

SELECT BOARD Meeting Agenda
6:00 p.m. March 8, 2022
POWERS HALL & ZOOM

REVISED

To listen and view this virtual meeting on a phone, computer, laptop, or tablet, download the “Zoom Cloud Meeting” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the meeting or click the link below to join the webinar:

<https://us02web.zoom.us/j/89846356045?pwd=MUNaQ1BHWWhxM3gyYmUzdlJyblQwUT09>

Passcode: 106109

Or One tap mobile: US: +16465588656,,89846356045#

Webinar ID: 898 4635 6045

	6:00	Public Comment Period Citizens are encouraged to inform the Office of the Town Manager in advance via email (OTM@needhamma.gov), telephone (781) 455-7500 extension 204, or in person by the end of the business day prior to the meeting of their intent to participate in the public comment period. The Chair will first recognize those who have communicated in advance their desire to speak for up to three minutes. If time allows, others wishing to speak will be recognized in an order determined by the Chair for up to three minutes. The Board’s policy on public participation in meetings can be found here .
1.	6:00	Public Hearing: ABCC Transfer of License, Blue Restaurant Needham LLC, d/b/a Blue on Highland • Thomas Miller, Applicant Counsel • Adam Patti, Managing Member • Corey Peyser, Managing Member (Zoom) • Scott Drago, Proposed Manager
2.	6:00	Public Hearing: Alcohol License Hearing – Needham 365 Bev, LLC d/b/a Residence Inn • Michael Gendrin, Manager • Ronald Ruth, Counsel for Needham 365 Bev, LLC • John Schlittler, Chief of Police
3.	6:40	Director of Public Works Update: Emergency Work – Eversource Gas, Chestnut Street • Carys Lustig, Director of Public Works
4.	6:50	Community Preservation Committee (CPC) Consultation • Peter Pingitore, CPC Chair • Cecilia Simchak, CPC Liaison
5.	7:05	Town Manager • Accept and Refer Zoning • Open Special Town Meeting Warrant • Annual Town Meeting Warrant

		• Town Manager Report
6.	7:30	Board Discussion • Dangerous Dog Hearing Follow-up • Committee Reports
7.	7:45	Executive Session Exceptions 3, 6, and 2

CONSENT AGENDA *=Backup attached

1.*	Approve minutes of February 22, 2022 (open session)
2.*	Accept the following donations made to the Center at the Heights: \$25 from Marion Welch in memory of Delbert Miller, \$50 from Lynn Lind in memory of Delbert Miller.
3.*	Sign the Warrant for the Annual Town Election to be held on Tuesday, April 12, 2022
4.	Authorize the removal of “No Parking” signs on Dedham Avenue near Webster Street
5.*	Approve and Authorize the Town Manager to sign a TIF Forbearance Agreement between the Town of Needham and TripAdvisor.
6.	Approve a request from the Exchange Club of Needham to sponsor 4th of July fireworks and festivities on Sunday, July 3, 2022, and a Flag Raising and parade on Monday, July 4, 2022. Coordination of all activities will be made with appropriate Town Departments.



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Application for a Transfer of an All-Alcohol License – Blue Restaurant Needham LLC
Presenter(s)	Thomas Miller, Applicant Counsel Adam Patti, Managing Member Corey Peyser, Managing Member Scott Drago, Proposed Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	Blue Restaurant Needham LLC d/b/a Blue on Highland has applied for the transfer of a Restaurant All Alcoholic Beverages Liquor License to be operated at 882 Highland Avenue, Needham, MA. The applicant is requesting the appointment of Scott Drago as Manager of Record.
2.	VOTE REQUIRED BY SELECT BOARD
	Suggested Motion: <i>Move to approve the Section 12 All Alcohol Restaurant License transfer application submitted by Blue Restaurant Needham LLC d/b/a Blue on Highland including the appointment of Scott Drago as Manager of Record, and submit the application to the ABCC.</i>
3.	BACK UP INFORMATION ATTACHED
	1. Transfer Application 2. Business Structure Documents 3. DOR Certificate of Good Standing 4. DUA Certificate of Compliance 5. Manager Application 6. Vote of the Corporate Board 7. Legal Right to Occupy All other documents related to these transactions are on file in the Town Manager's Office.



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR A TRANSFER OF LICENSE

Municipality

1. TRANSACTION INFORMATION

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

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

Applying for a transfer of license at the same location with no changes to existing premises, the theme or the operations.

2. LICENSE CLASSIFICATION INFORMATION

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
On-Premises-12	§12 Restaurant	All Alcoholic Beverages	Annual

3. BUSINESS ENTITY INFORMATION

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

Current or Seller's License Number

FEIN

Entity Name

DBA

Manager of Record

Street Address

Phone

Email

Add'l Phone

Website

4. DESCRIPTION OF PREMISES

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

3446 SF on first floor and 310 SF on second floor; Dining room containing seating for 134 patrons."

Total Sq. Footage

Seating Capacity

Occupancy Number

Number of Entrances

Number of Exits

Number of Floors

APPLICATION FOR A TRANSFER OF LICENSE

5. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

Transferor Entity Name	Blue on Highland LLC	By what means is the license being transferred?	Purchase
------------------------	----------------------	---	----------

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

Name of Principal	Title/Position	Percentage of Ownership
T. Roderick Walkey	LLC Manager	100%

6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST

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

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
Off Premises (Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Adam Patti	257 Country Way, Needham MA 02492		
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Managing Member	50%	☒ Yes ☐ No	☒ Yes ☐ No
			MA Resident
			☒ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB
Corey Peyser	24 Fletcher Road, Needham, MA 02492		
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Managing Member	50%	☒ Yes ☐ No	☒ Yes ☐ No
			MA Resident
			☒ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
			MA Resident
			☐ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
			MA Resident
			☐ Yes ☐ No

APPLICATION FOR A TRANSFER OF LICENSE

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

Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
			MA Resident
			☐ Yes ☐ No

Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
			MA Resident
			☐ Yes ☐ No

Name of Principal	Residential Address	SSN	DOB
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
		☐ Yes ☐ No	☐ Yes ☐ No
			MA Resident
			☐ Yes ☐ No

Additional pages attached? ☐ Yes ☒ No

CRIMINAL HISTORY

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

☐ Yes ☒ No

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

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

Name	License Type	License Name	Municipality

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

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

Name	License Type	License Name	

APPLICATION FOR A TRANSFER OF LICENSE

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

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

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

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

7. CORPORATE STRUCTURE

Entity Legal Structure

LLC

Date of Incorporation

Dec 28, 2021

State of Incorporation

Massachusetts

Is the Corporation publicly traded? ☐ Yes ☒ No

8. OCCUPANCY OF PREMISES

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

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

Please indicate by what means the applicant will occupy the premises

Lease

Landlord Name

January Holdings, LLC

Landlord Phone

[REDACTED]

Landlord Email

[REDACTED]

Landlord Address

60 Dedham Avenue, Suite 203, Needham, MA 02492

Lease Beginning Date

1/10/2022

Rent per Month

\$10,416

Lease Ending Date

1/09/2032

Rent per Year

\$125,000

Will the Landlord receive revenue based on percentage of alcohol sales?

☐ Yes ☒ No

9. APPLICATION CONTACT

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

Name:

Thomas Miller

Phone:

[REDACTED]

Title:

Attorney

Email:

[REDACTED]

APPLICATION FOR A TRANSFER OF LICENSE

10. FINANCIAL DISCLOSURE

A. Purchase Price for Real Estate	
B. Purchase Price for Business Assets	\$550,000
C. Other* (Please specify)	
D. Total Cost	

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

SOURCE OF CASH CONTRIBUTION

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

Name of Contributor	Amount of Contribution
Adam Patti	\$275,000
Corey Peyser	\$275,000
Total	\$550,000

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
			☐ Yes ☐ No
			☐ Yes ☐ No
			☐ Yes ☐ No
			☐ Yes ☐ No

FINANCIAL INFORMATION

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

The funds for the purchase of the business and licenses will be funded from personal accounts of the LLC members from existing funds.

11. PLEDGE INFORMATION

Please provide signed pledge documentation.

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

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

To whom is the pledge being made?

13. MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement?

☐ Yes ☒ No

If yes, please fill out section 13.

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

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

13A. MANAGEMENT ENTITY

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

Entity Name	Address	Phone		
Name of Principal	Residential Address	SSN	DOB	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Name of Principal	Residential Address	SSN	DOB	
Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No

CRIMINAL HISTORY

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

☐ Yes ☐ No

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

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

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

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

Name	License Type	License Name	Municipality

13C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

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

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

Name	License Type	License Name	Municipality

13D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

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

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

Licensee Name	License Type	Municipality	Date(s) of Agreement

13E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

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

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

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

13F. TERMS OF AGREEMENT

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

Yes ☐ No ☐

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

Yes ☐ No ☐

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

Yes ☐ No ☐

d. Management Term Begin Date

e. Management Term End Date

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

☐ \$ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☐ % of overall sales (indicate percentage)

☐ other (please explain)

ABCC Licensee Officer/LLC Manager

Signature:

Title:

Date:

Management Agreement Entity Officer/LLC Manager

Signature:

Title:

Date:

APPLICANT'S STATEMENT

I, Adam Patti the: ☐ sole proprietor; ☐ partner; ☐ corporate principal; ☒ LLC/LLP manager
Authorized Signatory
of Blue Restaurant Needham LLC
Name of the Entity/Corporation

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

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

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

Signature:

Adam Patti

Date:

1/21/22

Title:

MEMBER

Corporations Division

Business Entity Summary

ID Number: 001552057

[Request certificate](#)[New search](#)

Summary for: BLUE RESTAURANT NEEDHAM LLC

The exact name of the Domestic Limited Liability Company (LLC): BLUE RESTAURANT NEEDHAM LLC

Entity type: Domestic Limited Liability Company (LLC)

Identification Number: 001552057

Date of Organization in Massachusetts:
12-28-2021

Last date certain:

The location or address where the records are maintained (A PO box is not a valid location or address):

Address: 257 COUNTRY WAY

City or town, State, Zip code, NEEDHAM, MA 02492 USA
Country:

The name and address of the Resident Agent:

Name: ADAM PATTI

Address: 257 COUNTRY WAY

City or town, State, Zip code, NEEDHAM, MA 02492 USA
Country:

The name and business address of each Manager:

Title	Individual name	Address
MANAGER	ADAM PATTI	257 COUNTRY WAY NEEDHAM, MA 02492 USA
MANAGER	COREY PEYSER	24 FLETCHER ROAD NEEDHAM, MA 02492 USA

In addition to the manager(s), the name and business address of the person(s) authorized to execute documents to be filed with the Corporations Division:

Title	Individual name	Address

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

Title	Individual name	Address
REAL PROPERTY	COREY PEYSER	24 FLETCHER ROAD NEEDHAM, MA 02492 USA
REAL PROPERTY	ADAM PATTI	257 COUNTRY WAY NEEDHAM, MA 02492 USA



Consent

Confidential
DataMerger
Allowed

Manufacturing

View filings for this business entity:

ALL FILINGS

Annual Report

Annual Report - Professional

Articles of Entity Conversion

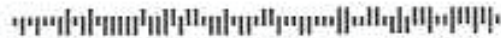
Certificate of Amendment

Certificate of Incorporation

[View filings](#)**Comments or notes associated with this business entity:**[New search](#)



CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



BLUE ON HIGHLAND LLC
60 DEDHAM AVE STE 203
NEEDHAM MA 02492-3070

Why did I receive this notice?

The Commissioner of Revenue certifies that, as of the date of this certificate, BLUE ON HIGHLAND LLC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

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

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

What if I have questions?

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

Visit us online!

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

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

Edward W. Coyle, Jr., Chief
Collections Bureau



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Charles D. Baker
GOVERNOR

Karyn E. Polito
LT. GOVERNOR



384078222

Rosalin Acosta

SECRETARY

Richard A. Jeffers
DIRECTOR

Blue on Highland LLC
Attn: Alexis Lamont
60 DEDHAM AVENUE
NEEDHAM, MA 02492

EAN: 84086670
January 13, 2022

Certificate Id:55062

The Department of Unemployment Assistance certifies that as of 1/13/2022, Blue on Highland LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c. 149, §189.

This certificate expires in 30 days from the date of issuance.

Richard A. Jeffers, Director

Department of Unemployment Assistance

12. MANAGER APPLICATION

A. MANAGER INFORMATION

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

Proposed Manager Name Scott Drago

Date of Birth

Residential Address

51 Reading Hill Avenue Melrose, MA. 02176

Email

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

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B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?*

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

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

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

☐ Yes ☒ No

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

Date	Municipality	Charge	Disposition

C. EMPLOYMENT INFORMATION

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

Start Date	End Date	Position	Employer	Supervisor Name
2020	Present	Regional Sales Exec.	UPS	
2014	2020	Manging Partner	Blue on Highland	Thomas Walkey
2010	2014	Managing Partner	99 Restaurants	Steve McGovern

D. PRIOR DISCIPLINARY ACTION

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

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

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

Manager's Signature

Date

1/21/2022

CORPORATE VOTE

The Board of Directors or LLC Managers of

Blue Restaurant Needham LLC

Entity Name

duly voted to apply to the Licensing Authority of

Needham, MA

City/Town

and the

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on

Jan 21, 2022

Date of Meeting

For the following transactions (Check all that apply):

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

"VOTED: To authorize

Adam Patti

Name of Person

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

"VOTED: To appoint

Scott Drago

Name of Liquor License Manager

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

A true copy attest,

For Corporations ONLY

A true copy attest,


Corporate Officer /LLC Manager Signature

Corporation Clerk's Signature

ADAM S. PATTI
(Print Name)

(Print Name)

RESTAURANT ASSET PURCHASE AND SALE AGREEMENT

THIS RESTAURANT ASSET PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into as of January 10, 2022, by and between Blue on Highland LLC, a Massachusetts limited liability company with an address of 60 Dedham Avenue, Suite 203, Needham, MA 02492 (“**Seller**”)(Each of Seller, the members and the beneficial owners of Seller are sometimes referred to herein as a “**Seller Party**” and Blue Restaurant Needham LLC, a Massachusetts limited liability company having an address at 257 Country Way, Needham, MA 02494 (“**Buyer**”).

WHEREAS, Seller desires to sell certain of its assets owned and utilized in its restaurant business known as “Blue on Highland” (the “**Restaurant**” or “**Business**”) located at the Premises known as and numbered 882 Highland Avenue, Needham, MA 02494 (the “**Premises**”); and

WHEREAS, Buyer desires to purchase said assets owned and utilized in the Restaurant for the consideration specified herein.

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

1. Purchase and Sale of Assets.

1.1 Sale of Assets. Subject to the provisions of this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase at the Closing (as defined in Section 1.5 below), all of Seller's right, title and interest in, to and under all of the assets, properties and rights of every kind and nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located and whether now existing or hereafter acquired (other than the Excluded Assets referred to in Section 1.2 below), which relate to, or are used or held for use in connection with the operation with the Restaurant (all such property is hereinafter referred to as the “**Subject Assets**”). The Subject Assets shall include, without limitation, the following:

- 1.1.1** all inventory, finished goods, raw materials, work in progress, packaging, supplies, parts and other inventories, subject to payment and adjustment as set forth herein (“**Inventory**”);
- 1.1.2** all Contracts set forth in the Disclosure Schedules that Buyer agrees to accept assignment of with notice of same being given to Seller as soon as is practicable and in any event, not later than the Closing (the “**Assigned Contracts**”);
- 1.1.3** all social media accounts (including, but not limited to Instagram, Facebook and Twitter accounts which are assignable) including the Business domain, trademarks, and any other digital assets (collectively the “**Intellectual Property Assets**”);

- 1.1.4 all furniture, fixtures, equipment, machinery, tools, office equipment, supplies, computers, telephones and other tangible personal property (the **“Tangible Personal Property”**);
- 1.1.5 all leasehold improvements and all Seller’s rights in respect of the Leased Real Property;
- 1.1.6 all Seller’s right, title and interest in and to the Alcoholic Beverages License used by Seller at the Restaurant (the **“License”**) and, to the extent assignable or transferable, a common victualer’s license, entertainment license, occupancy permit and any other license or permit necessary to operate a restaurant serving food and alcoholic beverages at the Premises (the **“Operating Licenses”**);
- 1.1.7 copies, of all books and records, including, but not limited to, books of account, ledgers and general, financial and accounting records, marketing and promotional surveys, material and research (**“Books and Records”**);
- 1.1.8 all telephone and fax numbers;
- 1.1.9 all goodwill and the going concern value of the Business.

Within fifteen (15) days of the date of this Agreement Buyer and Seller shall agree upon a complete list of all the Subject Assets and attach such list to this Agreement (the **“Subject Assets Schedule”**), which Subject Assets Schedules shall be the definitive lists of Subject Assets for purposes of this Agreement.

1.2 Excluded Assets. Notwithstanding the foregoing, the Subject Assets shall not include the following assets (collectively, the **“Excluded Assets”**) as of the Closing Date:

- 1.2.1 all Register Cash (**“Register Cash”** means all cash on hand on the Closing Date);
- 1.2.2 The corporate seals, organizational documents, minute books, stock books, Tax Returns, books of account or other records having to do with the corporate organization of Seller;
- 1.2.3 all Benefit Plans and assets attributable thereto;
- 1.2.4 all Tax refunds and prepayments of Seller relating to the pre-Closing period;
- 1.2.5 all cash and cash equivalents such as credit card purchases (other than the Register Cash), accounts receivable, bank deposits and the security deposits (**“Security Deposits”** means all cash or cash equivalents held by third

parties as security deposits pursuant to an agreement to which Seller is a party);

- 1.2.6 all computers not connected with the point-of-sale system or the security system;
- 1.2.7 all property, casualty, and individual life insurance policies owned or obtained by Seller on behalf of the Business;
- 1.2.8 the rights which accrue or will accrue to Seller under this Agreement and the Ancillary Documents (“**Ancillary Documents**” means the Bill of Sale, the Assignment and Assumption Agreement of the Real Estate Lease and the other agreements, instruments and documents required to be delivered at the Closing);
- 1.2.9 Two (2) memorial benches outside the front façade of the building; and outside flower planters;
- 1.2.10 Needham vignette photos; provided however, that Seller shall permit Buyer to continue to use the Needham vignette photos during Buyer’s operation of the restaurant, provided, further that if Buyer ever discontinues use of the Needham vignette photos, Buyer shall return all Needham vignette photos to Seller.

Within fifteen (15) days of the date of this Agreement Buyer and Seller shall agree upon a complete list of all the Excluded Assets to be set forth in the Disclosure Schedule.

1.3 Assumed Liabilities. Subject to the terms and conditions set forth herein, Buyer shall assume and agree to pay, perform and discharge only the following liabilities of Seller (collectively, the “**Assumed Liabilities**”), and no other Liabilities:

- 1.3.1 all liabilities in respect of the Assigned Contracts but only to the extent that such Liabilities thereunder are required to be performed after the Closing Date, were incurred in the ordinary course of business and do not relate to any failure to perform, improper performance, warranty or other breach, default or violation by Seller on or prior to the Closing; and
- 1.3.2 the Assumed Gift Card Liabilities (“**Assumed Gift Card Liabilities**” means Valid Gift Card Liabilities as of the Closing Date and “**Valid Gift Card Liabilities**” means bona fide gift card Liabilities incurred by Seller in the ordinary course upon the purchase of gift cards by Seller’s bona fide customers and for which Seller provides Buyer with a credit at Closing.

Within fifteen (15) days of the date of this Agreement Buyer and Seller shall agree upon a complete list of all the Assigned Liabilities to be set forth in the Disclosure Schedule.

1.4 Excluded Liabilities. Buyer shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of Seller or any of its Affiliates of any kind or nature whatsoever other than the Assumed Liabilities (the “**Excluded Liabilities**”). Seller shall, and shall cause each of its Affiliates to, pay and satisfy in due course all Excluded Liabilities which they are obligated to pay and satisfy. Without limiting the generality of the foregoing, the Excluded Liabilities shall include, but not be limited to, the following:

- 1.4.1** any Liabilities of Seller arising or incurred in connection with any transaction expense including, without limitation, fees and expenses of counsel, accountants, brokers, consultants, advisers and others;
- 1.4.2** any Liability (i) for Taxes of Seller (or any member or Affiliate of Seller) or relating to the Business, the Subject Assets or the Assumed Liabilities; (ii) for Taxes of Seller (or any member or Affiliate of Seller) that arise out of the consummation of the transactions contemplated hereby;
- 1.4.3** any Liabilities relating to or arising out of the Excluded Assets;
- 1.4.4** any Liabilities in respect of any pending or threatened Action arising out of, relating to or otherwise in respect of the operation of the Business or the Subject Assets to the extent such Action relates to such operation on or prior to the Closing Date;
- 1.4.5** any Liabilities of Seller arising under or in connection with any Benefit Plan providing benefits to any present or former employee of Seller;
- 1.4.6** any Liabilities of Seller for any present or former employees, officers, directors, retirees, independent contractors or consultants of Seller, including, without limitation, any Liabilities associated with any claims for wages or other benefits, bonuses, accrued vacation, workers' compensation, severance, retention, termination or other payments;
- 1.4.7** any Liabilities associated with debt, loans or credit facilities of Seller and/or the Business owing to financial institutions;
- 1.4.8** any Liabilities arising out of, in respect of or in connection with the failure by Seller or any of its Affiliates to comply with any Law or Governmental Order.

1.5 Real Estate Lease. Buyer’s obligation to perform under this Agreement is contingent upon Buyer negotiating and finalizing a Lease with the proposed buyer of the real estate on which the Restaurant is located upon terms and conditions reasonably acceptable to Buyer within fifteen (15) days of the date hereof, which shall be between the Seller and the proposed buyer of the real estate and later assigned to Buyer at Closing (the “**Real Estate Lease**”), .

1.6 Purchase Price and Payment. The purchase price for the Subject Assets of Five Hundred Fifty Thousand Dollars (\$550,000.00), adjusted as provided below (the “**Purchase Price**”) shall be paid as follows:

1.6.1 A deposit (the “**Deposit**”) in the amount of Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) paid to Seller’s attorney Michael Zafiropoulos, Esquire of ZafLaw LLC (“**Escrow Agent**”) within one (1) business days of the date of this Agreement, to be held in an IOLTA escrow account, which shall be applied to the Purchase Price at Closing or returned to Buyer as provided in this Agreement;

1.6.2 The balance of the Purchase Price in the amount of Five Hundred and Twenty-Two Thousand Five Hundred Dollars (\$522,500.00) in immediately available funds or by certified or bank cashier’s check, or at Seller’s option, by wire transfer shall be paid by Buyer on the date of the Closing.

1.7 Physical Inventory. One (1) day prior to the closing, Buyer and Seller shall have conducted a joint physical count of all Inventory (meaning food and beverage only) owned by Seller (the “**Physical Inventory**”). The Physical Inventory at the time of Closing shall be at least at “average operational levels”. The inventory valuation shall be netted against the Valid Gift Card Liabilities and the remaining sum shall either be paid to the Seller, or to the Buyer at Closing, depending on the variance.

1.8 Closing. Subject to the terms and conditions of this Agreement, the consummation of the transactions contemplated by this Agreement (the “**Closing**”) shall take place at the offices of Seller’s attorney, ZafLaw LLC, 450 Lexington Street, Suite 101, Newton, Massachusetts 02466, or remotely by exchange of documents and signatures (or their electronic counterparts), at 10:00 a.m. Eastern Time, on or before five (5) business days after the approval by the Town of Needham Licensing Board (the “**Licensing Board**”) and The Commonwealth of Massachusetts Alcoholic Beverages Control Commission (the “**ABCC**”) of the transfer of the License by Seller to Buyer (the “**License Contingency**”) and the satisfaction of any other contingencies under this Agreement; or at such other place, date or time as may be fixed by mutual agreement of the parties. The date on which the Closing is to occur is herein referred to as the “**Closing Date**”. The Parties agree that all documents, certificates and instruments to be delivered hereunder may be executed using an electronic signature and delivered electronically in accordance with MGL c.110G (The Uniform Electronic Transactions Act), except to the extent prohibited thereby.

1.9 Closing Deliveries. At the Closing, Seller shall deliver (or caused to be delivered) to Buyer the following:

1.9.1 a bill of sale in a form reasonably acceptable to both Seller and Buyer (the “**Bill of Sale**”) and duly executed by Seller, transferring the tangible personal property included in the Subject Assets to Buyer;

1.9.2 a good standing certificate relating to Seller issued by the Secretary of the Commonwealth of Massachusetts within 5 Business Days before Closing;

- 1.9.3 a certificate of good standing from the Massachusetts Commissioner of Revenue relating to Seller issued within 5 Business Days before Closing;
- 1.9.4 a waiver of tax lien issued by the Massachusetts Commissioner of Revenue relating to Seller issued within 5 Business Days before Closing;
- 1.9.5 an Assignment and Assumption of the Real Estate Lease (the “**Assignment and Assumption of Lease**”) and duly executed by Seller and Buyer and any Assigned Contracts that Buyer has agreed to accept;
- 1.9.6 such other customary instruments of transfer, assumption, filings or documents, in form and substance reasonably satisfactory to Buyer, as may be required to give effect to this Agreement;

1.10 Delivery of Keys and Operating Records. Seller shall deliver to Buyer the keys and alarm instructions for the Premises, and copies of such records and other data relating to the Subject Assets as is reasonably required by Buyer for operation of a restaurant serving alcoholic beverages on the Premises.

1.11 Further Assurances. Seller from time to time after the Closing at the request of Buyer and without further consideration shall execute and deliver further instruments of transfer and assignment (in addition to those delivered under Section 1.7) and take such other action as Buyer may reasonably require to more effectively transfer and assign to, and vest in, Buyer each of the Subject Assets. To the extent that the assignment of any lease, contract, commitment or right shall require the consent of other parties thereto, this Agreement shall not constitute an assignment thereof, however, Seller shall use its best efforts before and after the Closing to obtain any necessary consents or waivers to assure Buyer of the benefits of such leases, contracts, commitments or rights. Nothing herein shall be deemed a waiver by Buyer of its right to receive at the Closing an effective assignment of each of the leases, contracts, commitments or rights of Seller which are included in the Subject Assets.

1.12 Buyer’s Designated Nominee. Buyer may designate another entity as its nominee hereunder. Each reference in this Agreement to “Buyer” shall be deemed to be a reference to such entity.

2. Representations and Warranties

2.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to the best of its actual knowledge as of the date of this Agreement and shall reaffirm such representations and warranties as of the date of the Closing:

- 2.1.1 Organization and Qualification of Seller.** Seller is a limited liability company duly organized, validly existing and in good standing under the laws of The Commonwealth of Massachusetts.

- 2.1.2 Authority of Seller.** All necessary action has been taken by Seller to authorize the execution, delivery and performance of this Agreement, including, without limitation, the due approval by the members and managers of Seller in accordance with Seller's Operating Agreement, and this Agreement is the valid and binding obligation of Seller in accordance with its terms subject to laws of general application affecting creditor's rights.
- 2.1.3 Title to and Condition of Subject Assets.** Seller shall at Closing have good and marketable title in fee simple to the Subject Assets, free and clear of any liens, encumbrances and charges of any kind or nature. Seller shall assign to Buyer any unexpired manufacturer's warranties for the Subject Assets, but Seller makes no warranties, express or implied, as to the condition or suitability of the Subject Assets.
- 2.1.4 Payment of Liabilities.** Except as set forth on the Disclosure Schedule, there are no liabilities of Seller which will not be paid on or prior to Closing or if not paid will be or may create a lien upon the Subject Assets or interfere with Buyer's ability to operate a restaurant business serving alcoholic beverages on the Premises (e.g. bills for alcoholic beverage deliveries).
- 2.1.5 Litigation.** Except as set forth on the Disclosure Schedule, there is no litigation pending or, to the best of Seller's knowledge, threatened against Seller or any affiliate of Seller with respect to the operation of the Restaurant, the Premises or otherwise.
- 2.1.6 Finder's Fee.** Seller has not incurred or become liable for any broker's commission or finder's fee relating to or in connection with the transactions contemplated by this Agreement. Seller shall indemnify and hold harmless Buyer for any brokerage claims of any other parties binding on Buyer resulting from Seller's actions.
- 2.1.7 Employee Compensation.** As of the date of the Closing, there shall be no salary, commission, vacation, sick leave, health insurance or any other accrued benefits, or compensation of any kind or nature due from Seller to any of its employees, consultants, or agents who work at or provide services to the Restaurant which will become an obligation of Buyer after the Closing.
- 2.1.8 ABCC Delinquent List.** Seller has not been placed nor shall be placed on or before the date of the Closing on the delinquent list of the ABCC pursuant to Massachusetts General Laws Chapter 138, Section 23.
- 2.1.9 Payment of Taxes.** All transfer, excise or other taxes payable by reason of the sale and transfer of the Subject Assets pursuant to this Agreement shall be paid or provided for by Seller after the Closing out of the consideration

payable by Buyer hereunder. Seller has filed all federal, state and local income, excise or franchise tax returns, real estate and personal property tax returns, sales and use tax returns and other tax returns required to be filed by it and has paid all taxes owing by it except taxes which have not yet accrued or otherwise become due for which adequate provision has been made.

2.1.10 Title to Subject Assets. Seller has good and valid title to, or a valid leasehold interest in, all of the Subject Assets. All such Subject Assets (including leasehold interests) are free and clear of Encumbrances except for the following (collectively referred to as “**Permitted Encumbrances**”):

2.1.10.1 liens for Taxes not yet due and payable;

2.1.10.2 mechanics', carriers', workmen's, repairmen's or other like liens arising or incurred in the ordinary course of business consistent with past practice or amounts that are not delinquent and which are not, individually or in the aggregate, material to the Business or the Subject Assets;

2.1.10.3 easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property which are not, individually or in the aggregate, material to the Business or the Subject Assets, which do not prohibit or interfere with the current operation of any Real Property and which do not render title to any Real Property unmarketable.

2.1.11 No Other Representations and Warranties. Except for the representations and warranties contained in this Section 2.1 (including the related portions of the Disclosure Schedules), neither Seller nor any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller, including any representation or warranty as to the accuracy or completeness of any information regarding the Business and the Subject Assets.

2.1.12 Indemnity and Survival of Representations and Warranties. Seller's representations and warranties shall survive the Closing for six (6) months with the exception of 2.1.1, 2.1.2, 2.1.3 and 2.1.10 which shall survive indefinitely.

2.2 Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to the best of its actual knowledge:

2.2.1 Organization of Buyer. As of the Closing Date, Buyer is a Massachusetts limited liability company duly organized and validly existing and in good standing under the laws of The Commonwealth of Massachusetts with full

power to own or lease its properties and to conduct its business in the manner and in the places where such properties are owned or leased or such business is conducted by Buyer.

- 2.2.2 Authority of Buyer.** As of the Closing Date, all necessary action will have been taken by Buyer's nominee to authorize the execution, delivery and performance of this Agreement, and this Agreement will be a valid and binding obligation of Buyer's nominee in accordance with its terms subject to laws of general application affecting creditor's rights.
- 2.2.3 Finder's Fee.** Buyer has not incurred or become liable for any broker's commission or finder's fee relating to or in connection with the transactions contemplated by this Agreement. Buyer shall indemnify and hold harmless Seller for any brokerage claims of any other parties binding on Seller resulting from Buyer's actions.
- 2.2.4 Sufficiency of Funds.** Buyer has sufficient cash on hand or other sources of immediately available funds to enable it to make payment of the Purchase Price and consummate the transactions contemplated by this Agreement.
- 2.2.5 Legal Proceedings.** There are no Actions pending or, to Buyer's knowledge, threatened against or by Buyer or any Affiliate of Buyer that challenge or seek to prevent, enjoin or otherwise delay the transactions contemplated by this Agreement. No event has occurred or circumstances exist that may give rise or serve as a basis for any such Action.
- 2.2.6 Independent Investigation.** As of the expiration of the Due Diligence Period, Buyer will have conducted its own independent investigation, review and analysis of the Business and the Subject Assets, and acknowledges that it has been provided access to certain of Seller's personnel, properties, assets, premises, and the information and as set forth in the Disclosure Schedules.
- 2.2.7 Indemnity and Survival of Representations and Warranties.** Buyer's representations and warranties shall survive the Closing for six (6) months, with the exception of 2.2.1, 2.2.2, 2.2.3 and 2.2.6 which shall survive indefinitely.

3. Covenants of Seller and Buyer.

3.1 Conduct of Business Prior to the Closing. From the date hereof until the Closing, except as otherwise provided in this Agreement or consented to in writing by Buyer (which consent shall not be unreasonably withheld or delayed), Seller shall (x) conduct the Business in the ordinary course of business consistent with past practice; and (y) use reasonable best efforts to maintain and preserve intact its current Business organization, operations and franchise and to preserve the rights, franchises, goodwill and relationships of its employees, customers, lenders, suppliers, regulators and others having relationships with the Business. Without limiting the foregoing, from

the date hereof until the Closing Date, Seller shall (and the other Seller Parties shall cause Seller to):

- 3.1.1 preserve and maintain all Permits required for the conduct of the Business as currently conducted or the ownership and use of the Subject Assets;
- 3.1.2 pay the debts, Taxes and other obligations of the Business when due;
- 3.1.3 maintain the properties and assets included in the Subject Assets in the same condition as they were on the date of this Agreement, subject to reasonable wear and tear;
- 3.1.4 defend and protect the properties and assets included in the Subject Assets from infringement or usurpation;
- 3.1.5 maintain the Books and Records in accordance with past practice;
- 3.1.6 comply in all material respects with all Laws applicable to the conduct of the Business or the ownership and use of the Subject Assets.

3.2 Public Disclosures. Seller and Buyer shall, in good faith, attempt to agree upon any publicity statement or other public disclosures with respect to this Agreement. Except as required to satisfy any conditions provided in this Agreement, no such statement, announcement, publicity release or public disclosure shall be made by either party without first obtaining the assent of the other party.

3.3 Best Efforts to Satisfy Conditions. Seller and Buyer hereby agree that they shall each exercise best efforts to satisfy all conditions to consummate this Agreement and the transactions contemplated hereby as specified in this Agreement in a timely manner.

3.4 Access to Information. From the date hereof until the Closing, Seller shall: (a) afford Buyer and its Representatives (as such term is defined below) reasonable access to and the right to inspect all of the assets, premises, Books and Records, contracts and other documents and data related to the Business; (b) furnish Buyer and its representatives with such financial, operating and other data and information related to the Business as Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of Seller to cooperate with Buyer in its investigation of the Business; *provided, however*, that any such investigation shall be conducted during normal business hours upon reasonable advance notice to Seller, under the supervision of Seller's personnel and shall be conducted in such manner as not to interfere unreasonably with the conduct of the Business or any other businesses of Seller. No investigation by Buyer or other information received by Buyer shall operate as a waiver or otherwise affect any representation, warranty or agreement given or made by Seller in this Agreement. "**Representative**" means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants and other agents of such Person.

3.5 [Intentionally Deleted]

3.6 Books and Records.

3.6.1 In order to facilitate the resolution of any claims made against or incurred by Seller prior to the Closing, or for any other reasonable purpose, for a period of 3 years after the Closing, Buyer shall:

3.6.1.1 retain the Books and Records (including personnel files) relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of Seller; and

3.6.1.2 upon reasonable notice, afford the Seller Parties' Representatives reasonable access (including the right to make, at Seller's expense, photocopies), during normal business hours, to such Books and Records.

3.6.2 In order to facilitate the resolution of any claims made by or against or incurred by Buyer after the Closing, or for any other reasonable purpose, for a period of 3 years following the Closing, Seller shall:

3.6.2.1 retain the books and records (including personnel files) of Seller which relate to the Business and its operations for periods prior to the Closing;

3.6.2.2 upon reasonable notice, afford the Buyer's Representatives reasonable access (including the right to make, at Buyer's expense, photocopies), during normal business hours, to such books and records.

3.6.3 Neither Buyer nor Seller shall be obligated to provide the other Party with access to any books or records (including personnel files) pursuant to this Section 3.6 where such access would violate any Law.

3.7 Closing Conditions From the date hereof until the Closing, each party hereto shall use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Section 4 hereof.

3.8 Public Announcements. Unless otherwise required by applicable Law (based upon the reasonable advice of counsel), no party to this Agreement shall make any public announcements in respect of this Agreement or the transactions contemplated hereby or otherwise communicate with any news media without the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), and the parties shall cooperate as to the timing and contents of any such announcement. Notwithstanding anything contained in this Agreement (including without limitation this Section 3.8), the Parties agree to make a mutually agreed joint announcement to the employees of the Business regarding the transactions

contemplated by this Agreement on a mutually agreed date following the Effective Date and prior to the Closing Date.

3.9 Bulk Sales Laws. The parties hereby waive compliance with the provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction that may otherwise be applicable with respect to the sale of any or all of the Subject Assets to Buyer; it being understood that any Liabilities arising out of the failure of Seller to comply with the requirements and provisions of any bulk sales, bulk transfer or similar Laws of any jurisdiction which would not otherwise constitute Assumed Liabilities shall be treated as Excluded Liabilities.

4. Conditions.

4.1 Conditions to the Obligations of Buyer. The obligation of Buyer to consummate this Agreement and the transactions contemplated hereby are subject to the fulfillment, prior to or at the Closing, of the following conditions precedent:

4.1.1 Representations; Warranties; Covenants. Each of the representations and warranties of Seller contained herein shall be true and correct as though made on and as of the Closing Date and Seller shall execute and deliver a bring-down certificate as of the Closing date confirming that Seller's representations and warranties remain true and correct.

4.1.2 Disclosure Schedule. Each of the items set forth on the Disclosure Schedule shall be reasonably acceptable to Buyer.

4.1.3 License Transfer. Within fifteen (15) days of the date of this Agreement Buyer shall submit an application to the Licensing Board for approval of the transfer of the License. Buyer shall use all reasonable and diligent efforts to obtain such approval and Seller shall cooperate with Buyer and provide any necessary supporting documentation, including but not limited to a Certificate of Good Standing with the Commonwealth of Massachusetts Department of Revenue for the Seller which shall be given to Buyer upon execution hereof. If Buyer is unable to obtain the approval of the Licensing Board and the ABCC to the proposed transfer of the License with terms and conditions, including capacity and hours of operation, the exact same under which the Restaurant is currently operated within one hundred twenty (120) days following the submission of such application, Buyer shall have the right to extend the 120-day period for an additional thirty (30) days (the "**Extension Period**"). If Buyer is unable to obtain such approval at the end of the 120-day period (and does not elect to extend this 120-day period) or at the end of the Extension Period, and such non-approval is not the result of any delay by Buyer in responding to any requests by the licensing agencies or in the production of required application materials or supplemental material by Buyer, then Buyer shall have the right to terminate this Agreement by written notice to Seller, whereupon all deposits, shall be forthwith refunded and this Agreement shall become null and void without

further recourse to any party. If any delay in obtaining the necessary approvals are due to the action or inaction of Seller, Buyer shall have the right to extend the Extension Period by a reasonable period of time to obtain such approvals. In addition, to the extent that despite good faith efforts, Buyer is delayed in obtaining any of its necessary permits and approvals due to COVID-19 restrictions imposed either on public hearings or the Town of Needham Licensing Board or the ABCC, the Extension Period shall be stayed by one (1) day for each day that Buyer is delayed in obtaining its permits for a period not to exceed thirty (30) days provided such delay is not due to the action or inaction of the Buyer.

4.1.4 Certificate of Good Standing. Seller shall have delivered to Buyer a Certificate of Good Standing issued by The Commonwealth of Massachusetts, Secretary of State's Office, dated within thirty (30) days of the Closing date.

4.1.5 Employees. Effective on or prior to the date of the Closing, Seller shall terminate the employment of all of its employees working for the Seller at the Restaurant and shall pay all such employees for any accrued wages, payroll tax obligations, benefits, vacation, sick leave or any other accrued benefits or obligations of any kind or nature due to such employees through the date of the Closing (within the time allowed by applicable law). After the Closing, Buyer shall be entitled to hire such former employees of Seller as Buyer shall determine on such terms and conditions as shall be determined by Buyer.

4.1.6 Real Estate Lease. Buyer and Landlord shall have agreed on the terms and conditions of, and executed and delivered, the Real Estate Lease within fifteen (15) days of the date of this Agreement.

4.1.7 Disclosure Schedule. The completion of the Disclosure Schedule to the satisfaction of Buyer within fifteen (15) days of the date of this Agreement.

4.1.8 Due Diligence. The completion of Buyer's due diligence of the Premises to the satisfaction of Buyer within fifteen (15) days of the date of this Agreement.

4.2 Conditions to Obligations of Seller. Seller's obligation to consummate this Agreement and the transaction contemplated hereby is subject to the fulfillment, prior to or at the Closing Date, of the following conditions precedent:

4.2.1 Representations; Warranties; Covenants. Each of the representations and warranties of Buyer contained in this Agreement shall be true and correct as though made on and as of the Closing date.

- 4.2.2 Authorization.** This Agreement and the transactions contemplated hereby shall have been duly approved by the affirmative vote of Buyer's board, or manager, or such other approval as may be required in accordance with Buyer's organization documents.
- 4.2.3** Buyer shall have delivered to Seller Parties such other documents or instruments as the Seller Parties reasonably request and are reasonably necessary to consummate the transactions contemplated by this Agreement.
- 4.2.4 Sale of Real Estate.** Seller's obligation to sell the Subject Assets shall be contingent upon January Holdings LLC entering into and executing a Purchase and Sale Agreement (herein the "P&S") for the sale of the Premises on or before December 31, 2021 (herein the "P&S Contingency Period") and the subsequent successful closing of the sale of said Premises on or before April 30, 2022 (herein the "Real Estate Closing Date"). In connection with said sale of the Premises, it shall be a condition of both Seller and Buyer's obligations herein that the Buyer enters into and executes a lease agreement for the Premises (herein the "New Lease") with the purchaser of the Premises within fifteen (15) days of the date of this Agreement. The New Lease shall contain a condition that it shall not become effective unless and until the recording of the deed for the Premises to the purchaser and January Holdings LLC's receipt of the full amount of the sale proceeds.

5. Termination of Agreement.

5.1 Termination. This Agreement may be terminated:

- 5.1.1** By mutual consent of Buyer and Seller with the approval of their respective Board of Directors and/or Managers, notwithstanding prior approval of this Agreement by the stockholders/members of either party;
- 5.1.2** By either party if there has been a material misrepresentation, breach of warranty or breach of covenant by the other party with respect to its representations, warranties and covenants set forth herein;
- 5.1.3** By either party if the Disclosure Schedule or the Real Estate Lease have not been agreed upon and accepted by both parties within fifteen (15) days of the date of this Agreement
- 5.1.4** By Buyer if any of the conditions set forth in Section 4.1 have not been satisfied at or prior to the Closing;
- 5.1.5** By Seller if any of the conditions set forth in Section 4.2 have not been satisfied at or prior to the Closing date.

5.2 Effect of Termination. If this Agreement shall be terminated pursuant to Sections 5.1.1, 5.1.2, 5.1.3, or 5.1.4 above, then all obligations of the parties hereunder shall terminate without liability of either party to the other, and all deposits made by Buyer hereunder shall be promptly refunded to Buyer without interest, deduction or set-off. If this Agreement shall be terminated pursuant to Sections 5.1.5 above, then all obligations of the parties hereunder shall terminate without liability of either party to the other, all deposits made by Buyer hereunder shall be retained by Seller as liquidated damages and this Agreement shall be null and void. In the event that this Agreement is terminated under any provision of this Agreement, each party will return all papers, documents, financial statements and other data furnished to it by or with respect to each other party to such other party (including any copies thereof made by the first party).

5.3 Right to Proceed. Anything in this Agreement to the contrary notwithstanding, if any of the conditions specified in Section 4.1 hereof have not been satisfied, Buyer shall have the right to proceed with the transactions contemplated hereby without waiving any of its rights hereunder, and if any of the conditions specified in Section 4.2 hereof have not been satisfied, Seller shall have the right to proceed with the transactions contemplated hereby without waiving any of its rights hereunder.

6. Miscellaneous.

6.1 Indemnification.

6.1.1 Survival. Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is 9 months from the Closing Date; *provided, that* the representations and warranties in Section 2.1.1, Section 2.1.2, Section 2.1.6, Section 2.1.10, Section 2.1.11, Section 2.2.1, Section 2.2.2, and Section 2.2.3 shall survive indefinitely. All covenants and agreements of the Parties contained herein shall survive the Closing indefinitely or for the period explicitly specified therein. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from the non-breaching Party to the breaching Party prior to the expiration date of the applicable survival period shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

6.1.2 Indemnification By Seller Parties. Subject to the other terms and conditions of this Section 6.1, each of the Seller Parties, jointly and severally, shall indemnify and defend each of Buyer and its Affiliates and their respective Representatives (collectively, the “**Buyer Indemnitees**”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses (“**Losses**” means actual out-of-pocket losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right

to indemnification hereunder and the cost of pursuing any insurance providers; *provided, however*, that “Losses” shall not include punitive damages, except to the extent actually awarded to a Governmental Authority or other third party) incurred or sustained by, or imposed upon, the Buyer Indemnitees based upon, arising out of, with respect to or by reason of:

6.1.2.1 any inaccuracy in or breach of any of the representations or warranties of Seller contained in this Agreement, the Ancillary Documents or in any certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

6.1.2.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Seller pursuant to this Agreement, the Ancillary Documents or any certificate or instrument delivered by or on behalf of Seller pursuant to this Agreement;

6.1.2.3 any Third Party Claim based upon, resulting from or arising out of the business, operations, properties, assets or obligations of Seller or any of its Affiliates (other than the Subject Assets or Assumed Liabilities) conducted, existing or arising on or prior to the Closing Date; or

6.1.2.4 any Liability (i) for Taxes of Seller (or any stockholder or Affiliate of Seller) or relating to the Business, the Subject Assets or the Assumed Liabilities; (ii) for Taxes of Seller (or any stockholder or Affiliate of Seller) that arise out of the consummation of the transactions contemplated hereby or that are the responsibility of Seller; (iii) of Seller (or any stockholder or Affiliate of Seller) for the unpaid Taxes of any Person under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or non-U.S. law); or (iv) for other Taxes of Seller (or any stockholder or Affiliate of Seller) of any kind or description (including any Liability for Taxes of Seller (or any stockholder or Affiliate of Seller) that becomes a Liability of Buyer under any common law doctrine of de facto merger or transferee or successor liability or otherwise by operation of contract or Law).

6.1.3 Indemnification By Buyer. Subject to the other terms and conditions of this ARTICLE VIII, Buyer shall indemnify and defend each of Seller and its Affiliates and their respective Representatives (collectively, the “**Seller**

Indemnitees”) against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Seller Indemnitees based upon, arising out of, with respect to or by reason of:

6.1.3.1 any inaccuracy in or breach of any of the representations or warranties of Buyer contained in this Agreement or in any certificate or instrument delivered by or on behalf of Buyer pursuant to this Agreement, as of the date such representation or warranty was made or as if such representation or warranty was made on and as of the Closing Date (except for representations and warranties that expressly relate to a specified date, the inaccuracy in or breach of which will be determined with reference to such specified date);

6.1.3.2 any breach or non-fulfillment of any covenant, agreement or obligation to be performed by Buyer pursuant to this Agreement; or

6.1.3.3 any Assumed Liability.

6.1.4 Certain Limitations. The indemnification provided for in Section 6.1.2 and Section 6.1.3 shall be subject to the following limitations:

6.1.4.1 Seller Parties shall not be liable to the Buyer Indemnitees for indemnification under Section 6.1.2.1 until the aggregate amount of all Losses in respect of indemnification under Section 6.1.2.1 exceeds \$5,0000 (the “**Basket**”), in which event Seller shall be required to pay or be liable for all such Losses from the first dollar;

6.1.4.2 Buyer shall not be liable to the Seller Indemnitees for indemnification under Section 6.1.3.1 until the aggregate amount of all Losses in respect of indemnification under Section 6.1.3.1 exceeds the Basket, in which event Buyer shall be required to pay or be liable for all such Losses from the first dollar.

6.1.4.3 Notwithstanding the foregoing,

6.1.4.3.1 the limitations set forth in Section 6.1.4 shall not apply to Losses based upon, arising out of, with respect to or by reason of any inaccuracy in or breach of any representation or warranty in Section 2.1.1, Section 2.1.2, 2.1.3, 2.1.6, 2.1.9, 2.1.10 and/or Section 2.1.11 (collectively, the “**Seller Fundamental Reps**”); and

6.1.4.3.2 the limitations set forth in Section 6.1.4.2 shall not apply to Losses based upon, arising out of, with

respect to or by reason of any inaccuracy in or breach of any representation or warranty in Section 2.2.1, Section 2.2.2 and/or Section 2.2.3.

6.1.4.4 The aggregate amount of all Losses for which Seller Parties shall be liable pursuant to Section 6.1.2.1 shall not exceed the \$50,000 (the “**Cap**”); *provided, however*, that the aggregate amount of Losses for which Seller Parties shall be liable pursuant to Section 6.1.2.1 shall not exceed the Purchase Price with respect to Losses based upon, arising out of, with respect to or by reason of any inaccuracy in or breach of the Seller Fundamental Reps.

6.1.4.5 The aggregate amount of all Losses for which Buyer shall be liable pursuant to Section 6.1.3.1 shall not exceed the Cap.

6.1.4.6 For purposes of this Section 6.1, any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality, Material Adverse Effect or other similar qualification contained in or otherwise applicable to such representation or warranty.

6.1.4.7 In no event shall Seller be liable to Buyer for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple (other than indemnification for amounts paid or payable to third parties in respect of any third-party claim for which indemnification hereunder is otherwise required).

6.2 Fees and Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

6.3 Law Governing and Jurisdiction. This Agreement shall be construed under and be governed by the laws of The Commonwealth of Massachusetts. The parties hereby agree that the state or federal courts located in The Commonwealth of Massachusetts shall have exclusive jurisdiction and venue to resolve any disputes that may arise with respect to their rights and obligations under this Agreement or with respect to any of the transactions contemplated hereunder.

6.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if

sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses:

Seller to:

Blue on Highland LLC
60 Dedham Avenue, Suite 203
Needham, MA 02492
Attn: Stephen Corcoran
[REDACTED]

With a copy to (that does not constitute notice) to:

Michael Zafiropoulos, Esquire
ZafLaw LLC
450 Lexington Street
Newton, MA 02466
[REDACTED]

Buyer to:

Blue Restaurant Needham LLC
c/o Adam Patti, Manager
257 Country Way
Needham, MA 02492
[REDACTED]

With a copy to (that does not constitute notice) to:

Michael R. Spillane, Esq.
Orsi Arone Rothenberg Turner LLP
160 Gould Street, Suite 320
Needham, MA 02494
[REDACTED]

or to such other address of which any party may by certified or registered mail, return receipt requested, notify the other parties.

6.5 Escrow Agent No Disqualification. The Escrow Agent shall not be disqualified from representing the SELLER in any dispute arising out of or in connection with this Escrow. In the event of receipt of notice by Escrow Agent of any dispute concerning the provisions of this escrow, their interpretation, or the disposition of any deposits held hereunder, the Escrow Agent may deposit said deposits in any court of competent jurisdiction and thereby be relieved from any further liability respecting such deposit(s). With respect to any amount placed in escrow pursuant to this Agreement, the Escrow Agent shall not be liable for any action or nonaction taken in good faith in connection with the performance of their duties hereunder, but shall be liable only for their own willful misconduct. Notwithstanding anything contained in this Agreement to the contrary with respect to the obligations of the Escrow Agent, should any dispute arise with respect to the delivery and/or ownership or right to possession of such amount, the Escrow Agent shall have no liability to any party hereto for retaining dominion and control over such amount until such dispute shall have been settled: (i) by mutual agreement between the parties, or (ii) by final order, decree or judgment by a court of competent jurisdiction in the United States of America (and no such order, decree or judgment shall be deemed to be "final" unless and until the time of appeal has expired and no appeal has been perfected); and the Escrow Agent shall make payment of such amount as the parties may have mutually agreed or in accordance with such final order, decree of judgment. In no event shall the Escrow Agent be under any duty whatsoever to institute or defend any such proceeding. In the event

the Escrow Agent is made a party to any lawsuit by virtue of acting as escrow agent, the Escrow Agent shall be entitled to recover reasonable attorney's fees and costs which may be deducted from the escrowed funds. Such fees and costs shall be assessed as court costs in favor of the prevailing party.

6.6 Entire Agreement. This Agreement, together with the schedules and instruments to be delivered pursuant hereto, represents the entire agreement between the parties and merges herewith any and all prior or contemporaneous oral or written agreements between the parties pertaining to the subject matter hereof.

6.7 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their executors, legal representatives, successors and assigns.

6.8 Severability. In the event that any portion or provision of this Agreement shall be deemed unenforceable by any court of competent jurisdiction, then, notwithstanding the same, the remaining portions and provisions of this Agreement shall be of full force and effect.

6.9 Captions. The captions or paragraph headings of this Agreement do not constitute any substantive part of this Agreement and shall not be considered in the construction or interpretation of this Agreement.

6.10 Assignment. Buyer shall the right to assign its obligations under this Agreement to an entity to be formed by and under the control of Buyer.

6.11 Specific Performance. The Parties agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity.

6.12 Counterparts. This Agreement may be executed in multiple counterparts, each being deemed an original and this being one of the counterparts.

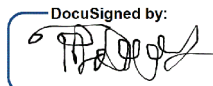
6.13 Repairs. Seller shall complete the repairs set forth in the repair list attached hereto as Exhibit "A" in a good and workmanlike manner prior to Closing.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed as of the date set forth above by their duly authorized representatives.

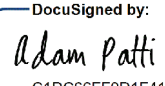
Witness

SELLER:
BLUE ON HIGHLAND LLC

DocuSigned by:

By: 1F9A6D00A860468...
Name: Thomas Roderick Walkey
Title: Manager

Witness

BUYER:
BLUE RESTAURANT NEEDHAM LLC

DocuSigned by:

C1DC66FF0D1F416...
Name: Adam Patti
Title: Manager

Witness

DocuSigned by:

1D435296FAB64F8...
Name: Corey Peyser
Title: Manager

EXHIBIT A

Repair List

[see attached]

Blue on Highland Maintenance Issues to be resolved prior to Closing

1. Reconstruct kitchen stairs so they are not slippery and dangerous.

Status: IN PROCESS

The building inspector was out and signed off on the excavation for the footing for the stairway.

The contractor has been notified that we are ready for them to cut the floor opening and install the new stairs.

I would expect that the project should be done in January.

2. Water issue in basement/French drain.

Status: COMPLETED

On Tuesday, November 23, Drycrete Waterproofing installed sections of French drains in the basement. Please see attached photos.

Before:



AFTER





3. Issues related to August 2, 2021 health inspection.

Status: COMPLETED

All operational issues flagged in the report have been successfully addressed.

4. HVAC serviced recently and Kitchen AC not working in the kitchen.

Status: ONGOING

G&G Commercial Systems performed a routine preventative maintenance on the HVAC and refrigeration units at the restaurant on September 9, 2021. At that visit, they suggested replacing gaskets on one or more refrigeration units. Gaskets were replaced. Please see attached invoice from the PM visit and gaskets.

Per your request, G&G was at the restaurant on Wednesday December 1, 2021 to assess the kitchen AC system and the hood system. Their summary is attached



10 Bedford Park, Unit 5
Bridgewater, MA 02324
Tel. (508) 697-5149
Fax: (508) 697-5162

"TECHNICIANS YOU CAN TRUST"

December 5, 2021
Blue on Highland
882 Highland Ave
Needham, MA 02494

To Whom it May Concern,

This is to certify that G & G Commercial sent a senior technician to Blue on Highland, 882 Highland Ave., Needham, MA on December 1, 2021 to inspect and evaluate the rooftop units, exhaust fan and make*-up-air unit. After a thorough inspection, he found all equipment operating properly and in good condition.

If you have any questions, please contact me at any time.

A handwritten signature in black ink, appearing to read 'Cary S. Gottschalk', is written over a horizontal line.

Cary S. Gottschalk
Vice President

5. Wood baseboard at service bar needs to be cleaned.
Status: COMPLETED

The baseboard was cleaned and is in good condition. No need to add a kick plate.



6. Blue light above the banquette in the dining room is not working.

Status: ONGOING

The electrician has been out to look at the light. He has ordered parts to replace the LED light.

7. "BLUE" sign over the back bar needs to be repaired.

Status: COMPLETED

The faulty connection in the "B" was repaired. The sign now works. Please be advised that each letter of the sign is powered by (2) AA batteries. May explain why it was not lit on a regular basis. Please see photo



8. Wood frame windows at bar allow drafts.

Status: COMPLETED

We have placed weather stripping on the bottom of each window panel and along the vertical window joints. The solution has dramatically reduced the seasonal draft.

9. Bring back 3 community dining tables for the dining room.

Status: Ongoing

The 3 communal tables are being stored offsite. We will have them delivered back to the restaurant prior to the Closing.

10. Is the Alto Sham (used to cook Prime Rib) still in the kitchen?

Status: COMPLETED

The alto sham is in the kitchen and is used daily.

11. Exhaust Hood Fan and Hood System

Status: ONGOING

Late Friday afternoon November 26, the hood system was showing a "Ground fault" error message. The hood fan was turning off intermittently causing smoke in the kitchen and dining room. The GG tech came out at 4:30 and was not able to find the problem. On Saturday morning, a more experienced tech found the loose wire within 30 minutes and secured the wire. The hood fan has been operating fine ever since.

Per Corey's request, we had G&G come out Wednesday, December 1, 2021 to evaluate the hood fan and system and the kitchen AC. Please see #4 for invoice and summary.

12. Outside sign not illuminated.

Status: Completed

The sign is in full working order. Please see picture below.



The exterior sign must be turned on daily. This is a manager function. On occasion, the manager on duty forgets to turn on the sign. To eliminate the human involvement, the sign switch could be put on a timer. If more illumination of the sign is desired, we suggest you check the Town of Needham sign ordinances.

LEASE

**882 HIGHLAND STREET
NEEDHAM, MASSACHUSETTS**

**LANDLORD:
JANUARY HOLDINGS, LLC**

**TENANT:
BLUE RESTAURANT NEEDHAM LLC**

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LEASE

This Lease made this 10th day of January, 2022, by and between **JANUARY HOLDINGS, LLC**, a Massachusetts limited liability company, of 60 Dedham Avenue, Suite 203, Needham, Massachusetts 02492, and its successors and assigns (hereinafter referred to as the “Landlord”) and **BLUE RESTAURANT NEEDHAM LLC**, a Massachusetts limited liability company having an address of 257 Country Way, Needham, MA 02492, and its successors and assigns (hereinafter referred to as the “Tenant”).

WITNESSETH:

SECTION 1 **BASIC DATA**

Section 1.1. Data and Terminology. The following sets forth basic data hereinafter referenced in this Lease, and, where appropriate, constitutes definitions of the terms hereinafter listed.

- (a) *Date of this Lease:* January 10, 2022
- (b) *Landlord:* January Holdings, LLC, and its successors and assigns
- (c) *Mailing Address of Landlord:* 60 Dedham Avenue, Suite 203, Needham, Massachusetts 02492
- (d) *Tenant:* Blue Restaurant Needham, LLC and its successors and assigns
- (e) *Mailing Address of Tenant:* 257 Country Way, Needham, MA 02494
- (f) *Premises:* The entire property known and numbered as 882 Highland Avenue, Needham, Massachusetts, containing approximately 4,540 square feet of land and a building with a floor area of approximately 3,332 square feet.
- (g) *Lease Term:* Commencing on the Commencement Date (as that term is herein defined) and shall expiring on the date that is the day immediately prior to the tenth (10th) anniversary of the Commencement Date.
- (h) *Commencement Date:* The Commencement Date is the date upon Tenant purchases the assets of the business known as Blue on Highland.
- (i) *Lease Year:* The twelve (12) month period commencing on the Commencement Date and ending on the date that is the day immediately prior to the twelve (12) month anniversary of the Commencement Date, and each successive twelve (12) month period thereafter.
- (j) *Extension Term:* Two (2) options to extend for a term of five (5) years each.

- (k) *Annual Fixed Rent During Initial Lease Term:* The Annual Fixed Rent for the First and Second Lease Years during the Initial Lease Term shall be One Hundred Twenty-Five Thousand (\$125,000.00) Dollars per Lease Year, the Annual Fixed Rent for the Third, Fourth, and Fifth Lease Years during the Initial Lease Term shall be One Hundred Fifty Thousand (\$150,000.00) Dollars per Lease Year, and the Annual Fixed Rent for the Sixth, Seventh, Eighth, Ninth, and Tenth Lease Year of Initial Lease Term shall be One Hundred Two (102%) Percent of the Annual Fixed Rent for the immediately preceding Lease Year.
- (l) *Annual Fixed Rent During Extension Term:* The Annual Fixed Rent for each Lease Year during the Extension Terms shall be One Hundred Two (102%) Percent of the Annual Fixed Rent for the immediately preceding Lease Year.
- (m) *Additional Rent:* Such other sums and payments due from Tenant to Landlord under the provisions of this Lease.
- (n) *Permitted Uses:* The Premises shall be used for purposes of operating a full-service restaurant including the sale of alcoholic beverages.
- (o) *Public Liability Insurance Limit:* Bodily Injury and Property Damage coverage with combined single limit of \$2,000,000, or greater amount as reasonably required by Landlord from time to time.
- (p) *Deposits:* The sum required to be paid by Tenant to Landlord upon execution of this Lease.
- (q) *Broker:* None
- (r) *Guarantor:* Adam Patti and Corey Peyser

SECTION 2 **PREMISES AND TERM**

Section 2.1. Premises. Landlord hereby leases and demises the Premises to Tenant and Tenant hereby leases the Premises from Landlord, subject to any and all existing encumbrances and other matters of record and subject to the terms and provisions of this Lease, together with right to use in common, with others entitled thereto, any common areas including parking lot. Landlord reserves the right at Landlord's sole discretion to designate specific parking spaces for Tenant's use. Landlord reserves the right to adopt reasonable rules and regulations for the building and Premises including the parking areas.

Section 2.2. Term. To have and to hold for the Lease Term commencing on the Commencement Date, unless sooner terminated as hereinafter provided.

Section 2.3. Option to Extend Term. Tenant shall have the option to extend the term of this Lease for the Extension Terms, provided (i) no default (beyond any applicable grace period) in the obligations of Tenant under this Lease shall exist at the time any such option is exercised and (ii)

Tenant shall give written notice to Landlord of its exercise of each such option not less than six (6) months prior to expiration of the original Term or the first Extension Term, as the case may be. All of the terms and provisions of this Lease shall be applicable during the Extension Term, except that Tenant shall have no option to extend the term of the Lease beyond the second Extension Term, and the Annual Fixed Rent during the Extension Terms shall be as set forth in Section 1.1(n).

SECTION 3

CONDITION OF PREMISES – WORK TO BE UNDERTAKEN

Section 3.1. Condition of Premises. Except as further provided in this Lease, Tenant agrees to accept the Premises in its present “as is” condition without any warranties or representations of any kind or nature, and Landlord shall not be obligated to perform any work or make any improvements prior to or during Tenant’s occupancy.

Section 3.2. Tenant’s Work. Tenant shall make no structural alterations or additions to the Premises, but may, at Tenant’s sole cost and expense, make non-structural alterations provided the Landlord consents thereto in writing, which consent shall not be unreasonably withheld or delayed; provided, however, that Tenant shall not require Landlord’s consent for non-structural, cosmetic alterations the cost of which shall not exceed \$15,000.00. In all cases, Tenant shall provide Landlord with stamped architectural plans for all work proposed by Tenant.

Section 3.5. Construction Standards. Any Tenant’s Work required to be approved, and so approved, by Landlord shall be performed only in accordance with plans and specifications therefore approved by Landlord. Tenant shall procure at Tenant’s sole expense all necessary permits and licenses before undertaking any work on the Premises and shall perform all such work in a good and workmanlike manner, employing materials of good quality and so as to conform with all applicable zoning, building, fire, health, and other codes, regulations, ordinances, and laws, and with all applicable insurance requirements. Tenant shall keep the Premises at all times free of liens for labor and materials and shall pay or bond off any such liens within thirty (30) days of receipt of written notice of any such lien. Tenant shall employ for such work only contractors approved by Landlord (which approval shall not be unreasonably withheld or delayed) and shall require all contractors employed by Tenant to carry workers’ compensation insurance in accordance with statutory requirements and comprehensive public liability insurance covering such contractors on or about the Premises in amounts that at least equal the limits set forth in Section 1 and to submit certificates evidencing such coverage to Landlord prior to the commencement of such work. All such insurance policies shall name Landlord as an additional insured. Tenant shall save Landlord harmless and indemnified from all injury, loss, claims, or damage to any person or property occasioned by, or growing out of, such work. Landlord may inspect the work of Tenant at reasonable times and give notice of observed defects.

Section 3.6. Tenant’s Sign. Subject to Landlord’s reasonable approval, Tenant shall be allowed to erect, at Tenant’s sole cost and expense, a sign relating to Tenant’s business and incorporating Tenant’s trade name and logo, and in such location on the front of the building of which the Premises are a part as designated by the Landlord. Any such sign shall conform to any

municipal sign by-law or ordinance, and Tenant shall be responsible for obtaining any and all required municipal permits and approvals for the same.

SECTION 4 **USE**

Section 4.1. Use. Tenant shall use the Premises only for the Permitted uses.

Section 4.2. Permits. Except as otherwise provided in this Lease, Tenant, at Tenant's sole cost and expense, shall be solely responsible for securing and obtaining any and all licenses, permits, and approvals from the appropriate municipal department or agency as required and necessary for the Use.

SECTION 5 **FIXED RENT**

Section 5.1. Annual Fixed Rent. Tenant shall pay rent to Landlord at the Address of Landlord or at such other place, or to such other person or entity, as Landlord may by notice to Tenant from time to time direct, at the Annual Fixed Rent set forth in Section 1, in equal installments equal to 1/12th of the Annual Fixed Rent in advance of the first day of each calendar month included in the term, and for any portion of a calendar month at the beginning or end of the term, at that rate payable in advance for such portion.

SECTION 6 **ADDITIONAL RENT**

Section 6.1. Real Estate Taxes. Commencing on the Commencement Date and during the Lease Term or an extension thereof, Tenant shall pay to Landlord, as Additional Rent, One Hundred (100%) Percent of the real estate taxes (under whatever name or designation), assessments (special, betterment, or otherwise), levies, fees, and all other government levies and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, which are, at any time, imposed or levied upon, or assessed against, the Premises (including but not limited to the land, building, and any other improvements).

Section 6.2. Other Taxes and Fees. Notwithstanding any provision to the contrary, Tenant shall be responsible for all personal property taxes, and water and sewer charges as provided in Section 8.1 hereof (collectively "taxes and assessments" or if singular "tax or assessment").

SECTION 7 **INSURANCE**

Section 7.1. Tenant's Insurance. Tenant shall maintain throughout the Lease Term and any extension thereto the following insurance:

- (a) commercial general liability insurance for any injury to person or property occurring on the Premises, in amounts that shall, at the beginning of the Term, be at least equal to the

limits set forth in Section 1, and, from time to time during the term, shall be for such higher limits as are reasonably required by Landlord; and

- (b) all-risk fire and casualty insurance on a replacement value, agreed amount basis, together with rental loss coverage and, flood coverage to the extent the same is available, insuring the building at the Premises (“Building”) and its rental value, with commercially reasonable deductibles;
- (c) insurance against loss or damage from sprinklers and from leakage or explosions or cracking of boilers, pipes carrying steam or water, or both, pressure vessels or similar apparatus, in the so-called “broad form,” in such amounts and with commercially reasonable deductibles, and insurance against such other hazards and in such amounts as may from time to time be reasonably required by any bank, insurance company, or other lending institution holding a mortgage on the Building.
- (d) workers’ compensation insurance with statutory limits covering all of Tenant’s employees working at the Premises.
- (e) as required under Section 18.4

Section 7.2. Landlord’s Insurance. Landlord, at its sole option and discretion and expense, may maintain throughout the Lease Term and any extension thereof such additional insurance as Landlord deems necessary and appropriate or required by any insurer or mortgagee at Landlord’s expense.

Section 7.3. Requirements Applicable to Insurance Policies. All policies for insurance required under the provisions of Section 7.1 shall be obtained from responsible companies qualified to do business in the Commonwealth of Massachusetts and in good standing therein, which companies and the amount of insurance allocated thereto shall be subject to Landlord’s approval, which shall not be unreasonably withheld or delayed. Tenant agrees to furnish Landlord with insurance company certificates of all such insurance and copies of the policies therefore prior to the beginning of the Term hereof and of each renewal policy at least thirty (30) days prior to the expiration of the policy it renews. Each such policy shall name Landlord and such persons, including without limitation, Landlord’s members and/or managers, as Landlord shall designate from time to time, as additional insureds. Each such policy shall be non-cancelable with respect to the interest of Landlord and such mortgagees without at least thirty (30) days’ prior written notice thereto.

Section 7.4. Waiver of Subrogation. All insurance carried by either party with respect to the Premises or to furniture, furnishings, fixtures, or equipment therein, or alterations or improvements thereto, whether or not required, shall include provisions that either designate the other party as one of the insured or deny to the insurer acquisition by subrogation of rights of recovery against the other party to the extent such rights have been waived by the insured party prior to occurrence of loss or injury, insofar as, and to the extent that such provisions may be effective without making it impossible to obtain insurance coverage from responsible companies qualified to do business in the Commonwealth of Massachusetts (even though extra premium may result therefrom) and without voiding the insurance coverage in force between the insurer and the insured party. On reasonable request, each party shall be entitled to have duplicates or certificates of policies containing such provisions. Each party hereby waives all rights of recovery against the other for loss or injury against which the waiving party is protected by

insurance containing said provisions, reserving, however, any rights with respect to any excess of loss or injury over the amount recovered by such insurance.

SECTION 8

UTILITIES AND MAINTENANCE

Section 8.1. Utilities. Tenant shall be solely responsible and liable for and shall pay directly, when due, any and all charges for gas, telephone, electricity, and other utilities or services used or consumed or otherwise furnished to or for the Premises, (including without limiting the generality of the foregoing any charges related to any heating, air conditioning or ventilating systems serving the Premises). Tenant shall take reasonable steps necessary to have any and all such utilities placed in and invoiced to Tenant in Tenant's name; provided further, that if Tenant is unable to do so Tenant shall remain solely responsible and liable for the same. In the event that any invoice or charge for such utilities is received by Landlord, Landlord shall promptly deliver the same to Tenant. Landlord shall not be liable for any interruption or failure in the supply of any such utilities to the Premises. Nothing contained in the Section 8.1 shall constitute any warranty or representation that any such utility service is available to the Premises.

Section 8.2. Tenant's Maintenance. Tenant shall, at Tenant's sole cost and expense, maintain and keep the Premises (including the HVAC system, electrical, mechanical and other fixtures and equipment now or hereafter on the Premises, walkways, landscaping, and fire sprinkler system) in good and clean order, condition, and repair and in at least as good order, condition, and repair as they are in on the Commencement Date or date installed if put in during the term, only reasonable use and wear excepted. Tenant shall make all repairs and replacements and do all other work necessary for the foregoing purposes whether the same may be ordinary or extraordinary, foreseen or unforeseen. Tenant shall keep in a safe, secure, and sanitary condition all trash and rubbish temporarily stored at the Premises. Tenant shall be responsible for plowing and removal of snow and ice from the Premises. In the event that Tenant fails to maintain, keep, or repair the Premises as required under this Section 8.2, Landlord may, if it so elects, undertake the same and Tenant shall reimburse Landlord for the cost thereof on demand. Tenant shall secure, maintain, and pay for service contracts with appropriate and reputable companies for regular maintenance of the HVAC system and will provide a copy of said contract to the Landlord.

Section 8.3. Smoke and Carbon Monoxide Detectors: In addition to the general requirements of Section 8.2, Tenant shall, at Tenant's sole cost and expense, maintain the approved smoke and carbon monoxide detectors in the Premises which are monitored on a 24-hour per day, 7-day a week basis by a third party providing such services and approved by the Landlord and Landlord's insurer. Tenant shall furnish Landlord with a copy of the contract from the third party providing said monitoring services.

Section 8.4. Pest Control. In addition to the general requirements of Section 8.2, Tenant shall, at Tenant's sole cost and expense, keep the premises free of all pests and shall engage and retain a professional pest/extermination company duly qualified, licensed and insured to render and perform regular pest control and extermination services as required but at least once per month. Tenant shall furnish Landlord with a copy of the executed contract with said professional pest/extermination company.

Section 8.5. Grease Trap and Vent Cleaning. In addition to the general requirements of Section 8.2, Tenant shall, at Tenant's sole cost and expense, have the grease traps and Ansell venting system cleaned as required but at least semi-annually (or more frequently if required by any applicable law or any governmental board or agency) by a professional company duly qualified, licensed, and insured to perform such service. Tenant shall furnish Landlord with certification from said professional company evidencing that such cleaning has been performed.

Section 8.6. Landlord's Maintenance: The Landlord agrees to maintain the structure of the building (including the roof, foundation and structural supports) of which the Premises are a part in the same condition as it is on the Commencement Date, reasonable wear and tear, damage by fire or other casualty excepted. Notwithstanding the forgoing, it is understood and agreed that Tenant shall be responsible to repair any and all damage to any structural portion of the building, including but not limited to the roof, to the extent that such damage is caused by Tenant or its employees, agents, contractors or vendors.

SECTION 9

COMPLIANCE WITH LAWS AND INSURER REQUIREMENTS

Section 9.1. Compliance. Tenant shall not injure, overload, deface, or otherwise harm the Premises, nor conduct any trade, business, or occupation at the Premises, or otherwise use the Premises, in any manner which is unlawful, improper, noisy, offensive or contrary to any law (including any municipal by-law).

Section 9.2. Hazardous Substances. Without limiting the generality of Section 9.1, Tenant shall not bring, keep, or maintain, or permit to be brought, kept, or maintained in or on the Premises any hazardous, toxic, inflammable, combustible, or explosive fluid, material, chemical, or substance, including without limitation such substance defined as hazardous under Chapter 21E of the General Laws of Massachusetts, except such substances and in such quantities as are typically kept and maintained in businesses operating the Permitted Use. Landlord warrants and represents that as of the date hereof, Landlord has no knowledge of the existence or allegation of the existence of any of the same at the Premises and indemnifies Tenant against any and all liability, losses and expenses incurred as a result of any Hazardous Substances in or on the Premises as of the date of this Lease.

Section 9.3. Public Authority and Insurance Requirements. Tenant shall make all repairs, alterations, additions, or replacements to the Premises required by any law or ordinance, or any order or regulation of any public authority, and shall keep the Premises equipped with all safety appliances so required. Tenant shall comply promptly with the recommendations of any insurer, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Premises, by reason of Tenant's use thereof. In no event shall any activity be conducted by Tenant on the Premises that may give rise to any cancellation of any insurance policy or make any insurance unobtainable.

SECTION 10

LIABILITY AND INDEMNIFICATION

Section 10.1. Indemnity. Tenant shall save Landlord harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorney fees and expenses), causes of action, suits, claims, demands, or judgments of any nature arising from (a) injury to or death of any person, or damage to or loss of property, occurring in the Premises or connected with the use, condition, or occupancy of any thereof, (b) violation of this Lease by Tenant; or (c) any act, fault, omission, or other misconduct of Tenant or its agents, contractors, licensees, sublessees, or invitees.

Landlord shall save Tenant harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorney fees and expenses), causes of action, suits, claims, demands, or judgments of any nature arising from (a) injury to or death of any person, or damage to or loss of property, occurring in the Premises or connected with the use, condition, or occupancy of any thereof caused by the negligence or misconduct of Landlord, (b) violation of this Lease by Landlord; or (c) any act, fault, omission, or other misconduct of Landlord or its agents or contractors.

Section 10.2. Personal Property at Tenant's Risk. All furnishings, fixtures, equipment, effects, and property of every kind of Tenant and of all persons claiming by, through, or under Tenant that may be on the Premises shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water, or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, or by theft or from any other cause, no part of such loss or damage shall be the responsibility of Landlord.

SECTION 11

LANDLORD'S ACCESS

Section 11.1. Landlord's Right to Enter. Tenant shall permit Landlord and its agents to enter into the Premises at reasonable times and upon reasonable notice during normal business hours (except in the case of an emergency) to examine the Premises; make such repairs and replacements as Landlord may elect, without however, any obligation to do so; and show the Premises to prospective purchasers and lenders, and, during the last three months of the last Lease Year of the Lease, to show the Premises to prospective tenants.

SECTION 12

SUBORDINATION AND ESTOPPEL

Section 12.1. Subordination. At the election of the Landlord, this Lease shall be subject to and subordinate in all respects to any and all mortgages, deeds of trust, or other instruments in the nature of a mortgage, now placed or which at any time hereafter be placed on the Premises. Upon request Tenant shall execute and deliver to Landlord such non-disturbance and subordination agreements from any such lender in commercially reasonable form and reasonably acceptable to Tenant.

Section 12.2. Estoppel Certification. Upon not less than ten (10) business days' prior notice to Tenant, Tenant shall execute, acknowledge, and deliver to the Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect and that, except as stated therein, Tenant has no knowledge of any defenses, offsets, or counterclaims against its obligations to pay the Fixed Rent and Additional Rent and any other charges and to perform its other covenants under this Lease (or, if there have been any modifications that the same is in full force and effect as modified and stating the modifications and, if there are any defenses, offsets, or counterclaims, setting them forth in reasonable detail), the dates to which the Fixed Rent and Additional Rent and other charges have been paid and a statement that Landlord or Tenant, respectively, is not in default hereunder (or if in default, the nature of such default, in reasonable detail).

SECTION 13 **DEFAULT**

Section 13.1. Events of Default.

- (a) If Tenant shall default in the performance of any of its obligations to pay the Fixed Rent, or any other sum payable hereunder, and if such default shall continue for ten (10) business days after notice from Landlord designating such default;
- (b) if within ten (10) business days after notice from Landlord to Tenant specifying any other default or defaults Tenant has not commenced diligently to correct the default or defaults so specified or has not thereafter diligently pursued such correction to completion, and in any event cured such default within thirty (30) days;
- (c) if any assignment for the benefit of creditors shall be made by Tenant;
- (d) if Tenant's leasehold interest shall be taken on execution or other process of law in any action against Tenant;
- (e) if a lien or other involuntary encumbrance is filed against Tenant's leasehold interest and is not discharged within thirty (30) days thereafter;
- (f) if a petition is filed by Tenant for liquidation, or for reorganization or an arrangement or any other relief under any provision of the Bankruptcy Code as then in force and effect; or
- (g) if an involuntary petition under any of the provisions of said Bankruptcy Code is filed against Tenant and such involuntary petition is not dismissed within thirty (30) days thereafter,

then the Landlord may terminate the Lease seven (7) days written notice to Tenant; provided, however, that if Tenant cures any such Event of Default prior to Landlord electing to terminate this Lease as provided for herein, then Landlord's right to terminate the Lease as to that Event of Default shall be null and void; provided, further, such right to cure shall be applicable to only two (2) Events of Default in any twelve (12) month period.

Section 13.2. Remedies. In the event that this Lease is terminated under any of the provisions contained in Section 13.1, Tenant shall pay forthwith to Landlord, any and all Fixed Rent, and any other sums which would due under the normal expiration of the Lease Term; provided however, that if Landlord re-lets the Premises, Tenant shall receive a credit against the Fixed Rent due hereunder. Nothing hereunder requires Landlord to further mitigate Landlord's damages.

Section 13.3. Landlord's Right to Cure Defaults. At any time following ten (10) days' prior notice to Tenant (except in cases of emergency when no notice shall be required), Landlord may (but shall not be obligated to) cure any default by Tenant under this Lease, and whenever Landlord so elects, all costs and expenses incurred by Landlord, including reasonable attorney fees, in curing a default shall be paid by Tenant to Landlord on demand, together with interest thereon at the rate provided in Section 13.6 from the date of payment by Landlord to the date of payment by Tenant.

Section 13.4. Effect of Waivers of Default. Any consent or permission by Landlord to any act or omission that otherwise would be a breach of any covenant or condition herein, or any waiver by Landlord of the breach of any covenant or condition herein, shall not in any way be held or construed (unless expressly so declared) to operate so as to impair the continuing obligation of any covenant or condition herein, or otherwise operate to permit the same or similar acts or omissions except as to the specific instance. The failure of Landlord to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not be deemed a waiver of such violation nor prevent a subsequent act, which would have originally constituted a violation, from having all the force and effect of an original violation. The receipt by Landlord of rent with knowledge of the breach of any covenant of this Lease shall not be deemed to have been a waiver of such breach by Landlord or of any of Landlord's remedies on account thereof, including its right of termination for such default.

Section 13.5. No Accord and Satisfaction. No acceptance by Landlord of a lesser sum than the Fixed Rent, or any other charge then due shall be deemed to be other than on account of the earliest installment of such rent or charge due, unless Landlord elects by notice to Tenant to credit such sum against the most recent installment due. Any endorsement or statement on any check or any letter accompanying any check or payment as rent or other charge shall not be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy under this Lease or otherwise.

Section 13.6. Interest on Overdue Sums. If Tenant fails to pay Fixed Rent, or any other sum payable by Tenant to Landlord by the due date thereof (i.e., the due date disregarding any requirement of notice from Landlord or any period of grace allowed to Tenant), the amount so unpaid shall bear interest at the rate of eighteen percent (18%) per annum; provide, however, that if such rate is in excess of any maximum interest rate permissible under applicable law, the interest rate shall be the maximum interest rate permissible under applicable law.

Section 13.7. Payment of Landlord's Cost of Enforcement. Tenant shall pay, on demand, Landlord's expenses, including reasonable attorney fees, incurred in enforcing any obligation of Tenant under this Lease or in curing any default by Tenant under this Lease.

SECTION 14

ASSIGNMENT AND SUBLEASING

Section 14.1. Tenant's Assignment and Subletting. Tenant shall not assign, transfer, mortgage, or pledge this Lease or grant a security interest in Tenant's rights hereunder or sublease (which term shall be deemed to include the granting of concessions and licenses and the like) all or any part of the Premises or suffer or permit this Lease or the leasehold estate hereby created or any other rights arising under this Lease to be assigned, transferred, or encumbered, in whole or in part, whether voluntarily, involuntarily, or by operation of law, or permit the occupancy of the Premises by anyone other than Tenant, without, in each instance, Landlord's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Landlord's failure to consent shall not be considered unreasonable if based upon factors such as but not limited to financial responsibility and capability, and, in the case of a use different from the Permitted Uses, the nature and type of the proposed use, the need for alterations to the Premises, potential violation of provisions in Landlord's other leases, and the burden placed upon parking and the Building facilities; provided, however, that in the case of an assignment to a proposed assignee for the continued operation of the Premises as a restaurant,, Landlord's withholding its consent to such assignment shall be considered unreasonable if the proposed assignee has a similar financial strength or restaurant experience as the Tenant. Any attempted assignment, transfer, mortgage, pledge, grant of security interest, sublease, or other encumbrance, except with prior written approval thereof from Landlord, shall be void. Landlord's failure to consent shall not be considered unreasonable if based upon factors such as but not limited to financial responsibility and capability, the nature and type of the proposed use, potential violation of provisions in Landlord's other leases, the need for alterations to the Premises, and the burden placed upon parking and the buildings facilities. No assignment, transfer, mortgage, grant of security interest, sublease, or other encumbrance, whether or not approved, and no indulgence granted by Landlord to any assignee or sublessee, shall in any way impair the continuing primary liability (which after an assignment shall be joint and several with the assignee) of Tenant hereunder and no approval in a particular instance shall be deemed to be a waiver of the obligation to obtain Landlord's approval in any other case. Tenant shall be responsible for all of reasonable Landlord's cost, including but not limited to attorneys' fees, associated with any assignment or sublease, not to exceed \$2,500.00. Notwithstanding the foregoing, Tenant shall be permitted to assign its interest under this Lease to any entity of which Tenant has at least a fifty (50%) percent ownership interest without Landlord's consent (a "Permitted Assignment"), provide however, that Tenant shall provide written notice to Landlord of any Permitted Assignment at least thirty (30) days prior to the effective date of such Permitted Assignment, and provided further such Permitted Assignment shall not negate or otherwise terminate the Guaranty hereunder unless Landlord consents to the substitution of the Guaranty with another guarantor.

Section 14.2: Landlord's Assignment. Landlord has the full right and authority to assign this Lease. In the event that Landlord sells or otherwise conveys the Premises, this Lease shall automatically be assigned to the new record title holder of the Premises upon the recording of the deed from Landlord to said new record title holder; provided, however, that upon request Tenant shall execute such documents reasonably requested by Landlord relative to any such assignment.

SECTION 15

CASUALTY OR TAKING

Section 15.1. Casualty. In the event the Premises are damaged by fire or other casualty, Tenant shall in a reasonably diligent and timely manner, and at Tenant's sole cost and expense rebuild, replace, and otherwise restore the same to its original condition. If Landlord has insurance covering said casualty, the proceeds therefrom shall be applied to such rebuilding, replacing, and restoration. Should any portion of the Premises be substantially damaged by fire or other casualty, Tenant may elect, by notice to Landlord within thirty (30) days thereafter, to terminate this Lease, in which event all insurance proceeds with respect to such damage to the Premises shall instead be paid directly to Landlord.

Section 15.2. Taking. In the event that greater than twenty-five percent (25%) of the Premises shall be taken by any public authority or for any public use or destroyed by the action of any public authority (a "Taking"), this Lease may be terminated by either Landlord or Tenant effective on the effective date of the Taking, by the giving of notice by Landlord or Tenant to the other within thirty (30) days after Landlord or Tenant, as the case may be, shall receive notice of the Taking. If neither Landlord nor Tenant exercises the election to terminate provided in this Section 15.2, this Lease shall continue in force with a proportionate reduction of the Fixed Rent and other charges hereunder. Notwithstanding any provision to the contrary, Landlord reserves, and Tenant grants to Landlord, all rights which the Tenant may have to any damages or award for any taking, except for damages to Tenant's property or equipment and expenses of relocation.

SECTION 16

SURRENDER

Section 16.1. Yield Up. At the expiration of the Lease Term or earlier termination of this Lease, Tenant shall surrender all keys to the Premises, remove all of its trade fixtures and personal property in the Premises, remove such installations and improvements made by Tenant as Landlord may request and all Tenant's signs wherever located, repair all damage caused by such removal, and yield up the Premises (including all installations and improvements made by Tenant except for trade fixtures) broom-clean and in the same good order and repair in which Tenant is obliged to keep and maintain the Premises under this Lease. Any property not so removed shall be deemed abandoned and may be removed and disposed of by Landlord in such manner as Landlord shall determine and Tenant shall pay Landlord the entire cost and expense incurred by it in effecting such removal and disposition and in making any incidental repairs and replacements to the Premises and for use and occupancy during the period after the expiration of the term and prior to Tenant's performance of its obligations under this Section 16.1. At the expiration or termination of this Lease the Premises including any improvements and renovations made thereto by the Tenant (and not removed as provided above) shall remain as the property of the Landlord.

Section 16.2. Holding Over. Tenant shall vacate the Premises immediately upon the expiration or sooner termination of this Lease. If Tenant retains possession of the Premises or any part thereof after the termination of the term without Landlord's express consent, Tenant shall pay Landlord rent at double the monthly rate specified in Section 1 for the time Tenant thus remains in

possession and, in addition thereto, shall pay Landlord for all damages, consequential as well as direct, sustained by reason of Tenant's retention of possession. The provisions of this section do not exclude Landlord's rights of reentry or any other right hereunder, including, without limitation, the right to refuse double the monthly rent and instead to remove Tenant through summary proceedings for holding over beyond the expiration of the term of this Lease.

SECTION 17 **DEPOSITS**

Section 17.1. Deposits. Tenant shall pay to Landlord simultaneously with execution of this Lease the total sum of Twenty-Five Thousand (\$25,000.00) Dollars as a security deposit.

SECTION 18 **LIQUOR LICENSE**

Section 18.1. Application and Procedure. Tenant, at Tenant's sole cost and expense, shall submit to the Licensing Board of the Town of Needham the appropriate and necessary application and related documents and forms for approval and issuance of on-premises all alcoholic beverages license (the "Liquor License") for the Premises currently held by Blue on Highland, LLC. Subsequently, Tenant shall thereafter take such action as is reasonable and necessary and shall otherwise use reasonable and diligent efforts to effectuate the approval of the and issuance of the Liquor License to Tenant. Landlord agrees to cooperate with Tenant in connection with transfer of the Liquor License. If, despite Tenant's good faith and diligent compliance with applicable provisions of law and this Lease, the transfer of the Liquor License is denied or is not otherwise completed within one hundred twenty (120) days of the date of this Lease (which time period may be extended pursuant to the term of the Asset Purchase Agreement by and between Tenant, as Buyer and Blue on Highland LLC, as Seller), Tenant may terminate this Lease by written notice of such effect given to Landlord within said one hundred twenty (120) day period.

Section 18.2. Conduct of Business. Throughout the term of this Lease, Tenant shall use all reasonable efforts and diligence to maintain the Liquor License in full force and effect and in good standing, and at all times shall conduct its business at the Premises in full compliance with all regulations, policies, and laws relating to alcoholic beverage licenses in the Town of Needham and Commonwealth of Massachusetts. In the event that Tenant receives any notice, filing, or any other communication relative to any purported violation or other non-compliance with the terms and conditions of the Liquor License (including but not limited to a violation or non-compliance with any governmental conditions, requirements, rules, regulations, ordinances, or laws) Tenant shall (i) promptly deliver a copy of said notice, filing, or other communication to Landlord and (ii) use reasonable and diligent efforts to rectify and defend against any such purported violation or non-compliance. In the event that said Liquor License is suspended or revoked for a period in excess of seven (7) days, Landlord, at Landlord's sole discretion, may declare the same an Event of Default under this Lease.

Section 18.3. Indemnity. Without limiting any other provisions of this Lease but specifically supplementing the same, Tenant shall indemnify and hold Landlord harmless from and against any and all claims and any and all loss, cost, damage, or expense relating to the sale of liquor and alcoholic beverages in and from the Premises, including, without limitation, any such claim

arising from any act, omission, or negligence of Tenant, or Tenant's contractors, licensees, agents, employees, or invitees, or from any accident, injury, or damage whatsoever caused to any person or property of any person and relating to the sale of liquor or alcoholic beverages in and from the Premises, whether such claim arises or accident, injury or damage occurs within or outside the Premises. This indemnity and hold harmless shall include indemnity against all costs, expenses and liabilities (including, without limitation, legal fees, court costs, and other reasonable disbursements) incurred or made in connection with any such claim or proceeding brought thereon, and the defense thereof, and shall survive the termination of this Lease.

Section 18.4. Liability Insurance. Without limiting any other provisions of this Lease but specifically supplementing the same, Tenant shall maintain with a responsible and qualified insurance company, so-called "liquor law" or "dram shop" liability insurance with minimum limits coverage of at least Five Million (\$5,000,000.00) Dollars, which shall insure the Tenant and Landlord, against all claims, demands or actions for personal and bodily injury to, or death of, one person or multiple persons in one or more accidents, and for damage to property, that may arise by reason of or in connection with the sale of alcoholic beverages in and from the Premises. Certificates for such insurance shall be provided to Landlord, shall show the Landlord named as an additional insured, and shall provide that such policies shall not be cancelled or coverage reduced without at least thirty (30) days' prior written notice to the Landlord.

SECTION 19 **MISCELLANEOUS PROVISIONS**

Section 19.1. Notices from One Party to the Other. All notices required or permitted hereunder shall be in writing and addressed, if to Tenant, at the Original Address of Tenant or such other address as Tenant shall have last designated by notice in writing to Landlord and, if to Landlord, at the Original Address of Landlord or such other address as Landlord shall have last designated by notice in writing to Tenant. Any notice shall be deemed duly given when mailed, by certified or registered mail, return receipt requested, or delivered or tendered for delivery by a nationally recognized overnight delivery service or by a constable or deputy sheriff, to such address.

Section 19.2. Quiet Enjoyment. Landlord agrees that upon Tenant's paying the rent and performing and observing the terms, covenants, conditions, and provisions on its part to be performed and observed, Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises during the term without any manner of hindrance or molestation from Landlord or anyone claiming under Landlord, subject, however, to the terms of this Lease.

Section 19.3. Lease Not to Be Recorded; Notice of Lease. Tenant agrees that it will not record this Lease. As the Term of this Lease, including options, exceeds seven (7) years and includes the rights set forth in Section 18 hereof, Landlord and Tenant agree that, on the request of either, they will enter and record a notice of lease reflecting the same in form reasonably acceptable to both parties.

Section 19.4. Bind and Inure; Limitation of Landlord's Liability. The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. No owner of the Premises shall be liable under this Lease except for breaches of Landlord's obligations occurring while owner of

the Premises. The obligations of Landlord shall be binding upon the assets of Landlord, which comprise the Premises, but not upon other assets of Landlord. No individual partner, trustee, stockholder, officer, director, employee, or beneficiary of Landlord shall be personally liable under this Lease, and Tenant shall look solely to Landlord's interest in the Premises in pursuit of its remedies upon an event of default hereunder, and the general assets of Landlord and its partners, trustees, stockholders, officers, employees, or beneficiaries of Landlord shall not be subject to levy, execution, or other enforcement procedure for the satisfaction of the remedies of Tenant.

Section 19.5. Acts of God/Force Majeure. In any case where either party hereto is required to do any act (with the exception of payment of Rent or Additional rent), delays caused by, or resulting from, acts of God, war, civil commotion, fire, flood, or other casualty; labor difficulties; shortages of labor, materials, or equipment; government regulations; pandemics (including but not limited to COVID-19), unusually severe weather; or other causes beyond such party's reasonable control shall not be counted in determining the time during which work shall be completed, whether such time be designated by a fixed date, a fixed time, or a "reasonable time," and such time shall be deemed to be extended by the period of such delay. Tenant understands and agrees that neither this Section 19.5 or any other provision of this Lease shall operate to excuse Tenant from the prompt payment of Rent or Additional Rent notwithstanding any acts of God or Force Majeure.

Section 19.6. Brokerage. Landlord and Tenant warrant and represent to each other that it has had no dealings with any broker or agent in connection with this Lease other than the Broker(s) set forth in Section 1 and each shall hold harmless and indemnify the other from and against any and all cost, expense, or liability for any compensation, commissions, and charges claimed by any broker or agent other than the Broker(s) set forth in Section 1.

Section 19.7. Governing Law. This Lease shall be governed by, and construed in accordance with, the laws of the Commonwealth of Massachusetts. There are no prior oral or written agreements between Landlord and Tenant affecting this Lease.

WITNESS the execution hereof under seal as of the day and year first above written.

LANDLORD,

DocuSigned by:



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JANUARY HOLDINGS, LLC

By: Thomas Roderick Walkey,
Manager

TENANT.

DocuSigned by:



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BLUE RESTAURANT NEEDHAM LLC

By: Adam Patti, Manager

DocuSigned by:



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BLUE RESTAURANT NEEDHAM LLC

By: Corey Peyser, Manager

GUARANTY

In consideration of the letting of certain premises at 882 Highland Street, Needham, Massachusetts to Blue Highland Needham LLC, a Massachusetts limited liability company, as well as other good and valuable consideration, the receipt of which is hereby acknowledged, each of the undersigned personally guarantees the punctual payment of rent and performance of the covenants in the Lease to be paid and performed by said Lessee up to a maximum of twelve (12) months of rent from and after an Event of Default which remains uncured beyond any applicable notice and cure period, plus any arrearage owed by the Tenant and less any rent collected by Landlord from a subsequent tenant; provided, however, that it is understood and agreed that Landlord has no obligation to re-lease the Premises.

Notwithstanding anything contained in the Lease to the contrary, in the event that Tenant assigns the Lease with Landlord's consent, the undersigned Guarantors shall be released from their obligations under this Guaranty, provided that the proposed assignee provides Landlord with a substitute guaranty from a guarantor or guarantors of similar financial strength of the undersigned Guarantors.

GUARANTORS:

DocuSigned by:

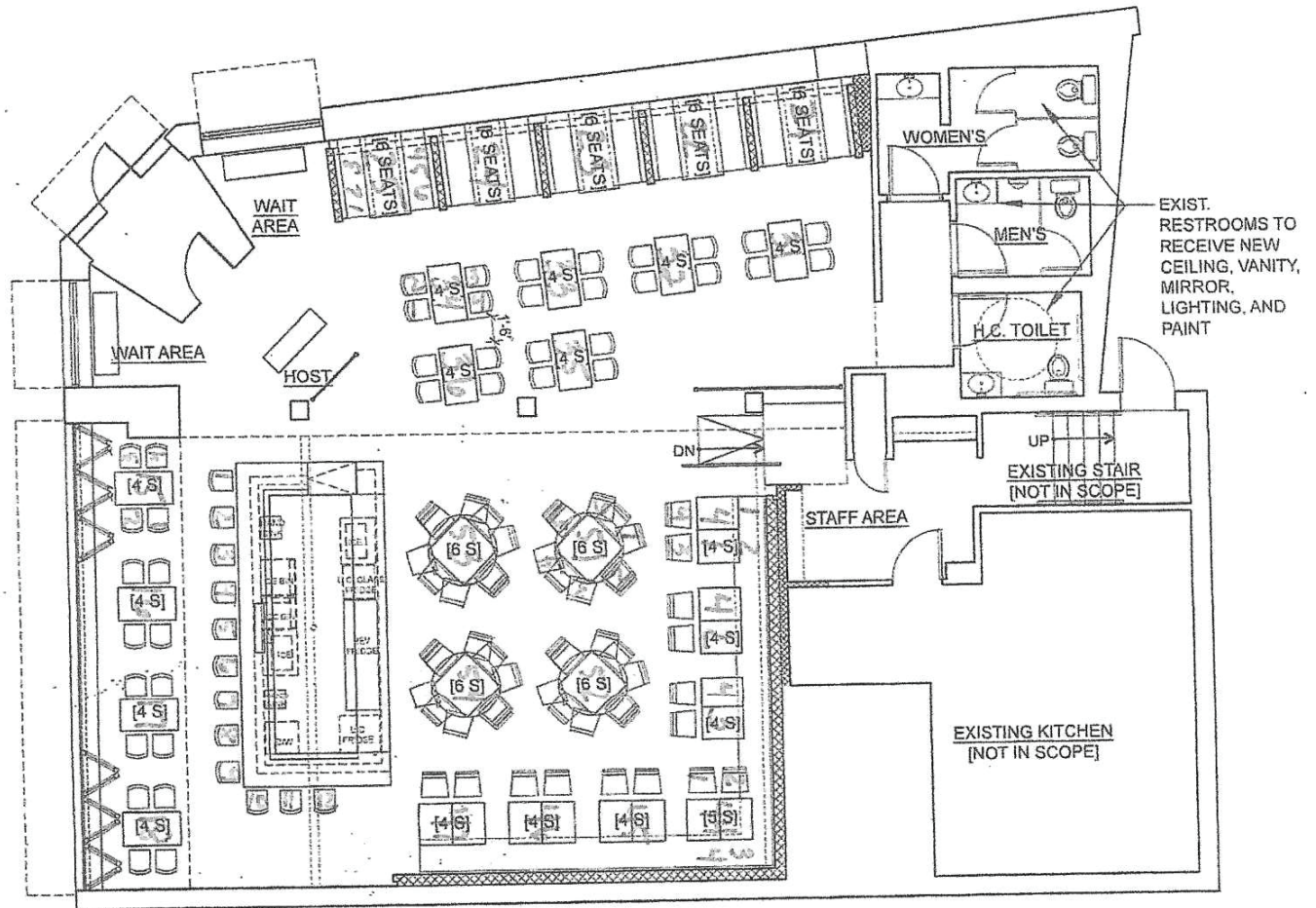
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Adam Patti

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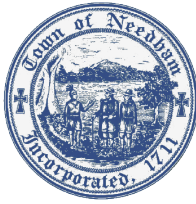
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Corey Peyser

Blue on Highland
882 Highland Ave.

Building Dept.



NOTE: 125 SEATS
12 BAR

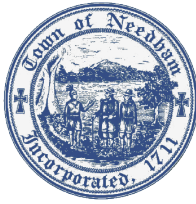


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Public Hearing: Alcohol License Hearing – Needham 365 Bev, LLC d/b/a Residence Inn
Presenter(s)	• Michael Gendrin, Manager • Ronald Ruth, Counsel for Needham 365 Bev, LLC • John Schlittler, Chief of Police

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Select Board, as the local licensing authority, will hold a public hearing in accordance with the provisions of M.G.L. c. 138 Sections 12, 34, 64, and 67 and Town of Needham Alcohol Regulations. The purpose of the hearing will be to consider the modification, suspension, revocation, or cancellation of the Section 12 Innkeeper All Alcohol license for Needham 365 Bev, LLC d/b/a Residence Inn by Marriott. Representatives of the Police Department will be present to provide evidence.	
2.	VOTE REQUIRED BY SELECT BOARD
a. Move that the Select Board _____ [<i>finds OR does not find</i>] sufficient evidence that, on December 1, 2021, Needham 365 Bev, LLC d/b/a Residence Inn violated 204 CMR 2.05(2) permitting an illegality on the licensed premises, to wit: Chapter 138, Section 34, sale or delivery of an alcoholic beverage to a person under twenty-one years of age; (<i>should such evidence be found</i>) and b. Move that the Select Board suspend Needham 365 Bev, LLC d/b/a Residence Inn's Section 12 Innholder All Alcoholic Liquor License for a period of _____ days to be served _____ [<i>immediately and consecutively OR consecutively on set dates in the future to be provided to the Board in writing</i>] and, by Tuesday, March 22nd, 2022 provide the Select Board with a satisfactory written plan, under signature of the Manager of Record and any person or entity holding more than a 10% ownership interest in the license, to assure that further offenses will not occur; and	



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

- c. Move that the Select Board authorize the Town Manager to draft and send notice of the Select Board's decision to the Licensee and to the Alcoholic Beverages Control Commission.

3.

BACK UP INFORMATION ATTACHED

- a. Violation Notice
- b. Five-Year Lookback Summary of Compliance Check Violations by Needham 365 Bev, LLC d/b/a Residence Inn and Penalties Imposed
- c. M.G.L. Chapter 138 Sections 12, 34, 64, and 67
- d. Town of Needham Alcohol Regulations

Michael Gendrin
Needham 365 Bev, LLC d/b/a Residence Inn
80 B Street
Needham, MA 02494

Dear Michael Gendrin:

On January 24th, 2022 you met with the Chair and Vice Chair of the Needham Select Board and me to discuss the report by the Needham Police Department that your staff served alcoholic beverages to a person under twenty-one years of age during a compliance check on December 1st, 2021, in violation of Massachusetts General Laws, Chapter 138, Section 34.

You provided an account of the encounter, prior violations, and steps taken to ensure that future service to underage persons does not occur, to include a discussion on TIPS certification for all service staff and new practices and procedures employed by your establishment. While we appreciate your seriousness in addressing this matter, the number of compliance check failures at your establishment over the prior five years requires the Board to hold a public hearing to deliberate the penalty that may be enforced for this most recent violation.

This letter is to inform you that **your public hearing will take place on Tuesday, March 8th, 2022 at 6:00 PM in Needham Town Hall (Powers Hall, Second Level)**. Should unforeseen circumstances leave you unable to attend in person, please contact my staff by email at mtucker@needhamma.gov and kscoble@needhamma.gov to receive a Zoom link.

The Town of Needham takes its responsibility for licensing liquor establishments seriously. The Select Board is committed to ensuring that the Town remains a community where only safe, responsible service of alcoholic beverages is permitted. If you have any questions, please do not hesitate to contact our office.

Respectfully,

Kate Fitzpatrick
Town Manager

cc: Select Board
John Schlittler, Chief of Police
Tim McDonald, Director of Health and Human Services
Myles Tucker, Support Services Manager
Ronald Ruth, Counsel for Needham 365 Bev, LLC d/b/a Residence Inn

TOWN OF NEEDHAM ABCC LICENSES			Addresses			Violation (T= Town) (ABCC) Date/penalty
00035-HT-0770	Needham 365 Bev, LLC d/b/a Residence Inn	All Alcoholic - Hotel	Section 12	80 B Street		11-29-18 (T) Warning
	Needham 365 Bev, LLC d/b/a Residence Inn	All Alcoholic - Hotel	Section 12	80 B Street		6-4-2019 (T) one-day suspension served on Friday, 7/26/19
	Needham 365 Bev, LLC d/b/a Residence Inn	All Alcoholic - Hotel	Section 12	80 B Street		10/16/2019 (T) three consecutive day suspension served on 12/27, 28, 29/2019
	Needham 365 Bev, LLC d/b/a Residence Inn	All Alcoholic - Hotel	Section 12	80 B Street		12/1/2021 - TBD

Part I ADMINISTRATION OF THE GOVERNMENT**Title XX** PUBLIC SAFETY AND GOOD ORDER**Chapter 138** ALCOHOLIC LIQUORS**Section 12** LICENSES AUTHORIZING SALE OF BEVERAGES TO BE DRUNK ON PREMISES; VETERANS' ORGANIZATIONS, CORPORATIONS, ETC.; SUSPENSION OR REVOCATION; HOURS OF SALE; LIQUEURS AND CORDIALS; LIQUOR LEGAL LIABILITY INSURANCE REQUIREMENT

Section 12. A common victualler duly licensed under chapter one hundred and forty to conduct a restaurant, an innholder duly licensed under said chapter to conduct a hotel, a pub brewer, a continuing care retirement community and a keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions of section eleven A, may be licensed by the local licensing authorities, subject to the prior approval of the commission, to sell to travelers, strangers and other patrons and customers not under twenty-one years of age, such beverages to be served and drunk, in case of a hotel or restaurant or continuing care retirement community licensee, only in the dining room or dining rooms and in such other public rooms or areas of a hotel as the local licensing authorities may deem reasonable

and proper, and approve in writing; and provided further, that the limitations relative to service and consumption in a restaurant or hotel or continuing care retirement community only in the dining rooms and such other public rooms or areas deemed reasonable and proper by the local licensing authority shall not be deemed to preclude the restaurant or hotel from allowing a patron to retain and take off the premises only so much as may remain of a bottled wine purchased by the patron in conjunction with a meal and not totally consumed by the patron during such meal; provided further, that the limitations relative to service and consumption in a tavern, club or war veterans' organization licensed pursuant to this section shall not be deemed to preclude the tavern, club or war veterans' organization from allowing a patron, member or guest, as the case may be, to retain and take off the premises only so much as may remain of a bottled wine purchased by the patron, member or guest in conjunction with a meal and not totally consumed by the patron, member or guest during such meal; provided further, that all such wine bottles shall be resealed in accordance with regulations promulgated by the commission and transported in a manner authorized in section 24I of chapter 90 when carried in a motor vehicle, as defined in section 1 of said chapter 90; provided, that no tavern license shall be granted to the holder of a hotel license hereunder. Such sales may also be made, by an innholder licensed hereunder, to registered guests occupying private rooms in his hotel, and in the dining room or dining rooms and in such other public rooms or areas of buildings on the same premises as the hotel and operated as appurtenant and contiguous to and in conjunction with such hotel, and to registered guests occupying private rooms in such buildings and in the case of condominium accommodations that are located appurtenant and contiguous to and also upon the same premises as a hotel, sales may be

made by the hotel licensee as the local licensing authorities may deem reasonable and proper, and approve in writing. Such sales may also be made by a continuing care retirement community licensed hereunder, to residents or guests of residents in rooms in a continuing care retirement community, and in the dining rooms and in such other public rooms or areas of buildings on the same premises as the continuing care retirement community and operated as appurtenant and contiguous to and in conjunction with such continuing care retirement community, and to guests of residents in such buildings; provided, however, that such sales may be made by the continuing care retirement community licensee as the local licensing authorities may deem reasonable and proper and approve in writing. Such sales may be made by a restaurant licensee at such stands or locations in a sports arena, stadium, ball park, race track, auditorium or in any one building at an airport as the local licensing authority may deem reasonable and proper, and approve in writing. A local licensing authority may grant a license for the sale of all alcoholic beverages or a license for the sale of wines and malt beverages at any location on the grounds of a golf course as it deems reasonable and proper. Upon an application for a restaurant license, the local licensing authorities may in their discretion grant such a license authorizing the sale of alcoholic beverages on all days of the week or one authorizing such sale on secular days only, and the decision of such authorities as to which of the two types may be granted upon any particular application shall be final. During such time as the sale of such alcoholic beverages is authorized in any city or town under this chapter, the authority to grant innholders' and common victuallers' licenses therein under chapter one hundred and forty shall be vested in the local licensing authorities; provided, that if a person applies for the renewal of both a common

victualler's license or an innholder's license under said chapter one hundred and forty and a hotel or a restaurant license, as the case may be, under this section and the local licensing authorities refuse to grant said common victualler's or innholder's license or fail to act on the applications therefor within a period of thirty days, such applicant may appeal therefrom to the commission in the same manner as provided in section sixty-seven and all the provisions of said section relative to licenses authorized to be issued by local licensing authorities under this chapter shall apply in the case of such common victualler's license or innholder's license.

If a license granted under this section to a person holding a license as an innholder or common victualler is suspended or revoked for any particular cause, no action shall be taken on account thereof by such authorities with respect to such innholder's or common victualler's license prior to the expiration of the period provided for an appeal under section sixty-seven in case no such appeal is taken, or prior to the disposition of any such appeal so taken, nor thereafter, except for further cause, in case such disposition is in favor of the appellant. Any club in any city or town wherein the granting of licenses to sell alcoholic beverages, or only wines and malt beverages, as the case may be, is authorized under this chapter may be licensed by the local licensing authorities, subject to the approval of the commission, to sell such beverages to its members only, and also, subject to regulations made by the local licensing authorities, to guests introduced by members, and to no others. A member of a club licensed under this section may bring wine to be consumed on the premises with a meal purchased at the club, unless the club objects, which it may do at its sole discretion. At all times the club shall control the handling, serving and dispensing of wine in accordance with this chapter and may refuse to

pour wine for any patron for any reason or for no reason, regardless of whether bottles are opened or unopened. Unopened bottles shall be returned to the patron who shall remove such bottles from the premises at the conclusion of the event, and open bottles shall be returned and resealed in accordance with regulations promulgated by the commission and transported in a manner authorized by section 24I of chapter 90 when carried in a motor vehicle, as defined in section 1 of said chapter 90. The club shall set and charge a reasonable corkage fee, which shall be added to the member's meal expense. Such fee shall be set at not less than \$30 and shall be applied to each bottle of wine that is opened.

The local licensing authorities of any city or town wherein the granting of licenses under this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be, is authorized by this chapter, may, subject to the approval of the commission and irrespective of any limitation of number of licenses contained in section seventeen, issue a license to any corporation the members of which are war veterans and which owns, hires or leases in such city or town a building, or space in a building, for the use and accommodation of a post of any war veterans' organization incorporated by the Congress of the United States, to sell such beverages to the members of such post only, and also, subject to regulations made by the local licensing authorities, to guests introduced by such members and to no others.

The local licensing authorities may determine in the first instance, when originally issuing and upon each annual renewal of licenses under this section, the amount of the license fee, for a tavern license or for any other license under this section for the sale of all alcoholic beverages, or for any other license under this section for the sale of wines and malt beverages, and provided that nothing herein shall prevent such authorities

from establishing license fees differing in amounts within the limitations aforesaid for restaurant licenses authorizing such sale on secular days only. If different license fees are so established the fee for licenses authorizing the sale of alcoholic beverages on all days of the week shall not be more than twenty-five per cent higher than the fee for licensing such sale on secular days only. Before issuing a license to any applicant herefor under this section, or before a renewal of such license, the local licensing authority shall cause an examination to be made of the premises of the applicant to determine that such premises comply in all respects with the appropriate definition of section one and that the applicant is not less than twenty-one years of age and a person of good character in the city or town in which he seeks a license hereunder. No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

The local licensing authorities may accept the surrender of a license issued under this section and may issue in place thereof to the same licensee any other form of license authorized under this section, and may allow as a credit on the fee for the new license the license fee paid for the license surrendered but no refund shall be authorized. Different licenses issued as aforesaid for any portion of the same license year to the same licensee shall count as one license for the purposes of section seventeen.

The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of two and eight o'clock antemeridian and that, except as provided in section thirty-three, no such licensee shall be barred from making such sales on any such day after eleven o'clock antemeridian and before eleven

o'clock postmeridian, and no tavern shall be kept open on any such day between one o'clock antemeridian and eight o'clock antemeridian; provided, further, that any such licensee or his manager shall not be prohibited from being on the licensed premises at any time; provided, further, that the employees, contractors or subcontractors shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner. The licensing authority shall not decrease the hours during which sales of such alcohol beverages may be made by a licensee until after a public hearing concerning the public need for such decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks notice of the public hearing.

No license issued under this section shall be subject to any condition or requirement varying the occupancy of the licensed premises as certified by any person or state or local agency charged with the administration or enforcement of the state building code or any of its rules or regulations.

No person, firm, corporation, association or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever, licensed under the provisions of sections eighteen or nineteen shall be granted a license under this section.

In cities and towns which vote to authorize under section eleven the granting of licenses for the sale of all alcoholic beverages, specific licenses may nevertheless be granted under this section for the sale of wines or malt beverages only, or both. The licensing authorities may

refuse to grant licenses under this section in certain geographical areas of their respective cities or towns, where the character of the neighborhood may warrant such refusal.

All malt beverages sold by a licensee under this section containing not more than three and two tenths per cent of alcohol by weight shall be expressly sold as such.

No malt beverage shall be sold on draught from a tap, faucet or other draughting device, unless there shall plainly appear on or attached to such device, in legible letters, the brand or trade name of the malt beverage so sold therefrom.

In any city or town wherein the granting of licenses under this section to sell alcoholic beverages or wines and malt beverages is authorized, a person may be granted a general on-premise license by the local licensing authorities, subject to the prior approval of the commission, authorizing him to sell alcoholic beverages without food to patrons and customers subject to all other relevant provisions of this chapter, provided that such beverages shall be sold and drunk in such rooms as the licensing authorities may approve in writing. The annual license fee for such general on-premise license shall be determined by the local licensing authority. For the purposes of section eleven an affirmative vote on subdivision A or B shall be considered an authorization for the granting of general on-premise licenses in a city or town.

A common victualler who holds a license pursuant to this section may provide on premises sample wine or malt beverage tasting; provided however, that such licensee shall not solicit orders for wine or malt for off premises consumption; and provided further, that any such wine

tasting shall be limited to one ounce per serving and any such malt beverage tasting shall be limited to two ounces per serving and food shall be served in conjunction with any such wine or malt beverage tasting.

In any city or town which votes to accept the provisions of this paragraph, a common victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

A common victualler who holds a license for the sale of all alcoholic beverages or holds a license for the sale of wines and malt beverages and who also holds pursuant to this section written approval to sell liqueurs and cordials pursuant to his license may provide on-premises sample liqueurs and cordials tasting; provided however, that a licensee shall not solicit orders for liqueurs and cordials for off-premises consumption; and provided, further, that any such liqueurs and cordials tasting shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any liqueurs and cordials tasting.

A common victualler who holds a license for the sale of all alcoholic beverages may provide on premises sample alcoholic beverages tasting; provided, however, that a licensee shall not solicit orders for alcoholic beverages for off-premises consumption; and provided further, that any tasting of alcoholic beverages, other than wines and malt beverages, shall be limited to 1/4 of an ounce per serving and food shall be served in conjunction with any alcoholic beverages tasting.

No license shall be issued or renewed under this section until the applicant or licensee provides proof of coverage under a liquor legal liability insurance policy for bodily injury or death for a minimum

amount of \$250,000 on account of injury to or death of 1 person, and \$500,000 on account of any 1 accident resulting in injury to or death of more than 1 person. Proof of the insurance coverage required by this section shall be made by filing a certificate of insurance in a form acceptable to the local licensing authority. The insurance shall be subject to sections 5 and 6 of chapter 175A of the General Laws.

Part I ADMINISTRATION OF THE GOVERNMENT**Title XX** PUBLIC SAFETY AND GOOD ORDER**Chapter 138** ALCOHOLIC LIQUORS**Section 34** SALE, DELIVERY OR FURNISHING ALCOHOLIC BEVERAGES
TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;
EMPLOYMENT OF PERSONS UNDER EIGHTEEN YEARS OF
AGE

Section 34. No person shall receive a license or permit under this chapter who is under 21 years of age. Whoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 12 or 15, delivers or procures to be delivered in any public room or area of such establishment if licensed under section 12, 15, 19B, 19C or 19D or in any area of such establishment if licensed under said section 15, 19B, 19C or 19D any such beverages or alcohol to or for use by a person who he knows or has reason to believe is under 21 years of age or whoever procures any such beverage or alcohol for a person under 21 years of age in any establishment licensed under section 12 or procures any such beverage or alcohol for a person under 21 years of age who is not his child, ward or spouse in any establishment licensed under said section 15, 19B, 19C or 19D or whoever furnishes any such beverage or alcohol for

a person under 21 years of age shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both. For the purpose of this section the word "furnish" shall mean to knowingly or intentionally supply, give, or provide to or allow a person under 21 years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol.

Notwithstanding the provisions of clause (14) of section 62 of chapter 149, a licensee under this chapter may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.

Part I ADMINISTRATION OF THE GOVERNMENT**Title XX** PUBLIC SAFETY AND GOOD ORDER**Chapter 138** ALCOHOLIC LIQUORS**Section 64** SUSPENSION OR REVOCATION OF LICENSE; HEARING;
NOTICE; DISQUALIFICATION; SURRENDER OF LICENSE;
REFUNDS

Section 64. The licensing authorities after notice to the licensee and reasonable opportunity for him to be heard by them, may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted a violation of any condition thereof, or any law of the commonwealth. If at any hearing a licensee is charged with serving or selling alcohol or alcoholic beverages to a person under twenty-one years of age, written notice of said allegations shall be sent by the licensing authorities to the parent or guardian of such person. If the license is revoked, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so revoked, and if he is the owner of the premises described in such revoked license, no license shall be issued to be exercised on said premises for the residue of the term thereof.

If it appears to the commission that a license has been issued under this chapter by the local licensing authorities in excess of the quota prescribed by section seventeen or in violation of section sixteen A or any other provision of this chapter, the commission shall, after notice to said authorities and to the holder of such license and after reasonable opportunity for them to be heard by it, revoke such license, whereupon such license shall be surrendered to said authorities, and the decision of the commission shall be final and conclusive. The holder of a license so revoked shall not be subject to prosecution for any sales theretofore made by him under such license on the ground that such license was illegally issued. The city or town whose licensing authorities issued any license so revoked shall forthwith refund to the holder thereof the entire fee paid therefor and authority is hereby granted to such city or town to pay the same out of any funds available.

Part I ADMINISTRATION OF THE GOVERNMENT**Title XX** PUBLIC SAFETY AND GOOD ORDER**Chapter 138** ALCOHOLIC LIQUORS**Section 67** APPEALS ON REFUSAL TO GRANT OR REVOCATION OF
LICENSE; HEARING; NOTICE OF APPROVAL; REVOCATION
BY COMMISSION; REAPPEAL

Section 67. Any applicant for a license who is aggrieved by the action of the local licensing authorities in refusing to grant the same, or by their failure to act within the period of thirty days limited by section sixteen B, or any person who is aggrieved by the action of such authorities in modifying, suspending, cancelling, revoking or declaring forfeited the same, may appeal therefrom to the commission within five days following notice of such action or following the expiration of said period, upon petition in writing, setting forth all the material facts in the case.

The commission shall hold a hearing upon each such appeal, requiring due notice to be given to all interested parties. The decision of the commission shall be made not later than thirty days after the completion of the hearing.

If the commission approves the action of the local licensing authorities it shall issue notice to them to that effect, but if the commission disapproves of their action it shall issue a decision in writing advising

said local authorities of the reasons why it does not approve, and shall then remand the matter to the said local authorities for further action. The commission shall not in any event order a license to be issued to any applicant except after said applicant's application for license has first been granted by the local authorities.

Pending a decision on the appeal, the action of the local licensing authorities shall have the same force and effect as if the appeal had not been taken. Upon the petition of twenty-five persons who are taxpayers of the city or town in which a license has been granted by such authorities, or who are registered voters in the voting precinct or district wherein the licensed premises are situated, the commission shall, or upon its own initiative the commission may, investigate the granting of such a license or the conduct of the business being done thereunder, and shall, after a hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

If the local licensing authorities fail to suspend, revoke, cancel or declare forfeited a license or to perform any other disciplinary act when lawfully ordered so to do by the commission upon appeal or otherwise, within such reasonable time as it may prescribe, the commission may itself revoke such license or perform such act, with the same force and effect as if issued or performed by the local licensing authorities, but no license shall be issued by the commission except in ratification of a prior issuance to the same party by the local authorities.

In any case in which the commission finds during said hearing that the licensee pursuant to section 12 has served or sold alcohol or alcoholic beverages to either a person under 21 years of age in violation of section 64 or to an intoxicated person in violation of section 69 within the 24

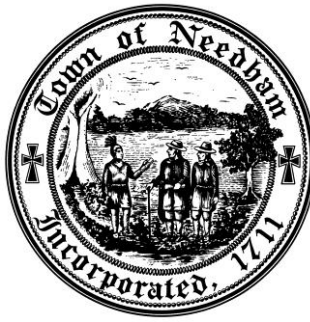
months immediately preceding the date of the alleged violation which is the subject of the hearing, said commission may, in addition to any other sanctions or conditions it may impose, require as a condition precedent to any modification, reinstatement or renewal of said license thereafter that the licensee provide a certificate of insurance for liquor liability of the licensee to a limit of not less than \$100,000 to any one person and \$200,000 to all persons; provided, however, that if the licensee is required to obtain insurance coverage under said section 12, then the licensing authority may increase the limits set by said section 12. In any other case in which the commission may act pursuant to this section, it may increase, but not decrease, the limits of liquor liability insurance, if any, required by the local licensing authorities as a condition precedent to the modification, reinstatement or renewal of a license.

After receipt by the local licensing authorities of a decision from the commission as set forth in the third paragraph hereof, any applicant for renewal of a license or any licensee who is aggrieved by the action of the local licensing authorities modifying, cancelling, revoking or declaring forfeited a license or failing to issue a license, which would in effect renew for one year a license held during the previous year by the applicant may, if the said local licensing authority fails within five days after receipt of said decision to take the action recommended therein, again appeal to the commission, upon petition in writing setting forth all the material facts in the case. In the event of such reappeal, the commission shall hold a hearing on such reappeal, requiring due notice to be given to all interested parties. If the commission, on such reappeal approves the action of the local licensing authorities, it shall issue notice to them to that effect, but if the commission disapproves their action, it shall issue a decision in writing advising said local authorities of the

reasons why it does not approve. This decision of the commission on reappeal shall be final; provided, that in no event shall the commission order the local licensing authorities to issue any licenses to an applicant not a party to the appeal. If the local licensing authorities fail to issue a license which would have the effect of renewing for one year a license held by the applicant during the previous year, subject to the limitation set forth herein, or to perform any other act when lawfully ordered so to do by the commission upon reappeal, within such time as it may prescribe, the commission may itself, after such reappeal, issue such license to a party to the appeal or perform such act, with the same force and effect as if issued or performed by the local licensing authorities.

Hearings by the commission on appeals as required by the provisions of this section may be held in the discretion of the commission when required by public convenience or shall be held upon written request of twenty-five persons who are taxpayers of the city or town in which the license is intended to be exercised, in the nearest of the following cities or towns to the city or town in which the license is intended to be exercised:—Pittsfield, Greenfield, Springfield, Worcester, Fitchburg, Boston, Barnstable, New Bedford, Brockton, Lowell or Salem.

Upon the receipt of such appeal the commission shall forthwith notify the local licensing authorities thereof by mailing registered mail and said request shall be made within ten days of such mailing.



TOWN OF NEEDHAM

REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES

- I. Types of Licenses to be Granted in Needham
- II. Compliance
- III. Special License Provisions
- IV. General Rules and Regulations Applicable to Holders of Licenses to Sell Alcoholic Beverages within the Town
- V. Rules and Regulations for the Sale of Alcoholic Beverages by Innholders
- VI. Rules and Regulations Applicable to the Sale of Alcoholic Beverages in Restaurants and Function Rooms
- VII. Rules and Regulations applicable to Clubs and Veterans Organizations seeking and issued Alcoholic Beverage Licenses within the Town authorized by Special Act of the General Court (Chapter 3 of the Acts of 1977)
- VIII. Rules and Regulations applicable to One-Day Special Event Licenses
- IX. Rules and Regulations applicable to Package Stores
- X. Violations – Determination of Penalties

The Needham Select Board, acting as local licensing authority pursuant to the provisions of Massachusetts General Laws Chapters 138 and 140 and other relevant legal authority, promulgates these regulations applicable to the sale and distribution of alcoholic beverages in the Town of Needham. These regulations are in addition and supplemental to all other legal requirements, including but not limited to applicable State and Federal law and regulations.

I. TYPES OF LICENSES TO BE GRANTED IN NEEDHAM

The Town of Needham issues the types of alcoholic beverages licenses listed below. All licenses shall comply with Chapter 138 of the Massachusetts General Laws, and Chapter 204 of the Code of Massachusetts Regulations, as they relate to the specific type of license.

- 1.1 Innholders All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a hotel dining area with a seating capacity of not less than ninety-nine (99) persons and a living capacity of not less than fifty (50) rooms, under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. The Service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board. (M.G.L. c.138, s.11, D; 11/7/72 election)
- 1.2 Restaurant All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in a restaurant and/or function room under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.11, E; 11/4/80 election; M.G.L. c.138, s.12; Chapter 32 of the Acts of 2014; 4/8/2014 election)
- 1.3 Restaurant Wine and Malt Beverages: issued to qualified applicants to sell only wine and malt beverages in a restaurant under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; Chapter 169 of the Acts of 2001; 11/8/01 election)
- 1.4 Club and Veterans' Organization All Alcoholic Beverages: issued to qualified applicant Clubs existing under Chapter 180 of Massachusetts General Laws and Veterans' Organizations duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts to sell all alcoholic beverages under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.12; 11/8/88 election)
- 1.5 One Day Special Event: issued to qualified applicants of non-profit status to sell all alcoholic beverages; or to sell wine and malt beverages only; or to qualified applicants of for profit status to sell wine and malt beverages only under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (M.G.L. c.138, s.14)

- 1.6 Package Store All Alcoholic Beverages: issued to qualified applicants to sell all alcoholic beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages, and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)
- 1.7 Package Store Wine and Malt Beverages: issued to qualified applicants to sell wine and malt beverages in packages not to be consumed on the premises under the applicable regulations of Massachusetts General Laws, the Town of Needham Rules & Regulations Governing the Sale of Alcoholic Beverages and any and all conditions stipulated for the specific license. (Chapter 207 of the Acts of 2012; Approved 11/6/2012 election)

II. COMPLIANCE

- 2.1 The issuance of a license by the Select Board for the sale of alcoholic beverages under M.G.L. c. 138 applies only to said sales and does not release the licensee from compliance, nor does it assume compliance with the rules, regulations, requirements and procedures of other government boards, agencies or bodies having jurisdiction.
- 2.2 Failure to comply with these regulations, the laws of the Commonwealth of Massachusetts, the Regulations of the Alcoholic Beverages Control Commission or the Town's bylaws may result in the revocation, suspension or cancellation of the license.

III. SPECIAL LICENSE PROVISIONS (applicable to Restaurants only)

- 3.1 Bar Service The sale or service of alcoholic beverages for consumption at any unapproved Bar Service Area is prohibited. For the purposes of these regulations, Bar Service Area is defined as service across a counter at which alcoholic drinks are prepared to patrons who may or may not be waiting to dine. Bar Service Areas are permitted only in locations expressly approved and authorized by the Select Board. Such authorization may be granted under the following conditions:
 - a) The Board makes a finding that it is in the best interest of the Town to allow the service of alcoholic beverages in the Bar Service areas;
 - b) No more than a total of fifteen (15) seats or twenty percent (20%) of the total seats in the premises, whichever is less, shall be allowed in the Bar Service area(s), except that the Board may after hearing, with notice pursuant to M.G.L. Chapter 138 section 15A, authorize a greater number where such seats are intended for food service customers as part of the licensee's business plan;
 - c) The seats in the Bar Service areas are included when calculating the number of seats in the premises;
 - d) All food and beverages on the menu served in the public dining room shall be available for service to the patrons in the Bar Service areas; and
 - e) Each licensee with bar seating shall annually as part of its license renewal application provide the Select Board with a statement certified by a Certified Public Accountant as to the percentage the annual sales for the previous period

of October 1-September 30 of alcoholic beverages compared to the total annual sales of food and alcoholic beverages. If the percentage exceeds thirty-five percent (35%), the Select Board may investigate to determine whether the service of alcoholic beverages has become more than incidental to the service of food on the premises. If the Board determines that the sale of alcoholic beverages has become more than incidental to the sale of food on the premises, it may after hearing modify the license to require the licensee to reduce its amount of Bar Service Area seating.

IV. GENERAL RULES AND REGULATIONS APPLICABLE TO HOLDERS OF LICENSES TO SELL ALCOHOLIC BEVERAGES WITHIN THE TOWN

This section shall apply to any and all alcoholic beverages licenses issued by the Board to eligible restaurants, clubs, veterans' organizations, innholders licensees, package stores and, with noted exceptions, one-day special event licensees. The Licensing Board reserves the right to add to, amend, modify or revoke these rules and regulations at such time or times as the Licensing Board deems appropriate.

Subject to further limitations fixed or from time to time modified by the Select Board with respect to a particular license, the General Laws of Massachusetts and the regulations of the Alcoholic Beverages Control Commission, the following rules and regulations shall be in full force and effect:

- 4.1 Fire Safety Inspections (applicable to Restaurants, Innholders & Clubs only)
Chapter 304 of the Acts of 2004, An Act Relative to Fire Safety In the Commonwealth, requires that every license holder under M.G.L. Chapter 138 Section 12 must submit as a precondition of renewal of the license "a valid certificate of inspection issued by a local inspector and signed by the head of the fire department for the city, town or district in which the premises is located." No license shall be issued for the sale of alcoholic beverages in the Town until such time as a copy of the valid certificate of inspection has been filed with application.
- 4.2 Hours of Operation
The hours during which the sale of all alcoholic beverages may be made in a dining room are further limited to the time when the dining room is open and food service is available to the public. No alcoholic beverages shall be sold or served in a dining room before the dining room is open and food service is available, or after the dining room has been closed and food service has been suspended to the public. The hours during which the sale of all alcoholic beverages to be consumed on the premises may be made by any licensee shall be from 11:00 a.m. to 11 p.m. on secular days and from 10:00 a.m. to 11 p.m. on Sundays, unless otherwise determined by the Select Board. The hours during which the sale of all alcoholic beverages to be consumed off the premises may be made by any licensee shall be from 9:00 a.m. to 10:00 p.m., Monday through Saturday, including legal holidays, and 12:00 noon to 6:00 p.m. on Sundays, unless otherwise determined by the Select Board. Holiday sales hours are further limited to the holiday schedule set by the ABCC.

- 4.2.1 The Board may adjust hours for individual and/or classifications of licensees upon receipt of their request(s) for consideration of special circumstances and/or occasions.
- 4.2.2 No patron shall be served or sold alcoholic beverages within the licensed premises before or after the hours stated in the license.
- 4.2.3 No alcoholic beverages shall be served within the licensed premises during the fifteen (15) minutes preceding the hours stated on the license at which service of alcoholic beverages must cease.
- 4.2.4 All bottles, glasses, containers, etc., shall be cleared from all tables and bars within thirty (30) minutes of the established closing hour and all patrons will be off the licensed premises within forty-five (45) minutes of the established closing hour.
- 4.2.5 With the exception of the licensee and the manager, all employees shall vacate the licensed premises no later than sixty (60) minutes after the official closing hour designated on the alcohol license. Bona fide employees of the licensed establishment may remain upon or enter upon the licensed premises outside of the regular hours of operation while actually engaged in cleaning, opening, closing or preparing for the current or next day's business, but they may not dispense or consume any alcoholic beverage during such non-public hours. In any instance wherein a licensee will have employees working on the licensed premises in excess of sixty (60) minutes before or after the serving times, the licensee shall cause notification of the fact to be given by telephone to the Needham Police Department along with the estimate as to how long the work party will be on the premises.

4.3 Payment of Charges and Taxes

Applicants and licensees must pay, in full, all taxes and charges owed to the Town on a current basis prior to the issuance of a new license, the transfer of an existing license and/or the annual renewal of a license.

4.4 Filing and Application Requirements (excludes One Day Special Event Licenses)

4.4.1 Abutter Notification

When conducting a public hearing to consider the issuance of a license to sell or serve wine, malt and/or alcoholic beverages, the Board shall require the applicant to notify all owners of property within a 300-foot radius of the premises to be licensed

4.4.2 Insurance

No license shall be issued for the sale of alcoholic beverages (one day special licenses excluded) in the Town until such time as the applicant shall present to the Select Board a certificate of insurance showing that the applicant carries the following policies of insurance from an insurance company licensed by the Department of Insurance of the Commonwealth of Massachusetts as follows: workers' compensation insurance as required by M.G.L. Chapter 152; and liquor liability insurance in the minimum amount of \$100,000 per person/\$1,000,000 aggregate for personal injury and \$100,000 per occurrence for property damage.

4.4.3 Fees

All license fees of the Board are incorporated in these rules and regulations as Attachment I, Schedule of Town of Needham Liquor License Fees. These fees shall be non-refundable.

4.4.3.1 Filing Fees All required filing fees shall be paid in full at such time as the application is filed. The Board's filing fee shall be paid by check, made payable to the "Town of Needham." Filing fees required by the Commission must be by certified check or bank treasurers check made payable to the "Commonwealth of Massachusetts" and/or the "Alcoholic Beverages Control Commission." Filing fees shall not be pro-rated for any reason.

4.4.3.2 License Fees All license fees for the initial issuance of a new license, or for the transfer of an existing license, for a change in the structural composition of a licensed premises, and/or for the annual renewal of a license shall be paid in full prior to the issuance of the license. The payment of the license fee shall be by cash, certified check or bank treasurer's check payable to "Town of Needham." The initial license fee will be pro-rated based on the number of months remaining in the calendar year at the time of occupancy.

4.4.4 Floorplans – On Premises Licenses (M.G.L. Ch 138 s.12)

4.4.4.1 With the exception of applicants for package store licenses and a one-day special events license and without limiting the application of Chapter 6 of the State Building Code, applicants or licensees shall submit to the Board along with the application for license, an architectural floor plan, drawn to scale, that includes the following information, which will be clearly marked:

- a) the net floor area (net floor area shall be the area of the rooms measured between the interior walls exclusive of stairways, service bars, hallways, etc.) and dimensions of the existing room or rooms and exterior premises requested to be licensed including dining rooms, function rooms, exterior premises and rooms in which alcoholic beverages are to be stored;
- b) the location of any proposed Bar Service Areas and cocktail lounges (for innkeepers license only);
- c) areas in which seats or benches are to be securely fastened to the floor and areas in which the seats and tables are moveable;
- d) entrances and exits;
- e) kitchens and/or food preparation areas;
- f) take out areas;
- g) storage areas;
- h) restrooms;
- i) all rooms not being requested to be licensed shall be labeled as to their function, such as, kitchen, coatroom, lobby, etc.;

- j) total occupant load; and
- k) other spaces, or in relevant cases, exterior premises for which approval of the Board for the sale of alcoholic beverages is requested. Approval of the use of exterior space will only be allowed if there is a physical barrier and signage restricting the transportation or possession of any alcohol, wine, or malt beverage beyond the limitation of the barrier.

4.4.4.2 The number and location of all seats, chairs, and stools upon or within the licensed premises must be approved in writing by the Board. In no event shall the total number of seats, chairs, and stools upon the licensed premises exceed the maximum seating capacity nor the maximum occupancy capacity of the licensed premises.

4.4.4.3 No physical alteration, the effect of which would be to constitute a change in the description of the licensed premises as shown on the license, shall be made without prior written approval of the Board.

4.4.4.4 Outdoor seating shall be excluded from the seating capacity used to determine the type of license granted to applicant.

4.5.5 Floor Plans – Off Premise Licenses (M.G.L. Ch 138 s. 15)

4.5.5.1 Applicants for a package store license shall submit to the Board along with the application for license, an architectural floor plan, drawn to scale, that includes the following information, which will be clearly marked:

- a) the net floor area (net floor area shall be the area of the rooms measured between the interior walls exclusive of stairways, service bars, hallways, etc.) and dimensions of the existing room or rooms and exterior premises requested to be licensed;
- b) gross floor area of the premises and those portions of the premises proposed to be dedicated to the sale, storage or display of alcoholic beverages;
- c) entrances and exits;
- d) storage areas;
- e) restrooms;
- f) cash register areas.

4.5.5.2 Applicants shall submit a plan for signage including window display signs.

4.6 General and Miscellaneous Provisions

4.6.1 No alcoholic beverages shall be taken from the building so approved in the licenses, with exception of approved exterior seating noted on floorplan, as noted in section 4.4.4.1 (k). This does not apply to package stores.

- 4.6.2 No licensee shall sell alcoholic beverages in any part of the premises not specified on this license. No change of such area or location shall be made without prior written approval of the Select Board. The licensed premises shall meet and fully comply with all health standards and regulations applicable to the sale of alcoholic beverages.
- 4.6.3 The licensed premises must be well lighted at all times.
- 4.6.4 There shall be no indecent or immoral entertainment on the licensed premises.
- 4.6.5 Gambling, lotteries, or other illegal machines or games are prohibited except as otherwise permitted by law.
- 4.6.6 The licensed premises shall be subject, at all times, to inspection by members of the Select Board, the Town Manager, Inspector of Buildings, Board of Health or its representatives, Police Department, Fire Department, or any other department or official of the town so directed by the Select Board.
- 4.6.7 Food service shall be available in all areas where alcoholic beverages are to be served for consumption on premises.
- 4.6.8 Meals must be served on solid dinnerware with silverware accompanying the same. No paper plates or plastic cutlery is permitted. Alcoholic beverages may be consumed only from glassware. Package stores and one day licenses are excluded from this provision.
- 4.6.9 No licensed restaurant or package store may permit the use of any amusement service such as electronic games on the premises.
- 4.6.10 Service of alcoholic beverages shall be by a server/wait person (applicable to on premise licensees only).
- 4.6.11 At all times that the licensed premises are open for the sale or service of alcoholic beverages, the licensee shall have on the premises a manager or assistant manager who has successfully completed an in-person alcoholic beverage server training program satisfactory to the Select Board. The onsite manager/assistant manager shall be responsible for compliance with all applicable laws of the Commonwealth of Massachusetts concerning the sale of alcoholic beverages and the Town's rules and regulations for the provision and consumption of alcoholic beverages. The designated manager/assistant manager shall have full authority to make decisions concerning the operation of the establishment.
 - a) A current employee roster shall be available upon request to the Town for all licensed establishments. It is the obligation of the licensee to inform all employees about the rules and regulations of the Needham

Select Board, the Alcoholic Beverages Control Commission, and any and all applicable Massachusetts laws.

- b) Any employee engaged in the sale and handling of alcoholic beverages must complete Select Board approved courses in alcohol safety training and have on file with the licensee, and available for inspection by the Town, a copy of current training certification and proof of age. Licensee will provide an approved training program certificate of completion for the manager to the Town with the application.
- c) All managers, assistant managers, and bartenders shall be required to attend an in-person alcoholic beverage server training program satisfactory to the Select Board once every two years. Newly hired employees shall complete a Town-approved training program upon employment, or provide proof of training certification at a Town-approved course within the last three years. In addition, all employees who are engaged with the direct handling, selling, storing or the preparation for the display of any alcoholic beverages are required to watch annually a Town-approved training video as part of the license renewal process.
- d) No licensee shall allow any employee to sell, or participate in the stocking, handling, or preparation for sale of beverage alcohol until such employee has viewed a town-approved training video and signed a statement, a copy of which is to be maintained by the licensee, confirming that the employee has viewed that training video and that the employee acknowledges his/her obligation to abide by the rules and regulations of the Needham Select Board, the Alcoholic Beverages Control Commission, and Massachusetts laws regarding the sale of alcohol.

4.6.12 The alcoholic beverage license must be prominently displayed and available for public viewing inside the premises.

V. RULES AND REGULATIONS FOR THE SALE OF ALCOHOLIC BEVERAGES BY INNOLDERS

Subject to further limitations fixed or from time to time modified by the Select Board with respect to a particular license, the General Laws of Massachusetts and the regulations of the Alcoholic Beverages Control Commission, the following rules and regulations shall be in full force and effect:

- 5.1 No application for an alcoholic beverage license shall be accepted except from qualified owners of a hotel having a dining room capacity of not less than ninety-nine [99] persons and living capacity of not less than fifty [50] rooms.
- 5.2 Each applicant shall submit to the Select Board with each application for a license a floor plan of the building or that portion of the building on which is clearly marked and designated the location of the proposed seating arrangement, service bars,

dining rooms, function rooms or other rooms in which approval of the Select Board for the sale of alcoholic beverages is requested.

- 5.3 Cocktail lounges are permitted with the approval of the Select Board but limited to approved areas by the Select Board with appropriate identification of the specific location documented by the Inspector of Buildings.
- 5.4 The Service of alcoholic beverages to the room of any registered guest is prohibited unless otherwise authorized by the Select Board.

VI. RULES AND REGULATIONS APPLICABLE TO THE SALE OF ALCOHOLIC BEVERAGES IN RESTAURANTS AND FUNCTION ROOMS

Subject to further limitations fixed or from time to time modified or amended by the Select Board acting as the duly constituted Licensing Board of the Town of Needham with respect to this class of license, the General Laws of Massachusetts and the Regulations of the Alcoholic Beverages Commission, the following rules and regulations shall be in full force and effect:

- 6.1 It is the policy and purpose of the Select Board acting as the Licensing Board of the Town of Needham to limit the issuance of alcoholic licenses as an accommodating and incidental part of a Common Victualler's primary and principal business endeavor of preparing and serving food to the public in a restaurant and function room.
- 6.2 The issuance of alcoholic licenses will be utilized so as to both enhance the dining experience of individuals patronizing Needham restaurants and to foster the economic development of business areas in the Town by encouraging and promoting foot traffic in those areas where restaurants are located. The Board will consider when deciding upon a license application the foregoing factors and any other matter deemed appropriate by the Board including by way of description but not limitation: proximity to residential neighborhoods, traffic, parking, appropriateness of menu and other aesthetic considerations including the physical layout of the interior of the establishment. Licenses will not be granted to establishments whose principal business activity is fast food, take-out, or which has any "drive-through" component.
- 6.3 No function room may be separately licensed.
- 6.4 No alcohol license will be issued to any applicant unless such applicant is the licensee named in a common victualler's license and has operated a restaurant and function rooms for the twelve-month period immediately preceding the filing of an application. When deemed appropriate by the Select Board this provision may be waived.
- 6.5 Service of food must be available in all areas in which alcoholic beverages are to be served. Where a function room is available, the service of alcoholic beverages is permitted as authorized herein and may be closed to the general public.

VII. RULES AND REGULATIONS APPLICABLE TO CLUBS AND VETERANS ORGANIZATIONS SEEKING AND ISSUED ALCOHOLIC BEVERAGE LICENSES WITHIN THE TOWN AUTHORIZED BY SPECIAL ACT OF THE GENERAL COURT (CHAPTER 3 OF THE ACTS OF 1977)

Licenses issued by the Needham Select Board shall be subject to the minimum requirements of G.L. Chapter 138, Regulations of the Alcoholic Beverage Commission and the following regulations of the local Licensing Board and any amendments thereto hereinafter adopted:

- 7.1 Every club applicant to be eligible to be licensed to sell any or all alcoholic beverages within the Town of Needham must be a corporation duly organized and existing under Chapter 180 of the General Laws of the Commonwealth of Massachusetts and has maintained club facilities for not less than three (3) years prior to the filing of an application. The within provisions may be waived by the Licensing Board.
- 7.2 Every Veterans organization to be eligible to be licensed to sell any and all alcoholic beverages within the Town of Needham must be duly chartered or authorized by the Laws of the United States or the Commonwealth of Massachusetts.
- 7.3 Each applicant shall furnish the Licensing Board with a copy of its Charter or other legal evidence of its eligibility as herein specified when requested by the Licensing Board.
- 7.4 Each eligible club and veteran's organization must have the exclusive legal right to the possession and enjoyment of indoor facilities of not less than 2,000 square feet of floor space on one or more floors and which may consist of one or more rooms.
- 7.5 Each licensee hereunder acting by and through its Board of Directors or other governing body shall appoint a manager or bartender who is of good moral character and a responsible person. The manager or bartender will be in charge during open hours acting for and on behalf of the Board of Directors or other governing Board. Acting for and on behalf of the Board of Directors the manager or bartender shall be responsible for the conduct of the members and guests, accountable for keeping order and the prevention of undue noise and disturbances on the licensed premises and the neighborhood.

VIII. RULES AND REGULATIONS APPLICABLE TO ONE-DAY SPECIAL EVENT LICENSES

The Board will review requests for One-Day Special Event Licenses in accordance with section 14 of Chapter 138 of the General Laws after receipt of the following documentation. A public hearing is not required for the issuance of a One-Day Special Event License.

- 8.1 Request for the sale of alcohol under a Special License is limited to between the hours of 11:00 a.m. and 12:00 a.m. on secular days and 12:00 p.m. and 12:00 a.m. on Sundays.
- 8.2 One-Day licenses are exempt from the legal notice and publication requirements.

- 8.3 No special event license will be granted to a licensed premise of any person whose application for a license is pending before the licensing authorities.
- 8.4 No person shall be granted a special license for more than 30 days in a calendar year.
- 8.5 Forms and documentation required for One-Day Special License:
- a) ABCC Notice of Approval of Special License (completed by the Town)
 - b) Town of Needham Select Board Event Information Sheet
 - c) Descriptive information about the event (invitation, flyer, letter of explanation, etc.)
 - d) Written indication of the manner by which service, sale, delivery, and/or dispensing of alcoholic beverages are to be controlled.
 - e) Written evidence of the owner's permission to use the proposed licensed premises.
 - f) Proof of Non-profit Status (if request is for all alcoholic beverages).
 - g) Sketch/floorplan of the proposed licensed premises detailing where alcohol will be served, sold, delivered, and/or dispensed.
 - h) Designation and identification in writing of all individuals who will serve, sell, deliver, and/or dispense alcoholic beverages and evidence of whether or not said individuals have completed in the past three years an appropriate Massachusetts alcoholic beverages server training program.
 - i) Acknowledgement that the person holding the special license has purchased the alcoholic beverages from a licensed wholesaler/importer, manufacturer, farmer-winery, farmer-brewery or special permit holder. A person holding a section 14 license cannot purchase alcoholic beverages from a package store. (MGL Ch. 138, Sec 14, 23; 204 CMR 7.04)
- 8.6 The One-Day Special Event Manager shall provide for the orderly and safe conduct of the event, shall be responsible for the proper sale, service, delivery, dispensing and consumption of alcoholic beverages, shall be physically present during the duration of the entire event and shall sign the Event Information Sheet. The One-Day Special Event Manager shall display such special One-Day License where sale of alcoholic beverages is taking place.

IX. RULES AND REGULATIONS APPLICABLE TO PACKAGE STORES (M.G.L. CH 138, SEC. 15)

9.1 General Provisions

- 9.1.1 Employees at the licensed premises on which a Section 15 license is exercised must be 21 years of age except that such licensees may employ a person under the age of 21 who does not directly handle, sell, store, or prepare for display any alcoholic beverages. Notwithstanding the foregoing, food store employees 18 years of age or older may handle, store, or prepare any alcoholic beverages for display.
- 9.1.2 No seating, chairs, stools, or tables for use by customers or patrons shall

be placed or permitted by a retail package store licensee upon or within the licensed premises, or upon any area under the direction and control of the licensee.

- 9.1.3 Where the liquor licenses are granted to serve the public, licensees shall be open to the public and, except in exigent circumstances, operate on all days and hours in accordance with the terms of the issued liquor license. The closing of the licensed premises to the public, for a period of five (5) consecutive days or more, or for any period totaling ten (10) days during the calendar year without the prior approval of the Select Board may be deemed to be an abandonment of the Liquor License and sufficient grounds for revocation of the Liquor License.
- 9.1.4 No consumption of alcoholic beverages shall be permitted on the premises outside of the licensed hours of operation.
- 9.1.5 Licensees shall make all reasonable and diligent efforts to ensure that loitering, disorder, disturbances or illegality of any kind does not occur at the licensed premises. The licensee shall ensure that business in the licensed premises is conducted in a responsible manner so that no activity shall detract from the quality of life in the Town generally, or in the neighborhood in which the licensed premises are located. The licensee may be held responsible for such activity, whether present or not.
- 9.1.6 Licensees shall at all times maintain the immediate and surrounding area outside the licensed premises in a state of cleanliness and upkeep.
- 9.1.7 The licensing of liquor establishments, and what constitutes the public convenience in Needham, will be subject to the informed discretion of the Select Board. In determining suitability for licenses, the Select Board will consider the proximity of the proposed premises to neighborhoods, especially residential neighborhoods, and other sensitive areas as determined by the Board.
- 9.1.8 Section 15 licenses may be granted to food stores as defined in these regulations, but will not be granted to convenience stores.
- 9.1.9 Alcohol-related signage displayed so that it is visible to the public will be limited. As a condition of the license, the licensee will comply with the Town of Needham Sign By-law, as from time to time amended.
- 9.1.10 Advertisement at local sporting events or school events and sponsorships of sporting teams where participant's uniforms carry the name, logo or advertisement for any business which derives more than 25% of its gross revenues from the sale of alcoholic beverages is prohibited.
- 9.1.11 "Nips" or bottles of spirits containing fewer than eight (8) fluid ounces shall not be located in an area directly accessible by customers, and shall

be offered for sale upon the request of a customer from a location within the premises to which customers do not have direct access, such as behind a counter.

9.2 Hours Of Operation

9.2.1 For all deliveries conducted off the licensed premises, the licensee shall keep written records including the date of sale, quantities and sizes of items purchased, method of payment transaction, and name and address of purchaser. In addition to the preceding requirements, the amount of the beverages that were delivered, the date and time of delivery, the signature of the person receiving the delivery and the type of identification card used to confirm age. Such written records shall be maintained by the licensee within or upon the license premises for a period of not less than one year and must be readily available for inspection by the Town.

- a) Deliveries must be made during the operating hours of the store.
- b) Deliveries shall be made by persons no less than 21 years of age.
- c) A copy of Off-Premises Transportation Permit, license to deliver issued by the ABCC, shall accompany application at time of submittal.

9.2.2 All transactions for the sale of alcoholic beverages must be completed on or before the closing hour set out in this section.

9.2.3 Hours for product deliveries to establishment and/or pick-up of bottle returns should be arranged so that activity does not interfere with the quiet enjoyment of the neighborhood.

9.3 Consumption On Premises Prohibited Except Sample Tastings

9.3.1 Consumption of alcoholic beverages within or upon the retail package store licensed premises, or upon any area under the direction and control of the licensee, by any person is strictly prohibited except for sample tasting.

9.4 Limitations On Transferability Of Off-Premises Section 15 Licenses

9.4.1 An application for a transfer of ownership at the same location or transfer of location may be granted by the Board after a public hearing in compliance with these regulations and state law.

9.5 Food Store Alcohol License Requirements

9.5.1 A food store is defined as a grocery store or supermarket, which sells at retail, food for consumption on or off the gross premises, whether alone, or in combination with grocery items or other non-durable items typically found in a grocery store and sold to individuals for personal,

family or household use. Such food store shall carry fresh and processed meats, poultry, dairy products, eggs, fresh fruits and produce, baked goods and baking ingredients, canned goods and dessert items. Notwithstanding the foregoing, a food store for the purposes of these regulations shall not be a convenience store, any business that sells gasoline, or a business which derives more than 25% of its gross revenues from the sale of alcoholic beverages. The retail space used to display alcoholic beverages shall not exceed twenty-five percent (25%) of the total retail space on the premises. The Select Board shall determine whether an applicant is a food store as set out herein and in compliance with any and all requirements.

- 9.5.2 A convenience store is defined as an establishment that sells at retail food and other non-durable items to individuals more on a daily basis, such as but not limited to small quantities of food, candy, newspapers, and tobacco products. Convenience stores are frequently open with only one staff member on duty at a time, are usually open later than 10:00 p.m. and may or may not sell gasoline. The Select Board reserves the right to consider each of these factors when determining if an applicant will be considered a convenience store.
- 9.5.3 Any applicant for a Section 15 License (whether for an original application, change of ownership or change of location) must provide with the application materials, a floor plan evidencing the gross floor area of the premises and those portions of the premises proposed to be dedicated to the sale, storage or display of alcoholic beverages. The licensee may not materially change the portions of its premises dedicated to sale, storage or display of alcoholic beverages without the approval of the Select Board. The licensee may not be open for business except during its licensed hours for sale of alcoholic beverages unless it has applied for and received approval by the Select Board of plan to properly secure all alcoholic beverages on the premises from public access during that time.
- 9.5.4 Regular sales and operation of the food store must continue during all times when the sales of wine and malt beverages are permitted.
- 9.5.5 Package store licenses issued to food stores shall be limited to wine and malt beverages only.

X. VIOLATIONS – DETERMINATION OF PENALTIES

- 10.1 Any violation of the Town's Liquor Regulations, Regulations of the Alcoholic Beverages Control Commission, and/or General Laws Chapter 138 may be grounds for action by the Select Board (Board), as Local Licensing Authority, including the modification, suspension, revocation, nonrenewal or cancellation of a license.
- 10.2 In determining the appropriate action in any given case, the Board will consider the

violation alleged, the facts of the case, other relevant factors including the licensee's prior record, and aggravating or mitigating circumstances.

- 10.3 In ordering suspensions, the Select Board may, within its discretion, order a suspension with one or more days to be served and the remainder to be held in abeyance for such time as the Select Board may determine.
- 10.4 A licensee shall have a right to notice and public hearing before modification, suspension, revocation, nonrenewal or cancellation of a license by the Board, except that the Board may under emergency circumstances as allowed by Law suspend the license pending hearing.
- 10.5 A licensee may waive its right to hearing, and the Board in such cases may make findings and act without hearing on recommendation of the Town Manager. The Board may, however, require that a hearing be held notwithstanding such a waiver, in which case the licensee shall have notice of hearing and an opportunity to be heard before action is taken on modification, suspension, revocation, nonrenewal or cancellation of a license, except that Select Board may under emergency circumstances as allowed by Law suspend the license pending hearing.
- 10.6 On the days when Suspension of License is being served, the Licensee will publicly post at its public entrance(s) a notice of the Suspension in a form as the Board or Town Manager may direct. The Board may also post notice of violation hearings, findings, decisions, and orders to the Town's website and Town's social media.
- 10.7 The town conducts, and expects to continue to conduct, routine compliance checks of licensees, including, but not limited to, service to underage persons checks using agents of the Needham Police Department.
 - 10.7.1 The following schedule of recommended discipline is a guideline intended to illustrate the range of disciplinary action that the Select Board may impose for service to underage violations identified in compliance checks. The Select Board is not limited by these guidelines and may impose greater or lesser discipline based on consideration of the violation alleged, the facts of the case, other relevant factors including the licensee's prior record, and aggravating or mitigating circumstances
 - 10.7.2 In calculating the number of prior offenses under this guideline, the Select Board will consider determined violations occurring within the five (5) years preceding the date of current violation.
 - 10.7.3 Compliance Check Violation Guideline Penalties:
 - 10.7.3.1 FIRST OFFENSE:
Written warning, or Suspension of one day.
 - 10.7.3.2 SECOND OFFENSE:
Suspension, one to three days.

- 10.7.3.3 THIRD OFFENSE:
Public hearing required.
Suspension, three to five days.
- 10.7.3.4 FOURTH OFFENSE:
Public Hearing required.
Suspension, Five (5) to Ten (10) Days
Licensee shall be required as a condition of the license to provide the Board with a satisfactory written plan, under signature of the manager of record and any person or entity holding more than a 10% ownership interest in the license, to assure that a further offence will not occur.
- 10.7.3.5 FIFTH OFFENSE:
Public hearing required.
Minimum ten (10) day suspension. Based on relevant circumstances as determined by the Board, the Board may order a longer suspension of any length, imposition of conditions on or other modifications of the license, disqualification of the manager of record, compulsory initiation by the licensee of transfer of ownership to a responsible party to be approved by the Board, non-renewal, or revocation of the license.

APPROVED: 6/14/77
Amended and revised: 11/18/97
Amended and revised: 2/9/99
Revised fee schedule: 12/7/99
Revised fee schedule: 12/5/00
Revised and approved: 8/20/02
Fee changes 12/21/04
Addition of Liquor
Liability Insurance: 1/25/05
Addition of One-Day License: 1/25/05
Amended and revised: 11/14/06
Amended and revised: 6/22/10
Amended and revised: 12/18/12
Amended and revised: 5/13/14
Amended and revised: 9/10/2014
Amended and revised: 11/9/2016
Amended and revised: 7/25/2017
Amended and revised: 8/18/2020

SELECT BOARD

ACTING AS

NEEDHAM LICENSING BOARD



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Emergency Work – Eversource Gas, Chestnut St
Presenter(s)	Carys Lustig, Director of Public Works

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
In January and February, Eversource Gas performed emergency pipe repair near the new Public Safety Building on Chestnut Street to a pipe that was leaking. This was a temporary repair. Eversource and the DPW are currently in discussions about an emergency street opening permit so that the Company can make a permanent repair on a greater section of pipe in this area. The DPW is negotiating conditions for off season work to ensure public safety and to protect the investment the Town has already made in the Downtown Phase I infrastructure improvements.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Discussion Only</i>	
3.	BACK UP INFORMATION ATTACHED
a) PowerPoint – Chestnut Street Needham Gas Main Relay Work – Eversource Gas Updated 3/7/22 b) Draft Street Permit Supplement	

Chestnut Street Needham

2022 Gas Main Relay Work

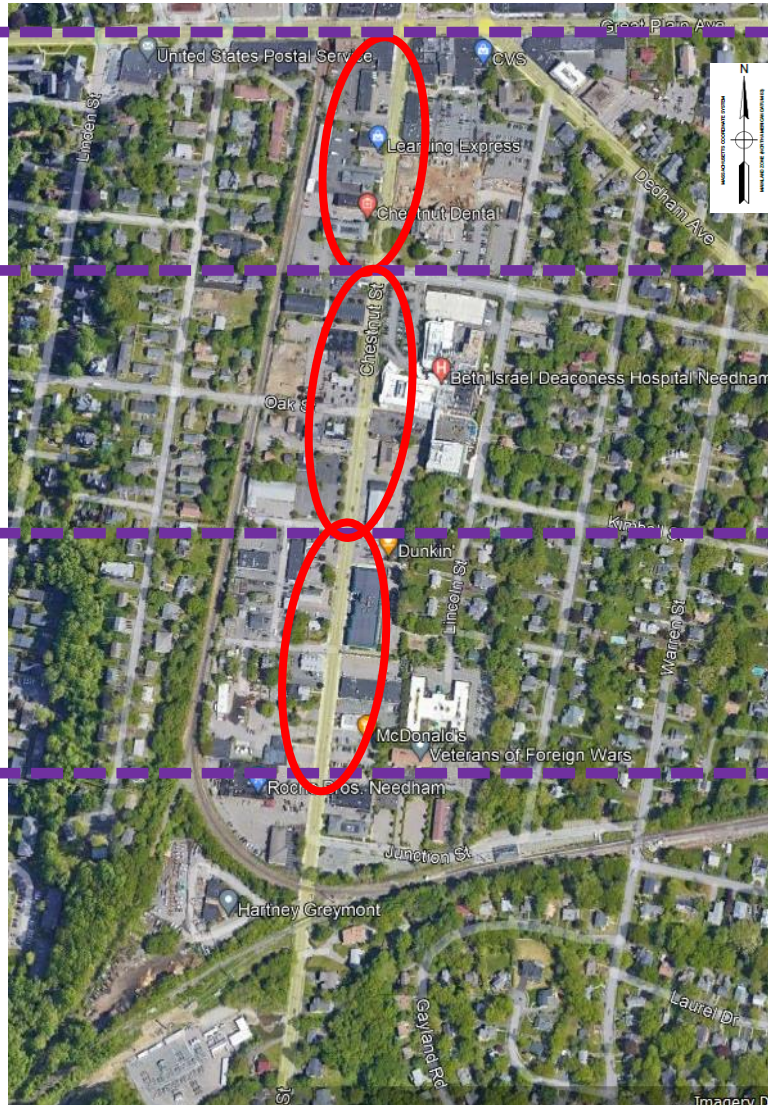
March 7, 2022

Overall Project Overview

2022
Emergency /
Unscheduled Work

2022
Scheduled Work

2022
Scheduled Work



Old Bare Steel Main Emergency Relay with new 2-in plastic main is complete.

Relay existing old bare steel with 8" main from School St to Freeman Pl. (this planned 2022 work was recently presented to the Town in 2021).

Relay of existing old bare steel main with 8" main from Freeman Pl to a location south of McDonalds.

Supplemental Conditions:

Pursuant to Section 5 of the Town of Needham's Street Permit Procedures, work may only be performed between the dates of April 1st and November 30th. The Applicant proposes to excavate streets outside the permissible window of time.

In accordance with Section 5, authorization to perform the work is granted, contingent upon the Applicant's compliance with the following supplemental conditions:

- The holder of this permit is authorized to conduct the work outside of the normally prescribed period of April 1st – November 30th but only until March 30, 2022 of this year. All work shall be completed prior to that date.
- The holder of this permit must abide by and follow the detailed plan of areas to be excavated, traffic management plan, and restoration plan submitted with the permit application.
- There shall be no staging of equipment, materials and supplies outside of the work day. All equipment, materials and supplies are to be removed off site at end of each work day.
- All permitted excavation will be conducted in accordance with the following:
 - Backfill shall be free of any frozen material. All frozen material is unsuitable for backfill, and shall be removed off site.
 - All excavated areas are to be completely backfilled daily and restored with temporary asphalt, adequate for snow plowing operation without hazard.
 - No temporary steel plates are allowed.
 - All work shall be performed between the hours of []:00 and []:00. Any work outside of these hours shall require the advance written authorization of the Police Chief.
- Weather Conditions:
 - No excavation will be allowed within 24 hours of a forecasted weather event such as snow, freezing rain, rain, hurricane, and the like.
 - All work zones under this permit must be free from all equipment, materials, and supplies for the duration of any weather event.
 - The permit holder will be charged with the obligation of performing routine roadway maintenance during weather events such as snow, freezing rain, rain, hurricane, etc. for the entirety of the work zone permitted.
- Restoration:
 - All restoration work will adhere to the Town's Construction Requirements in Section 9 of the Street Permit Procedures.
 - Any disruption to pavers or other detail work shall be returned to the original condition by the holder of the permit. Based on the presence or absence of pavers and/or other detail work within the affected area (check where applicable):
[] The holder of the permit shall post a supplemental bond, sufficient in form and amount to the DPW Director, to cover restoration of pavers and detail work to the original condition by the Town in the event of (a) inadequate restoration by the permit holder or (b) the failure of any restoration work thereafter. This permit shall not become effective until such bond has been delivered to the DPW, and the bond shall remain in effect for a term of

five years from completion of the restoration work by the holder of the permit.

☐ The holder of the permit shall not be required to post a supplemental bond.

DRAFT



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Community Preservation Committee - Proposals Under Review
Presenter(s)	Peter Pingitore, Chair CPC Cecilia Simchak, Director of Administration & Finance, Public Services

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	Mr. Pingitore and Ms. Simchak will meet with the Board to discuss the projects before the CPC for funding consideration this year.
2.	VOTE REQUIRED BY SELECT BOARD
	Update only.
3.	BACK UP INFORMATION ATTACHED
	a. Information on Projects Under Review

CPC USE ONLY:
Application # FY23-01

Qualifies: _____

Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

TOWN OF NEEDHAM COMMUNITY PRESERVATION COMMITTEE

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. **Applicant:** Needham Housing Authority (NHA) **Submission Date:** 11/30/2021
2. **Applicant's Address, Phone Number and Email:**
28 Capt. Robert Cook Drive, Needham MA 02494
Chair@NeedhamHousing.org; 339-222-6187
amedeiros@NeedhamHousing.org; 781-444-3011
Contact Name:
Reg Foster, Chair; Angie Medeiros, Exec. Dir.
3. **Purpose:**
(Please select all that apply)
☐ Open Space
☒ Community Housing
☐ Historic Preservation
☐ Recreation
4. **Project Name:** NHA #1 - Property Existing Conditions Reports; Property Survey
5. **Project Location/Address/Ownership (Control):**
NHA Owned Housing Developments:
 - Seabeds Way (46 units)
 - Capt. Robert Cook Drive (30 units)
 - High Rock Estates (60 units - Linden St./Yurick Rd./Murphy St./Sylvan Rd./Memorial Cir.)
6. **Amount Requested:** \$ \$62,500.00 (50% matched with NHA funds)
7. **Estimated Total Project Cost (If Different):** \$ 125,000.00
8. **Critical Dates:** (If Applicable)
N/A

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: NHA #1 - Property Existing Conditions Reports; Property Survey

9. Project Summary: In 100 words or less provide a brief summary of the project:

Funding is sought for the completion of three **Property Conditions Reports** for the NHA's federally subsidized deeply low-income housing developments. The reports are a prerequisite for applying to the U.S. Department of Housing and Urban Development for the approval of the repositioning of NHA's federal housing developments, which would substantially increase the properties' operating incomes and allow for a future:

- Renovation and modernization of the 4 buildings at Seabeds Way and 6 buildings at Capt. Robert Cook Dr.; and
- Redevelopment of the 60 High Rock Estates bungalows into 60 duplexes.

Scopes of Work have been prepared and put out for bid. They specify that the reports should assess: building envelopes, HVAC systems, interior finishes and fixtures, accessibility compliance, electrical, lighting, & plumbing systems, fire protection, site deficiencies (including underground utilities), code upgrade requirements, etc., etc. The estimated cost of renovation will be calculated for each property and provided in the final reports.

Funding is also sought to complete a **Site Survey** of the 10.2 acre Seabeds Way/Capt. Robert Cook site. (A 2013 CPA-funded land survey already exists for High Rock Estates site.)

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

The Planning Board and other Town leaders have identified the shortage of affordable housing in Needham as a critical problem. NHA is the largest provider of deeply affordable housing in Needham. However, NHA's buildings and infrastructure are outdated and suffer from years of low funding and deferred capital improvements.

In 2019, the NHA completed a CPA-funded Facilities Master Plan laying out a vision for the complete overhaul of our 296 oldest units, and the construction of approximately 121 new units of deeply affordable housing. In mid-2021, NHA engaged the Cambridge Housing Authority to serve the roles of development consultant and partner, and launched the 5-10 year Modernization & Redevelopment Initiative (MRI). When the MRI is completed, it is anticipated that:

- The lifespan of existed units will be extended by 40+ years;
- The NHA's inventory of deeply affordable units will increase by a third or more;
- Needham CPA funding will have helped leverage approximately \$120+ million outside funding investment to complete the MRI;
- All existing units will continue to be deeply affordable in perpetuity (income <50% AMI).

Note: This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.

CPC USE ONLY:
Application # FY23-02
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. **Applicant:** Needham Housing Authority (NHA) **Submission Date:** 11/30/2021
2. **Applicant's Address, Phone Number and Email:**
28 Capt. Robert Cook Drive, Needham MA 02494
Chair@NeedhamHousing.org; 339-222-6187
amedeiros@NeedhamHousing.org; 781-444-3011
Contact Name:
Reg Foster, Chair; Angie Medeiros, Exec. Dir.
3. **Purpose:**
(Please select all that apply)
☐ Open Space
☒ Community Housing
☐ Historic Preservation
☐ Recreation
4. **Project Name:** NHA #2 – Pre-Development Design Costs – Linden-Chambers Redevelopment
5. **Project Location/Address/Ownership (Control):**
NHA Owned Housing Developments on 8.7 acres of land:
• Linden Street (72 units)
• Chambers Street (80 units)
6. **Amount Requested:** \$ \$1.2 million
7. **Estimated Total Project Cost (If Different):** \$ 1.2 million
8. **Critical Dates:** (If Applicable)

N/A

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: NHA #2 – Pre-Development Design Services – Linden-Chambers Redevelopment

9. Project Summary: In 100 words or less provide a brief summary of the project:

The Linden St. and Chambers St. state public housing developments for senior/disabled individuals are approximately 60 years old. Besides being worn out and at the end of their useful lifetime, they suffer from a number of deficiencies: lack of accessibility, very small units, insufficient storage space, lack of insulation, no elevators, inefficient land use, etc. Very low subsidy funding from the state has resulted in an accumulation of deferred capital improvements.

Last summer the NHA launched its 5-10 year Modernization & Redevelopment Initiative (MRI), which includes the objective of funding and redeveloping the Linden/Chambers property, estimated to cost nearly \$50 million (2018 dollars).

With the CPA funds, NHA intends to engage an A/E firm to prepare preliminary design required to obtain zoning relief and complete other due diligence (e.g. geo-tech borings, traffic studies, etc.) in order to better position the Linden/Chambers developments to receive future funding sources, such as through State ARPA, the Federal Infrastructure and Jobs Act, and the Federal Build Back Better Act. The requested CPA funds may also be used to create and explore options for temporary tenant relocation during the construction period.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

Redeveloping Linden/Chambers has been a top Needham priority ever since the publication of the Town's 2004 Development Plan. This priority was re-affirmed in the 2007 Affordable Housing Plan, and will undoubtedly be re-endorsed in the 2022 Affordable Housing Plan currently under development.

Redeveloping Linden/Chambers will result in many benefits to Needham. When completed, the new units will:

- Have a 50+ year expected lifespan;
- Meet 21st century standards for accessibility, energy efficiency, space, amenities, etc.;
- CPA funding will leverage ~\$45+ million outside funding investment;
- All units will be to preserve as deeply affordable in perpetuity (income <50% AMI).

Note: This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.

CPC USE ONLY:
Application # FY23-03
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. **Applicant:** Needham Housing Authority (NHA) **Submission Date:** 11/30/2021
2. **Applicant's Address, Phone Number and Email:**
28 Capt. Robert Cook Drive, Needham MA 02494
Chair@NeedhamHousing.org; (339) 222-6187
amedeiros@NeedhamHousing.org; (781) 444-3011
Contact Name:
Reg Foster, Chair; Angie Medeiros, Exec. Dir.
3. **Purpose:**
(Please select all that apply)
☐ Open Space
☒ Community Housing
☐ Historic Preservation
☐ Recreation
4. **Project Name:** NHA #3 – Purchase of East Militia Heights Drive Property
5. **Project Location/Address/Ownership (Control):**
Formerly part of the overall Nike property, currently owned by the U.S. Army:
 - Surplus property for sale
 - 3.5 acres
 - Twelve 3-bedroom single-family homes
 - Located off of East Militia Heights Drive, across from the Charles River Center.
6. **Amount Requested:** \$ 1.5 million (to be confirmed with an appraisal)
7. **Estimated Total Project Cost (If Different):** \$ 1.5 million (to be confirmed)
8. **Critical Dates:** (If Applicable)
N/A

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: NHA #3 – Purchase of East Militia Heights Drive Property

9. Project Summary: In 100 words or less provide a brief summary of the project:

Funding is sought for the purchase of twelve 3-bedroom bungalows situated on 3.5 acres of land owned by the U.S. Army. The U.S. Army expects to issue a RFP for the disposition of the land in 2022. If successful, NHA will utilize federal or local subsidies so units could provide deeply affordable housing (<50% AMI) for families. One or more of the units may be used as a group home for the Charles River Center.

Background

In 1957 the Army acquired land in Needham in connection with the installation of a Nike anti-aircraft missile battery. They built 12 single-family residences on 3.5 acres to house military personnel operating the Nike site and their families.

After the Nike system was decommissioned in 1963, Needham acquired most of the missile base portion of the land. However the Army continued to use the 3.5 acres and twelve units to house military families until November 2018.

In 2019 a preliminary notice of surplus property was issued. On July 7, 2020, the Army approved a Final Finding of Suitability to Transfer (FOST). Based on disclosure documents, the 12 units seem to be in good shape, and bungalows are similar in design to the 60 High Rock Homes single-family units already operated by the NHA.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

The Planning Board and other Town leaders have identified the shortage of deeply affordable housing in Needham as a critical problem. The NUARI Report to Spring 2021 Town meeting recommended developing more affordable rental housing in Needham, and Town Meeting unanimously adopted the NUARI Vision Statement.

NHA is the largest provider and operator of deeply affordable housing in Needham. The purchase of the East Militia Heights property would prevent market-rate developers from converting the property to luxury housing. NHA would add the 12 units to its inventory of deeply affordable housing.

The 12 units may also serve as critically needed relocation space, helping to minimize existing NHA resident inconvenience/disruption as the Capt. Robert Cook Drive, Seabeds Way, and High Rock Estates developments are modernized and redeveloped.

Note: This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

- 1. Applicant:** Needham Housing Authority **Submission Date:** 11/30/2021
- 2. Applicant's Address, Phone Number and Email:** **3. Purpose:**
(Please select all that apply)
- 28 Capt. Robert Cook Drive, Needham MA 02494
Chair@NeedhamHousing.org; 339-222-6187
amedeiros@NeedhamHousing.org; 781-444-3011
- Contact Name:**
Reg Foster, Chair; Angie Medeiros, Exec. Dir.
- ☐ Open Space
☒ Community Housing
☐ Historic Preservation
☐ Recreation
- 4. Project Name:** NHA #4 – Funding for NHA Ass't Executive Director Position
- 5. Project Location/Address/Ownership (Control):**
N/A
- 6. Amount Requested:** \$97,500
- 7. Estimated Total Project Cost (If Different):** \$195,000
- 8. Critical Dates:** (If Applicable)
N/A

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: NHA #4 – Funding for NHA Ass't Executive Director Position

9. Project Summary: In 100 words or less provide a brief summary of the project:

Mid-summer 2021, the NHA embarked on a 5-10 year Modernization and Development Initiative (MRI) focused on overhauling 296 of our existing units and adding 121 new units of deeply affordable housing in Needham. The NHA has engaged the Cambridge Housing Authority as our consultant, guide and partner. Further details of the MRI initiative can be found in the 2019 NHA Facilities Master Plan (FMP), which can be downloaded from this link: (<https://www.needhamhousing.org/modernization-redevelopment-2/>).

Both the consultants who developed the FMP and the Cambridge Housing Authority have advised that the MRI will place a significant additional workload on the current Executive Director, who already has full-time day-to-day operational responsibilities for managing the NHA. Both consultants have strongly recommended that the NHA authorize a new Ass't Executive Director position, an action which took place at the Board's August 19, 2021 meeting. As envisioned, the position will begin on a part-time basis for the first few months, then ramp up to full-time as the MRI workload increases.

Funding is sought to support two years of the cost for the new position during the MRI's pre-development period. 50% of the cost will be paid from NHA resources, and 50% of the cost would be CPA funded. After the pre-development period, it is expected that continued funding can be built into the costs of the initial construction period.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

Modernizing and/or redeveloping NHA's 296 aging deeply affordable housing units will extend their usable life span 40+ years. Adding 121 new units to our inventory will go a long way towards addressing the shortage of deeply affordable housing (>50% AMI) in Needham. Both objectives are consistent with, and will fulfill, the goals of the 2021 NUARI Vision Statement approved at Spring 2021 Town Meeting, and also the 2022 Needham Affordable Housing Plan currently under development.

However while proceeding with the MRI and the additional workload it imposes on management, it's very important that NHA day-to-day operations on behalf of our current residents continue as smoothly and problem-free as possible. Funding an additional FTE for NHA's office is important to achieving success.

Note: This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csmchak@needhamma.gov & kwright@needhamma.gov

- 1. Applicant:** Needham Public Schools **Submission Date:** 11/22/2021
- 2. Applicant's Address, Phone Number and Email:**
- Needham Public Schools
1330 Highland Avenue
Needham MA 02492
Contact Name: _____
- 3. Purpose:**
(Please select all that apply)
- ☐ Open Space
☐ Community Housing
☒ Historic Preservation
☐ Recreation
- 4. Project Name:** Emery Grover Renovation Project
- 5. Project Location/Address/Ownership (Control):**
- 1330 Highland Avenue, Needham MA 02492
Owned by: Town of Needham, School Committee
- 6. Amount Requested:** \$ \$6,000,000 (up to 79%)
- 7. Estimated Total Project Cost (If Different):** \$ 20,875,000
- 8. Critical Dates: (If Applicable)**
- Schematic Design Appropriation October 25, 2021 (Approved)
Construction Appropriation Annual Town Meeting May, 2022 (Anticipated)

- continued -

CPC USE ONLY:
Application # _____
Qualifies: _____
Does not qualify: _____

Project Name: Emery Grover Renovation Project

9. Project Summary: In 100 words or less provide a brief summary of the project:

Comprehensive renovation of the Emery Grover Building for continued use by school administration. Originally described by BH+A Architects in the Emery Grover Feasibility Study (June 2020), the program has been reduced in scope to fit within the existing structure. The revised concept eliminates the need for a new 3-story wing in the rear of the building and reflects a more efficient use of shared spaces, common work areas and the relocation of educational technology to other school buildings. The project includes historic rehabilitation of the envelope, renovation and modernization of the interior and comprehensive code-required upgrades. The project includes about 57 onsite parking spaces. Hillside Elementary School is used as swing space during construction.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

Emery Grover is a building of historic significance to the Town of Needham. Constructed in 1897 as the Town's high school, it is the oldest public building in Needham and is listed in the National Register of Historic Places. Renovation of this historical landmark represents:

- * An opportunity to preserve an important piece of Town history.
- * An opportunity to preserve a Gateway Building into downtown.
- * An opportunity to engage in historic renovation of the Town Center.
- * One of few remaining opportunities for the historic preservation of a publicly-owned building.
- * The highest Historic Commission preservation priority.
- * A cost effective path to preservation - equal to demolition and a new building for current use.
- * The most assured path to historic preservation of this asset is a Town project; demolition likely if sold to a private developer.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

CPC USE ONLY:

Application # FY23-07

Qualifies: _____

Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

- 1. Applicant:** Park & Recreation Commission **Submission Date:** 12/01/2021
- 2. Applicant's Address, Phone Number and Email:**
- 178 Rosemary Street
Needham, MA 02494
781.455.7930
Contact Name:
Stacey Mulroy, Director of Park & Recreation
- 3. Purpose:**
(Please select all that apply)
- ☐ Open Space
☐ Community Housing
☐ Historic Preservation
☒ Recreation
- 4. Project Name:** High School Tennis Court Improvements - Design
- 5. Project Location/Address/Ownership (Control):**
Webster Street
Park & Recreation Commission
- 6. Amount Requested:** \$ 50,000
- 7. Estimated Total Project Cost (If Different):** \$ 550,000-1,550,000
- 8. Critical Dates: (If Applicable)**

If this project is funded, it is anticipated that we would apply for construction funding in FY24.

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: High School Tennis Court Improvements - Design

9. Project Summary: In 100 words or less provide a brief summary of the project:

The High School Tennis Courts are no longer safe for play. The NHS Tennis Teams have to practice and play their matches at the Mills and Newman Courts. Not only does this put additional wear and tear on these two courts, it dramatically affects the residents access to use the Town courts. This project will evaluate the current condition of the tennis courts, provide design options for both a resurfacing project and a full renovation. Once feedback has been received by the community, these funds will also be used to complete all design documents for the project.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

This will provide a much improved surface and playing environment for tennis players. These courts are where the Town's high school teams play the majority of their games. As the Town has made many improvements to it's fields, this would address the tennis community.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

CPC USE ONLY:
Application # **FY23-09**
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

- 1. Applicant:** Town of Needham Department of Public Works and Park & Recreation **Submission Date:** 12/3/2021
- 2. Applicant's Address, Phone Number and Email:**
- Needham DPW
500 Dedham Ave.
Needham, MA 02492
- Contact Name:**
Anthony DelGaizo, Town Engineer
- 3. Purpose:**
(Please select all that apply)
- ☐ Open Space
☐ Community Housing
☐ Historic Preservation
☒ Recreation
- 4. Project Name:** Boat Launch
- 5. Project Location/Address/Ownership (Control):**
Charles River at South Street
Park & Recreation Commission
- 6. Amount Requested:** \$ 285,000
- 7. Estimated Total Project Cost (If Different):** \$ 285,000
- 8. Critical Dates: (If Applicable)**

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: Boat Launch

9. Project Summary: In 100 words or less provide a brief summary of the project:

This project would construct a new boat launch to improve access to the Charles River. The project will clear and formalize the pathway leading to the river and allow for small, non-motorized boats such as kayaks and canoes to be launched easily and safely. The design is currently underway by the Town.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

This project to improve the South Street boat launch would provide a safer and more formalized point of access to the Charles River where the community can enjoy kayaking, canoeing, and other small boating activities. The existing boat launch area is uneven and overgrown, making the approach down to the water difficult and intimidating.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

CPC USE ONLY:
Application # **FY23-10**
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. **Applicant:** Town of Needham Public Works, Park & Recreation, and Walker Pond Watershed Association
2. **Applicant's Address, Phone Number and Email:**
- Needham DPW
500 Dedham Ave.
Needham, MA 02492
- Contact Name:**
Anthony DelGaizo, Town Engineer
3. **Purpose:**
(Please select all that apply)
- ☒ Open Space
☐ Community Housing
☐ Historic Preservation
☒ Recreation
4. **Project Name:** Walker Pond Improvements
5. **Project Location/Address/Ownership (Control):**
Walker Lane/Central Ave; Owned by the Town and the Walker Pond Watershed Association
6. **Amount Requested:** \$ 356,000
7. **Estimated Total Project Cost (If Different):** \$ 481,000 (\$125 previously funded)
8. **Critical Dates: (If Applicable)**

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: Walker Pond Improvements

9. Project Summary: In 100 words or less provide a brief summary of the project:

This funding is for Category 2 of the Walker Pond Improvements, which includes physical improvements to the Walker Pond waterbody. The ESS Group submitted a report to the Conservation Commission with potential methods to restore the health of the pond, of which the Conservation Commission recommended hydro raking (a method of mechanically removing vegetative overgrowth). They also tentatively recommended the application of chemicals, herbicides, and algicides to the pond. This work would also include the replacement of the overflow grate and wooden stop-logs. Category 1 was funded last year.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

Walker Pond is an area of open space and recreation that Needham residents enjoy. The pond houses a variety of species of wildlife, including songbirds, nesting swans and ducks, herons, owls, turtles, and fish. The pond is a valuable resource for the community, allowing for fishing, birding, canoeing, and observing nature. Without remediation, the pond will not offer this resource to the community.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

CPC USE ONLY:
Application # **FY23-11**
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. Applicant: Needham Community Farm, a 501 (c)(3) organization **Submission Date:** December 3, 2021

2. Applicant's Address, Phone Number and Email:

PO Box 920877, Needham, MA 02492

617-650-4649, info@needhamfarm.prg

Contact Name:

Joe Leghorn, Board Member, jleghorn@needhamfarm

3. Purpose:

(Please select all that apply)

- ☒ Open Space
- ☐ Community Housing
- ☐ Historic Preservation
- ☒ Recreation

4. Project Name: Construction of Growing Beds Available for Seasonal Rental

5. Project Location/Address/Ownership (Control):

Needham Community Farm Pine Street Location, 145 Pine Street (f/k/a Nike Missile Site), Needham, MA. Property is owned by the Town of Needham, under the jurisdiction of Select Board and licensed to the Needham Community Farm to operate a Community Farm.

6. Amount Requested: \$ 200,000

7. Estimated Total Project Cost (If Different): \$ 200,000

8. Critical Dates: (If Applicable)

- continued -

CPC USE ONLY: Application # _____ Qualifies: _____ Does not qualify: _____

Project Name: Construction of Growing Beds Available for Seasonal Rental

9. Project Summary: In 100 words or less provide a brief summary of the project:

To construct 150, 4 by 12-foot garden beds for growing vegetables and flowers using organic practices. Seasonal rental would be offered, with first priority to Needham residents, and to others dependent on demand. The project would occupy 3/4 of an acre and would be fenced. Site access would be improved to allow disabled access to the beds, with 15 beds elevated for wheelchair-bound usage. Site would be regraded for improved drainage, with a shed constructed for tool storage, and access to water supply installed. Construction would begin in July 2022 for initial use in 2023 growing season.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

There are only nine garden beds, located on Tillotson Rd, available to lease in Needham, for which there is a waiting list. The Boston Globe and other media report on the need for community garden beds. Surveys among NCF volunteers and garden classes show availability of community beds as the number one request for the NCF Pine Street site. Building 150 community available beds, 10% handicap accessible, will expand the opportunities for residents and others to lease a garden bed to grow vegetables and flowers for home use. Gardeners will receive guidance on growing, using organic and sustainable methods.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

CPC USE ONLY:
Application # FY23-12
Qualifies: _____
Does not qualify: _____

INITIAL ELIGIBILITY PROJECT APPLICATION FORM

DUE BY DECEMBER 3, 2021

**TOWN OF NEEDHAM
COMMUNITY PRESERVATION COMMITTEE**

www.needhamma.gov/CPC

Email Applications to:

Cecilia Simchak and Kristen Wright:

csimchak@needhamma.gov & kwright@needhamma.gov

1. **Applicant:** Town Manager, Select Board, Conservation Commission, Park & Recreation Commission **Submission Date:** 12/01/2021
2. **Applicant's Address, Phone Number and Email:** **3. Purpose:**
(Please select all that apply)
- 1471 Highland Avenue
Needham, MA 02492
781.455.7500
- Contact Name:**
Kate Fitzpatrick, Town Manager
- ☒ Open Space
☐ Community Housing
☐ Historic Preservation
☐ Recreation
4. **Project Name:** Preservation of Open Space - Purchase of Land
5. **Project Location/Address/Ownership (Control):**
To Be Determined
6. **Amount Requested:** \$ TBD
7. **Estimated Total Project Cost (If Different):** \$ 1,000,000
8. **Critical Dates: (If Applicable)**
N/A

- continued -

CPC USE ONLY:

Application # _____

Qualifies: _____

Does not qualify: _____

Project Name: Preservation of Open Space - Purchase of Land

9. Project Summary: In 100 words or less provide a brief summary of the project:

The Town Manager/Select Board, the Park and Recreation Commission, and/or the Conservation Commission hold discussions throughout the year regarding the possible purchase of land or easements on private property. All three boards have developed a list of specific parcels that would be beneficial for acquisition. CPA funds have been used, in the past, to purchase two parcels on Carol Road and Brewster Road, as well as the parcel at 174 Charles River Street, adjacent to Walker-Gordon Field.

10. Community Need: In 100 words or less provide a brief statement of the need for and the benefits to the community.

No specific parcel has been identified at this time, but the request has been submitted, in the event that an opportunity becomes available.

Recent customer satisfaction surveys completed by Needham residents indicate strong support for the Town's open spaces and trails. The Town Manager and boards will continue to strive to provide access to land and trails through the purchase or donation of easements of lands.

Note: *This application enables the Community Preservation Committee to review the request to assess eligibility. You shall be notified by January 1 of your eligibility. If eligible you will be requested to supply additional information by February 1.*

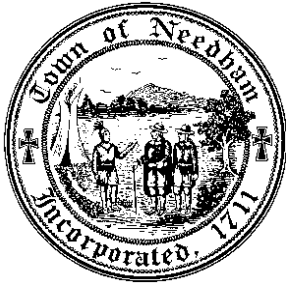


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Accept and Refer Zoning
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Planning Board, at its meeting of March 1, 2022, voted to place the following article on the warrant for the May 9, 2022, Special Town Meeting: Amend Zoning By-Law – Schedule Of Use Regulations Brew Pub and Microbrewery. Under State law, the Select Board has 14 days to accept the proposed amendments and refer them to the Planning Board for its review, hearing, and report. The Board's action in this matter is not discretionary.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion:</i> That the Board vote to accept the proposed zoning articles for referral to the Planning Board for its review, hearing, and report.	
3.	BACK UP INFORMATION ATTACHED
a. Transmittal Letter from Lee Newman b. Proposed Warrant Article c. M.G.L. c. 40A Section 5	



March 2, 2022

Ms. Kate Fitzpatrick
Town Manager
Town Hall
Needham, MA 02492

Re: Zoning Article for 2022 May Special Town Meeting

Dear Ms. Fitzpatrick:

The Planning Board, at its meeting of March 1, 2022, voted to place the following article on the warrant for the May 2022 Special Town Meeting: (1) Article 1: Amend Zoning By-Law – Schedule Of Use Regulations Brew Pub and Microbrewery. Accordingly, please find the above-named article as approved by the Planning Board for inclusion in the warrant of the 2022 Special Town Meeting.

As you know, the Select Board will need to accept the article and to then forward it to the Planning Board for review, public hearing and report. Please have the Select Board act on the enclosed article at its next meeting of Tuesday, March 8, 2022, so that the Planning Board can meet its statutory obligations. The Planning Board plans to schedule the public hearing on the article for Monday, March 28, 2022.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman

Lee Newman
Director of Planning and Community Development

cc: Planning Board

Enclosure

ARTICLE 1: AMEND ZONING BY-LAW – SCHEDULE OF USE REGULATIONS
BREW PUB AND MICROBEWERY

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3 Definitions, by adding the following after the existing definition of “Basement” and before the existing definition of “Building (or part or parts thereof)”:

Brew Pub – Eat-in restaurant, licensed under relevant local, state and federal statutes to produce and sell malt beverages at the location, whose primary business is the preparation and sale of food to be consumed on the premises, and whose accessory business is the production of malt beverages, including beer, ales and hard ciders, which may include packaging of such beverages and on-premises sale of such beverages for consumption on or off the premises. Malt beverages produced on the premises, may be sold to other establishments in compliance with relevant state and federal statutes and regulations, but such sales shall not exceed 40 percent of the establishment’s production capacity. Accessory outdoor dining and live indoor entertainment is allowed if otherwise permitted in the zoning district in which the brew pub is located, if and as permitted by its license.

2. In Section 1.3 Definitions, by adding the following after the existing definition of “Medical Services Building,” and before the existing definition of “Mixed-Use Building”:

Microbrewery - A facility, licensed under relevant local, state and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for retail sale and for consumption on or off the premises or wholesale distribution, with a capacity of not more than fifteen thousand (15,000) barrels per year, (a barrel being equivalent to thirty (31) gallons) and which may include as an accessory use preparation and/or sale of food for on premises consumption or for take-out. A tasting room, not to exceed 25 percent of the building’s gross square footage, is permitted as an accessory use. Any such facility may provide samples at no charge and limited in size, provided that such sampling is allowed under relevant local, state, and federal statutes, regulations and licenses issued thereunder. The facility may host marketing events, special events, and/or factory tours. The facility may include as an accessory use an eat-in or take-out restaurant, including outdoor dining, which may occupy more than half of the area of the facility, and live indoor entertainment if otherwise permitted in the zoning district in which the microbrewery is located, if and as permitted by its license.

3. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately below the row that reads “medical clinic” a new entry, which shall read as follows:

<u>“USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Brew Pub	SP	SP	SP	SP	N”

4. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial, and Industrial-1 Districts, by inserting immediately below the row that reads “medical clinic” a new entry, which shall read as follows:

<u>“USE</u>	<u>RRC</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
	<u>SRA</u>		<u>&3</u>				

Brew Pub	N	N	N	N	N	SP*	N
Microbrewery	N	N	N	N	N	N	SP

*Applies only to the Industrial District any portion of which is located within 150 feet of the Arbor Street boundary, otherwise N.

5. In Section 3.2.4 Uses in the New England Business Center District, Subsection 3.2.4.2 Uses Permitted by Special Permit, by adding a new paragraph (k) that states “Microbrewery” and new paragraph (l) that states “Brew Pub”.
6. In Section 3.2.5, Uses in the Highland Commercial-128 District, Subsection 3.2.5.2, Uses Permitted by Special Permit, by adding a new paragraph (q) that states “Microbrewery” and a new paragraph (r) that states “Brew Pub” and by renumbering former paragraphs (q), (r) and (s) as paragraphs (s), (t) and (u) respectively.
7. In Section 3.2.6, Uses in the Mixed Use-128 District, Subsection 3.2.6.2, Uses Permitted by Special Permit, by adding a new paragraph (k) that states “Microbrewery” and a new paragraph (l) that states “Brew Pub” and by renumbering former paragraphs (k), (l) as paragraphs (m) and (n) respectively.
8. In Section 3.2.7 Uses in the Highway Commercial 1 District, Subsection 3.2.7.2 Uses Permitted by Special Permit, by adding a new paragraph (m) that states “Microbrewery” and a new paragraph (n) that states “Brew Pub” and by renumbering former paragraphs (m) and (n) as paragraphs (o) and (p).

Or take any other action relative thereto.

Part I ADMINISTRATION OF THE GOVERNMENT**Title VII** CITIES, TOWNS AND DISTRICTS**Chapter 40A** ZONING**Section 5** ADOPTION OR CHANGE OF ZONING ORDINANCES OR BY-LAWS; PROCEDURE

Section 5. Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public

hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town. The department of housing and community development, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or town clerk prior to town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of such hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee established by such ordinance or by-law. In cases involving boundary, density or use changes within a district, notice shall

be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances or by-laws unless such defect is found to be misleading.

Prior to the adoption of any zoning ordinance or by-law or amendment thereto which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural and aquacultural practices, the city or town clerk shall, no later than seven days prior to the city council's or town meeting's public hearing relative to the adoption of said new or amended zoning ordinances or by-laws, give notice of the said proposed zoning ordinances or by-laws to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting; provided, however, that if in a city or town with a council of fewer than twenty-five members there is filed with the clerk prior to final action by the council a written protest against such change, stating the reasons duly signed by owners of twenty per cent or more of the area of the land proposed to be included in such change or of the area of the land immediately adjacent extending three hundred feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths vote of all members.

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

When zoning by-laws or amendments thereto are submitted to the attorney general for approval as required by section thirty-two of chapter forty, he shall also be furnished with a statement which may be prepared by the planning board explaining the by-laws or amendments proposed, which statement may be accompanied by explanatory maps or plans.

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to section thirty-two of chapter forty.

If, in a town, said by-law is subsequently disapproved, in whole or in part, by the attorney general, the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote. In a municipality which is not required to submit zoning ordinances to the attorney general for approval pursuant to section thirty-two of chapter forty, the effective date of such ordinance or amendment shall be the date passed by the city council and signed by the mayor or, as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general.

A true copy of the zoning ordinance or by-law with any amendments thereto shall be kept on file available for inspection in the office of the clerk of such city or town.

No claim of invalidity of any zoning ordinance or by-law arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceedings and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless legal action is commenced within the time period specified in sections thirty-two and thirty-two A of chapter forty and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition with the town or city clerk within seven days after commencement of the action.



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Open Special Town Meeting Warrant
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Board is scheduled to open the warrant for the May 9, 2022, Special Town Meeting. The Warrant is scheduled to be closed on March 22nd.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion:</i> That the Board vote to open the warrant for the May 9, 2022, Special Town Meeting.	
3.	BACK UP INFORMATION ATTACHED
a. Draft Warrant, March 4, 2022	

TOWN OF NEEDHAM



SPECIAL TOWN MEETING WARRANT

MONDAY, MAY 9, 2022

7:30 P.M.

JAMES HUGH POWERS HALL, NEEDHAM TOWN HALL

1471 HIGHLAND AVENUE

Draft 3.4.2022

Additional information on particular warrant articles will be made available from time to time at www.needhamma.gov/townmeeting during the weeks leading up to the Special Town Meeting.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

To either of the constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the qualified Town Meeting Members of the Town of Needham to meet in the Needham Town Hall on:

MONDAY, THE NINTH DAY OF MAY 2022

At 7:30 in the evening, then and there to act upon the following articles:

HUMAN RESOURCE ARTICLES

FINANCE ARTICLES

ARTICLE X: AMEND THE FY2022 OPERATING BUDGET

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2022 Operating Budget adopted under Article 20 of the May 1, 2021, Special by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
		\$1,905,197	\$1,880,197
		\$949,492	\$959,492
		\$75,000	\$90,000

or take any other action relative thereto.

INSERTED BY: Finance Committee
FINANCE COMMITTEE RECOMMENDS THAT:

ZONING ARTICLES

ARTICLE X: AMEND ZONING BY-LAW – SCHEDULE OF USE REGULATIONS BREW PUB AND MICROBREWERY

To see if the Town will vote to amend the Zoning By-Law as follows:

1. In Section 1.3 Definitions, by adding the following after the existing definition of “Basement” and before the existing definition of “Building (or part or parts thereof)”:

Brew Pub – Eat-in restaurant, licensed under relevant local, state, and federal statutes to produce and sell malt beverages at the location, whose primary business is the preparation and sale of food to be consumed on the premises, and whose accessory business is the production of malt beverages, including beer, ales, and hard ciders, which may include packaging of such beverages and on-premises sale of such beverages for consumption on or off the premises. Malt beverages produced on the premises may be sold to other establishments in compliance with relevant state and federal statutes and regulations, but such sales shall not exceed forty (40) percent of the establishment’s production capacity. Accessory outdoor dining and live indoor entertainment is allowed if otherwise permitted in the zoning district in which the brew pub is located, if and as permitted by its license.

2. In Section 1.3 Definitions, by adding the following after the existing definition of “Medical Services Building,” and before the existing definition of “Mixed-Use Building”:

Microbrewery - A facility, licensed under relevant local, state, and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for retail sale and for consumption on or off the premises or wholesale distribution, with a capacity of not more than fifteen thousand (15,000) barrels per year, (a barrel being equivalent to thirty (31) gallons) and which may include as an accessory use preparation and/or sale of food for on premises consumption or for take-out. A tasting room, not to exceed 25 percent of the building’s gross square footage, is permitted as an accessory use. Any such facility may provide samples at no charge and limited in size, provided that such sampling is allowed under relevant local, state, and federal statutes, regulations, and licenses issued thereunder. The facility may host marketing events, special events, and/or factory tours. The facility may include as an accessory use an eat-in or take-out restaurant, including outdoor dining, which may occupy more than half of the area of the facility, and live indoor entertainment if otherwise permitted in the zoning district in which the microbrewery is located, if and as permitted by its license.

3. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately below the row that reads “medical clinic” a new entry, which shall read as follows:

<u>“USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Brew Pub	SP	SP	SP	SP	N”

4. In Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial, and Industrial-1 Districts, by inserting immediately below the row that reads “medical clinic” a new entry, which shall read as follows:

5.

<u>“USE</u>	<u>RRC</u> <u>SRA</u>	<u>SRB</u>	<u>GR</u> <u>&3</u>	<u>A-1.2</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
Brew Pub	N	N	N	N	N	SP*	N
Microbrewery	N	N	N	N	N	N	SP”

*Applies only to the Industrial District any portion of which is located within 150 feet of the Arbor Street boundary, otherwise N.

6. In Section 3.2.4 Uses in the New England Business Center District, Subsection 3.2.4.2 Uses Permitted by Special Permit, by adding a new paragraph (k) that states “Microbrewery” and new paragraph (l) that states “Brew Pub”.
7. In Section 3.2.5, Uses in the Highland Commercial-128 District, Subsection 3.2.5.2, Uses Permitted by Special Permit, by adding a new paragraph (q) that states “Microbrewery” and a new paragraph (r) that states “Brew Pub” and by renumbering former paragraphs (q), (r) and (s) as paragraphs (s), (t) and (u) respectively.
8. In Section 3.2.6, Uses in the Mixed Use-128 District, Subsection 3.2.6.2, Uses Permitted by Special Permit, by adding a new paragraph (k) that states “Microbrewery” and a new paragraph (l) that states “Brew Pub” and by renumbering former paragraphs (k), (l) as paragraphs (m) and (n) respectively.
9. In Section 3.2.7 Uses in the Highway Commercial 1 District, Subsection 3.2.7.2 Uses Permitted by Special Permit, by adding a new paragraph (m) that states “Microbrewery” and a new paragraph (n) that states “Brew Pub” and by renumbering former paragraphs (m) and (n) as paragraphs (o) and (p).

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

CAPITAL ARTICLES

RESERVE ARTICLES

GENERAL ARTICLES/CITIZENS’ PETITIONS

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given into our hands at Needham aforesaid this 8th day of March 2022.

Matthew D. Borrelli, Chair
Marianne B. Cooley, Vice Chair
Marcus A. Nelson, Clerk
Daniel P. Matthews, Member
Kevin Keane, Member

Select Board of Needham

A TRUE COPY

Attest:

Constable:



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Annual Town Meeting Warrant
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Town Manager will update the Board on the status of the Annual Town Meeting Warrant.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Discussion Only.</i>	
3.	BACK UP INFORMATION ATTACHED
a. 2022 Annual Town Meeting Warrant Draft 3.4.2022	

TOWN OF NEEDHAM



ANNUAL TOWN MEETING WARRANT

Election: Tuesday, April 12, 2022

Business Meeting: Monday, May 2, 2022

7:30 p.m.

JAMES HUGH POWERS HALL, NEEDHAM TOWN HALL

1471 HIGHLAND AVENUE

DRAFT 3.4.2022

Additional information on particular warrant articles will be made available from time to time at www.needhamma.gov/townmeeting during the weeks leading up to the Annual Town Meeting.

**WARRANT FOR THE ANNUAL TOWN MEETING
TUESDAY, APRIL 12, 2022
TOWN OF NEEDHAM
COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss.

To either of the constables in the Town of Needham in said County. Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the Inhabitants of the Town of Needham qualified to vote in elections and in Town Affairs to meet in their respective voting places in said Town namely:

Precinct A	-	Center at the Heights, 300 Hillside Avenue
Precinct B	-	Center at the Heights, 300 Hillside Avenue
Precinct C	-	Newman School Gymnasium, 1155 Central Avenue
Precinct D	-	Newman School Gymnasium, 1155 Central Avenue
Precinct E	-	Needham Golf Club, 49 Green Street
Precinct F	-	Rosemary Recreation Complex, 178 Rosemary Street
Precinct G	-	Rosemary Recreation Complex, 178 Rosemary Street
Precinct H	-	Needham Golf Club, 49 Green Street
Precinct I	-	Town Hall, Powers Hall, 1471 Highland Avenue
Precinct J	-	Town Hall, Powers Hall, 1471 Highland Avenue

on TUESDAY, TWELFTH DAY OF APRIL 2022

from seven o'clock in the forenoon until eight o'clock in the afternoon, then and there to act upon the following articles, viz:

ARTICLE 1: ANNUAL TOWN ELECTION

To choose by ballot the following Town Officers:

One Moderator for Three Years;
One Member of the Select Board for Three Years;
One Town Clerk for Three Years;
One Assessor for Three Years;
Three Members of School Committee for Three Years;
One Trustee of Memorial Park (trustee of soldiers' memorials – Veteran) for Three Years;
One Trustee of Memorial Park (trustee of soldiers' memorials – Non-Veteran) for Three Years
Two Trustees of Needham Public Library for Three Years;
Two Members of Board of Health for Three Years;
One Member of Planning Board for Five Years;
One Commissioner of Trust Funds for Three Years;
Two Members of Park and Recreation Commission for Three Years.
Twenty-four Town Meeting Members from Precinct A;
Twenty-four Town Meeting Members from Precinct B;
Twenty-four Town Meeting Members from Precinct C;
Twenty-four Town Meeting Members from Precinct D;
Twenty-four Town Meeting Members from Precinct E;

Twenty-four Town Meeting Members from Precinct F;
Twenty-four Town Meeting Members from Precinct G;
Twenty-four Town Meeting Members from Precinct H;
Twenty-four Town Meeting Members from Precinct I;
Twenty-four Town Meeting Members from Precinct J.

and you are also required to notify the qualified Town Meeting Members of the Town of Needham to meet in the Needham Town Hall on Monday May 2, 2022, at 7:30 p.m. in the afternoon, then and there to act upon the following articles:

Warrant for the Annual Town Meeting

Monday, May 2, 2022, at 7:30 p.m. at Needham Town Hall

ARTICLE 2: COMMITTEE AND OFFICER REPORTS

To hear and act on the reports of Town Officers and Committees.

HUMAN RESOURCE ARTICLES

ARTICLE 3: ESTABLISH ELECTED OFFICIALS' SALARIES

To see if the Town will vote to fix the compensation of the following elected officers of the Town as of July 1, 2022, as required by Massachusetts General Laws, Chapter 41, Section 108:

Town Clerk	\$XX
Town Clerk with 6 years of service in that position	\$XX ⁽¹⁾
Select Board, Chair	\$1,800
Select Board, Others	\$1,500

- (1) In addition, such compensation shall also include payment of longevity in the amount of \$XX, the accumulation of 15 days of non-occupational sick leave per fiscal year, and payment for 25% of unused sick leave at the time of retirement from Town Service in accordance with M.G.L. c. 32 or sooner, in an amount not to exceed \$XX. The annual salary of \$XX includes compensation for five weeks of vacation leave, any unused portion of which will be paid at the time of separation from Town service in an amount not to exceed \$XX. No later than the time of separation from Town service, the Town Clerk shall also be paid for seven (7) weeks of accrued, unused vacation time in an amount not to exceed \$XX; or take any other action relative thereto.

INSERTED BY: Personnel Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

ARTICLE 4: **FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM
BUILDING CUSOTODIAN AND TRADES INDEPENDENT ASSOCIATION**

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Building Custodian and Trades Independent Employee Association by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2023; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: At the time of the printing of the warrant, the parties had not reached agreement on this contract.

ARTICLE 5: **FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM
INDEPENDENT PUBLIC EMPLOYEES ASSOCIATION**

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Independent Public Employees Association by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2023; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: At the time of the printing of the warrant, the parties had not reached agreement on this contract.

ARTICLE 6: **FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM FIRE
UNION**

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Fire Union by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2021; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: At the time of the printing of the warrant, the parties had not reached agreement on this contract.

ARTICLE 7: FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM POLICE UNION

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Police Union by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2022; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: At the time of the printing of the warrant, the parties had not reached agreement on this contract.

ARTICLE 8: FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM POLICE SUPERIOR OFFICERS ASSOCIATION

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Police Superior Officers Association by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2022; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:
PERSONNEL BOARD RECOMMENDS THAT:

Article Information: At the time of the printing of the warrant, the parties had not reached agreement on this contract.

FINANCE ARTICLES

ARTICLE 9: APPROPRIATE FOR NEEDHAM PROPERTY TAX ASSISTANCE PROGRAM

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$50,000 for the purpose of funding the Needham Property Tax Assistance Program, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Overlay Surplus; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The Property Tax Assistance Program provides assistance to elderly and disabled taxpayers in need. This appropriation complements donations by private parties to the "Voluntary Tax Relief Program" authorized by statute. The goal of the Select Board is to set a target annual appropriation for the Property Tax Assistance Program equal to the amount of private contributions to the voluntary program during the preceding fiscal year. The voluntary fund received \$X in fiscal year 2021.

ARTICLE 10: APPROPRIATE FOR PUBLIC FACILITIES MAINTENANCE PROGRAM

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$1,000,000 for the purpose of funding the Public Facilities Maintenance Program, said sum to be spent under the direction of the Town Manager, and to meet this appropriation that \$400,000 be transferred from Overlay Surplus and that \$600,000 be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: This recurring warrant article funds the annual maintenance of public buildings throughout the Town and School Department, including, but not limited to, asbestos abatement, duct cleaning, painting, and other repairs and upgrades.

ARTICLE 11: APPROPRIATE FOR SMALL REPAIR GRANT PROGRAM

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$50,000 for the purpose of funding the Small Repair Grant Program, said sum to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Affordable Housing Trust

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The Small Repair Grant Program provides financial assistance to low- and moderate-income Needham residents to make repairs and alterations to their homes for health and safety reasons. Up to \$5,000 in grant funding is available per participant, and applications will be evaluated and prioritized based on the extent of the health and safety problems and the financial need of the applicants. Eligible applicants must be 60 years or older, or have a disability, with incomes at or below 80% of area median income. Eligible work items include minor plumbing or electrical work, light carpentry, doorbell switches, window or door repairs or replacements, railing repairs, broken or clogged gutters or downspouts, step or porch improvements, work on locks, smoke/CO2 detectors, weather stripping, bathroom grab bars, raised toilets, and hand-held shower heads, among others.

ARTICLE 12: APPROPRIATE FOR RTS SERVICE DELIVERY STUDY

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$50,000 for the purpose of funding a solid waste disposal and recycling service delivery study, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Overlay Surplus; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 13: APPROPRIATE FOR PARKING STUDY

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$135,000 for the purpose of funding a parking study in Needham Square and Needham Heights, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from the Parking Meter Fund; or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 14: APPROPRIATE FOR PAYMENT OF UNPAID BILLS OF PRIOR YEARS

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$12,000 for the payment of unpaid bills of previous years, incurred by the departments, boards and officers of the Town of Needham, said sum to be spent under the direction of the Town Manager, and that \$12,000 be transferred from Free Cash; or take any other action relative thereto.

Department	Vendor	Description of Goods/Service	Fiscal Year	\$ Amount
Building Department	Commonwealth of Massachusetts	Weights & Measures	2021	\$12,000
Total				\$12,000

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: State law requires Town Meeting action for the Town to make payment for bills received after the close of the fiscal year or bills in excess of appropriation. The above bills were presented for payment after the close of FY2021.

ARTICLE 15: APPROPRIATE THE FY2023 OPERATING BUDGET

To see what sums of money the Town will vote to raise, appropriate, and/or transfer for the necessary Town expenses and charges, and further that the operating budget be partially funded by a transfer from Free Cash in the amount of \$2,625,000 from Overlay Surplus in the amount of \$500,000, from amounts Reserved for Debt Exclusion Offsets in the amount of \$32,328, and \$969,632 to be raised from CPA receipts; and further that the Town Manager is authorized to make transfers from line item 9 to the appropriate line items in

order to fund the classification and compensation plan approved in accordance with the provisions of Section 20B(5) of the Town Charter, and to fund collective bargaining agreements approved by vote of Town Meeting; and further that the Town Manager is authorized to expend from line item 5 in order to meet expenses for post-employment health and life insurance benefits for eligible retirees from the fund established for that purpose; or take any other action relative thereto.

INSERTED BY: Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted as shown on pages X-X.

ARTICLE: 16: APPROPRIATE THE FY2023 SEWER ENTERPRISE FUND BUDGET

To see if the Town will vote to raise and/or transfer and appropriate the following sums of money to operate the Sewer Division of the Department of Public Works during fiscal year 2023, under the provisions of M.G.L. Chapter 44, Section 53F ½:

**Sewer Enterprise
FY2023**

Line #	Description	FY2021		FY2022		FY2023		Town Meeting Amendments
		Expended	FTE	Current Budget	FTE	Recommended	FTE	
201A	Salary & Wages	\$890,210	11.0	\$1,041,733	11.0	\$1,080,247	11.0	
201B	Expenses	\$409,924		\$513,076		\$770,691		
201C	Capital Outlay	\$45,000		\$51,000		\$51,000		
201D	MWRA Assessment	\$6,399,895		\$6,614,690		\$6,822,134		
201E	Debt Service	\$645,377		\$610,000		\$610,000		
202	Reserve Fund	Transfers Only		\$35,000		\$35,000		
	TOTAL	\$8,390,406	11.0	\$8,865,499	11.0	\$9,369,072	11.0	
FY2023 Budget Percentage Change from FY2022 Budget								5.7%

and to meet this appropriation that \$8,017,144 be raised from Sewer Enterprise Fund receipts, and that \$569,000 be transferred from Sewer Enterprise Fund Retained Earnings, and that \$782,928 be raised from the Tax Levy and transferred to the Sewer Enterprise Fund; or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

Budget Line	FY2023 Sewer Operations	FY2023 Drains Program	FY2023 Recommended Budget	FY2022 Sewer Operations	FY2022 Drains Program	Current FY2022 Sewer Budget
Salary & Wages	\$672,410	\$407,837	\$1,080,247	\$690,337	\$351,396	\$1,041,733
Expenses	\$395,600	\$375,091	\$770,691	\$338,104	\$174,972	\$513,076
Capital Outlay	\$51,000	\$0	\$51,000	\$51,000	\$0	\$51,000
MWRA Assessment	\$6,822,134	\$0	\$6,822,134	\$6,614,690	\$0	\$6,614,690
Debt Service	\$610,000	\$0	\$610,000	\$610,000	\$0	\$610,000
Reserve Fund	\$35,000	\$0	\$35,000	\$35,000	\$0	\$35,000
Total	\$8,586,144	\$782,928	\$9,369,072	\$8,339,131	\$526,368	\$8,865,499
	FY2023 Sewer Operations \$ Change	FY2023 Drains Operations \$ Change	FY2023 Sewer Enterprise \$ Change	FY2023 Sewer Operations % Change	FY2023 Drains Operations % Change	FY2023 Sewer Enterprise % Change
Salary & Wages	-\$17,927	\$56,441	\$38,514	-2.6%	16.1%	3.7%
Expenses	\$57,496	\$200,119	\$257,615	17.0%	114.4%	50.2%
Capital Outlay	\$0	\$0	\$0	0.0%		0.0%
MWRA Assessment	\$207,444	\$0	\$207,444	3.1%		3.1%
Debt Service	\$0	\$0	\$0	0.0%		0.0%
Reserve Fund	\$0	\$0	\$0	0.0%		0.0%
Total	\$247,013	\$256,560	\$503,573	3.0%	48.7%	5.7%

ARTICLE 17: APPROPRIATE THE FY2023 WATER ENTERPRISE FUND BUDGET

To see if the Town will vote to raise and/or transfer and appropriate the following sums of money to operate the Water Division of the Department of Public Works during fiscal year 2023, under the provisions of M.G.L. Chapter 44, Section 53F ½:

Water Enterprise FY2023

Line #	Description	FY2021		FY2022		FY2023		Town Meeting Amendments
		Expended	FTE	Current Budget	FTE	Recommended	FTE	
301A	Salary & Wages	\$1,187,267	17.0	\$1,457,409	17.0	\$1,492,528	17.0	
301B	Expenses	\$986,127		\$1,294,764		\$1,361,349		
301C	Capital Outlay	\$15,000		\$40,000				
301D	MWRA Assessment	\$1,122,902		\$1,670,433		\$1,464,186		
301E	Debt Service	\$1,244,543		\$1,250,000		\$1,250,000		
302	Reserve Fund	Transfers Only		\$75,000		\$75,000		
TOTAL		\$4,555,839	17.0	\$5,787,606	17.0	\$5,643,063	17.0	
FY2023 Budget Percentage Change from FY2022 Budget							-2.5%	

and to meet this appropriation that \$5,643,063 be raised from Water Enterprise Fund receipts; or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 18: AUTHORIZATION TO EXPEND STATE FUNDS FOR PUBLIC WAYS

To see if the Town will vote to authorize the Town Manager to permanently construct, reconstruct, resurface, alter or make specific repairs upon all or portions of various Town ways and authorize the expenditure of funds received, provided or to be provided by the Commonwealth of Massachusetts through the Massachusetts Department of Transportation; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The Town receives funding from the Commonwealth of Massachusetts for road construction projects. Approval of Town Meeting is required for the Town to receive and expend the funds. The Massachusetts Department of Transportation (MassDOT) will distribute Chapter 90 funding only after it has been authorized by the Legislature and the Governor. The preliminary Chapter 90 allocation to be spent in FY2023 is \$912,849. Unless circumstances require otherwise, this Chapter 90 allocation will be directed to the design and construction of the next phase of the downtown infrastructure improvement project including design and construction of Quiet Zone compliant infrastructure at railroad grade crossings.

ARTICLE 19: SET THE ANNUAL DEPARTMENT REVOLVING FUND SPENDING LIMITS

To see if the Town will vote to fix the maximum amount that may be spent during fiscal year 2023 beginning on July 1, 2022, for the revolving funds established in the Town's General By-Laws for certain departments, boards, committees, agencies, or officers in accordance with Massachusetts General Laws Chapter 44, Section 53E½; or take any other action relative thereto.

Revolving Fund	Department, Board, Committee, Agency or Officer	FY2023 Spending Limit
Home Composting	Department of Public Works	\$3,000
Immunization Program	Health and Human Services Department	\$25,000
Memorial Park Activities	Memorial Park Trustees	\$4,100
Needham Transportation	Health and Human Services Department	\$60,000
Public Facility Use	Department of Public Works	\$250,000
School Transportation	School Committee	\$819,000
Traveling Meals	Health and Human Services Department	\$75,000
Tree Replacement	Department of Public Works	\$25,000

Revolving Fund	Department, Board, Committee, Agency or Officer	FY2023 Spending Limit
Water Conservation	Department of Public Works	\$10,000
Youth Services Programs	Health and Human Services Department	\$25,000
Aging Services Programs	Health and Human Services Department	\$90,000

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The purpose of this article is to set the annual spending limit for the various revolving funds that are established by Town By-Law in accordance with MGL Chapter 44 Section 53E1/2. The law requires that the Town Meeting shall, on or before July 1 of each fiscal year, vote on the limit for each revolving fund established under this law the total amount that may be expended during the fiscal year. The law provides also that the limit on the amount that may be spent from a revolving fund may be increased with the approval of the Select Board and Finance Committee should the revolving activity exceed the spending limit, but only until the next Annual Town Meeting.

COMMUNITY PRESERVATION ACT ARTICLES

ARTICLE 20: APPROPRIATE TO COMMUNITY PRESERVATION FUND

To see if the Town will vote to hear and act on the report of the Community Preservation Committee; and to see if the Town will vote to appropriate a sum pursuant to Massachusetts General Law Chapter 44B from the estimated FY2023 Community Preservation Fund revenues, or to set aside certain amounts for future appropriation, to be spent under the direction of the Town Manager, as follows:

Appropriations:

A. Administrative and Operating Expenses of the Community Preservation Committee \$82,000

Reserves:

B. Community Preservation Fund Annual Reserve \$1,790,008
C. Community Housing Reserve \$404,700
D. Historic Resources Reserve \$28,050
E. Open Space Reserve \$404,700

or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 21: APPROPRIATE TO COMMUNITY PRESERVATION FUND SUPPLEMENT

To see if the Town will vote to raise and/or transfer an additional sum pursuant to Massachusetts General Law Chapter 44B to set aside \$29,067 for future appropriation to the Historic Resources Reserve and \$24,375 to the Open Space Reserve, and that to meet this appropriation that \$53,442 be transferred from the FY2022 CPA General Reserve; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: During FY2022, the Town received additional State matching funds, and as a result the appropriations to the reserve categories were insufficient to satisfy the 10% requirement. This article ensures that the Historic Resources Reserve and Open Space Reserve are funded at the legally required amount.

ARTICLE 22: APPROPRIATE FOR NHA ASSISTANT EXECUTIVE DIRECTOR

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$97,500 for the purpose of funding an Assistant Executive Director for the Needham Housing Authority, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 23: APPROPRIATE FOR NHA PRE-DEVELOPMENT LINDEN CHAMBERS

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$1,200,000 for the purpose of funding pre-development costs for the Linden Chambers housing project, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Community Housing Reserve; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 24: APPROPRIATE FOR NHA PROPERTY SURVEY

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$62,500 for the purpose of funding a property survey for the Needham Housing Authority, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 25: APPROPRIATE FOR NHA PURCHASE OF PROPERTY ON EAST MILITIA HEIGHTS

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$1,500,000 for the purpose of funding the acquisition of property on East Militia Heights Road, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 26: APPROPRIATE FOR COMMUNITY FARM GROWING BEDS

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$200,000 for the purpose of funding the construction of growing beds at the Needham Community Farm, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 27: APPROPRIATE FOR HIGH SCHOOL TENNIS COURTS DESIGN

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$50,000 for design and engineering costs associated with the reconstruction of the High School Tennis Courts, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 28: APPROPRIATE FOR BOAT LAUNCH

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$285,000 for construction of a boat launch on South Street, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from CPA Free Cash; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 29: APPROPRIATE FOR EMERY GROVER RENOVATION

To see if the Town will vote to appropriate \$13,400,000 for the renovation of and addition to the Emery Grover Building and associated grounds, including the temporary use of the Hillside School as swing space, as well as costs incidental or related thereto, to be spent under the direction of the Permanent Public Building Committee and Town Manager, and to meet this appropriation (i) that \$4,500,000 be transferred from Free Cash, (ii) that \$1,000,000 be transferred from Overlay Surplus, (iii) that **X** be transferred from CPA Free Cash, (iv) that X be transferred from the FY2022 CPA General Reserve, and (v) that the Treasurer, with the approval of the Select Board, is authorized to borrow \$7,900,000 under M.G.L., Chapter 44, Section 7, M.G.L. Chapter 44B, or any other enabling authority; or take any other action relative thereto.

INSERTED BY: Community Preservation Committee & Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

CAPITAL ARTICLES

ARTICLE 30: APPROPRIATE FOR HILLSIDE SCHOOL HEATING REPAIRS AND UPGRADES

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$275,000 for the purpose of upgrading the heating system at the Hillside School, to be spent under the direction of the Town Manager and Permanent Public Building Committee, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY:
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 31: APPROPRIATE FOR GENERAL FUND CASH CAPITAL

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$3,191,314 for General Fund Cash Capital, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

Group	Description	Recommended	Amendment
Community Services	Bigbelly Trash Receptacles	\$135,000	
Community Services	Center at the Heights Generator Installation	\$27,000	
Community Services	Center at the Heights Space Utilization Study	\$75,000	
Community Services	Library Technology	\$26,280	
General Government	Geographic Information System	\$120,000	
General Government	Town Offices Replacement Furniture	\$25,000	
Public Safety	Personal Protective Equipment	\$53,174	
Public Safety	Public Safety Mobile Devices	\$50,000	
Public Schools	Roof Top Unit Replacement (Broadmeadow & Eliot Schools)	\$817,750	
Public Schools	School Copier Replacement	\$53,275	
Public Schools	School Furniture & Musical Equipment	\$25,000	
Public Schools	School Master Plan Financing & Scheduling Options	\$75,000	
Public Schools	School Technology Replacement	\$437,000	
Public Works	Public Works Mobile Devices	\$50,000	
Public Works	Recycling and Transfer Station Property Improvements	\$47,500	
Public Works	Traffic Improvements	\$50,000	
Multiple	Fleet Replacement Program	\$1,124,335	
		\$3,191,314	

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 32: APPROPRIATE FOR POLLARD SCHOOL LOCKER ROOM RETROFIT

To see if the Town will vote to raise and/or transfer and appropriate the sum of 1,068,500 for Pollard School Locker Room retrofit, to be spent under the direction of the Town Manager and Permanent Public Building Committee, and to meet this appropriation that \$305,485 be transferred from Premium Surplus reserved and that \$763,015 be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 33: APPROPRIATE FOR PUBLIC WORKS INFRASTRUCTURE

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$3,951,000 for the Public Works Infrastructure Program, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The Public Works Infrastructure Program allows the Department of Public Works to make improvements and repairs to Town infrastructure, including but not limited to roads, bridges, sidewalks, intersections, drains, brooks, and culverts.

ARTICLE 34X: LIBRARY SPACE UTILIZATION STUDY

To see if the Town will vote to raise and/or transfer and appropriate, or borrow the sum of \$60,000 for a Library Space Utilization Study, to be spent under the direction of the Permanent Public Building Committee and Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 35: DPW COMPLEX FEASIBILITY STUDY

To see if the Town will vote to raise and/or transfer and appropriate, or borrow the sum of \$60,000 for a feasibility study of the reconstruction of the Department of Public Works Building, to be spent under the direction of the Permanent Public Building Committee and Town Manager, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 36: APPROPRIATE FOR SEWER ENTERPRISE FUND CASH CAPITAL

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$901,255 for Sewer Enterprise Fund Cash Capital, to be spent under the direction of the Town Manager, and to meet this appropriation that said sum be transferred from Sewer Enterprise Fund Retained Earnings; or take any other action relative thereto.

Group	Description	Recommended	Amendment
Sewer	Fleet Replacement Program	\$291,255	
Sewer	Sewer Main Project (Greendale/Rte 128)	\$610,000	
		\$901,255	

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 37: RESCIND DEBT AUTHORIZATIONS

To see if the Town will vote to rescind a portion of certain authorizations to borrow, which were approved at prior town meetings, where the purposes of the borrowing have been completed, and/or it was unnecessary to borrow the full authorization:

Project	Town Meeting	Article	Authorized	Rescind
Total				

or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: *When a project is financed by borrowing, the project has been completed, and the bills have been paid, the balance of the authorization that was not borrowed and not reserved for other project obligations may be rescinded. A Town Meeting vote to rescind prevents the Town from borrowing*

the amount rescinded and frees up borrowing capacity. In some cases, the full appropriation for a project is not required, due to changes in scope, cost-saving measures, and/or favorable bids.

TOWN RESERVE ARTICLES

ARTICLE 38: APPROPRIATE FOR COMPENSATED ABSENCES FUND

To see if the Town will vote to raise and/or transfer and appropriate the sum of \$250,000 for the purpose of funding the Compensated Absences Fund, to be spent under the direction of the Town Manager and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The purpose of this article is to fund the Town's employee sick and vacation leave liability. Upon retirement, certain employees are compensated for a portion of their unused sick leave. All employees are entitled to payment of unused vacation leave upon termination of Town service. The Town has been taking steps to reduce or eliminate sick leave buy-back programs for all classes of employees, although an unfunded liability remains.

ARTICLE 39: APPROPRIATE TO ATHLETIC FACILITY IMPROVEMENT FUND

To see if the Town will vote to raise, and/or transfer and appropriate the sum of \$33,533 to the Athletic Facility Improvement Fund, as provided under the provisions of Massachusetts General Law Chapter 40, Section 5B, as further amended by Section 22 of Chapter 218 of the Acts of 2016, and to meet this appropriation that said sum be raised from the Tax Levy; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: Massachusetts General Law Chapter 40, Section 5B, allows the Town to create one or more stabilization funds for different purposes. A stabilization fund is a special reserve fund into which monies may be appropriated and reserved for later appropriation for any lawful municipal purpose. Monies accumulated in a stabilization fund carry forward from one fiscal year to another. Interest earned from the investment of monies in the stabilization fund remains with that fund. Town Meeting by majority vote may appropriate into the fund and by a two-thirds vote appropriate from the fund. The 2012 Annual Town Meeting approved the creation of the Athletic Facility Improvement Fund to set aside capital funds for renovation and reconstruction of the Town's athletic facilities and associated structures, particularly at Memorial Park and DeFazio Park. The balance in the fund as of March 15, 2022, was \$X.

ARTICLE 40: APPROPRIATE TO WORKERS COMPENSATION FUND

To see if the Town will vote to raise, and/or transfer and appropriate the sum of \$130,000 to the Workers Compensation Fund, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: *The purpose of this request is to replenish the Workers' Compensation Fund which is the Town's reserve fund for paying workers' compensation claims of a prior year and for lump sum settlements up to the limit of the Town's reinsurance limit (for both School and General Government employees.) Typically, the source of funds for this account is any remaining balance in the workers compensation line item contained in the employee benefits and assessments budget. Due to increases in salaries and expenses over the past decade, and the resolution of several long-standing cases, the fund balance has been declining. The balance in the Account as of March 15, 2022 was \$X.*

ARTICLE 41: APPROPRIATE TO PUBLIC SAFETY INJURY ON DUTY FUND

To see if the Town will vote to raise, and/or transfer and appropriate the sum of \$300,000 to the Public Safety Injury on Duty Fund, and to meet this appropriation that said sum be transferred from Free Cash; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: *The 2016 Municipal Modernization Act added a paragraph to M.G.L. c. 41 Section 111F to allow cities and towns to establish and appropriate amounts to a special injury leave indemnity fund for payment of injury leave compensation or medical bills incurred for public safety personnel. The monies in the special fund may be expended, with the approval of the chief executive officer and without further appropriation, for such expenses. Any balance in the fund shall carry over from year to year, unless specific amounts are released to the general fund by the chief executive officer upon a finding that the amounts released are not immediately necessary for the purpose of the fund, and not required for expenses in the foreseeable future.*

GENERAL ARTICLES & CITIZENS PETITIONS

ARTICLE 42: AMEND GENERAL BY-LAW SNOW & ICE ON SIDEWALKS

To see if the Town will vote to amend the General By-laws by deleting Section 3.1.8 (Snow and Ice on Sidewalks) in its entirety, and inserting in its place the following:

3.1.8 Snow and Ice on Sidewalks.

3.1.8.1 Any person who places any snow or ice on a sidewalk or a street, shall forfeit not more than fifty dollars (\$50.00) for each offense.

3.1.8.2 Any owner, tenant, occupant, proprietor, manager, agent, board, trust, or other entity having charge of property used wholly or in part for (a) a commercial purpose (including without limitation

as a store, restaurant, bank, gym, theater, childcare facility or office); (b) a hospital or medical establishment; (c) a place of worship; (d) multi-family housing containing three (3) or more dwelling units on a lot; or (e) any other use open to the public, or to a particular membership or clientele, that allows snow or ice to remain on a sidewalk abutting, on, or within its property for more than five hours between sunrise and sunset, shall forfeit not more than fifty dollars (\$50.00) for each offense. If, by reason of weather conditions the snow and ice is evenly spread over a sidewalk and frozen and therefore difficult to remove, it may remain until it can more easily be removed; provided that while the snow and ice remain, entity in charge shall keep the sidewalk in safe condition by sanding or otherwise.

or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 43: AMEND GENERAL BY-LAWS – HOUSEHOLD REFUSE

To see if the Town will vote to amend the General By-Laws by:

1. Inserting in Section 3.1 (General) of Article 3 (Police Powers, Authority and Regulations) a new Section 3.1.12, to read as follows:

3.1.12 Household Refuse. No person shall deposit any household refuse or garbage in any receptacle maintained by the Town of Needham on public property.

2. Renumbering the existing sections within Section 3.1 in appropriate numerical order to account for the insertion of new Section 3.1.12.

3. Inserting in Section 8.2.2.4 (Police Regulations) a new section L., to read as follows:

L. Household Refuse (Section 3.1.12)

Enforcement Agent: Director of Public Works or Designee

Fine Schedule:

Warning - First Offense

\$100 Second Offense

\$200 Third Offense

\$300 Fourth and Subsequent offenses

4. Re-lettering the existing Sections within Section 8.2.2.4 in appropriate alphabetical order to account for the insertion of new section L.

or take any other action relative thereto.

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 44: HOLD STREET ACCEPTANCE – HUTTER RIDGE ROAD

To see if the Town will vote to accept the following streets or portions thereof, constructed by developers under the requirements of the Subdivision Control Law and as laid out by the Select Board in accordance with plans on file with the Town Clerk, including the taking or acceptance of easements as shown on said plans: Hutter Ridge Road; or take any other action relative thereto

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: Hutter Ridge Road was constructed by a developer in conformance with the Town's design standards. This article, if accepted, will make Hutter Ridge Road a Public Way.

ARTICLE 45: AMEND GENERAL BY-LAWS – NEEDHAM HOUSING AUTHORITY TERM CYCLE

To see if the Town will vote to amend the General Bylaws by deleting from Section 1.9 (Election of Officers) subsection 1.9.1(m) in its entirety and inserting in its place the following:

- (m) Three members of the Needham Housing Authority for five-year terms, so arranged that the term of not more than one member shall expire each year.

Or take any other action relative thereto.

INSERTED BY:

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 46: AMEND CHARTER - NEEDHAM HOUSING AUTHORITY TERM CYCLE AND TENANT MEMBER APPOINTMENT

To see if the Town will vote to authorize the Select Board to petition the General Court, in compliance with Clause (1), Section 8 of Article LXXXIX of the Amendments of the Constitution, to the end that legislation be adopted precisely as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court; and provided further that the Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 403 of the acts of 1971 is hereby amended by deleting from Section 19, as most recently amended by section 1 of Chapter 341 of the acts of 2018, subsection (viii) and inserting in place thereof the following:

(viii) 3 members of the Needham Housing Authority for 5-year terms;

SECTION 2. Chapter 403 of the acts of 1971 is hereby amended by striking out Section 20(b), as most recently amended by section 1 of chapter 341 of the acts of 2018, and inserting in place thereof the following:

(b) The select board shall appoint a town counsel, members of the board of appeals, election officers, registrars of voters, except the town clerk, members of the historic commission, conservation commission, commission on disabilities, the tenant member of the housing authority and, except as provided in section 19, all other boards, committees and commissions for whom no other method of selection is provided in this charter or by-law.

SECTION 3. This act shall take effect upon passage.

Or take any other action relative thereto.

INSERTED BY:

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information:

ARTICLE 47: INCREASE CONTRIBUTORY RETIREMENT COLA ALLOWANCE

To see if the Town will vote to increase the maximum base upon which the retiree cost of living (COLA) is calculated from \$14,000 per year to \$16,000 per year in accordance with Chapter 32, Section 103(j) and Section 19 of Chapter 188 of the Acts of 2010; or take any other action relative thereto.

INSERTED BY: Retirement Board

FINANCE COMMITTEE RECOMMENDS THAT:

Article Information: The purpose of this article is to increase the base amount upon which the retiree Cost-of-Living Adjustment is paid. MGL, Chapter 32, Section 103(j) and Section 19 of Chapter 188 of the Acts of 2010 allows a Contributory Retirement Board, with the approval of Town Meeting, to increase the base amount upon which the Cost-of-Living adjustment paid to retirees is calculated. An increase of the base from \$12,000 to \$14,000 was approved at the 2015 Annual Town Meeting. This action increased the maximum COLA a retiree can receive from \$360 per year to \$420 per year even if his/her pension exceeds \$14,000. Approval of this article will increase the base amount from \$14,000 to \$16,000. The decision to grant a COLA and at what amount is made annually by vote of the Needham Contributory Retirement Board.

ARTICLE 48: CITIZENS' PETITION - AMEND GENERAL BY-LAWS

To see if the Town will vote to amend the General By-Laws by inserting in Article 3 (Police Powers, Authority and Regulations) a new Section 3.1.14 to read as follows:

“Delivery of Written Material. Any person delivering written material to a residence shall leave such material at least 15 feet from the public way, unless left in a designated, enclosed box suitable for such purpose or if the principal residential structure to which a delivery is being made is located less than 15 feet away from the public way, in which case such material shall be left no more than 5 feet away from the principal structure. The provisions of this by-law do not apply to deliveries by the United States Postal Service. Whoever violates the provisions of this by-law shall be subject to a fine of \$25.00 for each offense.”

And to renumber the remaining existing sections within Article 3 in appropriate numerical order to account for the insertion on the new section.

ARTICLE 49: OMNIBUS

To see if the Town will vote to raise by taxation, transfer from available funds, by borrowing or otherwise, such sums as may be necessary for all or any of the purposes mentioned in the foregoing articles, especially to act upon all appropriations asked for or proposed by the Select Board, or any Town officer or committee, to appoint such committees as may be decided upon and to take action upon matters which may properly come before the meeting; or take any other action relative thereto.

INSERTED BY: Select Board

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least seven days before said meeting.

Hereof fail not and make due return of this Warrant with your doings thereon unto our Town Clerk on or after said day and hour.

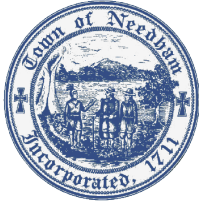
Given under our hands at Needham aforesaid this 8th day of February 2022.

Matthew D. Borrelli, Chair
Marianne B. Cooley, Vice Chair
Marcus A. Nelson, Clerk
Daniel P. Matthews, Member
Kevin J. Keane, Member

Select Board of Needham

A true copy,

ATTEST _____ 2022
Constable (month) (day)

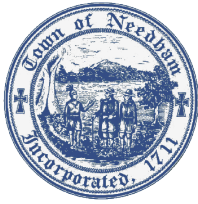


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Town Manager's Report
Presenter(s)	Kate Fitzpatrick, Town Manager

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
The Town Manager will update the Board on issues not covered on the agenda.	
2.	VOTE REQUIRED BY SELECT BOARD
3.	BACK UP INFORMATION ATTACHED
none	



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Dangerous Dog Hearing Follow-up
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
On January 11, 2022, the Board held a dangerous dog hearing in accordance with MGL c. 140 Section 157 and Town By-Law 3.7.5 on a complaint about two dogs by the name of “Maya” and “Axel” residing at 233 West Street in Needham. The Board voted to determine that the dogs “Maya” and “Axel” were dangerous dogs, and adopted recommendations made by Police Chief Schlittler including muzzling, behavioral training, containment, and leashing of the dogs.	
2.	VOTE REQUIRED BY SELECT BOARD
<i>Suggested Motion:</i> That the Board vote to require that the dogs Maya and Axel participate in additional group training as recommended by Richard Laperchia, Trainer & Owner of K9 Reset and report back to the Board.	
3.	BACK UP INFORMATION ATTACHED
a. Report provided by Richard Laperchia, Trainer & Owner, K9 Reset	

K9 Reset

Seven Oak St.
Salem, MA 01970
Phone: 978-423-7148
E-Mail: Rich@k9-reset.com
Web: k9-reset.com

2/26/22

Re: Axel & Mya

To whom it may concern:

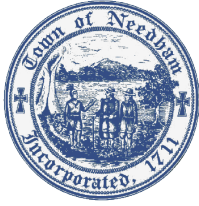
I was commissioned to train Axel and Mya together, I worked on there reactivity with people and dogs. My training included e-collar and leash pressure, using positive and negative reinforcement as well as spacial pressure.

Axel and Mya responded very well with these techniques. I worked them in my shop around my dog, and then brought them out around other dogs daily to desensitize them to their triggers. By the end of the week we were walking by dogs and training outside of a dog park with out them reacting to high distractions. On the day of pick up I spent approximately one hour training Diana and her two children on how to use the e-collar, and leash pressure as well as the timing to give corrections and praise. I explained to Diana the importance of continuing with the foundation I have built. I have also suggested group training and put her in touch with a colleague who has a class twice a week with 10 to 15 dogs participating.

This will be crucial in the continuing training of Axel and Mya. They are good dogs and just need structure and a confident leader. I believe Diana understands this and is willing to do the work that Mya and Axel deserve.

Sincerely,

Richard Laperchia
Trainer/owner
K9 Reset

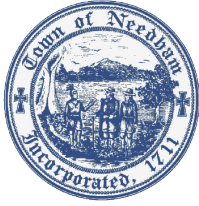


**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Committee Reports
Presenter(s)	Board Discussion

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
Board members may report on the progress and / or activities of their Committee assignments.	
2.	VOTE REQUIRED BY SELECT BOARD
3.	BACK UP INFORMATION ATTACHED
none	



**Select Board
TOWN OF NEEDHAM
AGENDA FACT SHEET**

MEETING DATE: 3/8/2022

Agenda Item	Executive Session
Presenter(s)	

1.	BRIEF DESCRIPTION OF TOPIC TO BE DISCUSSED
	1.) Exception 3: Potential Litigation & Collective Bargaining (Police Union) 2.) Exception 6: Purchase, Exchange, Lease or Value of Real Property 3.) Exception 2: Strategy in Preparation for Negotiations with Non-Union Personnel
2.	VOTE REQUIRED BY SELECT BOARD
	<u>Exception 3:</u> To discuss strategy with respect to collective bargaining or litigation, if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. <u>Exception 6:</u> To consider the purchase, exchange, lease, or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. <u>Exception 2:</u> To conduct strategy sessions in preparation for negotiations with non-union personnel. Not to return to Open Session prior to adjournment
T	BACK UP INFORMATION ATTACHED
	None.

**Town of Needham
Select Board
Minutes for Tuesday, February 22, 2022
Needham Town Hall
Powers Hall
and
Via ZOOM
<https://us02web.zoom.us/j/81694170090>**

- 6:00 p.m. Call to Order:
A meeting of the Select Board was convened by Chair Matthew D. Borrelli. Those present were Daniel P. Matthews, Marianne Cooley, Marcus Nelson joined the meeting at 6:09 p.m. (via Zoom), Kevin Keane, and Town Manager Kate Fitzpatrick, Dave Davison, ATM/Finance, Katie King, ATM/Operations, Myles Tucker, Support Services Manager, Kristin Scoble, Administrative Specialist, and Mary Hunt, Recording Secretary were also in attendance.
- 6:00 p.m. Public Comment Period: No comments were heard.
- 6:00 p.m. Public Hearings: Eversource Energy - Grant of Locations
Joanne Callender (via Zoom), Eversource Representative spoke with the Board concerning two Grant of Locations:
1. 34 Stratford Road
Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were heard.

Motion by Ms. Cooley that the Select Board approve and sign a petition from Eversource Energy to install approximately 15 feet of conduit in Windsor Road.
Second: Mr. Keane. Unanimously approved 4-0 by roll call vote.
 2. 71 Lindbergh
Ms. Fitzpatrick indicated all paperwork is in order.

Mr. Borrelli invited public comment. No comments were heard.

Motion by Ms. Cooley that the Select Board approve and sign a petition from Eversource Energy to install approximately 66 feet of conduit in Lindbergh Avenue.
Second: Mr. Keane. Unanimously approved 4-0 by roll call vote.
- 6:05 p.m. Appointments and Consent Agenda:
Motion by Mr. Matthews that the Select Board vote to approve the Appointments and Consent Agenda as presented.

APPOINTMENTS

1. Adam Block - Transportation Planning and Review Committee	Term Exp. 6/30/2022
2. Rachel Bright - Climate Action Plan Committee	Term Exp. 6/30/2024
3. Paul Dellaripa - Climate Action Plan Committee	Term Exp. 6/30/2024
4. Stephen Frail - Climate Action Plan Committee	Term Exp. 6/30/2024
5. Joseph Higgins - Climate Action Plan Committee	Term Exp. 6/30/2024
6. Nicholas Hill - Climate Action Plan Committee	Term Exp. 6/30/2024

CONSENT AGENDA *=Backup attached

- 1.* Approve minutes of February 8, 2022 (open session)
- 2.* RATIFY the Alcohol License Suspension and Waiver for New Garden Inc., d/b/a New Garden Restaurant
3. Accept the following donations made to Youth & Family Services, Crisis Donation Fund from the 100 Women of Needham: \$100 Lynn Basilio, \$100 Marilyn Komessar, \$200 Alyssa Kence, \$250 Elizabeth Moore, \$150 Cathy Freedberg, \$100 Gail Guzelian, \$100 Cynthia Howes, \$100 Ellen Volpe, \$100 Suzanne Fiering Nissen, \$100 Karen Northrop Barzilay, \$100 Jillian Erdos, \$100 Carrie Dandy, \$100 Kim Marie Nicols, \$100 Abigail Jones Hays, \$100 Jennifer Edwards, \$100 Sindia Conroy.
4. Accept the following donation made to Youth & Family Services: \$250 from the Forde Family for future programming.
5. Accept the following donation made to the Health Departments, Domestic Violence Action Committee (DVAC): \$500 from the Needham Women's Club
- 6.* Approve new date for Youth & Family Services "Needham Unplugged" no meeting/no-homework night to be held on Friday, March 11, 2022
- 7.* Approve a request from Stacey Mulroy race coordinator for the Needham 2 Arlington to hold a race in Needham. The event is scheduled for Saturday, April 9, 2022. The event and route have been approved by the following departments: Fire, Police, DPW, Park & Recreation.
- 8.* Approve a request from Melissa Lassonde, Director of Special Events for the Needham Baseball & Softball Opening Day Parade to be held in Needham. The event is scheduled for Sunday, May 1, 2022. The event and route have been approved by the following departments: Fire, Police, DPW, Park & Recreation.
- 9.* To approve Economic Development ARPA Grant awards contingent on any pending compliance with federal, state and local law and regulations.
- 10.* Approve display of a new banner from The Revitalization Trust Fund to be displayed on Chapel Street.

Second: Ms. Cooley. Unanimously approved 4-0 by roll call vote.

Mr. Borrelli pointed out ARPA Grant awards were issued to local businesses that submitted applications.

Ms. Fitzpatrick noted the "Needham 2 Arlington" walk scheduled for April 9, 2022 is over 12.6 miles long. She said the walk was originally scheduled for 2020, but had to be postponed due to the pandemic.

6:06 p.m. Mr. Borrelli asked Ms. Fitzpatrick to discuss items under the Town Manager section of the agenda, as the public hearing for Alteration of Premises (Hearth Pizzeria) was noticed for 6:10 p.m.

6:06 p.m. Town Manager:
Ms. Fitzpatrick spoke with the Board regarding five items:

1. April Meeting Calendar

Ms. Fitzpatrick discussed the April meeting calendar and recommended that the Board hold Tuesday, April 5th at 6:00 p.m in case an additional meeting is needed due to the town election and Spring 2022 Town Meeting.

Mr. Borrelli said discussion on the April calendar is year by year, suggesting the Board hold the regularly scheduled meeting on April 13, 2022 and hold April 5th in case an additional meeting is necessary.

Mr. Nelson suggested speaking with the candidate running for the Select Board seat, noting that it may be beneficial to wait one week after the town election to hold a Select Board meeting. He stated he will not be available for the April 5th meeting.

Mr. Borrelli suggested further discussion is needed.

(Continued to 6:45 p.m.)

6:10 p.m. Public Hearing: Alteration of Premises for an All-Alcohol License in a Restaurant - Sol Soul Family Foods, LLC d/b/a Hearth Pizzeria
Ivan Millan Pulecio, Manager spoke with the Board about the application submitted by Sol Soul Family Foods, LLC d/b/a Hearth Pizzeria, located at 974 Great Plain Avenue to expand the licensed premises to include a 650 square foot patio area.

Sol Soul Family Foods, LLC d/b/a Hearth Pizzeria, located at 974 Great Plain Avenue, currently holds an All-Alcohol liquor license. The current licensed premises is: 2800 square feet with two means of egress in the front and rear of a single-story building, with seating for 64 patrons, kitchen, take out area, food prep, office, & restroom located on first floor. The applicant has submitted an amendment to expand the licensed premises to include: a 650 square foot patio area with one means of egress and seating for 33 patrons and staff with a server station. The applicant has used the patio area since 2020 in the proposed arrangement in accordance with state emergency orders and local rules in the context of the COVID-19 pandemic. The applicant's Special Permit amendment for use of the patio for outdoor dining has been submitted and approved by the Planning Board and is currently in the appeals period. The applicant has also applied to the Select Board for an Outdoor Dining License since the patio, while on private property, is on an easement upon which the Town has rights to public parking. A legal notice

was advertised in the Hometown Weekly on February 17, 2022 and abutters were notified. All supporting documentation appears to be in order.

Ms. Cooley explained this is the first application, noting the Town has enjoyed outdoor dining, but as things begin to normalize coming out of the pandemic there will no longer be special state legislation. She noted the process of going to the ABCC for recertification of permits so outdoor space can also be used and people can enjoy an alcoholic beverage outside.

Mr. Borrelli said the Town wants businesses to succeed.

Mr. Matthews wished Mr. Millan Pulecio continued success. He noted demand for parking in the downtown area is currently low, saying future projects may require more parking in the area of Hearth Pizzeria.

Mr. Millan Pulecio said parking will always be an issue, but businesses will have to adjust, and that planning will be key.

Mr. Borrelli invited public comment. No comments were heard.

Motion by Ms. Cooley that the Board vote to approve the Amendment for Alteration of Premises application received from Sol Soul Family Foods LLC d/b/a Hearth Pizzeria, contingent upon final approval of special permit from the Planning Board and Outdoor Dining License from the Select Board, and (if so approved), vote to forward the Amendment application to the ABCC for review and final approval.

Second: Mr. Keane. Unanimously approved 5-0 by roll call vote.

6:20 p.m. Public Hearing: Outdoor Dining License - Sol Soul Family Foods, LLC d/b/a Hearth Pizzeria
Ivan Millan Pulecio, Manager spoke with the Board about an application to establish an outdoor dining space on its rear patio. He referred to a previous discussion, as noted above.

Mr. Borrelli invited public comment. No comments were heard.

Ms. Fitzpatrick noted regulations allow for certain dates for outdoor dining, and that the application is a request for January 1 through December 31.

Motion by Ms. Cooley that the Board vote to approve an Outdoor Dining license for Sol Soul Family Foods LLC d/b/a Hearth Pizzeria, modified to allow for outdoor dining from 1 January 2022 to 31 December 2022, contingent upon final approval of special permit from the Planning Board.

Second: Mr. Nelson. Unanimously approved 5-0 by roll call vote.

6:24 p.m. Town Communications Update:

Cyndi Roy Gonzalez, Public Information Officer provided the Board an update on ongoing Town Communications efforts including: Website Refresh & Website Trainings, Town Mobile App, Town Meeting Member Communications, Polco Surveys and Citizens Survey, and Newsletter.

A PowerPoint presentation was viewed, and Ms. Roy Gonzalez explained two public forums were held last fall to find out what residents wanted to see on the website. She commented that the Park and Recreation Department and the Department of Public Works will have web pages for people to access information with fewer clicks. She commented three staff training days have been held, with one more scheduled for March. Ms. Roy Gonzalez commented on the new mobile app for accessing information. She also commented on Polco surveys for surveying the community, and the National Community Survey (formerly the National Citizens Survey), noting work will begin next month on a new survey. Ms. Roy Gonzalez said the Newsletter launched in June 2021 and is nearing 3,000 subscribers. She said it is a resource for Town information and there is an opportunity for growth. Discussion ensued on Town Meeting Member communications within precincts, as well as communications with all Town Meeting Members.

Mr. Matthews said the work is good. He said he likes the setup of Town Meeting Member communications. He noted while all Town Meeting Members are town representatives, they do not check their rights as private citizens “at the door” with regard to their personal email addresses. He said it is important to protect privacy. He commented basic newspapers seem to be going away, saying the Needham Newsletter will have to fill some of the gap, but there must be a balance.

Discussion ensued on Town Meeting Member communications and the public records law.

Ms. Roy Gonzalez commented on COVID-19 updates which are now sent out weekly and incorporated into the Town newsletter. She said COVID-19 website information will soon be available on the Public Health webpage.

The Board thanked Ms. Roy Gonzalez for the update.

6:45 p.m. Town Manager (continued from 6:06 p.m.):

2. Housing Choice Designation

Katie King, Assistant Town Manager/Director of Operations provided the Board with an overview of the State’s Housing Choice Designation program, which provides eligible communities with exclusive access to the Housing Choice Capital Grant program and preferential consideration for other state grant programs. She asked the Board to vote to apply for the Housing Choice Designation.

Motion by Mr. Matthews that the Select Board vote to apply for Housing Choice Designation.

Second: Ms. Cooley. Unanimously approved 5-0 by roll call vote.

3. Initial American Rescue Plan Act Funding

Kate Fitzpatrick, Town Manager, Katie King, Assistant Town Manager, and Amy Haelsen, Economic Development Manager provided the Board an update on the ARPA funding status.

Ms. Haelsen referred to a previous discussion with the Select Board when it voted in support of designating \$300,000 of ARPA funds for small businesses. She commented that 30 grant applications were received. She explained the process of reviewing applications for each grant award.

Discussion ensued on the possibility of another round of grant funding and eligible economic development programs.

Ms. Cooley pointed out most grants were for approximately \$10,000, which she said is very helpful to the small businesses.

Mr. Nelson said he appreciates the work being done to help the businesses.

Ms. Fitzpatrick commented on the Walker Pond Category 2 Construction and the Town Reservoir Clean-up Construction, distribution of COVID-19 test kits to schools and town staff, and the tracking system set up by the accounting department to track ARPA expenditures.

Motion by Mr. Nelson that the Select Board vote to approve the updated ARPA Funding Proposal and to authorize the Town Manager to seek funding from the Commonwealth as lost revenue to be used only for items that are ARPA eligible and as approved by the Select Board on the American Rescue Plan Act Funding Proposal.

Second: Ms. Cooley. Unanimously approved 5-0 by roll call vote.

4. Annual Town Meeting Warrant

Ms. Fitzpatrick updated the Board on the status of the draft Annual Town Meeting Warrant, and reviewed some of the articles. She noted the Board customarily waits until after the Town election to take positions on Warrant Articles, commenting voting on each article will take place after the April 12, 2022 Town election at two Select Board meetings. She said presentations will be made by petitioners to the Board in March and April.

5. Town Manager Report

Ms. Fitzpatrick reported the first Connections: Cops & Community discussion will take place on March 1, 2022 from 7 p.m. to 8:30 p.m. She said the event is

scheduled to be held at the Center at the Heights, however noted the venue may change.

7:09 p.m. Board Discussion:

1. Public Participation in Meetings Policy Review

Mr. Borrelli commented on the previous, more informal method for the public to communicate to the Select Board that was used up until the adoption of the new policy on October 12, 2021. He said the previous policy did not require a quorum of the Board and allowed for more time. He suggested “stepping back” from the policy and for the Board to discuss, at a future meeting, a different way to hear from the public. He said it may be more appropriate to hear from the public during office hours, return to the prior informal method, or devise another method. He commented it is difficult to hear from the public when there is a “packed” agenda to get to. He asked to table the Public Comment Period moving forward, until the Board can discuss and devise a better way to handle public comments.

Mr. Nelson said taking the Public Comment Period away completely defeats the purpose of having something in place. He suggested keeping the Public Comment Period until the Board can develop a new and efficient way to hear from the public.

Mr. Borrelli reiterated that the public can email the Board. He said some people have more personal items to discuss, not realizing the Public Comment Period is televised. He commented that during the pandemic there was no Public Comment Period, suggesting it's a matter of finding a better way.

Mr. Matthews suggested keeping the current system until a new way is found. He said the new policy was intended to be an improvement, while the old policy had problems with open meeting and public notice laws. Mr. Matthews said the public does like an informal approach and the fact that the Public Comment Period is televised may be an issue. He said he is troubled that sometimes people come to the Board looking for information that is not readily available at the meeting. He commented on some instances including what can or cannot be said that have been dealt with very well. He noted sometimes things are said about people who were not notified or are not present, or are unfair or untrue. He said there must be a better way to manage the Public Comment Period. Mr. Matthews said it may be appropriate for a member(s) of the Select Board to comment, however the current policy somewhat discourages Select Board response. He suggested keeping the current policy until a future Board can think it over.

Mr. Borrelli asked Board members to submit ideas to the Town Manager for future discussion.

Mr. Keane said if there is a better way then the Board should find it, but he is concerned about the timeline. He suggested keeping the current policy in place.

Mr. Borrelli commented the idea was to remove the policy for a short period of time until a new policy is in place. He said if the Board thinks the timeframe for a new policy is longer than he thought, then he suggests keeping the new policy in place until a more efficient way is found. He reiterated the current policy is very limited and allows only 3 minutes for a person to speak.

Ms. Cooley reminded residents they can always email the Select Board at selectboard@needhamma.gov with any concerns.

2. Committee Reports

No Committee Reports were heard.

7:15 p.m. Executive Session: Exceptions 3 (Collective Bargaining Police & Fire Unions) & 6 (Purchase of Real Property)

Motion by Ms. Cooley that the Select Board vote to enter into Executive Session.

Exception 3 – To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

and

Exception 6 – To consider the purchase, exchange, lease or value of real estate if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.

Not to return to open session.

Second: Mr. Keane. Unanimously approved 5-0 by roll call vote.

A list of all documents used at this Select Board meeting is available at:

<http://www.needhamma.gov/Archive.aspx?AMID=99&Type=&ADID>

The Next Select Board meeting is scheduled for Tuesday, March 8, 2022 at 6 p.m.



February 24, 2022

The Needham Select Board
1471 Highland Avenue
Needham, MA 02492

Subject: Council on Aging Donation

Dear Select Board,

The Needham's Aging Services Division has received a donation of \$25 in the memory of Delbert Miller from:

Marion Welch
1 Clapp Drive
Foxboro, MA 02035

The Needham's Aging Services Division has received a donation of \$50 in the memory of Delbert Miller from:

Lynn Lind
1 Clapp Drive
Foxboro, MA 02035

Pursuant to Massachusetts General Laws, Chapter 44, Section 53a, the Health Department seeks permission from the Select Board to accept this gift and to apply the funds for the purpose expressed by the donor.

Sincerely,

LaTanya Michelle Steele

LaTanya Steele, Director
Aging Services Division

The Center at The Heights Center
300 Hillside Avenue Needham MA 02494
Telephone: 781-455-7555 Fax: 781-455-7599
seniorcenter@town.needham.gov www.needhamma.gov

**WARRANT FOR THE ANNUAL TOWN MEETING
TUESDAY, APRIL 12, 2022
TOWN OF NEEDHAM
COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss.

To either of the constables in the Town of Needham in said County. Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the Inhabitants of the Town of Needham qualified to vote in elections and in Town Affairs to meet in their respective voting places in said Town namely:

PRECINCT A: Center at the Heights, 300 Hillside Ave.
PRECINCT B: Center at the Heights, 300 Hillside Ave.
PRECINCT C: Newman School, 1155 Central Ave. Gym
PRECINCT D: Newman School, 1155 Central Ave. Gym
PRECINCT E: Needham Golf Club, 49 Green Street.

PRECINCT F: Rosemary Recreation Complex, 178 Rosemary St.
PRECINCT G: Rosemary Recreation Complex, 178 Rosemary St.
PRECINCT H: Needham Golf Club, 49 Green Street
PRECINCT I: Town Hall, 1471 Highland Ave., Powers Hall
PRECINCT J: Town Hall, 1471 Highland Ave., Powers Hall

on TUESDAY, THE TWELFTH DAY OF APRIL 2022

from seven o'clock in the forenoon, until eight o'clock in the afternoon, then and there to act upon the following articles, viz:

ARTICLE 1: ANNUAL TOWN ELECTION

To choose by ballot the following Town Officers:

One Moderator for Three Years;
One Member of the Select Board for Three Years;
One Town Clerk for Three Years;
One Assessor for Three Years;
Three Members of School Committee for Three Years;
One Trustee of Memorial Park (trustee of soldiers' memorials – Veteran) for Three Years;
One Trustee of Memorial Park (trustee of soldiers' memorials – Non-Veteran) for Three Years
Two Trustees of Needham Public Library for Three Years;
Two Members of Board of Health for Three Years;
One Member of Planning Board for Five Years;
One Commissioner of Trust Funds for Three Years;
Two Members of Park and Recreation Commission for Three Years.

Twenty-four Town Meeting Members from Precinct A;
Twenty-four Town Meeting Members from Precinct B;
Twenty-four Town Meeting Members from Precinct C;
Twenty-four Town Meeting Members from Precinct D;
Twenty-four Town Meeting Members from Precinct E;
Twenty-four Town Meeting Members from Precinct F;
Twenty-four Town Meeting Members from Precinct G;
Twenty-four Town Meeting Members from Precinct H;
Twenty-four Town Meeting Members from Precinct I;
Twenty-four Town Meeting Members from Precinct J.

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least 7 days before said meeting.

Hereof fail not and make do return of this Warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given under our hands at Needham aforesaid this 8th day of March 2022.

_____ **Matthew D. Borrelli, Chair**
_____ **Marianne B. Cooley, Vice Chair**
_____ **Marcus A. Nelson, Clerk**
_____ **Daniel P. Matthews, Member**
_____ **Kevin J. Keane, Member**

Select Board of Needham

A true copy,
ATTEST _____ **2022**
 Constable **(month) (day)**

FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT made as of February 22, 2022 by and among the Town of Needham (the “Town”), a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, acting by and through its Select Board, with offices located at 1471 Highland Avenue, Needham, MA 02492 (the “Town”) and TripAdvisor LLC, a Massachusetts limited liability company (“TripAdvisor”) with a principal place of business at 400 1st Ave, Needham, MA 02494 (the “Property”).

WHEREAS, pursuant to the votes of members of the December 2012 Special Town Meeting and May 13, 2013 Special Town Meeting, the Town and TripAdvisor entered into and subsequently amended a certain Tax Increment Financing Agreement (the “TIF Agreement”) by and between the Town, TripAdvisor, and Normandy Gap-V Development Needham, LLC (the “Property Owner”) wherein the Town agreed to grant TripAdvisor and the Property Owner a Tax Increment Financing Exemption in accordance with the Massachusetts Economic Development Incentive Program and Chapters 23A, 40, and 59 of the General Laws in consideration of certain commitments made by TripAdvisor and the Property Owner, including, but not limited to, TripAdvisor’s commitment to create and maintain a certain number of jobs in the Town of Needham; and

WHEREAS, TripAdvisor reports that due to the worldwide COVID-19 pandemic, , it was unable to meet its obligation to retain 700 jobs in the Town of Needham for the years ending December 31, 2020 and 2021 as described in the TIF Agreement; and

WHEREAS, the Town is willing to temporarily forbear from seeking to reduce TripAdvisor’s tax exemption to 0% for Fiscal Years 2022 and 2023 under the TIF Agreement and TripAdvisor is willing to temporarily forbear from seeking to invoke the force majeure provision set forth in Section 12 of the TIF Agreement, each parties’ forbearance subject to the terms and conditions outlined herein below;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, TripAdvisor and the Town hereby stipulate, covenant and agree as follows:

1. Hosting Events. Subject to the terms of this Forbearance Agreement remaining effective throughout the remaining term of the TIF Agreement and for such period thereafter so as to ensure that the Town’s forbearance as described herein is not revoked, overturned or otherwise reversed in such a manner as to deprive TripAdvisor of the benefits it is being provided by this

Forbearance Agreement, TripAdvisor agrees to allow Town, through its Town Departments, to use those group spaces on the first floor of the Property (currently comprised of a large conference room that can be divided into two, another conference room, a pub, a game room and a central forum space), as well as its outdoor seating areas (collectively, the “TA Group Space”), to host up to four events or meetings annually, on dates and at times to be mutually agreed upon by TripAdvisor and the Town. TripAdvisor and the Town both agree to designate, and provide the other party with contact information for, a representative who has authority to arrange and facilitate matters associated with the Town’s use of the TA Group Space and necessary first floor facilities (e.g., bathrooms) within the Property for such events and meetings. Notwithstanding the foregoing, any use of the TA Group Space by the Town shall be subject to those health and safety rules in place at the time, with such use being limited to matters of public importance to the Town and the costs associated with food, beverage, technology, rentals, and security to be borne by the Town.

2. Speakers. TripAdvisor agrees to make available and provide at one or two of its senior executives to speak at an annual management training program for the Town’s Leadership Team, such annual management training program to be scheduled on dates and at times to be mutually agreed upon by TripAdvisor and the Town. TripAdvisor and the Town both agree to designate, and provide the other party contact information for, a representative who has authority to arrange and facilitate matters associated with the date and time of the annual management training program and the participation of such executive(s) at such program.

3. Travel Scholarships. Upon request of the Needham Superintendent of Schools made during the term when both the TIF Agreement and this Forbearance Agreement are in effect, TripAdvisor shall promote inclusive school programming by providing a one-time \$25,000 grant to the Needham Public Schools Department to ensure Needham Public School students in need of financial assistance can participate in school-sponsored travel.

4. Town’s Forbearance and TripAdvisor’s Forbearance. The Town agrees to forbear from seeking to reduce TripAdvisor’s tax exemption to 0% under the TIF Agreement for Fiscal Years 2022 and 2023. For so long as the Town forbears from reducing TripAdvisor’s tax exemption as described in the previous sentence, TripAdvisor agrees to forbear from seeking to exercise its right to claim it was not obligated to meet the requirements of the TIF Agreement for Fiscal Years 2022 and 2023 was not required (i.e., it was excused from performing such obligations) under Section 15 (Force Majeure) of the TIF Agreement. The Town and TripAdvisor each acknowledge and agree that (A) its forbearance hereunder shall not prejudice (or otherwise diminish) either parties’ underlying rights as described in the TIF Agreement, be it based on any statute of limitation or other defense (e.g., waiver or laches), all of which shall be deemed tolled during the period during which this Forbearance Agreement remains in effect.

5. No Assignment. This Forbearance Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided however that no party may assign this Forbearance Agreement or any rights hereunder without the other party's prior written consent and any prohibited assignment shall be absolutely void. Notwithstanding the foregoing, TripAdvisor may assign this Forbearance Agreement in connection with any merger, consolidation, reorganization, sale of all or substantially all of its assets or any similar transaction.

6. Governing Law. This Forbearance Agreement has been negotiated and accepted in, and shall be deemed to have been made in, the Commonwealth of Massachusetts and the validity of this Forbearance Agreement, its construction, interpretation and enforcement, and the rights of the parties hereunder, shall be determined under, governed by and construed in accordance with the laws (and not the law of conflicts) of the Commonwealth of Massachusetts.

7. Forbearance Not a Waiver. This Forbearance Agreement shall neither be deemed to effect an extension of the TIF Agreement (no extension of the TIF Agreement having been created by this Forbearance Agreement) nor establish any waiver of future obligations or waiver of defenses (including excusal for Force Majeure) of TripAdvisor under the TIF Agreement.

8. Severability. If any provision of this Forbearance Agreement shall be found invalid for any reason by a final, non-appealable decision of a court of competent jurisdiction, such invalidity shall be construed as narrowly as possible, and the balance of the Forbearance Agreement shall be deemed to be affected to the minimum extent necessary, so as to secure the purposes thereof. Notwithstanding the foregoing, where the Town's forbearance as described herein is deemed invalid or otherwise unenforceable, this Forbearance Agreement shall be deemed to have failed of its essential purpose and TripAdvisor shall be deemed released from its forbearance and entitled to raise defenses (including excusal due to Force Majeure) and/or take any other action to which it is entitled.

9. Counterparts. This Forbearance Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all of the counterparts shall constitute one and the same instrument.

10. Ratification. To the extent not otherwise modified herein, the TIF Agreement executed by each of the parties hereto is ratified and confirmed.

IN WITNESS WHEREOF, the parties have executed this Forbearance Agreement under seal as of the date first above written.

Town of Needham

By: _____

TripAdvisor LLC

By: _____


Matthew P. Gabler
VP, Workplace
2.17.22