Council as to whether this Application process and zoning map applies to the laws of the Commonwealth of Massachusetts' Cannabis Control Commission; and further, that Steven Hoffman, Chairman of the Massachusetts Cannabis Control Commission or a representative, meet with the Special Committee on Licensing and Zoning for Cannabis to discuss whether the City has followed Massachusetts Laws and policies regarding marijuana establishments in the City of New Bedford.

Additional Information:



Item Title:
SPECIAL ACCOMODATIONS

Item Detail:

***In accordance with the Americans with Disabilities Act (ADA),
if any accommodations are needed, please contact the City Council Office at 508-979-1455. Requests
should be made as soon as possible but at least 48 hours prior to the scheduled meeting.***

Additional Information: