BOARD OF SELECTMEN AGENDA
August 6, 2020 – 7:00 P.M.
Sandwich Town Hall at 130 Main Street & Via Remote Participation Software

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, M.G.L. c.30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation of the number of people that may gather in one place, this meeting of the Town of Sandwich Board of Selectmen will be conducted via remote participation to the greatest extent possible. Special information and the general guidelines for remote participation by the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town's website, at www.sandwichmass.org. For this meeting, members of the public who wish to listen and watch the meeting may do so via the Sandwich Community Television website, at www.sandwichcommunitytv.org. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town's website an audio or video recording, transcript, or other comprehensive record of the proceedings as soon as possible after the meeting. Thank you for your consideration and understanding during this unique public health emergency.

1. Convene Open Session
2. Pledge of Allegiance
3. Review & Approval of Minutes
4. Town Manager Report
5. Correspondence / Statements / Announcements / Future Items / Follow-up
6. Request for Entertainment License: 2 Jarves Street, The Seal, Christopher Wilson
7. Request to Extend Existing Entertainment License to Outdoor Seating Area: 290 Route 130 – Sandwich Taverna, Thanos Gossios
8. Old Business
   - FY'21 Budget Update
   - Disposition of Henry T. Wing School, Discuss and Vote Land Development Agreement, Lease with the Cape Cod Collaborative and Waiver of Uniform Relocation Act
   - Discuss/Reconsider School Committee Interim Appointment Process

[Signature]
• Other Matters Not Reasonably Anticipated by the Chairman

9. New Business
   • Execute Conservation Restriction 0 Old County Road & 247 Old County Road
   • Other Matters Not Reasonably Anticipated by the Chairman

10. Public Comment – publiccomment@sandwichmass.org

11. Closing Remarks

12. Adjournment

NEXT MEETING: 08/20/20

[Signature]
Coggeshall, Kathy

From: Christopher Wilson <cwilson@belfryinn.com>
Sent: Tuesday, June 23, 2020 3:31 PM
To: Coggeshall, Kathy
Subject: (EXTERNAL) Beach House Entertainment

We would like to apply for an entertainment license; no larger than 4 piece.

Best regards,

Christopher Wilson, Owner Innkeeper
Belfry Inne & Bistro
6 Jarves Street
P.O. Box 2211
Sandwich, MA 02563

T: 508-888-8550
F: 508-888-3922
cwilson@belfryinn.com
Coggeshall, Kathy

From: Christopher Wilson <cwilson@belfryinn.com>
Sent: Thursday, July 9, 2020 10:09 AM
To: Harper, Heather; Coggeshall, Kathy
Cc: Dunham, George; 'Christopher Kirrane'
Subject: (EXTERNAL) The Seal Entertainment License
Attachments: Entertainment License Seal.pdf

I sent an email requesting an entertainment license for 2 Jarves Street no different than what The Belfry has had in place since 1995. Live music, dancing BY PATRONS ONLY, ORCHESTRA, DJ, SAME HOURS. 8AM TO 12:45AM

Please be advised I have asked Attorney Christopher Kirrane now to get involved.

Best regards,

Christopher Wilson, Owner Innkeeper
Belfry Inne & Bistro
6 Jarves Street
P.O. Box 2211
Sandwich, MA 02563

T:508-888-8550
F: 508-888-3922
cwilson@belfryinn.com
The Licensing Board for the

Sandwich, MA / Forestdale

Name of City or Town

APPLICATION FOR AN ENTERTAINMENT LICENSE (SEVEN DAYS)

The undersigned respectfully applies for an entertainment license as follows:

LOCATION OF PREMISES 290 Rte. 139  CLASS OF LIC. FULL

DESCRIPTION OF PREMISES Family Rest.

RADIO X TELEVISION X JUKEBOX  AMPLIFIERS  PHONO

CABLE TV X WIDESCREEN TV X CASSETTE OPER. TV MOVIES

INSTRUMENTAL MUSIC X No. of Instruments 2

Type of Instruments Acoustic/ What floors MAIN PATIO

VOCAL MUSIC Yes No. of persons 1-2

DANCING BY PATRONS NOT NOW Type of dancing AFTERCovid-19

What floors? MAIN Size of dance floor NON NOW

EXHIBITION OR TRADE SHOW describe

PLAY describe

MOVING PICTURE SHOW describe

FLOOR SHOW describe

ATHLETIC EVENT describe

As part of the above entertainment, will any entertainer, employee or person on the licensed premises be permitted to be unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals?

NO x YES Explain in what manner such person will be presented

Did you hold an entertainment license from the Board pursuant to section 183A of Chapter 140? If yes, was it for the exact same entertainment being requested in this petition? OUTSIDE ENTERTAINMENT

Firm or Trade Name TAGOSSE'S / Sandwich

Business Name Sandwich Tavern

Manager Signature

Date

Form 7 HaW HOBBS & WARREN ™
FY'21 BUDGET

PROJECTED GENERAL FUND REVENUES AND EXPENSES - FY'21

REVENUES

FY'21 Tax Levy:
FY'20 Levy Limit 66,281,547
2.5% Increase 1,657,039
Est. New Growth 500,000
Excess Levy Reserve Est. -3,550,000
Overrides / Exclusions 0
County Assess. Outside 2.5: CCC 190,835
Debt Outside 2.5 (- Non-Levy & MSBA) 2,111,100 67,190,521

Other Revenue:
Mass. School Building Authority Funds 1,279,534
State Aid: Discretionary (-6.30%) 2,250,000
State Ch. 70 Aid: School (0.00%) 7,151,788
Est. Local Receipts 5,000,000
Surplus Revenue / Free Cash 2,640,082
FY'20 Health Insur. to 100 Route 6A 800,000
Overlay Release 50,000
Transfer from Stabilization Fund 0 19,171,404

Total Estimated Revenues 86,361,925

EXPENSES

ReCap Sheet Items:
State Assess: Tuition Assess (10.00%) 4,895,534
State Assess: All Other (3.00%) 633,854
Abatements / Overlay 550,000
FY'20 Snow & Ice Deficit 0 6,079,388

Town Meeting Items:
Group Health Insurance (-2.54%) 11,500,000
County Retirement Assess. (-5.69%) 3,769,883
Property & Liability Insurance (4.17%) 1,250,000
Medicare (4.00%) 676,000
Unemployment Account 100,000
OPEB Trust Fund 25,000
Debt: Long Term - General Fund 3,834,470
Borrowing Expenses 100,000
Reserve Fund 500,000
Capital Budget - Net 326,138
Capital - 100 Route 6A Renovations 1,800,000
Transfer to Stabilization Fund 25,000 23,906,491

Operating Budgets:
School Budget: Local (3.75%) 27,992,918
Ch. 70 (0.00%) 7,151,788 35,144,706

UCCRVTS Budget (-1.21%) 2,135,468
General Gov't. Budget (2.58%) 18,256,108

Total Estimated Expenses 85,522,161

ESTIMATED FY'21 BUDGET BALANCE 839,764

Stabilization Fund & OPEB Trust Fund Balances:

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Commitment to UGA and Chap 70 funding for FY21.

Randy

Randy Hunt, State Representative
5th Barnstable District
297 Quaker Meeting House Road
East Sandwich, MA 02537
(508) 833-4889

Honorable Members,

Chairman Michlewitz has asked me to reach out to you to provide further detail about the tentative agreement on local aid he discussed at yesterday’s caucus. That agreement, which was the result of discussions between the administration and leaders in the House and Senate, was intended to make a funding commitment about both unrestricted local aid and chapter 70 funding that would provide a baseline amount for Fiscal Year 2021 (FY21). The intent of that commitment was to provide a higher level of certainty for municipalities and school districts as they finalize their budgets, and associated staffing plans.

For FY21, the tentative agreement committed to providing, in the final FY21 budget, no less than the FY20 level of funding for unrestricted general government aid (UGGA) and chapter 70 education aid. Additionally, it committed to Chapter 70 increases for inflation and enrollment that would keep all school districts at foundation, using the definition of foundation budget found in the FY20 General Appropriations Act, calculated using updated enrollment and inflation data for FY21. This latter commitment would provide an additional $107M in aid over FY20. The agreement did not include commitments as to minimum aid, charter reimbursement, circuit breaker funding transportation accounts, PILOT payments, or other local aid or education local aid items.

The attached spreadsheet, put together by the Executive Office of Administration and Finance (A&F) for greater context, displays the main sources of funding that would be available to districts at this time through both the
tentative agreement on local aid and the larger distributions of federal funds previously announced by the administration. The fourth column of that sheet shows FY20 Chapter 70, which for most districts becomes the FY21 baseline Chapter 70 funding under the tentative agreement. Under the agreement, no operating district would receive less funding than in FY20. The next column shows, for districts which receive additional funds as a result of increasing the foundation budget by inflation and adjusting for enrollment trends, how much more those districts would receive as baseline Chapter 70. The following column shows the distribution of federal Elementary and Secondary School Emergency Relief (ESSER) grants, using the Title I formula. The seventh column shows the $202M of Coronavirus Relief Funds distributed by the Governor to meet school reopening needs. The final two columns are: a) the total of all previous spending amounts, and b) how much of an increase that total is for each district above FY20 Chapter 70. This is not intended to imply that these distributions of federal funds are a substitute for our statutory and constitutional Chapter 70 commitments, but they do provide important resources to school districts at the opening of the school year while we continue to take stock of the economic and revenue changes wrought by COVID-19. and our capacity to make more expansive investments in education and local aid.

In addition to federal ESSER and CRF funds identified in the spreadsheet, A&F has identified the following smaller sources of funding also made available to districts in recent months:

- $16M for ESSER Discretionary Funds;
- $25M for Remote Learning Technology Grants;
- Up to $15M for Competitive Federal Funds.

Despite the almost unprecedented fiscal climate, the amount of state and federal aid allocated thus far ensures the administration and the legislature, as well as municipalities and school districts, can continue prioritizing significant investments in Massachusetts students.

While the tentative agreement was intended to provide a baseline for school district budgeting, and a clear commitment to maintaining the central promise of Chapter 70 to keep every district at a minimum funding level as defined by the foundation budget, it should not be interpreted as abandoning the key commitments to equity made by the Student Opportunity Act (SOA). We remain committed to full implementation of the SOA Act, and its historic investments in increasing foundation budget assumptions both to more fully reflect actual school district spending, and to more fully meet the educational needs of our most historically under-resourced students. As we work towards finalizing an FY21 budget, we will continue to examine all opportunities to meet that obligation, including any additional federal funds made available to the state. Upon completing that review, we will reexamine our ability to move forward with the SOA, and will use the first available additional dollars, if any, to begin moving forward with the implementation of SOA.

David Bunker
Budget Director
House Committee on Ways and Means
Representative Aaron Michlewitz, Chairman
State House, Room 251
Boston, MA 02133
617-722-2700
David.Bunker@MaHouse.gov
Pronouns: He, Him, His

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit http://www.symanteccloud.com
### Summary of FY21 School Funding

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<th>FY21 C.70 Increase if Inflation Only</th>
<th>ESSER</th>
<th>CVRF School Reopening</th>
<th>Total FY21 C.70 + Direct New Support Dist. by Formula</th>
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Baseline FY21 UGGA and Chapter 70 Information Now Available

Dear Local Official,

I am writing to share that information about Fiscal Year 2021 (FY21) funding for Unrestricted General Government Aid (UGGA) and Chapter 70 education aid is now available on the Division of Local Services website.

While critical information from the federal government is still needed in order to finalize a full fiscal year budget for the Commonwealth, the Baker-Polito Administration and the Legislature are committing to no less than the Fiscal Year 2020 (FY20) level of funding for UGGA and Chapter 70 education aid as a baseline amount for FY21 funding.

The FY21 funding commitment also includes Chapter 70 increases for inflation and enrollment that will keep all school districts at foundation, under the law as it existed for FY20, providing an additional $107 million in aid over FY20. This increase comes in addition to approximately $450 million in new federal supports for K-12 schools to assist with educating students during the pandemic.

Please click here to view the UGGA and Chapter 70 amounts for each municipality. Local officials with related questions can email databank@dor.state.ma.us.

Sincerely,

Michael J. Heffeman
Secretary of Administration and Finance

You are receiving this message through the Massachusetts Department of Revenue's Division of Local Services DLS Alerts system. These periodic notices include our City & Town e-newsletter, IGRAs, Bulletins, Cherry Sheets and other municipal finance-related information. To unsubscribe to DLS Alerts and the City & Town e-newsletter, please email dls_alerts@dor.state.ma.us.
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8/4/2020
AGREEMENT OF LEASE

This AGREEMENT OF LEASE (the “Lease”), made and entered into on this day of ______, 2020, by and between the TOWN OF SANDWICH, a Massachusetts municipal corporation acting by and through its Board of Selectmen (the “Town”), having its offices at Sandwich Town Hall, 130 Main Street, Sandwich, Massachusetts 02563, hereinafter called the LESSOR, and The Cape Cod Collaborative, a public entity created pursuant to G.L. c. 40 s. 4E, having an address of 418 Bumps River Road, Osterville, Massachusetts 02655, hereinafter called the LESSEE.

WHEREAS, the LESSOR, is the owner of real property known as the Henry T. Wing School located at 33 Water Street, Sandwich, Massachusetts (the “Property”), is seeking a LESSEE for a portion of the Property;

WHEREAS, the LESSEE is desirous of leasing a portion of the property for the purpose of operating programs of the Cape Cod Collaborative, and the LESSOR is willing to lease said property to the LESSEE; and

WHEREAS, the parties hereto acknowledge that they enter into this Lease as an intergovernmental agreement exempt from the provisions of G.L. 30B, § 16 pursuant to G.L. c. 30B, § 16 (i).

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the adequacy and sufficiency is hereby acknowledged, the parties hereto agree as follows:

1. PREMISES

1.1: Building: The former school building known as the Henry T. Wing School located at 33 Water Street, Sandwich, Massachusetts.

1.2: Leased Area: Approximately 30,120 square feet of rentable space in the Building as is shown on the drawing attached hereto as Exhibit A (the “Leased Premises”),

1.3: Shared Area: LESSEE shall have the non-exclusive right to use, in common with others, the kitchen, cafeteria and gymnasium within the Building, along with the common spaces, hallways, lavatories and egress areas (the “Common Areas”). The Shared Area is shown on Exhibit A attached hereto.

1.4: Parking: The LESSEE shall have the exclusive use of the parking area on the Property in the areas shown on the drawing attached hereto as Exhibit B (the “Parking Area”).

1.5 Premises: The Leased Premises, the Common Areas, the Shared Areas, the Parking Area, and the grounds appurtenant thereto shall hereafter be referred to as the “Premises”.

2. TERM
2.1: The term of this Lease shall be for an initial term commencing July 1, 2020 (the "Commencement Date") and ending on June 30, 2021 (the "Initial Term"). The Initial Term may be extended until December 31, 2021, at the option of the LESSEE. If the LESSEE wishes to exercise its option to extend the Initial Term of the Lease it must deliver written notice to the LESSOR no later than one hundred (120) days prior to the expiration of the Initial Term.

2.2: The LESSEE may, with proper written notice, voluntarily terminate this Lease at the end of the Initial Term, without penalty or further obligation to LESSOR, provided the written notice is received by the LESSOR at least one hundred twenty (120) days in advance of the date that the LESSEE plans to terminate the lease.

3. RENT

3.1: For the first year of the Lease (July 1, 2020 – June 30, 2021), the Rent shall be $100,000.00 (plus the increase in student assessment) plus an additional amount being equal to the increase in the LESSEE’s yearly per student assessment as compared to the 2019-2020 school year.

If the Initial Term is extended pursuant to this Lease, for the second year of the Lease, (July 1, 2021 – December 31, 2021), the Rent shall be $50,000.00 (plus one-half the increase in student assessment) plus an additional amount being equal to one-half the increase in the LESSEE’s yearly per student assessment as compared to the 2019-2020 school year.

Lease payments shall be due on the first (1st) day of each month, in advance, and shall be made to the Town of Sandwich School Department or its designee.

3.2: The LESSEE will provide the LESSOR with a written estimate of the projected per student assessment for the following school year for budgetary purposes no later than August 31 for the Initial Term and extended Term of the Lease.

3.3: The LESSEE will provide the LESSOR with such documentation as the LESSOR may from time to time reasonably request to confirm the value of slots in the Cape Cod Collaborative Alternative Education Program.

4. MANAGEMENT OF PREMISES

The Town of Sandwich School Department, having its address at 33 Water St, Sandwich, Massachusetts 02563 Sandwich, on behalf of the LESSOR will be responsible for the operation, maintenance, repair and management of the Premises and the funding of the expenses to carry out these obligations pursuant to the terms of this Lease. The School Department’s specific responsibilities are described in the terms of this Lease.

5. UTILITIES

5.1: The LESSEE and the LESSOR agree to share the cost of the utilities serving the Premises including electricity, natural gas and water. Based upon the party’s proportionate occupancy in the Building, the LESSEE shall pay 32% of the actual incurred monthly utility expenses at the Property. The School Department shall provide the LESSEE with a statement of such charges each month and the LESSEE shall pay its share of such charges directly to the
School Department. The LESSEE shall not be obligated to pay proportionate utility charges in the absence of a statement of such charges.

5.2: The LESSEE agrees that the provision of the above utilities is subject to interruption due to any accident, to the making of repairs, alterations or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service or supplies from the sources from which they are usually obtained for said Building, or to any cause beyond the LESSOR’S control.

5.3: The LESSEE shall be solely responsible for any and all other costs or expenses relating to its operations on the Leased Premises, including telephone, internet, information technology, photocopiers, and other services not otherwise set forth herein.

6. SECURITY DEPOSIT

6.1: The LESSEE and the LESSOR agree that no security deposit shall be required for this Lease.

7. USE OF LEASED PREMISES

7.1: The LESSEE shall use the Leased Premises solely for educational purposes consistent with its mission and for such other purposes as may be reasonably related thereto (the “Permitted Uses”).

7.2: Shared Space: The LESSOR and the LESSEE shall have non-exclusive, shared use of the following areas in the Building: (i) kitchen; (ii) cafeteria; (iii) gymnasium; and (iv) library. The LESSEE shall have the use of such areas only during the following hours during the school year:

Kitchen: 7:00 a.m. – 3:30 p.m. Monday through Friday

Library: 7:00 a.m. – 3:30 p.m. Monday through Friday
Gymnasium: 9:00 a.m. – 2:00 p.m. Monday through Friday
Cafeteria: 7:00 a.m. – 3:30 p.m. Monday through Friday, provided however, that LESSEE shall not use the cafeteria when the space is being utilized for municipal or state elections. The LESSOR shall provide the LESSEE with reasonable advance notice of such election use.

The use of the kitchen area for food preparation will require the approval of the Town of Sandwich Health Department.

Playing fields on the Premises may be used by the LESSEE from time to time during program hours from September 1 through June 30 during the Term of the Lease. Any use of playing fields from July 1 - September 1 will be scheduled in conjunction with the LESSOR.

The LESSEE may request additional uses of shared space on an as-needed basis.
7.3: Vocational Opportunities: The LESSEE and the School Department shall work collaboratively to identify and pursue the following vocational opportunities on the Premises: (i) Food Service- cooking and potentially developing a foods café in the school cafeteria and/or the senior citizens' participation in the Council on Aging meals program. This would teach both food preparation skills and business/money management skills; (ii) Building Maintenance- students would learn cleaning methods and basic building and property maintenance; (iii) Horticulture - students would learn skills in farming, mowing, planting, yard cleanups, with potential for a “community garden” with Senior Citizens; (iv) General Office- students would learn basics of working in an office – copying, mailing, filing, ordering supplies, etc.; and (v) such other programs as the parties may mutually agree. All such programs shall be at the sole risk of the LESSEE and the LESSEE shall indemnify LESSOR and the School Department as set forth in Section 12 below.

7.4: No trade or occupation shall be conducted on the Leased Premises which shall be unlawful, improper, offensive or contrary to any law or regulation.

7.5: The LESSEE shall be entitled to establish such rules and regulations, which, in the opinion of the LESSEE, are reasonably designed to ensure the safety of the public and the security of the Leased Premises.

7.6: The hours of school operation are anticipated to be Monday through Friday, generally from 7:10 a.m. in the morning to 2:00 p.m. in the afternoon. The school year currently runs Monday through Friday, July 11 to June 30.

7.7: Inclement weather; Emergencies: In the event that the Sandwich Public Schools are closed due to inclement weather or any other unscheduled reason, the Building shall be closed and LESSEE’S operations shall be cancelled.

7.8: The LESSEE in its sole discretion may allow others to be inside the Building after regular hours. In such cases, the LESSEE shall be solely responsible for the visitors.

7.9: The consumption, serving and storage of alcoholic beverages shall be allowed only in accordance with all laws governing the consumption, serving, and storing of said beverages, and only with the written permission of the Town Manager.

7.10: Assignment and Subleasing: The LESSEE shall not assign, sublet, underlet, mortgage, pledge, or encumber (collectively referred to as "Transfer") this Lease or the Premises or any portion thereof without the LESSOR’S prior written consent, which may be withheld at the LESSOR’S sole discretion. Consent by the LESSOR, whether express or implied, to any Transfer shall not constitute a waiver of the LESSOR’S right to prohibit any subsequent Transfer or be deemed a waiver of the LESSOR’S right to terminate this Lease upon any subsequent Transfer. As used herein, the term “Transfer” shall be deemed to include any transfer of the LESSEE’S interest in this Lease by operation of law.

8. COMPLIANCE WITH LAWS

8.1: The LESSEE agrees to conduct its operations hereunder in strict compliance with all laws, bylaws, ordinances, rules and regulations of all federal, state, regional and local
authorities as are applicable from time to time and the LESSEE will procure and pay for all licenses, certificates and permits necessary for the conduct of its operations or construction hereunder and shall pay all charges assessed under federal, state, regional and local statutes, bylaws, ordinances, rules and regulations insofar as they are applicable to the LESSEE.

8.2: Failure of the LESSEE to procure and maintain all necessary licenses and permits shall allow LESSOR to terminate this Lease if such failure continues for a period of sixty (60) days after the LESSEE receives written notice that it has failed to procure or maintain all necessary licenses and permits.

8.3: The LESSEE acknowledges that no trade or occupation shall be conducted in the Leased Premises or use made thereof which will be unlawful, improper or offensive, or contrary to any state, federal, regional law or any municipal bylaw or ordinance in force in the Town of Sandwich.

8.4: LESSEE shall be responsible for cleaning the Premises in accordance with all of the proper protocols as indicated by the Centers for Disease Control and Prevention (the “CDC”), the Massachusetts Department of Health, and other applicable government agencies (the “Health Agencies”). If such cleaning or disinfection is not done in accordance with such protocols or if the Premises are not reasonably cleaned, and if the School Department decides to engage the services of a third party for any additional cleaning or disinfecting of the Premises, after giving the LESSEE at least seven (7) days prior written notice thereof, LESSEE shall be obligated to promptly reimburse the School Department for such expenses.

Furthermore, LESSEE is fully responsible and liable for making sure that any staff members, students or others using the Premises under this Lease showing symptoms of Covid-19 are adequately supervised and given adequate medical coverage. All persons entering the Building shall be required to follow the guidelines of the Health Agencies and the LESSOR’s rules, regulations and Orders concerning access or use of the Premises during the Covid-19 pandemic. Neither the LESSOR nor the School Department shall be responsible for rendering medical care to the LESSEE or anyone acting by and through the LESSEE.

9. EQUIPMENT, FURNISHINGS AND FIXTURES

9.1: The LESSEE shall be solely responsible, at its sole cost and expense for providing all furniture, equipment, fixtures and other furnishings needed for its operations including without limitation, information technology, telephones, air conditioning, student separation space, desks, cleaning and painting. Any fixtures installed in the Building shall become the property of the LESSOR.

The LESSEE shall not overload the electrical wiring serving the Leased Premises or within the Leased Premises and will install, at its own expense, but only after receiving the written approval of the School Department which approval shall not be unreasonably withheld conditioned or delayed, any additional electrical service or wiring that may be required in connection with the LESSEE'S operations.

Any furniture, equipment or other furnishings provided by the LESSEE which is not permanently attached to the Building, shall remain the property of the LESSEE upon the termination of the lease.
With the consent of the School Department, existing furniture in the Building may be made available to the LESSEE at no cost for use at the sole discretion of the School Department.

9.2: Except as provided above, the LESSEE shall make no substantial improvements or alterations, including without limitation the installation of signage, to the Leased Premises, without the prior written approval of the LESSOR, which approval shall not be unreasonably withheld, conditioned, or delayed. If such prior written approval is not obtained, or if obtained and is not complied with, the LESSOR shall have the right to enter the Leased Premises, remove the improvements or alterations, and bill the LESSEE for all costs incurred in doing so. Any amount due to the LESSOR, pursuant to this Section, shall constitute additional rent.

9.3: Ownership of Improvements: All improvements, fixtures and/or structural alterations and additions made to the Premises shall, upon completion, become the property of the Town but for the use of the LESSEE as permitted herein. All other nonstructural alterations and additions made by the LESSEE that are not affixed to the Premises, are not necessary for the operation of the Premises for the Permitted Uses may be removed by the LESSEE and LESSEE shall be responsible for repairing any damage associated with such removal.

9.4: Liens and Encumbrances: The LESSEE shall not permit any mechanics’ liens, or similar liens, to remain upon the Premises for labor and material furnished to the LESSEE, or claimed to have been furnished to the LESSEE, in connection with work of any character performed or claimed to have been performed at the direction of the LESSEE and the LESSEE shall cause any such lien to be released of record without cost to the Town within twenty (20) days after the LESSEE receive notice of filing of same. If the LESSEE shall fail to discharge such liens within such period, or fail to furnish security therefor, then the Town may, but shall not be obligated to, discharge the same, and the LESSEE shall reimburse the Town promptly upon demand.

9.5: The existing equipment and furnishings in the kitchen, cafeteria and gymnasium are accepted by the LESSEE in “as-is” condition with no warranty or representation as to its ongoing usefulness or fitness for any particular purpose and at no additional cost to the LESSEE.

10. REPAIRS AND MAINTENANCE

10.1: The LESSEE has inspected the Leased Premises, and accepts them “as-is” in the condition that they are now in, unless otherwise provided herein in writing. The LESSEE acknowledges and agrees that except as otherwise provided herein, neither the LESSOR nor the School Department shall be responsible for making any alterations, repairs or performing maintenance to the Leased Premises including without limitation, the mechanical, electrical and plumbing and heating systems serving the Leased Premises.

10.2: Building Maintenance: Building maintenance shall be performed by the Sandwich Public Schools Facilities Office. Any and all repair and maintenance matters shall be presented to the Facilities Director or his/her designee in writing. All repair and maintenance and the
means and methods thereof shall require the advance written approval of the Sandwich Public School Facilities Director prior to the commencement of any such work.

All basic and on-going repair or maintenance of the Leased Premises shall be at the sole cost and expense of the LESSEE. Any repair or maintenance issue having an estimated cost of less than $1,500.00 shall be the sole responsibility of the LESSEE. Any maintenance issue having an estimated cost of more than $1,500.00 shall be presented to the School Department in writing. The School Department and the LESSEE agree to discuss the repair and determine a possible division or allocation of financial responsibility for such expense on a case by case basis. The LESSEE agrees that the School Department is under no financial obligation for such repair or maintenance. The Sandwich Public Schools Director of Finance and Operations or his/her designee shall be responsible for determining if, and to what extent, the School Department may contribute to the cost of any maintenance or repair within the Leased Premises. Any such determination shall be communicated in writing to the LESSEE.

If the Sandwich Public Schools Facilities Office schedules and performs any repairs or maintenance on behalf of the LESSEE, the School Department must receive written approval from the LESSEE prior to the commencement of the work, including its agreement to pay for the cost of such work. Upon completion of the work, the School Department shall invoice the LESSEE within ten (10) days upon completion of the work, and the LESSEE shall provide payment to the School Department within thirty (30) days from the date of such invoice.

The LESSEE shall reimburse the LESSOR for 50% of the actual cost of maintenance, repairs and regular service agreements for the Building fire alarm system, elevators, and septic system.

The LESSEE shall be solely responsible for all glass in or within the Leased Premises unless otherwise set forth herein. Glass replacement shall be coordinated through the School Facilities Director or his/her designee.

Notwithstanding the above, the School Department shall, at its sole cost and expense, maintain the roof of the Building and the central utilities serving the Building including the main electrical feed, main boiler and heating supply to the Leased Premises.

10.3: General Maintenance: The LESSEE shall, throughout the term of this Lease, at its own cost and expense, keep and maintain the Leased Premises, in a good, sanitary and neat order, condition and repair, reasonable wear and tear excepted, and, free of debris and any and all other foreign matters, unless otherwise provided herein. The LESSEE shall not permit the Leased Premises to be damaged, stripped or defaced, nor suffer any waste.

10.4: Cleaning; Trash Removal: The cleaning of the Leased Premises shall be done at the sole cost and expense of the LESSEE. The LESSEE shall be solely responsible for the proper storage, removal, and management of all waste, including regular trash and any regulated wastes. The LESSEE shall be responsible for all disposal and removal of trash related to the Premises. Such responsibility shall include trash disposal and removal from the Premises,. Initial trash disposal shall occur in receptacles provided by the LESSOR. The presence of a dumpster on the grounds is considered to be acceptable as long as it is not located in such a way as to restrict traffic, encourage rodents or pests, or interfere with the abutters operations. The
LESSEE shall dispose of said trash on a regular basis so that no refuse will be allowed to accumulate as to constitute a fire or health hazard within the Leased Premises or to create an unsightly appearance on the Premises, in compliance with the Town of Sandwich's Rules, By-laws, Regulations and Ordinances.

10.5: Pest Control: The LESSEE shall, at its sole cost and expense, maintain an integrated pest management program in the Leased premises.

10.6: The School Department shall maintain the grounds of the Premises in good condition, reasonable wear and tear excepted, including the grass, fences, bushes, and parking areas as defined by exhibits, showing the boundaries associated with this Lease.

10.7: The School Department shall remove snow and ice from the Premises.

10.8: Hazardous Substances: The LESSEE shall not bring or permit to be brought, kept, disposed of or released on or about the Premises, any oil, hazardous, toxic, inflammable, combustible, or explosive fluid, material, chemical, or substance, including without limitation any item defined as hazardous under any federal or other state law or regulation, including, without limitation, G.L. c. 21E (“Hazardous Substances”). The LESSEE shall defend, indemnify, and hold harmless the LESSOR and the School Department from and against all liabilities, loss, damage, costs, expenses (including, without limitation, reasonable attorneys' fees), claims, demands, or judgments resulting from the failure of the LESSEE or their agents, employees, contractors, representatives, students, invitees, or anyone claiming by, through, or under the LESSEE (collectively, with the LESSEE, the “LESSEE Parties”) to comply with any of the environmental laws or regulations and/or for any Hazardous Substances on or about the Premises caused or exacerbated by any of the LESSEE Parties. The LESSEE shall be solely responsible for and shall perform all duties, responsibilities, and liabilities related to the investigation, clean up, and monitoring of Hazardous Substances, and pay all costs, losses, damages, penalties, sanctions, forfeitures and/or fines arising or related to non-compliance with environmental laws or regulations to the extent caused by the actions, omissions, negligence or willful misconduct of any of the LESSEE Parties on or about the Premises. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

11. INSURANCE

11.1: LESSEE's Insurance: The LESSEE shall obtain and keep in force, at its own expense, so long as this Lease remains in effect, and thereafter so long as the LESSEE, or anyone claiming by, through or under the LESSEE, uses or occupies the Premises or any part thereof, policies of insurance for the benefit of the LESSEE and the Town in the amounts, and in the manner and form set forth in this Section. The LESSEE shall require the insurer to give the Town written notice at least thirty (30) days in advance of any termination, expiration, or any and all changes in coverage. The kinds and amounts of such insurance coverage shall not be less than the kinds and amounts designated herein, and the LESSEE agree nothing herein shall limit the liability of the LESSEE to any kind and/or amount of insurance coverage.

(a) General Liability Insurance: The LESSEE shall maintain commercial general liability policy insuring against claims for damages for bodily injury or death occurring upon, in, or about the Premises, such insurance to afford protection in limits of
not less than $1,000,000 in respect to personal injury or death to any one person, and $3,000,000 in respect to personal injury or death to any number of persons in any one occurrence; and $1,000,000 for property damage.

(b) **Public Liability Insurance:** The LESSEE shall maintain a public liability insurance policy on the Premises with coverage limits of not less than $1,000,000.00 per person and $3,000,000.00 per occurrence and the LESSOR named insured on said policy.

(c) **Workers' Compensation Insurance:** The LESSEE and any sublessees, as applicable, shall provide Workers' Compensation Insurance required by law, and Employer’s Liability insurance for at least the amounts of liability for bodily injury by accident of $100,000 each accident; bodily injury by disease for each employee of $100,000; and a bodily injury by disease policy limit of $500,000; or such greater amount as may be required from time to time by the laws of the Commonwealth of Massachusetts.

(d) **Umbrella/Excess Liability Insurance:** An Umbrella/Excess Liability insurance policy on an occurrence basis “following form” of the primary coverage with a limit of liability of $5,000,000.00 shall be obtained and maintained by the LESSEE, at its own expense.

11.2: **Personal Property:** The LESSEE agrees that the LESSOR or the School Department shall have no responsibility for any loss or damage or injury to or from any cause whatsoever of fixtures, improvements, or other personal property of the LESSEE, except where such loss, damage, or injury is the result of any act, omission, or negligence of the LESSOR or any of the LESSOR's employees or agents. The LESSEE shall keep all fixtures, equipment, and other personal property from time to time located in, on, or about the Premises, and all leasehold improvements to the Premises, whether or not constructed or installed by the LESSEE, insured by reputable, duly licensed insurance companies against loss or damage by fire, with the usual extended coverage endorsements. Except as otherwise provided herein, the LESSEE assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise.

11.3: **General Requirements:** The Town shall be named as an additional insured on all insurance policies, and the LESSEE shall furnish copies of such policies, evidencing each such insurance coverage to the Town prior to the execution of this Lease, annually, as of the Commencement Date, and as often as the Town may reasonably request. All required insurance shall be written with such companies qualified to do business in Massachusetts as the LESSEE shall select and the Town shall approve, such approval not to be unreasonably withheld. If the LESSEE shall fail to keep the Premises insured as provided herein, and such failure is not cured within ten (10) days following written notice by the Town to the LESSEE thereof, then the Town, without further notice to the LESSEE, may take out and pay for such insurance, and the amount of such payment shall become due and payable to Town on demand.

12. **CASUALTY; EMINENT DOMAIN**
12.1: (a) If a substantial part of the Premises shall be rendered impractical for use and occupancy, destroyed or damaged by fire or other casualty, or if a substantial part of the Premises shall be taken by any public or quasi-public agency or authority other than the Town, such that the casualty and/or the taking would materially interfere with the use of the Premises for the Permitted Uses, this Lease shall terminate at the election of either the LESSOR or the LESSEE upon at least thirty (30) days after the date of notice thereof. Any insurance proceeds paid or payable on account of such casualty shall be paid to or assigned to the LESSOR by the LESSEE, which obligation shall survive the termination of this Lease. For purposes of this section, “casualty” shall include the failure of or damage to the roof or any structural element of the Premises, and any mechanical, electrical, or plumbing system serving the Premises including without limitation, the boiler and/or heating system.

(b) If any part of the Premises is partially damaged by fire or other casualty or a part thereof is taken by a public authority and this Lease is not terminated by the LESSOR or the LESSEE, the LESSOR agrees that it will, within a reasonable period of time, repair and restore the Premises, or what remains thereof, in the case of a partial taking, to the condition prior to such damage, destruction, or taking, all to the extent of the insurance proceeds paid to the LESSOR, with any cost in excess thereof being subject to Town Meeting appropriation. All insurance money recovered by the LESSEE for damage to the Leased Premises under the insurance required to be carried hereunder shall be given to the LESSOR to pay for the payment of the cost of said restoration, repairs, replacements or rebuilding.

(c) Any restoration or repair shall at all times be subject to the Town’s budgetary, appropriation and borrowing requirements and the Town’s obligation to comply with legal requirements relating to public building projects and public procurement.

12.2: Damages: In the event of a taking by eminent domain, the LESSOR shall have, and hereby reserves and excepts, and the LESSEE hereby grants and assigns to the Town, all rights to recover for damages to the Premises and the leasehold interest hereby created, and to compensation accrued, or hereafter to accrue, by reason of such taking or damage. The LESSEE shall deliver such assignments and assurances thereof as the Town may request, and hereby irrevocably designates and appoints the Town as its attorney-in-fact to execute and deliver in the LESSEE’S name and behalf all such further assignments thereof.

13. DEFAULT; TERMINATION; SURRENDER

13.1: Default: Except as set forth otherwise, the LESSEE shall be in default if it fails to observe or perform any of the material terms hereof and such default is not corrected within thirty (30) days after written notice, or, if the default is of a nature that is not reasonable susceptible to cure within the thirty (30) day period, if such default shall not be corrected within sixty (60) days from the date of the LESSOR’S or the School Department’s notice of such default. Notwithstanding the foregoing, the LESSEE shall obtain the insurance required under this Lease within ten (10) days of written notice from the LESSOR to the LESSEE therefor and shall take immediate action to comply with this Lease if any failure to comply threatens public
health or safety or the safety or integrity of the leased Premises and other improvements. The LESSOR shall have the right, upon the expiration of said thirty (30)-day period (or sixty (60)-day period, as applicable), while such default continues, to re-enter and take complete possession of the Premises, to declare the Term of this Lease ended, and remove the LESSEE’S effects, without prejudice to any other remedy that may be available to the LESSOR.

If the LESSEE is in default hereunder, the School Department, without being under any obligation to do so, and without thereby waiving such default, may remedy such default at the expense of the LESSEE. Any expenditure made or obligation incurred for the payment of money in connection with the LESSEE’S default shall be paid to the School Department by the LESSEE within thirty (30) days from written notice thereof. Without limiting the foregoing, the School Department shall be entitled to recover from the LESSEE all costs and expenses, including reasonable attorneys’ fees, incurred by the LESSOR and or the School Department in enforcing this Lease from and after the LESSEE’S default.

No payment by the LESSEE or acceptance by the School Department of a lesser amount than shall be due from the LESSEE to the School Department shall be treated otherwise than as a payment on account. The acceptance by the School Department of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check, that such lesser amount is payment in full shall be given no effect, and the School Department may accept such check without prejudice to any other rights or remedies which the LESSOR or the School Department may have against the LESSEE.

13.2: LESSOR Default: It shall be an event of default if the LESSOR has failed to fulfill any material term or obligation required to be performed by the LESSOR or the School Department hereunder and such default continues for a period of sixty (60) days from the date of the LESSEE’S written notice to the School Department of the foregoing, provided, however, that it shall not be a default if the failure to perform is of a nature that a cure cannot reasonably be completed within said sixty (60)-day period, provided that the cure is commenced within said sixty (60)-day period and completed with reasonable diligence. The School Department’s failure to commence or complete a cure of any default hereunder within any cure period shall not constitute an event of default in the event that additional time is necessary or required for force majeure events beyond the reasonable control of the School Department or and/or to comply with the Town’s budgetary, appropriation and borrowing requirements and with the Town’s obligation to comply with legal requirements relating to public building projects and public procurement.

13.3: Surrender: At the expiration of or earlier termination of this Lease, the LESSEE shall surrender the Premises in good order and repair, ordinary wear and tear excepted, in broom-clean condition. The LESSEE may at any time prior to or upon the expiration or termination of this Lease remove from the Premises materials, equipment, and property owned and installed thereon by the LESSEE, provided that such property can be removed without injury to the Premises or the LESSEE shall repair such injury. The LESSEE shall promptly repair or restore, at its sole cost and expense, any damage or injury caused to the Premises from such removal. The provisions of this Section shall survive the expiration or termination of this Lease.

14. INDEMNIFICATION
14.1: Except as provided otherwise, the LESSEE shall defend, indemnify, and save harmless the LESSOR and the School Department from and against all claims, expenses, or liability of whatever nature arising from: the failure of the LESSEE to comply with the terms of this Lease; any act, omission, or negligence of any of the LESSEE Parties; and/or arising, directly or indirectly, from any accident, injury, or damage whatsoever, however caused, to any person, or to the property of any person, occurring after the commencement date until the end of the Term of this Lease and, thereafter, so long as the LESSEE occupies the Premises, or arising from any accident occurring outside the Premises, where such accident, injury, or damage results, or is claimed to have resulted, from any act, omission, or negligence on the part of any of the LESSEE Parties. The foregoing obligation shall include indemnity against all costs, expenses, and liabilities incurred in or in connection with any such claim or proceeding brought thereon, including reasonable attorneys’ fees.

14.2: Covid-19: Notwithstanding anything to the contrary in this Agreement, LESSEE acknowledges and agrees that LESSOR and the School Department shall not be subject to liability based on any claim that LESSOR and/or its agents, employees, representatives, students, contractors, invitees and/or any other person who may come into contact with the Premises (collectively, the “LESSEE Parties”) contracted Covid-19 or any other illness or disease as a result of the use of the Premises (“Release Event”), and LESSEE on behalf of itself, its successors and assigns and other Tenant Parties, hereby releases, waives, discharges and covenants not to sue LESSOR or the School Department, and/or their employees, officials, boards, agents invitees and representatives (with the LESSOR, the “LESSOR’S Parties”) from any and all liability, claims, demands, actions and causes of action, whatsoever, known or unknown, in law or in equity, which they have or may have from the execution of this Lease, arising out or related to the Released Event. LESSEE further hereby agrees to defend, indemnify and hold harmless the LESSOR and the School Department from and against any and all liability, claims, demands, actions, and causes of action, whatsoever, known or unknown, in law or in equity, which may be brought against LESSOR or the School Department by third parties that is caused by or relates to such third parties contracting Covid-19 or any other illness or disease from any of the LESSEE Parties.

14.3: Release: The LESSEE agrees to use and occupy the Premises at its own risk, and, except for liabilities or losses resulting directly from the negligent acts or omissions of the Town, the Town shall have no responsibility or liability for any loss or damage to fixtures, or other personal property of the LESSEE, or any person claiming by, through or under the LESSEE.

14.4: Nothing in this lease is intended to affect or restrict the rights or defenses of the LESSOR under G.L. Chapter 258, or Chapter 21, Section 17C, or in anyway waive the limits on the LESSOR’S monetary exposure under G.L. Chapter 258 or Chapter 21, Section 17C.

14.5: Survival: The provisions of this Article shall survive the expiration or any earlier termination of this Lease.

15. MISCELLANEOUS
15.1: Amendment: None of the covenants, agreements, provisions, terms, and conditions of this Lease shall in any manner be changed, altered, waived, or abandoned, except by a written instrument signed, sealed, and mutually agreed upon by all the parties hereto, and approved as required by law. Such instrument shall not be void for want of consideration.

15.2: Quiet Enjoyment: The LESSOR hereby warrants and covenants that so long as the LESSEE is not in default of this Lease beyond any applicable cure period, the LESSEE shall have peaceful and quiet use and possession of the Premises without hindrance or interruption on the part of the LESSOR, or by any other person(s) for whose actions the LESSOR are legally responsible, or by any person claiming by, through or under the LESSOR, except as herein provided.

15.3: Non-discrimination: The LESSEE covenants and agrees that it will not exercise or permit its officers, agent or employees to exercise any discrimination against any person because of race, sex, national origin, age, marital status, sexual orientation, disability or religion in the course of its use of the Leased Premises or its operations at the Leased Premises.

15.4: LESSOR'S Entry: The LESSOR or the School Department or their agents may, at all reasonable times and upon reasonable notice, enter upon the Leased Premises for the purpose of access in and around the leased Premises. The LESSOR or the School Department or their agents may, at all reasonable times upon reasonable notice, enter to view and inspect the Leased Premises and make repairs and alterations as the School Department should elect to do and the LESSOR may show the Leased Premises to others. Notwithstanding any of the above, the LESSOR'S right to access the Leased Premises shall at all times be conditioned upon LESSOR not unreasonably interfering with LESSEE's use and enjoyment of the Leased Premises.

15.5: Binding Agreement; Covenants, and Agreements; Governing Law: This Lease shall bind and inure to the benefit of the parties hereto and their respective representatives, successors, and assigns. All covenants, agreements, terms, and conditions of this Lease shall be construed as covenants running with the land. This Lease contains the entire agreement of the parties, and may not be changed or modified, except by a written instrument in accordance with the provisions herein. This Lease shall be governed by the laws of the Commonwealth of Massachusetts, and any dispute arising out of or related to this lease shall be heard in a state or federal court located within the Commonwealth of Massachusetts.

15.6: Waiver: The failure of either party to seek redress for violation, or to insist upon the strict performance of any covenant or condition of this Lease, shall not prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of a violation. No provision of this Lease shall be deemed to have been waived by either party unless such waiver is in writing and signed by the party to be bound thereby.

15.7: Remedies: No mention in this Lease of any specific right or remedy shall preclude the LESSOR or the LESSEE from exercising any other right, or from having any other remedy, or from maintaining any action to which it may otherwise be entitled either in law or in equity.
IN WITNESS WHEREOF, the parties have signed this Lease Agreement as of this ______ day of _________________, 2020.

LESSOR:
TOWN OF SANDWICH  
By its Board of Selectmen


EXHIBIT B

PARKING AREA
Harper, Heather

From: Vicki Marsh <VMarsh@k-plaw.com>
Sent: Tuesday, August 4, 2020 12:50 PM
To: 'Keith McDonald'; Kurt James
Cc: Dunham, George; Harper, Heather; Vitacco, Ralph; John Giorgio
Subject: {EXTERNAL} RE: LDA-Wing School

Keith-

Thank you for getting back to me. The Town agrees to an extension for the approval of the LDA for an additional two weeks. Hopefully we will be able to have the LDA finalized for the Selectmen's meeting on August 20.

Vicki

Vicki S. Marsh, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 556 0007
F: (617) 654 1735
vmarsh@k-plaw.com
www.k-plaw.com

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From: Keith McDonald <KJM@scgdevelopment.com>
Sent: Tuesday, August 4, 2020 12:35 PM
To: Vicki Marsh <VMarsh@k-plaw.com>; Kurt James <kjames@kjppartners.com>
Cc: Dunham, George <gdunham@sandwichmass.org>; 'Harper, Heather' <hharper@sandwichmass.org>; Vitacco, Ralph <rvitacco@sandwichmass.org>; John Giorgio <jgiorgio@k-plaw.com>
Subject: RE: LDA-Wing School

Hi Vicki,

That is fine

Kurt has not had time to review the LDA yet. Since we are two days away, I think an extension is best. SCG approves the extension to allow for final negotiations of the LDA.

Kurt and I will still do our best to expedite the review.

Thanks.

Keith

From: Vicki Marsh <VMarsh@k-plaw.com>
Sent: Tuesday, August 4, 2020 11:09 AM
To: Kurt James <kjames@kjppartners.com>
Cc: Dunham, George <gdunham@sandwichmass.org>; 'Harper, Heather' <hharper@sandwichmass.org>; Vitacco, Ralph <rvitacco@sandwichmass.org>; John Giorgio <jgiorgio@k-plaw.com>; Keith McDonald <KJM@scgdevelopment.com>
Subject: LDA-Wing School
Kurt-

Since we had hoped to have the LDA finalized for approval by the Board of Selectmen at their meeting on Thursday, August 6 and I am not sure if you have completed of your review of the LDA yet, please let me know if you wish to extend the approval of the LDA. The Option Agreement provided that the LDA would be approved within thirty days after the execution of the Option Agreement. The Selectmen will not be meeting again until August 20, so the Town could extend this approval date for an additional two weeks to allow for the final negotiations of the LDA. Please let me know if your client will agree to extend the approval date for the LDA as well.

In addition it would be helpful for the Town if you could respond to my questions in my original e-mail, especially as to the phasing of the project.

If you have any questions, please do not hesitate to contact me.

Vicki

Vicki S. Marsh, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 556 0007
F: (617) 654 1735
vmash@k-plaw.com
www.k-plaw.com

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Michael Miller <mmiller@sandwichmass.org>

Fwd: {EXTERNAL} SC Appointment

To Michael Miller <suemike34@comcast.net>

Sent from my iPhone

Begin forwarded message:

From: Miller, Michael
Date: July 28, 2020 at 5:37:50 PM EDT
To: Don DiGiacomo <ddigiacomo@sandwich.k12.ma.us>
Subject: Re: {EXTERNAL} SC Appointment

Don my personal opinion is in agreement with yours but since the board went in another direction I would say that if your board feels strongly about this we use the August 6 meeting to discuss it rather than vote.

Sent from my iPhone

On Jul 27, 2020, at 9:25 AM, Don DiGiacomo <ddigiacomo@sandwich.k12.ma.us> wrote:

Hi Mike,

I thought it made sense to email in case you thought this should be shared further with the other members of the Board. I am asking that the BOS reconsider its decision to ask the School Committee to forward 3 candidates to the BOS for consideration and appointment. As the BOS is not usually involved with the workings of the SC, it doesn't make sense to me to go about the process this way. I have spoken with Taylor White on the matter. He has indicated to me that in the past when similar situations have come up on other boards and committees in town, the board or committee making the appointment chooses the individual which is then approved by the BOS. Obviously, the BOS has the right to reject the appointment or to further interview the individual candidate but as the BOS is not involved with the work of the SC it seems odd to have the candidate chosen there. My concern would be that there may not even be 3 candidates that we as a committee want to pass along. There may also be an individual candidate that we all feel is by far the best option but that candidate may not be the one selected by the BOS in this process. Please let me know your thoughts on this. I would be happy to officially ask for the reconsideration at the next BOS meeting if that is the way it needs to happen.

Thank you for your time and consideration on the matter.

Regards,

Don DiGiacomo

The contents of this email, and any attachments, are the property of the Sandwich Public School District, and are subject to the Public Records law, M.G.L. c> 66, Sec. 10.
Town of Sandwich
Annual Town Meeting

WARRANT

Monday, June 15, 2020
7:00 p.m. – Sandwich High School

BOARD OF SELECTMEN
David J. Sampson, Chair
Michael J. Miller, Vice-Chair
Robert J. George
Shane T. Hoctor
Charles M. Holden

FINANCE COMMITTEE
Mark I. Snyder, Chair
Matthew D. Anderson, Vice-Chair
Nancy Crossman
Gwenn H. Dyson
Robert Guerin
James McCormick
James W. Pierce
Laura B. Wing

MODERATOR
Garry N. Blank
ARTICLE 8
To see if the Town will vote in accordance with M.G.L. c.32B, §20(b) to raise and appropriate or transfer from available funds a sum of money to be transferred into the Other Post-Employment Benefits Liability Trust Fund, or take any action relative thereto.

Recommended by the Board of Selectmen and Finance Committee.

ARTICLE 9
To see if the Town will vote to appropriate the sum of money, received or to be received, from the Chapter 90 State Aid to Highways Program for highway construction and/or maintenance on any State approved road during FY'21, or take any other action relative thereto.

Recommended by the Board of Selectmen and Finance Committee.

ARTICLE 10
To see if the Town will vote to raise and appropriate or transfer from available funds an additional sum of money for the design and for making extraordinary repairs and renovations to the existing Town municipal office building and structures located at 100 Route 6A, as shown on Assessor's Map 88, Lot 1, including all costs incidental and related thereto, or take any other action relative thereto.

Recommended by the Board of Selectmen, Finance Committee, and Capital Improvement Planning Committee.

ARTICLE 11
To see if the Town will vote to authorize the Board of Selectmen and the School Committee, at a joint meeting held for this purpose, appoint an individual to fill a vacancy on the School Committee until the 2021 annual town election, in accordance with the procedures set forth in M.G.L. c.41, §11, rather than by a special election as set forth in Section 4.3.4 of the Town Charter; and further to authorize the Board of Selectmen to file a home rule petition with the General Court in order to validate, ratify, and confirm the appointment; or to take any other action relative thereto.

Recommended by the Board of Selectmen.
Bud:

I have conducted a review of the draft warrant and I offer the following comments:

Articles 3-6: If you want to pare down the number of warrant articles further, did you want to consider including all enterprise funds in a single article. Here is how Nantucket does it in one article. You could obviously conform the language to your standard wording.

ARTICLE 15
(Appropriation: Fiscal Year 2021 Enterprise Funds Operations)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the operation of the Enterprise Funds of the Town of Nantucket for Fiscal Year 2021, out of anticipated revenues of the designated funds, for the purposes set forth above; provided that any amounts to be raised and appropriated to support the operation of Our Island Home for Fiscal Year 2021 shall be contingent on the passage of a Proposition 2 and ½ override ballot question; or to take any other action related thereto.

(SELECT BOARD FOR THE VARIOUS DEPARTMENTS INDICATED)
FINANCE COMMITTEE MOTION: Moved that the following Fiscal Year 2021 operating budgets be approved for the Enterprise Funds, with the Siasconset Water appropriation to be expended through the Siasconset Water Commission; the Wannacomet Water appropriation to be expended through the Nantucket Water Commission; the Airport appropriation to be expended through the Nantucket Airport Commission; the remaining appropriations to be spent through the Select Board; provided that the $5,000,000 to be raised on the FY 21 tax levy to support Our Island Home, shall be contingent on the passage of a Proposition 2 and ½ override:

<table>
<thead>
<tr>
<th>FUND</th>
<th>FY 2021 PAYROLL</th>
<th>FY 2021 EXPENSES</th>
<th>FY 2021 TOTAL BUDGET</th>
<th>FY 2020 BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airport</td>
<td>$5,328,300</td>
<td>$4,716,500</td>
<td>10,044,800</td>
<td>$9,719,400</td>
</tr>
<tr>
<td>Our Island Home</td>
<td>$6,847,838</td>
<td>$1,919,980</td>
<td>8,767,818</td>
<td>$8,273,733</td>
</tr>
<tr>
<td>Sewer</td>
<td>$2,286,727</td>
<td>$6,764,989</td>
<td>9,051,716</td>
<td>$9,187,479</td>
</tr>
<tr>
<td>Siasconset Water</td>
<td>$67,801</td>
<td>$864,467</td>
<td>932,268</td>
<td>$986,046</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>$155,291</td>
<td>$11,132,944</td>
<td>11,288,235</td>
<td>$10,958,870</td>
</tr>
<tr>
<td>Wannacomet Water</td>
<td>$1,951,855</td>
<td>$3,915,037</td>
<td>5,866,892</td>
<td>$6,171,997</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$16,637,812</strong></td>
<td><strong>$29,313,917</strong></td>
<td><strong>45,951,729</strong></td>
<td><strong>$45,297,525</strong></td>
</tr>
</tbody>
</table>

Further, that the above appropriations be funded as follows:
<table>
<thead>
<tr>
<th>FUND</th>
<th>FUNDING SOURCE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airport</td>
<td>FY 21 Anticipated Revenues</td>
<td>$9,644,800</td>
</tr>
<tr>
<td>Airport</td>
<td>Retained Earnings - Passenger Facility Charge</td>
<td>$400,000</td>
</tr>
<tr>
<td>Our Island Home</td>
<td>FY 21 Anticipated Revenues</td>
<td>$3,767,818</td>
</tr>
<tr>
<td>Our Island Home</td>
<td>FY 21 Tax Levy and Other General Revenues</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Sewer</td>
<td>FY 21 Anticipated Revenues</td>
<td>$8,651,716</td>
</tr>
<tr>
<td>Sewer</td>
<td>Retained Earnings</td>
<td>$400,000</td>
</tr>
<tr>
<td>Siasconset Water</td>
<td>FY 21 Anticipated Revenues</td>
<td>$932,268</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>FY 21 Anticipated Revenues</td>
<td>$3,586,600</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>FY 21 Tax Levy and Other General Revenues</td>
<td>$6,343,105</td>
</tr>
<tr>
<td>Solid Waste</td>
<td>Retained Earnings</td>
<td>$1,358,530</td>
</tr>
<tr>
<td>Wannacomet Water</td>
<td>FY 21 Anticipated Revenues</td>
<td>$5,866,892</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL FUNDING SOURCES</strong></td>
<td><strong>$45,951,729</strong></td>
</tr>
</tbody>
</table>

Article 8: For the sake of clarity, you may want to consider adding in the first paragraph the words "from the Ambulance Fund" after the amount of $207,000.

Article 13: In terms of the building renovation project, if the Town is unable to hold its ATM before July 1, 2020, I believe that the FY 20 Health Insurance line item will no longer be available for a transfer vote at the ATM, whenever it is held in FY 2021. In terms of appropriating FY 19 certified free cash after June 30th for this purpose, the DOR Bulletin No. 2020-04 states on Page 2 that if a Town is unable to adopt its FY 21 capital budget appropriations by June 30th, FY 19 certified free cash may be appropriated, subject to DOR approval, for the capital budget in FY 21. The question becomes whether the building appropriation is a FY 21 capital budget item. I would argue that it is based on the fact that it was on the ATM warrant albeit in a separate article from the capital budget. Is there any reason why, just to be on the safe side, you could not add this appropriation to the capital budget article?

Article 16: I agree that the wording from DOR is not ideal. Have you thought about adding an "Explanation" after the wording of the article that is more understandable? I think it would be best to use the DOR language for the article itself.

We also discussed adding authorization to follow the procedures set forth in G.L. c. 41, §11 rather than the Charter requirement for a special election. As I indicated, technically this would require a home rule petition, but I think we could seek a special act after the fact. Here is an article that you can use for this purpose:

To see if the Town will vote to authorize the Board of Selectmen and the School Committee, at a joint meeting held for this purpose, appoint an individual to fill a vacancy on the School Committee until the 2021 annual town election, in accordance with the procedures set forth in General Laws Chapter 41, Section 11, rather than by a special election as set forth in Section 4-3-4 of the Town Charter; and further to authorize the Board of Selectmen to file a home rule petition with the General Court in order to validate, ratify, and confirm the appointment; or to take any other action relative thereto.

Finally, in the BOSZ letter, I would suggest you add the following sentence to the end of the second paragraph: "Furthermore, the General Court has enacted several emergency measures that have afforded the Town flexibility in scheduling the annual town meeting and the annual election, as well as key municipal finance tools that will allow the Town to continue providing critical services to Town residents during these challenging times."

Please let me know if you have any questions.

John

John W. Giorgio, Esq.  
KP | LAW  
101 Arch Street, 12th Floor  
Boston, MA 02110  
O: (617) 556 0007
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From: Dunham, George <gdunham@sandwichmass.org>
Sent: Thursday, May 7, 2020 3:07 PM
To: John Giorgio <JGiorgio@k-plaw.com>
Cc: Harper, Heather <hharper@sandwichmass.org>; Jennings, William <wjennings@sandwichmass.org>
Subject: DRAFT - Sandwich ATM Warrant

Hi John,

Please find attached the draft Annual Town Meeting (ATM) warrant for Sandwich which is scheduled for Monday, June 15. If this date needs to be moved for COVID-19 related issues, I’ll be sure to reach out to you immediately.

As we discussed earlier this week, the Selectmen have tried to limit the number of articles as much as possible, getting the total down to 18, not including the 3 petition articles. On the petition articles, the Board would like to move to “pass over” these articles until the next Special Town Meeting (STM). I will reach out to the petitioners to explain this plan to them. In addition, I think we should speak with Town Moderator Garry Blank about considering a consent agenda to focus the time at Town Meeting on the articles that the attendees want to discuss. With the on-going public health emergency, we want to limit the length of the meeting as much as possible.

Here are some articles I wanted to highlight:

- **Introductory Letter** – I took a stab at drafting a letter from the Selectmen to the residents thanking them for their patience during this unique period and explaining why things are occurring on a different timeframe than usual with a few standard articles being delayed until a STM. I know this isn’t binding, but I’d love to get any thoughts and changes you’d have. The Selectmen are currently reviewing the draft letter.

- **Article 1** – Typically, in addition to accepting the Town Reports, the Selectmen also report on the Long Range Plan which is also printed in the back of the warrant. Because normal public meetings ended when we’d normally be drafting this document, the Board has decided to delay this to a future Town Meeting.

- **Article 2** – This is the primary FY’21 Budget article. My main concern here is in the motion to adopt the budget, we need to add language that allows us to return any FY’21 receipts reserved for appropriation account (RRFAA) transfers back to the appropriate account if they are not fully spent at the conclusion of FY’21. As we discussed earlier this week, right now our internal financial team is more concerned about the COVID-19 impacts on the FY’22 Budget vs. the FY’21 Budget. Anything we could do to preserve as high a balance in our RRFAAs as possible will help us for our FY’22 Budget.
• **Article 8** – This is the primary FY’21 Capital Budget article which we plan to fund from our current Free Cash certification. If we end up receiving bad budgetary news from the State for FY’21, we may need to revisit all or a portion of this article and delay any action until a future STM.

• **Article 13** – This article is for funding the building renovations at 100 Route 6A. Thankfully, the low bidder has agreed to honor the company’s bid numbers until such time as Town Meeting can act. Our current plan is to fund the repairs using a combination of our existing Free Cash certification and a large, remaining balance in our FY’20 health insurance appropriation. If we have to delay the ATM until after July 1, we’ll need your advice if we can still transfer the health insurance balance from FY’20 or fund the full project from Free Cash.

• **Article 14** – You have already reviewed this language when we were planning to hold a STM on March 15 prior to the COVID-19 related closures. Back then, we were going to transfer 75% of the fund balance refund from the Cape Cod Municipal Health Group to our FY’20 health insurance line item and 25% to the Public Employee Committee (PEC) Fund. Since the ATM will be held so close to the close of FY’20, we plan to only transfer the 25% to the PEC Fund at the ATM and let the remaining 75% return to the General Fund for a future Free Cash certification.

• **Article 16** – This article proposes to increase the elderly exemption amount and expand the qualification thresholds for the program effective FY’21. The language came directly from the State Department of Revenue but, in my opinion, it doesn’t read very clearly. Could you take a look at this to see if the language can be made clearer but still meet DOR’s requirements?

That’s about it for the ATM warrant. Many of the articles you previously reviewed for the cancelled March 15 STM warrant, including Article 18 on the Henry T. Wing School transfer and Community Preservation Act appropriation.

If you could please me any recommended changes by May 20, that would be helpful as the Selectmen plan to meet on May 21. Also, I need to post the warrant on Friday, May 29, assuming the June 15 date is still a go.

Lastly, we should talk about possibly reviewing the draft motions and printing them in the rear of the warrant if we’re considering a consent agenda process with the Moderator.

Thanks again and hack away!

- Bud
ARTICLE 11 – AUTHORITY TO FILL SCHOOL COMMITTEE VACANCY BY APPOINTMENT & TO FILE SPECIAL ACT

- this article authorizes the Board of Selectmen & School Committee to fill a current vacancy on the School Committee via the joint appointment process spelled out under State law in M.G.L. c.44, §11, rather than the special process identified in the Town Charter which requires the calling of special town election later this summer

- this action is being recommended because of the on-going public health emergency

- the Selectmen did not want to place residents at risk by conducting an town-wide election that would also cost about $15,000 to conduct to fill just one elected position
(b) A vice chairman shall be elected by the school committee at the first meeting following each regular town election. The vice chairman shall act as chairman during the disability or absence of the chairman and in this capacity shall have the rights and duties conferred upon the chairman.

Section 4.3.4 VACANCIES

Vacancies in the school committee shall be filled by special election if the vacancy occurs at least 8 months prior to the next annual election. In this case, the board of selectmen shall, within 10 days after the occurrence of a vacancy, call a special election that shall be held not less than 65 days nor more than 90 days after issuing the call. Any vacancy which occurs less than 8 months prior to the next annual election shall be filled at the next annual election.

Section 4.3.5 GENERAL POWERS AND DUTIES

(a) The school committee shall have all the powers and duties given to school committees by the General Laws. The school committee shall have the power to select, oversee and to terminate the superintendent of schools and establish educational goals and policies for the schools consistent with requirements of the General Laws and standards established by the commonwealth.

(b) The superintendent of schools shall be chosen upon the basis of the individual’s executive and administrative training, education, experience and ability, and any other factors the school committee deems appropriate. The superintendent of schools shall be bonded at town expense.

(c) The superintendent of schools shall have the duties and responsibilities provided by the General Laws, this charter and vote of the school committee.

Section 4.3.6 MEETINGS OF THE BOARD

The school committee shall hold at least 1 regular meeting each month while school is in session. The committee shall fix the days, times and location of its regular meetings.

The school committee may hold such special meetings as it deems necessary and appropriate, which may be called by the chair or 4 members of the committee. Such regular or special meetings shall be held in any facility or at any location readily accessible to the public or handicap accessible.

Section 4.3.7 RULES OF PROCEDURE

The school committee shall determine its own rules and order of business; provided however, the rules shall provide that citizens of the town shall have a reasonable opportunity to be heard in regard to any matter under consideration.

Voting, except on procedural motions, shall be by roll call if requested by a school committee member and the ayes and nays shall be recorded in the minutes.

Section 4.3.8 BUDGET HEARING

The School Committee shall prepare an annual line-item operating budget and hold a public hearing on its proposed annual budget, required pursuant to section 38N of chapter 71 of General Laws, by March 1.
May 11, 2020

Board of Selectmen
130 Main Street
Sandwich, MA 02563

Re: Resignation

Dear Chairman Sampson & Members of the Board,

I am writing to inform you that I am in receipt of an official letter of resignation from School Committee member, Angela Dalpe, effective May 8, 2020.

Per Massachusetts General Law Chapter 41, Section 109, her letter of resignation has been officially recorded with my office. I have included a copy for your review.

Please be advised that in accordance Section 4.3.4 of the Town Charter, this vacancy has occurred more than 8 months before the next Town Election. The Board of Selectmen will now have until May 18, 2020 to call for a Special Election to fill this vacancy. The election shall be called for not less than 65 days and not more than 90 days after issuing the call.

This timeline places a Special Election to fall on or around July 18th through August 12th. It’s preferred that due to several factors facing the Town Clerk’s Office, the election be scheduled sooner than later. I would be happy to discuss this matter of timing with the Board.

If you have any questions please do not hesitate to contact me at (508) 888-0340.

Regards,

Taylor D. White
Sandwich Town Clerk

Cc: Sean Rausch, School Committee Chairman
Hi Taylor,

Please accept the following resignation from School Committee Member, Angela Dalpe-Healy.

Best,

Sean P. Rausch  
Chairman  
Sandwich School Committee

Dear Sean,
Effective immediately I am no longer able to serve on the Sandwich school committee, I regret to send you this email however my personal life has to take priority during this time I am not feeling well and I am not feeling healthy lately and I need to address my issues.

Thank you for your understanding
Angela Dalpe

The contents of this email, and any attachments, are the property of the Sandwich Public School District, and are subject to the Public Records law, M.G.L. c > 66, Sec. 10.

The contents of this email, and any attachments, are the property of the Sandwich Public School District, and are subject to the Public Records law, M.G.L. c > 66, Sec. 10.
July 23, 2020

George Dunham, Manager
Board of Selectmen
Town of Sandwich
Town Hall
Sandwich MA 02563

Dear Mr. Dunham:

On behalf of the Compact, the Sandwich Conservation Trust, and the landowner, please find attached a copy of a conservation restriction (CR) running from Mr Parsegian and The Compact to the Sandwich Conservation Trust. Specifically, we seek the Selectmen’s vote to approve the CR pursuant to G.L. Ch. 184, ss. 31-33. The Town Conservation Commission will send you a recommendation after its review on August 5th. I hope the Selectmen’s meeting can be scheduled in August too.

This Amended and Restated Conservation Restriction expands a previously-approved and recorded CR held by the Sandwich Conservation Trust in 2003. This spring Mr. Parsegian donated the 30-acre parcel in fee simple to The Compact, while keeping the historic farmstead on Old County Road. In order to comply with the state tax credit program, Mr. Parsegian and The Compact, as owners of Lots 1 and 2, respectively, must re-dedicate the entire 32 acres to conservation through the updated CR.

Please let me know when this item can be scheduled on your agenda and I will appear (remotely, as needed) to present it. Thank you in advance for your assistance.

Sincerely,

Mark H. Robinson
Executive Director

Enc: Amended and Restated CR
Cc: John Cullity, SCT; ConCom; Parsegian
GRANTOR: V. Adrian Parsegian (Lot 1) & The Compact of Cape Cod Conservation Trusts, Inc. (Lot 2)
GRANTEE: Sandwich Conservation Trust
ADDRESS OF PREMISES: 0 Old County Road & 247 Old County Road, Sandwich, MA 02537
FOR GRANTOR’S TITLE SEE: Barnstable County Registry of Deeds Book 3085, Page 119 (Lot 1) & Book 32916 Page 250 (Lot 2)
FOR PLAN OF RECORD SEE: Barnstable County Registry of Deeds Plan Book 679, Page 59

AMENDED and RESTATED CONSERVATION RESTRICTION

THE COMPACT OF CAPE COD CONSERVATION TRUSTS, INC., a Massachusetts charitable corporation with an office at 36 Red Top Road, Brewster, Massachusetts 02631 and a mailing address of P.O. Box 443, Barnstable, Massachusetts 02630, being the sole owner of the portion of the Premises (as defined herein) described in Exhibit A as Lot 2, and for its successors and assigns holding any interest in the Premises as hereinafter defined ("Lot 2 Grantor"), and V. ADRIAN PARSEGIAN, also known as Vozken Adrian Parsegian, individually, 335 Spencer Drive, Amherst, Massachusetts, 01002, being the sole owner of the portion of the Premises (as defined herein) described in Exhibit A as Lot 1, as their interests may appear, and for his successors and assigns holding any interest in the Premises as hereinafter defined ("Lot 1 Grantor") (collectively, "Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to John N. Cullity, Deborah Gannett, Clifford Irving, Brian Kelly, Peter Thomas, Steven Touloumtzis, Nancy McHugh, John Vaccaro, Joseph A. Queenan, Jr., and Robert P. O’Connor, as TRUSTEES OF THE SANDWICH CONSERVATION TRUST, established by a Declaration of Trust dated October 7, 1985 and recorded at the Barnstable County Registry of Deeds in Book 4752, Page 236, as amended, the mailing address of which Trust is P.O. Box 531, East Sandwich, Massachusetts 02537, its permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Amended and Restated Conservation Restriction on land located in the Village of East Sandwich, the Town of Sandwich, County of Barnstable, Commonwealth of Massachusetts containing the entirety of a 32.23-acre tract of land ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached sketch plan in Exhibit B, both of which are incorporated herein and attached hereto. This Amended and Restated Conservation Restriction shall amend, restate, and replace the conservation restriction recorded at the Barnstable County Registry of Deeds in Deed Book 17376, Page 127 (hereinafter, the "Original Conservation Restriction").
I. PURPOSES:

This Amended and Restated Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Amended and Restated Conservation Restriction is to ensure that the Premises continues to be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to continue to prevent any use or change that would impair or interfere with its conservation and preservation values ("conservation values").

With this Amended and Restated Conservation Restriction, the Grantor and Grantee hereby amend, restate, and replace the Original Conservation Restriction, which shall be of no further force and effect upon the effective date of this Amended and Restated Conservation Restriction pursuant to Paragraph XI below. Specifically, the purpose of this Amended and Restated Conservation Restriction (hereinafter, the "Conservation Restriction") is to eliminate the building rights described in the Original Conservation Restriction as pertaining to Building Envelope B, such that there will be a single so-called "Building Envelope" on the Premises, previously designated in the Original Conservation Restriction as "Building Envelope A," and shown (and referred to herein) as Lot 1 on a recorded plan of land entitled "Plan of Division of Land in Sandwich, MA. Prepared For V. Adrian Parsegian & Valerie Parsegian", dated February 18th, 2019, and recorded in the Barnstable Registry of Deeds in Plan Book 679, Page 59, a reduced copy of which is attached hereto in Exhibit B (hereinafter, the "2019 Plan of Record").

This Conservation Restriction expands the natural resource protection of the Premises by extinguishing additional development rights and preserving additional wildlife habitat in its natural, wooded state. In addition, it enables the majority of the Premises to be owned by a non-profit land conservation entity rather than a private individual and allows for public access for the first time, subject to the terms of this Conservation Restriction.

The portion of the Premises described in Exhibit A as Lot 2 was acquired by The Compact of Cape Cod Conservation Trusts, Inc., utilizing, in part, the Conversation Land Tax Credit Program authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

The conservation values include the following:

- **Open Space Protection.** The Premises contributes to the protection of the scenic and natural character of Sandwich. The Premises abuts land already conserved, including approximately 14 acres owned by the Grantee. The Premises is also proximate to several other open space parcels.

- **Protection of Wildlife Habitat.** The Premises falls within a Massachusetts Natural Heritage and Endangered Species ("NHESP") Priority Habitat of Rare Species. Therefore, the protection of which aligns with NHESP’s wildlife and habitat protection objectives.
• Public Access. Public access to Lot 2 of the Premises will be permitted at the Lot 2 Grantor's discretion. Lot 2 will be available to the general public for passive outdoor recreation, education, and nature study. Lot 2 also will add needed close-to-home open space access for Sandwich residents and visitors.

• BioMap2. The Premises falls within an NHESP BioMap2 Core Habitat area containing the Aquatic Core and Species of Conservation Concern Core Components. Additionally, the Premises falls with an NHESP BioMap2 Critical Natural Landscape area containing the Upland Buffer of Aquatic Core, Coastal Adaptation Analysis, and Term Foraging Components. BioMap2, published in 2010, was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. BioMap2 is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan.

• Water Quality Protection. Permanent protection of the Premises will aid in protecting the water quality of Barnstable Harbor because the Premises falls within the nitrogen-sensitive recharge area for that water body.

• Protection of Area of Critical Environmental Concern ("ACEC"). The Premises falls partially with the Barnstable Harbor Area of Critical Environmental Concern ("ACEC"). Therefore, implementing this Conservation Restriction will aid in maintaining the integrity of this ecologically sensitive area.

• Historical Purposes. The Premises contains several features of historical significance because it is located within 500 feet of Old Kings Highway (Route 6A), a Regional Historic District, and because the Premises was part of an historic farm dating from the 1700's.

• Scenic Resource. The portion of Old Kings Highway (Route 6A) which is located within 500 feet of the Premises, is heavily traveled. The Premises provides a major scenic view across the salt marsh and woodlands contained therein. Moreover, the grounds of the Premises, which constitute an historic former farm, are a substantial contributing element to the overall scenic and historic character of the area.

• Protection of Wetlands. The Premises contains several wetland types, including Salt Marsh, Shallow Marsh Meadow or Fen, and Wooded Swamp Deciduous, as designated by the Massachusetts Department of Environmental Protection. Permanent protection of the Premises will aid in maintaining the integrity and longevity of these important wetlands.

• Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a Regional Policy Plan.

- "To ... protect, preserve, or restore the ecological integrity of Cape Cod's fresh and marine surface water resources" (Water Resources Goal, pp. 54);
- "To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers" (Wetland Resources Goal, pp. 55);
- "To protect, preserve, or restore wildlife and plant habitat to maintain the region's natural diversity" (Wildlife and Plant Habitat Goal, pp. 55).
  - In reference to this Wildlife and Plant Habitat Goal, the RPP states, "For many years habitat loss due to development has been the primary threat to the region's habitats" (pp. 32);
- "To conserve, preserve, or enhance a network of open space that contributes to the region's natural and community resources and systems" (Open Space Goal, pp. 55).
  - In reference to this Open Space Goal, the RPP states, "[t]he open space of the Cape is critical to the health of the region's natural systems, economy, and population. Open space provides habitat for the region's diverse species and protection of the region's drinking water supply" (pp. 30); and,
- "To protect and preserve the significant cultural, historic, and archaeological values and resources of Cape Cod" (Cultural Heritage Goal, pp. 58).

Granting this Conservation Restriction will advance each of these objectives. The Water Resources Goal and the Wetland Resources Goal will be served because the Premises contains several wetlands, including a salt marsh. The Wildlife and Plant Habitat Goal will be advanced because the Premises contains NHESP BioMap2 Core Habitat and Critical Natural Landscape area as well as a portion of an NHESP Priority Habitat of Rare Species. The Open Space Goal will be served because the Premises abuts approximately 14 acres of open space owned by the Grantee and is proximate to several other open space parcels. And finally, the Cultural Heritage Goal will be advanced because the Premises was once in use as a farm, dating back to the 1700's, and is a critical contributing element to maintaining the historic and rural character of the area.

- **Consistency with Clearly Delineated Town of Sandwich Conservation Policy.** The Town of Sandwich developed an *Open Space and Recreation Plan* (1999), which identified the town's natural resource needs and established goals, including:
  
  - Protect and enhance Sandwich's fragile environmental resources, including water quality, scenic beauty and unique habitats; (p. 95)
  - Preserve and manage sufficient areas to maintain a healthy natural environment, provide habitat for wildlife, encourage outdoor recreation and retain community character; (p. 95)
  - Use cost-effective land protection tools, with tax-incentives, such as donations, conservation restrictions and current use assessment, to retain open space in the community, working in alliance with non-profit organizations, such as the
Sandwich Conservation Trust; (p. 100)

- Protect lands within or adjacent to designated protected open space; (p. 108), and,
- Protect lands within or adjacent to fresh and saltwater bodies, beaches, wetlands, (marshes, swamps, bogs, meadows, ponds, and creeks), and floodplains. (p. 108);

Each of these objectives will be promoted in implementing this Conservation Restriction. The Premises contains a diversity of habitats and wetlands and is proximate to Old King’s Highway (Route 6A), which is a recognized scenic resource. Additionally, the Premises abuts and is proximate to significant expanses of open space.

Moreover, in addition to the goals outlined in the Open Space and Recreation Plan, the Town further articulated its objectives regarding conserving land in its 2009 Local Comprehensive Plan (LCP). It elaborated on the importance of Sandwich salt marshes, specifically indicating that the Town’s “broad sweep of these ‘meadows,’ as the colonists knew them, is breathtaking from the Boardwalk and the Scorton Creek Bridge on Route 6A” and an essential element of the Town’s cultural character (pp. 7-3). The LCP also further elaborated on the cultural value of Old King’s Highway (Route 6A), indicating that it was chosen as one of the ten Most Outstanding Scenic Byways in America in 1993 (pp. 7-4).

The Town of Sandwich also adopted a Conservation Restriction Program, consisting of policies and guidelines approved by the Board of Selectmen, Assessors and Conservation Commission in 1987, which established, among other things, property tax benefits for landowners making voluntary applications for conservation restrictions. This objective will be fulfilled because the former owner of the Premises collected a state tax credit as a result of the gift of this land for conservation purposes.

- **Consistency with Clearly Delineated Federal Conservation Policy.** Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: protect the land for passive outdoor recreation by the public; reserve the land for education regarding the natural world; protect wildlife and wetland habitats; and it would contribute to the preservation of open space because it will constitute a significant expanse of undisturbed open space and is proximate to several other parcels already conserved.

- **Consistency with Clearly Delineated State Conservation Policy.** The Premises possesses significant open space natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively “conservation values”) of great importance to the Grantee and the people of Sandwich and the Commonwealth of Massachusetts.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report (“Baseline Report”) prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of
the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

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

A. Prohibited Acts and Uses on Lot 2

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the portion of the Premises now known as Lot 2:

1. Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, wind turbine, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under Lot 2;

2. Mining, excavating, dredging or removing from Lot 2 of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;

3. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;

4. Cutting, removing or otherwise destroying trees, grasses or other vegetation;

5. Hunting, owing to state safety setbacks from roads and dwellings;

6. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;

7. Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on Lot 2 except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;

8. Subdivision or conveyance of a part or portion of Lot 2 alone, or division or subdivision of Lot 2 (as compared to conveyance of Lot 2 in its entirety which shall be permitted),
and no portion of Lot 2 may be used towards building or development requirements on this or any other parcel;

(9) The use of Lot 2 for business, residential or industrial use, or for commercial recreation;

(10) Commercial animal husbandry, including the boarding and keeping of horses; the creation of any pastures, paddocks or animal-related structures;

(11) Any other use of Lot 2 or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

B. Reserved Rights and Exceptions on Lot 2

The Lot 2 Grantor reserves the right to conduct or permit the following activities and uses on Lot 2, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

(1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of Lot 2, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows;

(2) Non-Native or Nuisance Species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;

(3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on Lot 2, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;

(4) Wildlife Habitat Improvement. With the prior written approval of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;

(5) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official);
Parking and Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than six (6) feet and do not fall in or within seventy-five (75) feet of any wetland, except for one boardwalk crossing over the Ditch as shown on the 2019 Plan of Record on Lot 2; an unpaved parking area and unpaved entrance drive may be created, maintained and used for no more than two (2) vehicles to be located within one hundred seventy-five (175) feet of Jones Lane;

Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of Lot 2, the Grantee's interest in Lot 2, any gift, grant, or other applicable source of support for the conservation of Lot 2, the Reserved Rights, and the protected conservation values;

Fences. The right to erect and maintain open-faced fences, such as wooden split rail, so long as free wildlife passage is not impeded.

Ditches and Dikes. The right to rebuild any existing dike and excavate existing ditches through wetlands as shown on the sketch in Appendix F in the Baseline Report for the purposes of maintaining walking trails, so long as the free flow of water through the dikes and ditches is not impeded;

Viewshed and Landing. With approval from the Grantee and the Town of Sandwich Conservation Commission, the right to create and maintain a viewshed to Scorton Creek Marsh from a trail landing without structures at the marsh’s edge, as well as the right to create and maintain such a landing. Said creation and maintenance of a viewshed may involve selective removal of Phragmites, brush, pruning, cutting, and limbing, as long as said viewshed does not substantially impact conservation values. Additionally, creation and maintenance of a landing (i.e., a cleared area no larger than one hundred (100) square feet and surfaced with natural or permeable materials) shall be conducted in a manner to cause minimum disturbance to the conservation values;

Outdoor Passive Recreational Activities. At the discretion of the Lot 2 Grantor, the public is permitted to conduct non-commercial, passive recreational uses of Lot 2 during daylight hours, subject to reasonable regulation by the Lot 2 Grantor. Passive outdoor recreation activities may include walking, jogging, cross-country skiing, bird watching, hiking, wildlife observation, bicycling, photography, fishing, sketching, painting, and other similar activities that do not conflict with the conservation values and that are permitted by law. Horseback riding, bicycling, and other non-pedestrian access may be limited due to wetlands, wildlife habitat, and erosion concerns;

Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph II(B) shall seek to minimize disturbance to the Conservation Values and other natural features within Lot 2 that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph
II(B), any disturbed areas shall be restored substantially to the conditions with respect to
soil material, grade, and vegetated ground cover as documented in the Baseline Report, as
applicable, or in conformance with the conditions with respect to soil material, grade, and
vegetated ground cover that existed prior to said work, if said work is done in any area
not documented in the Baseline Report.

(13) **Permits, Regulations, Laws.** The exercise of any right reserved by Grantor under this
Paragraph II(B) and under Paragraph II(C) shall be in compliance with zoning, the
Wetlands Protection Act, and all other applicable federal, state and local laws, rules,
regulations, and permits. The inclusion of any reserved right requiring a permit from a
public agency does not imply that the Grantee or the Commonwealth takes any position
whether such permit should be issued.

(14) **Best Management Practices.** The exercise of any right reserved by Grantor under this
Paragraph II(B) shall follow, when available and if applicable, established, up to date,
and regionally-applicable Best Management Practices or similar standards developed by a
governmental agency or other entity with known expertise in the area of practice and
designed to protect the natural features potentially affected by the action(s).

C. **Lot 1 Reserved Rights and Limitations**

Within the Premises, there is an area shown on the 2019 Plan of Record as “Lot 1” in which the
Lot 1 Grantor reserves the right to conduct or permit only residential activities and uses allowed
by law, provided such activities and uses do not materially impair the conservation values of Lot
2, and subject to the following limitations imposed by this Conservation Restriction:

1. Subject to Grantee’s approval under Paragraph II(C)(1)(a) and II(D) below, Lot 1 Grantor
shall limit the total gross floor area of structures used for residential purposes to a total of
three thousand five hundred (3,500) square feet, including any principal dwelling or any
living space within an accessory structure. Gross floor area for the purposes of this
Conservation Restriction shall be defined as the sum of the gross horizontal area of the
several floors of all buildings on Lot 1 as measured from the exterior face of exterior
walls, without deduction for hallways, stairs, closets, thickness of walls, columns or other
features, which are capable of being used for human occupancy, including living,
sleeping, cooking, eating, or heated storage purposes. Finished portions of attic, garage,
or other outbuilding space (but not basements) that meet these definitions shall be
included in the calculation of total gross floor area;

   a. In the event of a new or expanded dwelling being constructed under the
   provisions of this Paragraph II(C), Lot 1 Grantor agrees to submit to the Grantee
   sufficient plans and other materials necessary for the Grantee to make an
   informed judgment as to the size of gross floor area and location (only) of the
dwelling, outbuildings and landscaping plans within the parameters given in this
Paragraph II(C);

2. The right to use Lot 1 for other accessory residential purposes, including the erection,
maintenance and use of studios, barns, greenhouses, workshops, garages, sheds or other
outbuildings, swimming pools, the creation and maintenance of cultivated lawns and
gadens, and personal, non-commercial recreation facilities, including fenced courts, so long as no structure or recreational facility or cultivated lawn, garden, or unvegetated area is located in or within seventy-five (75) feet of any wetland resource area;
3. The right to build and maintain wells, septic systems, drainage systems, and underground utilities within Lot 1 and only to serve the structures located within Lot 1.
4. The right to keep animals limited to those for personal, non-commercial use, and the right to construct, use, and maintain shelters and create, use, and maintain pastures for such animals subject to the limitations provided in this Paragraph II(C);
5. The right to create, locate, use, and maintain driveways with either pervious or impervious materials.

D. Notice and Approval.

1. Procedure for Notice and Approval. Whenever notice to or approval by Grantee is required, Lot 1 Grantor or Lot 2 Grantor, as the case may be, shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee’s approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Lot 1 Grantor’s or Lot 2 Grantor’s request. Grantee’s approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

2. Deemed Denial. Grantee agrees to use reasonable diligence to respond to Lot 1 Grantor’s or Lot 2 Grantor’s request within sixty (60) calendar days of delivery. Grantee’s failure to respond within the sixty (60) calendar day period shall be deemed a denial of the request (hereinafter, a “Deemed Denial”). A Deemed Denial is not final or binding on Grantee, and Lot 1 Grantor or Lot 2 Grantor may submit the same or a similar request for approval.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

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

Grantee shall not, however, have the right to bring an action against Grantor with respect to a violation of this Conservation Restriction by trespassers or other third persons whose entry on the Premises is not authorized or not voluntarily acquiesced in by Grantor; Grantor agrees that Grantor will not voluntarily acquiesce in any violation of this Conservation Restriction by trespassers or such other third persons; and Grantor further agrees that Grantor will make reasonable efforts to deter such activities and to remedy the violation and will cooperate with Grantee to enforce this Conservation Restriction against trespassers and such other third persons.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction on Grantor’s respective lots, or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey on its respective lot and to have the boundaries permanently marked.

B. Non-Waiver.

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

C. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor’s Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor’s control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

IV. ACCESS
1. **To the Grantee.** The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises (i) after reasonable notice and at reasonable times and in a reasonable manner, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction; and, (ii) after sixty (60) days prior written notice, except in an emergency in which case notice shall be given as soon as is practicable, to take any and all actions with respect to the Premises as may be necessary or appropriate, with or without order of court, to remedy, abate or enforce any violation hereof unless the Grantor has prior to the expiration of said sixty (60) days given written notice to the Grantee reasonably addressing all alleged violations and setting forth a reasonable plan to remedy any such alleged violation and has made reasonable efforts to cease the activity or to begin remediation.

2. **To the General Public.**
   a. **Lot 1:** This Conservation Restriction does not convey any right of public access on Lot 1 of the Premises.
   b. **Lot 2:** The Lot 2 Grantor hereby grants access to the general public to Lot 2 of the Premises and agrees to take no action to prohibit or discourage access to and use of Lot 2 by the general public, but only for daytime use and only as described in Section II(B)(11) provided that such agreement by Grantor is subject to the Grantor’s reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the purposes and conservation values of this Conservation Restriction. Grantor of Lot 2 has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of Lot 2 not authorized in Section II(B)(11). The Grantor’s right to grant public access across the Premises is subject to the restrictions described in this Conservation Restriction. Any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use Lot 2 for purposes described in the Massachusetts General Laws Chapter 21, Section 17C and the Grantor and Grantee hereto benefit from exculpation from liability to the extent provided in such section. The Grantee may require the Grantor to post Lot 2 against any use that may result in rutting or erosion or other damage to the natural resources of Lot 2.

V. **EXTINGUISHMENT**

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph V(B), subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift,
grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds. The Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the gift, bears to the value of the entire unencumbered Premises. For purposes of this Paragraph, the ratio of the value of this Conservation Restriction to that value of the Premises unencumbered by this Conservation Restriction shall remain constant. To establish this proportionate value, Grantor shall provide Grantee with a complete copy of any qualified appraisal performed for Grantor (at the time of the donation of this Conservation Restriction) as required under Internal Revenue Code Sec. 170(h).

C. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph V(B), after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

VI. DURATION & ASSIGNABILITY

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

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

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

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

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

VIII. ESTOPPEL CERTIFICATES

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

IX. NON MERGER

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

X. AMENDMENT

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

XI. EFFECTIVE DATE

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

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: The Compact of Cape Cod Conservation Trusts, Inc.
P.O. Box 443
Barnstable, MA 02630

and

V. Adrian Parsegian
335 Spencer Drive
Amherst, MA 01002

To Grantee: Sandwich Conservation Trust
P.O. Box 531
East Sandwich, MA 02537

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIII. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

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

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

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

XIV. MISCELLANEOUS

A. Pre-Existing Public Rights. Approval of this Conservation Restriction pursuant to Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

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

Signature pages:

Grantor – The Compact of Cape Cod Conservation Trusts, Inc. & V. Adrian Parsegian
Grantee Acceptance – Sandwich Conservation Trust
Approval of Town of Sandwich Board of Selectmen
Approval of the Secretary of Energy and Environmental Affairs

Exhibits:

Exhibit A: Legal Description of Premises
Exhibit B: Reduced Copy of Recorded Plan of Premises
GRANTOR (Lot 2):

WITNESS our hands and seals this 3rd day of June 2019,

By: Leonard W. Johnson

Its: President, duly authorized

By: Henry Lind

Its: Treasurer, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this 3rd day of June 2019, before me, the undersigned notary public, personally appeared Leonard W. Johnson, President of The Compact of Cape Cod Conservation Trusts, Inc., and Henry Lind, Treasurer of The Compact of Cape Cod Conservation Trusts, Inc., and proved to me through satisfactory evidence of identification which was personal knowledge to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of said corporation.

Mark H. Robinson, Notary Public
My Commission Expires: 24 July 2020
WITNESS my hand and seal this 13 day of \underline{July}, 2020,

V. ADRIAN PARSEGIN, also known as Vozken Adrian Parsegian, (Lot 1):

\[Signature\]

V. Adrian Parsegian,
by Valerie P. Parsegian,
under Durable Power of Attorney recorded in
Barnstable County Registry of Deeds in Book 32916 Page 252

COMMONWEALTH OF MASSACHUSETTS

\[Signature\], ss:

On this 13 day of \underline{July}, 2020, before me, the undersigned notary public, personally appeared \underline{Valerie P. Parsegian} and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\[Signature\]
Notary Public
My Commission Expires: 10-12-2021
ACCEPTANCE OF GRANT

This Amended and Restated Conservation Restriction from V. Adrian Parsegian and The Compact of Cape Cod Conservation Trusts, Inc., was accepted by Sandwich Conservation Trust this 17th day of July, 2020.

John N. Cullity, President and Trustee

Clifford Pring
Robert P. O'Connor
Joseph A. Quevran Jr.
Nancy J. McHugh

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this 17th day of July, 2020, before me, the undersigned notary public, personally appeared John N. Cullity, President/Trustee of the Sandwich Conservation Trust, and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of said Trust.

Mark H. Robinson, Notary Public
My Commission Expires: 24 July 2020
APPROVAL OF BOARD OF SELECTMEN

We, the undersigned, being a majority of the Board of Selectmen of the Town of Sandwich, hereby certify that at a public meeting duly held on ____________, 2020, the Board of Selectmen voted to approve the foregoing Amended and Restated Conservation Restriction from V. Adrian Parsegian and The Compact of Cape Cod Conservation Trusts, Inc., to Sandwich Conservation Trust in the public interest pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

BOARD OF SELECTMEN:

__________________________________________
Chair

__________________________________________

__________________________________________

__________________________________________

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of ________________, 2020, before me, the undersigned notary public, personally appeared ________________, Chair, and proved to me through satisfactory evidence of identification which was ________________ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

______________________________
Notary Public
My Commission Expires:
PARSEGIAN, AMENDED and RESTATED CONSERVATION RESTRICTION
SANDWICH, MA

APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Amended and Restated Conservation Restriction from V. Adrian Parsegian and The Compact of Cape Cod Conservation Trusts, Inc., to Sandwich Conservation Trust has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: __________________, 2020

Kathleen A. Theoharides
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, ss:

On this _____ day of __________________, 2020, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification which was ____________________________ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

________________________
Notary Public
My Commission Expires:
EXHIBIT A

Description of the Premises

The Premises subject to this Conservation Restriction is the entirety of a tract of land located in the Village of East Sandwich, Town of Sandwich, Barnstable County, Commonwealth of Massachusetts, containing a total of 32.23 acres, shown as "Lot 1" and "Lot 2" on a plan of land entitled "Plan of Division of Land in Sandwich, MA, as prepared for V. Adrian Parsegian & Valerie Parsegian, Scale: 1 In. = 100 ft., dated February 18, 2019, prepared by Soule Land Surveying, 103 Vesper Pond Drive, Brewster, MA 02631," said plan recorded at the Barnstable County Registry of Deeds in Plan Book 679, Page 59, a reduced copy of which is attached hereto as Exhibit B.

For Grantor’s title to Lot 1, see deed recorded at the Barnstable County Registry of Deeds in Deed Book 3085, Page 119.

For Grantor’s title to Lot 2, see deed recorded at the Barnstable County Registry of Deeds in Deed Book 32916 Page 250.

Street Addresses:

Lot 2: 0 Old County Road, East Sandwich, MA 02537
Lot 1: 247 Old County Road, East Sandwich, MA 02537
EXHIBIT B

Reduced Copy of Recorded Plan of Premises

For official full size plan, see Barnstable County Registry of Deeds Plan Book 679, Page 59