

NEW BUSINESS

02/04/19

A.

**Vote to approve a Host Community
Agreement with Hidden Hemlock**

**Vote to approve a Development
Agreement with Hidden Hemlock**

HOST COMMUNITY AGREEMENT

This Host Community Agreement (this “HCA”) is entered into by and between the Town of Middleborough (the “TOWN”), a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts, acting through its Board of Selectmen (the “SELECTMEN”), and Hidden Hemlock, LLC, a Massachusetts limited liability company with a principal office address of 167 Stoney Cove Road, Cummaquid, MA (“LICENSEE”).

This HCA represents the understanding between the TOWN and LICENSEE (each a “PARTY” and, collectively, the “PARTIES”) with respect to the proposed use of a tract of land with improvements located at 370 Wareham Street, Middleborough, MA (the “PROPERTY”). The development of the PROPERTY is also subject to a Development Agreement (the “DEVELOPMENT AGREEMENT”), intended to provide benefits to the TOWN in order to secure approval for LICENSEE to develop and utilize the PROPERTY for its intended use as a licensed adult use marijuana microbusiness for cultivation and product manufacturing.

RECITALS

WHEREAS, LICENSEE plans to seek a microbusiness license from the Massachusetts Cannabis Control Commission (“CCC”) and, upon receipt of such license, to make a significant capital investment in the development of the PROPERTY for cultivation, harvest and non-retail sale of cannabis in compliance with the Massachusetts adult-use marijuana laws (the “FACILITY”); and

WHEREAS, the TOWN recognizes that development and operation of the FACILITY will benefit the TOWN and its citizens through increased economic development, additional employment opportunities for residents, the provision of benefits under the DEVELOPMENT AGREEMENT, and a strengthened local tax base; and

WHEREAS, the PARTIES agree and acknowledge that the TOWN has identified certain concerns with respect to the impact of the construction of the expanded and improved facilities on the PROPERTY, as well as their subsequent operation; and

WHEREAS, the PARTIES intend to enter into this HCA as a means of memorializing their obligations with respect to mitigation of these impacts, as well as their intention to collaborate to the fullest extent possible to ensure the proposed improvements and operations occur efficiently:

NOW, THEREFORE, in consideration of the mutual promises of the PARTIES contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the PARTIES hereby agree as set forth herein.

1. Each PARTY represents and warrants that:
 - a. It is duly organized and existing and in good standing, has the full power, authority, and legal right to enter into and perform this HCA, and the execution, delivery and performance hereof and thereof (i) will not violate any judgment, order, state law, bylaw, or regulation, and (ii) do not conflict with, or constitute a default under, any agreement or instrument to which it is a party or by which it may be bound or affected; and
 - b. This HCA has been duly authorized, executed and delivered by such PARTY, this HCA constitutes legal, valid and binding obligations of such PARTY, enforceable in accordance with its terms, there is no action, suit, or proceeding pending, or, to the knowledge of such PARTY, threatened against or affecting it wherein an unfavorable decision, ruling or finding would materially adversely affect the performance of any of its obligations hereunder, except as otherwise specifically noted in this HCA.
2. LICENSEE agrees it is required to seek and obtain a special permit from the Town's Planning Board, in accordance with the procedures and standards set forth in the Middleborough Zoning Bylaws. In accordance with the procedures set forth in G.L. c.44, §53G, the Planning Board may require LICENSEE to fund, to the extent necessary to review and analyze the special permit application for any proposed facility, the reasonable costs of the Planning Board's employment of outside consultants, including without limitation, engineers, architects, scientists and attorneys.
3. LICENSEE shall remit to the TOWN annual impact fees in accordance with M.G.L. Ch. 94G §(3)(d) in the amount of **1.75%** of the gross revenue derived BY LICENSEE from the sale of marijuana and marijuana-infused items produced at the Facility. This amount shall be delivered to the TOWN on a quarterly basis within ten days following the conclusion of each calendar quarter beginning with the first full calendar quarter following the commencement of the payment term (the date each such payment is due, a "PAYMENT DATE"). The payment term shall commence upon the issuance of a certificate of occupancy for the FACILITY. These payments or benefits shall be made payable to the TOWN at the direction of the Town Manager.
4. These payments shall remain in effect for the full duration of LICENSEE's use of the Facility for the purposes stated herein. Upon voluntary or involuntary termination of the use, and upon delivery to the TOWN of written notice of such termination, payments or benefits shall immediately cease; provided, however, that LICENSEE shall, within seven (7) days of such notice, pay to the TOWN the payments required as of the date of termination, which shall

be based upon gross revenue received since the immediately prior PAYMENT DATE to the date of such written notice.

5. LICENSEE acknowledges that time is of the essence with respect to performance of its obligations hereunder and that late payments shall be subject to interest at the rates prescribed by G.L. c. 59, §57.
6. LICENSEE is deeply committed to creating a non-discriminatory workplace and a welcoming work environment. Within those strictures, LICENSEE is also deeply committed to being a Good Neighbor to the TOWN. Therefore, where allowed by Federal, State and Municipal laws and regulations, a "Local Labor Hiring Preference" shall exist for all residents of the TOWN applying for employment by LICENSEE at the PROPERTY. That is, within the confines of the law, and all other factors being equal, LICENSEE shall reasonably seek to employ Middleborough residents before hiring other candidates for open positions.
7. LICENSEE commits to close, ready, and transparent cooperation with the Middleborough Police Department. LICENSEE therefore shall facilitate the reasonable provision of real-time access to the internal and external security camera footage feeds to the Chief of Police of the Town of Middleborough, or their designated agent within the Middleborough Police Department.
8. LICENSEE has committed to a Good Neighbor Policy regarding the TOWN. As an expression of this Policy, LICENSEE shall seek reasonable ways to contribute to the growth, development, and long-term success of the TOWN.
9. The LICENSEE's obligations under the terms of the DEVELOPMENT AGREEMENT are hereby incorporated by reference into this HCA.
10. This HCA may only be modified by the express written consent of both PARTIES.

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this HCA, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail, or sent by other reputable delivery service, to the other Party at the following addresses:

To Town:

Town Manager
10 Nickerson Avenue
Middleborough, MA 02346

Copy to:

Jonathan M. Silverstein
KP Law, PC
101 Arch Street
12th Floor
Boston, MA 02110

To Licensee:

General Manager
Hidden Hemlock LLC
c/o CT Corporation Systems
155 Federal Street, Suite 700
Boston, MA 02110

All notices, etc. shall be effective upon receipt. Each of the PARTIES shall have the right by notice to the other PARTY to designate additional persons to whom copies of notices must be sent, and to designate changes in address.

11. If and to the extent that either PARTY is prevented from performing its obligations hereunder by an event of *force majeure*, such party shall be excused from performing hereunder and shall not be liable in damages or otherwise, and the PARTIES shall instead negotiate in good faith with respect to appropriate modifications of the terms hereof. For purposes of this HCA, the term *force majeure* shall mean the supervening causes described here, each of which is beyond the reasonable control of the affected PARTY: acts of God, fire, earthquakes, floods, explosion, actions of the elements, war, terrorism, riots, mob violence, a general shortage of labor, equipment, facilities, materials, or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, laws or orders of any governmental or military authorities, or any other cause similar to the foregoing, not within the control of the PARTY obligated to perform such obligation.
12. Failure by LICENSEE to perform any non-monetary term or provision of this HCA shall not constitute a default under this HCA unless LICENSEE fails to commence to cure, correct or remedy such failure within thirty (30) days of receipt of written notice of such failure from the TOWN and thereafter fails to complete such cure, correction or remedy within ninety (90) days of the receipt of such written notice, or, with respect to defaults which cannot be remedied within such ninety (90) day period, within such additional period of time as is required to reasonable remedy such default, if LICENSEE is exercising due diligence in the remedying of such default.

13. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.
14. The failure of any party to strictly enforce the provisions hereof shall not be construed as a waiver of any obligation hereunder. This HCA can be modified only in a written instrument signed by the SELECTMEN and LICENSEE. This HCA shall be binding upon the PARTIES and their successors and assigns.
15. Excluding any Claims (as herein defined) caused by the gross negligence or willful misconduct of a TOWN INDEMNITEE, the LICENSEE shall indemnify, defend, and hold the TOWN harmless from and against any and all claims, demands, liabilities, actions, causes of action, defenses, proceedings and/or costs and expenses, including attorney's fees (collectively, the "Claims"), brought against the TOWN, its agents, departments, officials, employees and/or successors (each a "TOWN INDEMNITEE"), by any third party arising from or relating to this HCA. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and consultants of the TOWN's choosing incurred in defending such claims, actions, proceedings or demands. The LICENSEE agrees, within thirty (30) days of written notice by the TOWN, to reimburse the TOWN for any and all documented costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.
16. If any provision of this HCA is adjudicated to be invalid or unenforceable, this HCA shall be void and of no effect unless, prior to the expiration of thirty (30) days of any final judgment declaring such provision void, the TOWN's Board of Selectmen votes to ratify the HCA notwithstanding such adjudication. The LICENSEE agrees it will not challenge, in any jurisdiction, the enforceability of any provision included in this HCA; and to the extent the validity of this Agreement is challenged, the LICENSEE shall pay for all reasonable fees and costs incurred by the TOWN in defending such challenge; furthermore, the LICENSEE shall pay for all reasonable fees and costs incurred by the TOWN in enforcing this HCA if the Town prevails.
17. Based upon each and every one of the provisions and agreements of LICENSEE set forth herein, the TOWN agrees to promptly submit to the CCC all reasonable documentation and information required by the CCC for LICENSEE to obtain CCC approval to operate the FACILITY.
18. LICENSEE recognizes that the TOWN has agreed to the terms herein, including payment terms, based upon the LICENSEE's stated intent to seek only a microbusiness license from the CCC. This HCA does not authorize LICENSEE to seek or obtain a non-microbusiness license from the CCC. If at any point LICENSEE seeks to obtain any other type of license, LICENSEE shall be required to negotiate a new HCA with the TOWN.

Executed under seal this ____ day of _____, 2019.

TOWN OF MIDDLEBOROUGH:

Board of Selectmen

Leilani Dalpe, Chairman

John M. Knowlton, Vice-Chairperson

Allin Frawley, Member

Diane C. Stewart, Member

Neil Rosenthal, Member

HIDDEN HEMLOCK, LLC

Jeffrey W. Bellino, Manager
Duly Authorized

Gregory M. Bellino, Manager
Duly Authorized

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is entered into this ____ day of _____ 2019 by and between Hidden Hemlock, LLC, a Massachusetts limited liability company with a principal office address of 167 Stoney Cove Road, Cummaquid, MA (the "**Developer**"), and the Town of Middleborough, Massachusetts (the "**Town**"), acting by and through its Board of Selectmen, in reliance upon all of the representations made herein, a Massachusetts municipal corporation with a principal address of 10 Nickerson Avenue, Middleborough, MA. The Town and the Developer are hereafter referred to individually as a "**Party**" and, collectively, as the "**Parties**".

RECITALS

WHEREAS, the Developer wishes to locate and operate a licensed facility for the cultivation, manufacturing, processing and related transportation of cannabis (the "**Facility**"), at 370 Wareham Street, Middleborough, Massachusetts (the "**Property**").

WHEREAS, the Developer requires a letter of support or non-opposition and host community agreement from the Town to obtain: (1) Marijuana Establishment licenses from the Massachusetts Cannabis Control Commission ("**CCC**"); and/or (2) a license for cultivation and processing of medical marijuana from the Massachusetts Department of Public Health ("**DPH**") or Cannabis Control Commission, as the case may be;

WHEREAS, the Developer intends to provide certain benefits to the Town in the event that it receives the requisite licenses from the DPH and/or the CCC to operate the Facility pursuant to the licenses described above, and receives all required local permits and approvals from the Town;

WHEREAS, the Parties intend by this Agreement to satisfy the provisions of G.L. c.94G, Section 3(d);

WHEREAS, the Parties agree that the above Recitals are true and accurate and that they are incorporated herein and made a substantive part of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Local Permitting:

The Developer agrees that it shall apply for, and prior to commencing operations must receive, all necessary permits and approvals pursuant to the Town's Bylaws and Regulations. In accordance with the procedures set forth in G.L. c.44, §53G, any Town board or official from whom the Developer requires a permit or approval may require the Developer to fund the

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reasonable costs of such board's or official's employment of outside consultants, including without limitation, engineers, architects, scientists and attorneys, as reasonably necessary to consider the Developer's application.

2. Development Agreement Payments to the Town:

Developer agrees to provide the following Payments to the Town:

- A. Annual Development Fee: During the Term hereof, the Developer shall pay to the Town an annual fee equal to the sum of Two and 00/100 Dollars (\$2.00) per square foot of licensed mature canopy space, as defined by the CCC ("**Annual Development Fee**"); provided, further, that:
- i. The Annual Development Fee shall reflect a minimum payment for 1,000 s.f. of mature canopy space, or Two Thousand Dollars (\$2,000.00) ("**Minimum Annual Development Fee**" or "**MADF**").
 - ii. The Annual Development Fee shall be paid in four equal quarterly installments, commencing on the first day of the first full calendar quarter which is at least 90 days after the first Certificate of Full Operation or other final approval is issued by the CCC permitting the commencement of operations of the Facility or any part thereof that contains a cultivation canopy.
 - iii. Beginning on the first anniversary of the first payment due under the immediately prior provision, the Annual Development Fee and the MADF each shall escalate at the rate of Two and One Half Percent (2 ½ %) per year.
 - iv. The parties hereby recognize and agree that the Annual Development Fee to be paid by the Developer shall not be deemed an impact fee subject to the requirements or limitations set forth in G.L. c.94G, §3(d).
- B. Permit and Connection Fees: The Developer hereby acknowledges and accepts, and waives all right to challenge, contest or appeal, the Town's standard building permit and other permit application fees, sewer and water connection fees, and all other local charges and fees generally applicable and uniformly assessed to other commercial developments in the Town.
- C. Facility Consulting Fees and Costs: In accordance with the procedures set forth in G.L. c.44, §53G, the Developer shall reimburse the Town for any and all reasonable consulting costs and fees related to any application for a permit or other approval required for the Facility (including but not limited to special permit, site plan and zone change applications), negotiation of this and any other related agreements, and any review concerning the Facility, including planning,

engineering, legal and/or environmental professional consultants and any related reasonable disbursements at standard municipal rates charged by the above-referenced consultants in relation to the Facility. Such fees and costs shall be pre-funded upon request by the Town or reimbursed within fourteen (14) days following request by the Town, which shall provide reasonable documentation of the expense but shall not be required to provide privileged attorney client materials. Any excess funds shall be returned to the Developer.

- D. Other Costs: The Developer shall reimburse the Town for the reasonable costs incurred by the Town in connection with holding public meetings and forums substantially devoted to discussing the Facility and/or reviewing the Facility, provided that such meetings would not otherwise have been scheduled or held but for the discussion of the Facility.
- E. Late Payment Penalty: The Developer acknowledges that time is of the essence with respect to performance of its obligations hereunder and that late payments shall be subject to interest at the rates prescribed by G.L. c. 59, §57, which interest shall not begin to accrue until five business days following notice by the Town of non-payment and failure to cure. These payments or benefits shall be made payable to the TOWN at the direction of the Town Manager.
- F. Town's Obligations: In consideration for the Annual Development Fees set forth in Section A hereinabove, the Town shall, within the later of fourteen (14) days after written request by the Developer or two business days subsequent to the next regularly scheduled meeting of the Board of Selectmen execute and deliver to the Developer: (a) a non-opposition letter directed towards the DPH, CCC, or any successor agency; (b) a Host Community Agreement Certification Form and (c) a Host Community Agreement, which shall provide that the Licensed Marijuana Establishment pay a community impact fee to the Town in an amount equal to one and three-quarters percent (1.75%) of the gross sales as defined therein (the "**Community Impact Fee**").

3. Local Hiring and Vendors:

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Developer shall, in a legal and non-discriminatory manner and all other factors being materially equal, make good faith efforts to give priority to Town businesses, suppliers, contractors, builders and vendors located in the Town (including women-owned and minority-owned vendors) in the provision of goods and services called for in the construction, maintenance and continued operation of the Facility and, to the extent candidates meet the minimum reasonably required qualifications for a particular position, to hire Town residents for jobs in and related to the Facility. Such efforts shall include actively soliciting bids from Town vendors through local advertisements and direct contact, advertising any job expansion or hiring of new employees first to Town residents through local newspapers, internet sites and job boards a minimum of two (2) weeks before advertising through all typical regional

employment advertising outlets. The Developer also agrees to make good faith efforts to utilize women-owned and minority-owned vendors within the Town and the region.

4. Security:

To the extent requested by the Town's Police Department, and subject to the security and architectural review requirements of the DPH, CCC, or such other state licensing or monitoring authority, the Developer shall work with the Town's Police Department in determining the placement of exterior security cameras.

The Developer agrees to cooperate with the Town's Police Department, including but not limited to periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communications with the Police Department of any suspicious activities at or in the immediate vicinity of the Facility, and regarding any anti-diversion procedures.

To the extent requested by the Town's Police Department, the Developer shall work with the Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Facility. Such plan shall include, but is not limited to, (i) training the employees working at the Facility to be aware of, observe, and report any unusual behavior in authorized visitors or other employees of the Facility that may indicate the potential for diversion; and (ii) utilizing seed-to-sale tracking software to closely track all inventory at Facility.

5. Support:

The Town agrees to submit to the DPH, CCC, or such other state licensing or monitoring authority, as the case may be, in a timely manner in accordance with Section 2.F of this Agreement, a letter of support or non-opposition and certification of compliance with applicable local bylaws relating to the Developer's application for a license to operate the Facility subject only to the requirement that such applicant satisfies any applicable local permitting and approval requirements. With the exception of the specifics contained herein, the Town makes no representation or promise that it will act on any license or permit request, including, but not limited to any zoning application submitted for the Facility, in any particular way other than by the Town's normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

6. Term:

The provisions of this Agreement shall be applicable as long as the Developer, or any related or successor entity(s), operate the Facility at the Property.

7. Nullity:

In the event the Facility is no longer used for the cultivation or manufacture of medical or adult use marijuana, this Agreement shall become null and void; however, the Developer hereby acknowledges and agrees that it shall be responsible for any unpaid portion of the Annual Development Fee or the MADF, as applicable, prorated up to the date this Agreement becomes null and void, but in no event shall the Town be responsible for the return of any funds provided to it by the Developer.

8. Local Taxes:

At all times during the Term of this Agreement, property, both real and personal, shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid directly by the Developer or by a tenant or other assign or agent on behalf of the Developer, and the Developer shall not object or otherwise challenge the taxability of such property and shall not seek a non-profit or agricultural exemption or reduction with respect to such taxes.

9. Assignment/Change in Corporate Structure:

The Developer shall not assign, sublet or otherwise transfer their rights nor delegate their obligations under this Agreement, in whole or in part, without the prior written consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed, provided however such consent shall not be required in the event such transfer or assignment is between the Developer and another entity which is authorized by the CCC or other authorizing entity to operate the Facility for the same uses described herein, and shall not assign any of the moneys payable under this Agreement, except by and with the prior written consent of the Town, which consent shall not be unreasonably withheld or delayed.

10. Successors/Change in Control:

This Agreement is binding upon the Parties hereto, their successors and assigns. Subject to Section 12, neither the Town nor the Developer shall assign or transfer any interest in the Agreement or control of the Facility without the written consent of the other, however, such consent shall not be required for an assignment to any entity owned or controlled by the Developer.

11. Notices:

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail, or sent by other reputable delivery service, to the other Party at the following addresses:

To Town: Town Manager
 10 Nickerson Avenue
 Middleborough, MA 02346

Copy to:

Jonathan M. Silverstein
KP Law, PC
101 Arch Street
12th Floor
Boston, MA 02110

To Developer: General Manager
 Hidden Hemlock LLC
 c/o CT Corporation Systems
 155 Federal Street, Suite 700
 Boston, MA 02110

All notices, etc. shall be effective upon receipt. Each of the Parties shall have the right by notice to the other Party to designate additional persons to whom copies of notices must be sent, and to designate changes in address.

12. Severability:

If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless the other Party would be substantially or materially prejudiced. The Developer agrees it will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement; and to the extent the validity of this Agreement is challenged, the Developer shall pay for all reasonable fees and costs incurred by the Town in defending such challenge; furthermore, the Developer shall pay for all reasonable fees and costs incurred by the Town in enforcing this Agreement if the Town prevails.

13. Governing Law:

This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts. The Parties agree that Land Court, Suffolk Business Litigation Session or Plymouth County shall each serve as a proper forum for any litigation for the adjudication of disputes arising out of this Agreement.

14. Entire Agreement:

This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the Parties with respect to the matters described. This Agreement

supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

15. Retention of Regulatory Authority:

Except as specifically provided for herein, this Agreement does not affect, limit or control the authority of the Town, its boards, commissions, or departments to carry out their respective powers and duties to decide upon, and to issue or deny, applicable permits and other approvals under the statutes and regulations of the Commonwealth, the general and zoning bylaws of the Town or applicable regulations of those boards, commissions, and departments, or to enforce said statutes, bylaws, and regulations. Except as specifically provided for herein, the Town by entering into this Agreement is not thereby required or obligated to issue such permits and approvals as may be necessary for the Facility to operate in the Town or to refrain from enforcement action for violation of the terms of said permits, approvals or statutes, bylaws and regulations. Except as specifically provided for herein, the Facility remains subject to all applicable general and special state and local laws, bylaws, building, fire and other codes, rules and regulations, and the terms of this Agreement shall not relieve the Developer of any obligations they might have thereunder.

16. Indemnification:

Excluding any Claims (as herein defined) caused by the gross negligence or willful misconduct of the a Town Indemnitee, the Developer shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of action, defenses, proceedings and/or costs and expenses, including attorney's fees (collectively, the "Claims"), brought against the Town, its agents, departments, officials, employees and/or successors (each a "Town Indemnitee"), by any third party arising from or relating to the Property and/or Facility. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and consultants of the Town's choosing incurred in defending such claims, actions, proceedings or demands. The Developer agrees, within thirty (30) days of written notice by the Town, to reimburse the Town for any and all documented costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.

17. Amendments/Waiver:

Amendments or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by both Parties to this Agreement.

18. Headings:

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement.

19. **Counterparts:**

This Agreement may be signed in any number of counterparts, each of which is an original, and all of which taken together shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.

20. **Signatures:**

Facsimile signatures affixed to this Agreement shall have the same weight and authority as an original signature.

21. **No Joint Venture:**

The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the Town and the Developer, or the Town and any other successor, affiliate or corporate entity as joint ventures or partners.

22. **Third Parties:**

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Town or the Developer.

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

Executed under seal.

TOWN OF MIDDLEBOROUGH:

Board of Selectmen

Leilani Dalpe, Chairman

John M. Knowlton, Vice-Chairperson

Allin Frawley, Member

Diane C. Stewart, Member
653918

Neil Rosenthal, Member

HIDDEN HEMLOCK, LLC

Jeffrey W. Bellino, Manager
Duly Authorized

Gregory M. Bellino, Manager
Duly Authorized

NEW BUSINESS

02/04/19

B.

Peirce Store Building Update – Ted Eayrs

1 February 2019

48 Plymouth St
Middleborough, MA 02346

Board Of Selectmen
10 Nickerson Ave.
Middleborough, MA 02346

RE: Recommendations for the Pierce Building (Old Police Station)

Dear Board;

As stipulated in the Article 13 of the June 7, 2004 Town Meeting, the Police Station Building Committee is charged with the responsibility for investigating and providing recommendations for the future use of the old police station.

Within three months time, Chief Perkins will, in accordance with title VII, Chapter 40, Section 15A, give notice to you as the Board of Selectmen that the old station is no longer needed by the Police Department. With that notification the old station will be under your care, custody and control.

While the work of the **Police Station Building Committee** will be on going for at least a year, as we address those issues that concern the efficiency of and any problems associated with the new building on Wood Street, the Committee felt it important to convey to you our recommendations for the future of the Pierce Building. With these recommendations we wish to conclude our involvement in this portion of our charge.

1. There are compelling reasons for retaining the old station as town office space. In response to a communication sent to all town departments in 2017, we received several letters expressing interest in the building. These include re-locating

the Town **Veterans Affairs Office**, currently located the third floor of the Town Hall Annex. The **Park Department** is in critical need of equipment storage near the playground. The basement area of the old station would be ideal for this purpose and possibly save construction of additional garage space. The **Tourism Committee** has requested office for its activities. The **BoroBots** organization is also interested in relocating its current space in the Town Hall Annex. There has also been interest in establishing a **Veterans Museum** in the perimeter of the courtroom and also a **Cranberry Museum** on the first floor.

2. The relocation of the **Veterans Office** is very compelling in that it would open up expansion space in the Annex, which is now at capacity. Setting up cases of objects belonging to local veterans on the sides of the old courtroom would be an attractive addition, while leaving the center of that space open for meetings.
3. It has been determined that the **backup emergency generator** for the fuel depot, used by both police and fire departments as well as the fuel tanks themselves are located to the rear of the building and share the building's electricity. Establishing a new depot at a different location would be very expensive for the Town.
4. On several occasions the Committee discussed the importance of keeping the building occupied, which necessitates the formulation of a re-use plan immediately. Shutting down the building's plumbing and heating systems, would likely have a catastrophic effect on the fabric of the building, making future re-use more expensive.
5. The first floor of the Pierce Building can be upgraded with a minimum of effort, much of which can be phased in over time, while the building is in use. It was the opinion of the Committee that a comprehensive renovation would impose an unacceptable burden on the taxpayers and really is not required to make the building useable. Previous advertisements of the building's inadequacy were largely directed at its use as a police station and not for its continued use as office space.

6. Immediate needs include the completion of asbestos removal, which was started several years ago, installation of handicap bathrooms and an exterior handicap ramp. This work is included in a recent grant application and can be matched with funds already committed to the building.
7. A floor plan needs to be developed which would determine, based on the spatial needs of interested parties, how the building would be divided up. It is also the Committee's recommendation that the second floor remain unused for the present.
8. To manage and coordinate the renovation, it is recommended that the Board hire a project manager or consulting architect to oversee the work. Patrick Guthrie from Belmont MA, the architect who had a role in the previous proposal to renovate the existing station would be an obvious choice.

The Building Committee hopes that these recommendations are helpful to the Board in formulating a re-use plan for the Pierce Building. It goes without saying that this important historic structure is deserving of a plan that would augment its important role in the historic character of Middleborough's downtown.

Sincerely,

F. E. Eayrs

Frederick E. Eayrs, Chairman
Police Station Building Committee

NEW BUSINESS

02/04/19

C.

Vote to send a Cease & Desist on E.

Grove Street project, Assessors Map 065,

Lot 4791

Anders Martenson IV

20 Valley Road
Middleborough MA, 02346

508-989-5285

February 1, 2019

Town of Middleborough
Attn: Mr. Robert Nunes, Town Manager
10 Nickerson Avenue
Middleborough MA 02346

RE: 144 East Grove Street

Dear Mr. Nunes:

Thank you for meeting with me this week to discuss my operations at 144 East Grove Street, Middleborough, MA. It is my understanding that a cease and desist is on the agenda for the February 4, 2019 Meeting.

I would ask that any action on this matter be postponed until the next Selectmen's meeting on February 11, 2019. I am making this request because there several people/experts who would like to speak to this issue but are not unavailable on February 4, 2019.

Your consideration of this request is appreciated.

Very truly yours,

Anders Martenson, IV

A handwritten signature in black ink, appearing to read 'Anders Martenson', with a long horizontal flourish extending to the right.

NEW BUSINESS

02/04/19

D.

Vote to approve the 20th Annual Best buddies challenge to take place on June 1, 2019 and approve the route as indicated

BEST BUDDIES CHALLENGE
HYANNIS PORT

January 8, 2019

Colleen Lieb
Middleborough Town Hall
10 Nickerson Ave
Middleborough, MA 02346

Re: Best Buddies Challenge: Hyannis Port

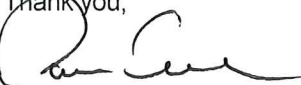
Dear Ms. Lieb,

The twentieth Annual *Best Buddies Challenge: Hyannis Port* is set to take place **Saturday, June 1, 2019**. This is the annual fund raising event that will raise money for Best Buddies International. Best Buddies is a nonprofit 501(c)(3) organization dedicated to establishing a global volunteer movement that creates opportunities for one-to-one friendships, integrated employment and leadership development for people with intellectual and developmental disabilities (IDD).

The Best Buddies Challenge - Hyannis Port is a 100 mile long bicycle ride starting in Boston and finishing at Craigville Beach in Hyannis Port. We also have a 50 mile start in Carver and a 20 mile start in Sandwich. Through my involvement with this event over the last fifteen years I recognize the support your communities offer to the safety of our ride. I have enclosed our route information regarding your town and we greatly appreciate your continued help. Police details are marked in the police column of the route notes and, as in the past, I will work with each department to hire the appropriate number of officers in the weeks to come. The number of riders participating in this event has been approximately 600 at the 100; 250 at the 50 and 200 at the 20. The cyclists will travel at their own pace; riders are required to wear helmets and abide by the rules of the road.

Should you have any questions or concerns, please contact me by phone at (508) 942-4621, email at curleypwts@aol.com, or mail to Paul Curley, 96 Partridge Cir. Taunton MA 02780. Please **sign this letter** acknowledging your awareness of our event and return it in the enclosed envelope by March 15th, 2019 so I may acquire the proper permitting from MADOT.

Thank you,



Paul Curley
Route Manger

Signature

Please print your name and title Date

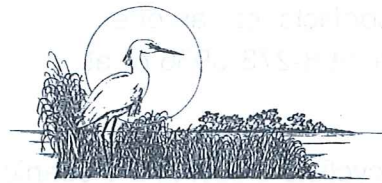
2019 Best Buddies Challenge							Approx	Approx
Go	To	Traffic	Police or	Direction	Location (roads of travel in Bold Italic)	Landmarks	Arrival	Arrival
(Mile)	(Mile)	Signs	Marshal				Fastest	Slowest
CARVER:								
0.7	48.4		M-2	straight	on <i>Rt 58 / Main St</i>	under US-44		
0.3	48.7		P	right	<i>access road for CVS Rest Stop #3, 50 MILE RIDE START (9:30am)</i>		9:10 AM	11:36 AM
0.2	48.9	ss	P	right	onto <i>Rt 58 / Main St</i>			
0.1	49.0	L	M-2	straight	onto <i>Rt 58 / N. Main St</i>			
0.4	49.4		M-1	bear right	onto <i>Forest St</i>			
0.1	49.5			bear right	onto <i>Fuller St</i>			
0.6	50.1			straight	on <i>Fuller St</i>	town line		
MIDDLEBOROUGH:								
0.3	50.4			straight	onto <i>Stone St</i>			
0.4	50.8	ss	M-2	left	onto <i>Wall St</i>			
0.9	51.7	ss	M-2	bear left	onto <i>Rocky Meadow St</i>			
0.5	52.2	ss	M-2	left	onto <i>Purchase St</i>			
0.3	52.5			right	onto <i>Carver St</i>			
0.7	53.2			right	onto <i>Popes Point Rd</i>			
0.2	53.4			straight	on <i>Popes Point Rd</i>	town line		
CARVER:								
1.2	54.6		M-2	left	onto <i>Meadow St</i>			
1.8	56.5	ss	M-1	right	onto <i>MA-58 S</i>			
0.8	57.3		P	left	onto <i>Mayflower Rd</i>		9:23 AM	12:03 PM
1.3	58.6	ss	M-1	right	onto <i>Tremont St</i>			
0.8	59.4		P	left	onto <i>Cranberry Rd</i>			
1.2	60.6			straight	on <i>Cranberry Rd</i>	Federal Rd on right		
1.6	62.2			left	onto <i>Lower College Pond Rd</i>	uphill, Ranger Station on R		
0.1	62.3			bear left	on <i>Lower College Pond Rd</i>	Halfway Pond Rd on right	9:39 AM	12:36 PM
PLYMOUTH:								
0.1	62.4			bear right	on <i>Lower College Pond Rd</i>	Bare Hill Rd on left		
1.8	64.2			straight	on <i>Lower College Pond Rd</i>	W Cranford Rd on right		
0.5	64.8		M-2	right	into College Pond Recreation Area <u>Rest Stop #4</u>	Myles Standish Forest	9:45 AM	1:07 PM
0.0	64.8			right	on <i>Lower College Pond Rd</i>			
0.3	65.1			bear left	on <i>Lower College Pond Rd</i>	Cranford Rd on right		
0.2	65.3			straight	on <i>Lower College Pond Rd</i>	Upper Col Pond Rd on right		
0.1	65.4			straight	onto <i>Alden Rd</i>			
1.7	67.1	ss	P	right	onto <i>Long Pond Rd</i>			
0.5	67.6	BL		straight	on <i>Long Pond Rd</i>	Plymouth South High Sch		
0.5	68.1		M-3	straight	on <i>Long Pond Rd</i>	Clark Rd (to exit 3/Rt 3)		
4.0	72.1			straight	onto <i>Hedges Pond Rd</i>			
1.6	73.7	ss	M-1	right	onto <i>Rte 3A South</i>			
0.1	73.8		M-2	straight	continue <u>left</u> past signs for Rte 3 exits to Boston and Cape Cod (right)	Herring Pond Rd, right	10:10 AM	1:36 PM

NEW BUSINESS

02/04/19

E.

Vote to approve the charity bike ride event, the 4th Annual Tour de Crème – on Sunday May 19, 2019 at 11:30 AM and approve the route as indicated



Mattapoisett Land Trust, Inc.



Friends of the Mattapoisett Bike Path

January 14, 2019

Robert Nunes
Middleborough Town Manager
Town Hall Building
10 Nickerson Ave.
Middleborough, MA 02346

Dear Mr. Nunes:

I am writing on behalf of the Mattapoisett Land Trust and the Friends of the Mattapoisett Bike Path to request permission to hold a charity bike ride event — the Fourth Annual Tour de Crème — on Sunday, May 19, 2019.

Starting from Mattapoisett, the event consists of four bike rides through Fairhaven, Acushnet, Freetown, Lakeville, Middleborough, and Rochester with rest stops at the area's creameries. It is a repeat of successful events held since 2016.

We expect 75-85 riders to be in Middleborough from approximately 11:30 am to 1:30 pm.

The 50-mile ride passes through Middleborough as shown on the enclosed route map. Riders will be coming from Lakeville on Long Point Rd. and then turn right on Marion Rd. towards Rochester. They will be well spread out.

We will orient riders with paper maps, a few notice boards placed at easy-to-miss turns (and removed immediately following the event), and discreet on-road markings similar to those used by local cycling clubs. We will have "ambassador" and "sweep" cyclists, dedicated support vehicles, a mobile bike repair van, and an event hotline to assist lost or stranded cyclists.

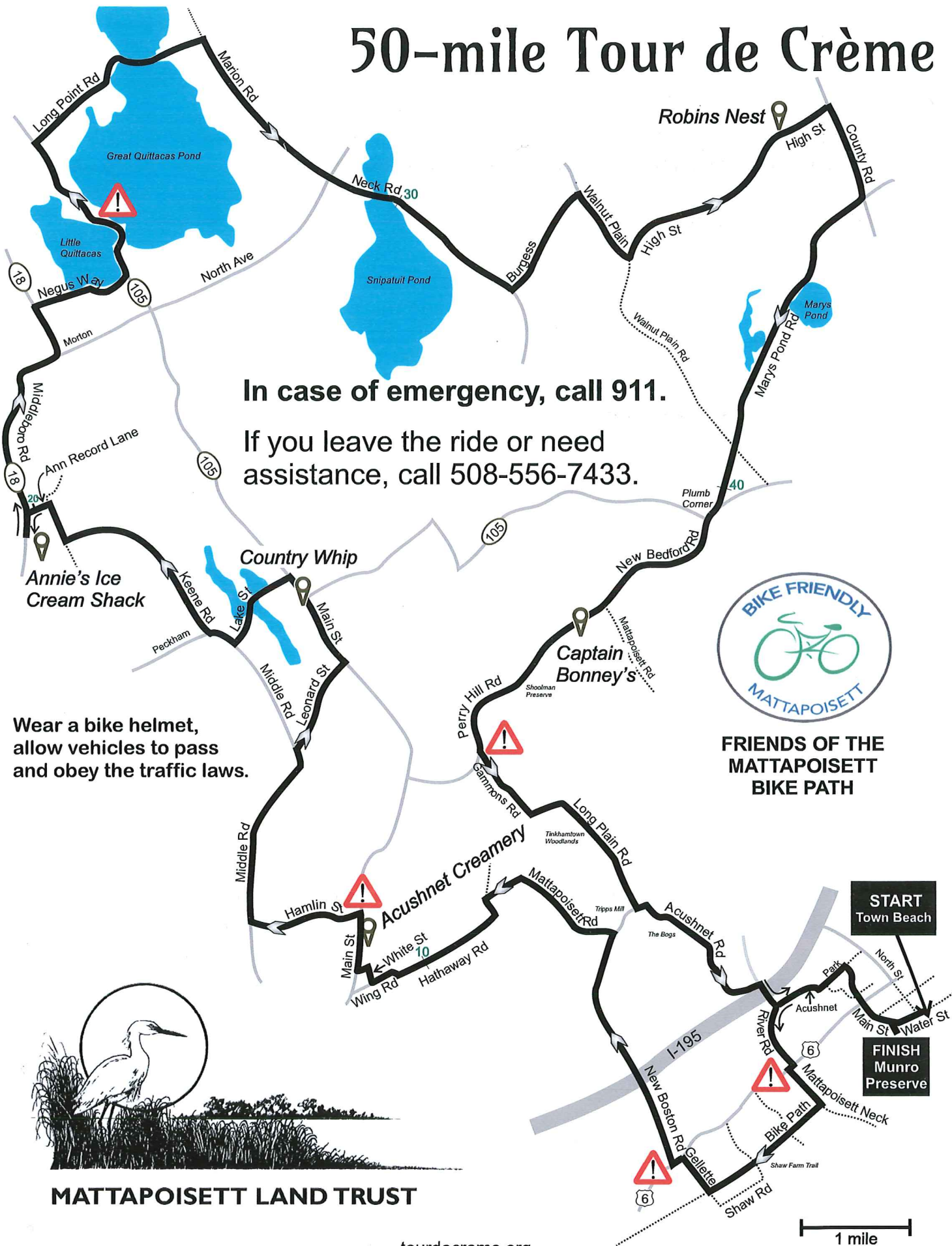
All participants will be required to wear helmets. They will be directed to call 911 in case of any medical emergency. We plan to go forward with the event in the event of showers or light rain but will cancel in the event of heavy rain, dense fog, or other dangerous conditions.

Proceeds from the event will benefit the Mattapoisett Land Trust and Friends of the Mattapoisett Bike Path, both of which are 501(c)(3) charitable organizations.

50-mile Tour de Crème

In case of emergency, call 911.

If you leave the ride or need assistance, call 508-556-7433.



NEW BUSINESS

02/04/19

F.

**Vote to approve the 5th Annual Bat Run
5k Road Race put on by the Jesse
Heikkila Foundation for Sunday,
September 15, 2019 starting at 10 AM
and approve the route as indicated**

Jesse Heikkila Foundation
“Knocking Out Neuroblastoma”

January 30, 2019

Ms. Leilani Dalpe, Chairman
Town of Middleborough Board of Selectmen
10 Nickerson Avenue
Middleboro, MA 02346

RE: Jesse Heikkila Foundation
5K Road Race

Dear Ms. Dalpe:

The Jesse Heikkila Foundation is a volunteer-run 501(c)(3) organization whose mission is to raise awareness for childhood cancer and raise funds for childhood cancer research. It was founded in 2014 in memory of Jesse Heikkila, a Middleboro resident who was diagnosed with Stage 4 Neuroblastoma at the age of three years old. With the support of Middleboro and the surrounding community, Jesse and his family fought this cancer. Unfortunately, Jesse died in January 2014. Jesse’s family founded the organization with the hope that they might raise money for childhood cancer research so that other children and their families do not have to go through what Jesse and his family did.

Since the organization’s inception in July 2014, we have raised more than \$225,000.00 for childhood cancer research, thanks to the generosity and support of our community.

In accordance with the Jesse Heikkila Foundation’s mission, we are seeking approval to conduct the Fifth Annual Bat Run 5K Road Race fundraiser through the Town of Middleborough on Sunday, September 15, 2019. The race will begin at Peirce Playground, through the center of town, past the high school, and back to Peirce Playground. **Please note that this route starts and ends at a different location than in prior years.**

We would appreciate your approval and support of our fundraiser. Please sign the enclosed Event Notification Form and return it to the Jesse Heikkila Foundation at the address below.

If you have any questions or require any further information, please feel free to contact me at (774) 766-1188.

Very truly yours,

Diane C. Stewart, Clerk
Jesse Heikkila Foundation

Encl. (as stated)

JESSE HEIKKILA FOUNDATION
THE BAT RUN
5K ROAD RACE
SUNDAY, SEPTEMBER 15, 2019

Start: Peirce Playground
26 Jackson Street

Straight onto Lincoln Street;

Right onto Wareham Street;

Straight onto Center Street;

Left onto Pearl Street;

Left onto Union Street;

Right onto Nickerson Avenue;

Right onto South Main Street / MA Route 105;

Left onto East Grove Street / MA Route 28;

Left onto Fairview Street;

Left onto Wareham Street;

Right onto Lincoln Street;

End: Peirce Playground
26 Jackson Street

EVENT NOTIFICATION FORM

January 30, 2019

Dear Sir/Madam,

Please be advised that the Town of Middleboro has notified the Board of Selectmen, Local Police/Fire Department, and if applicable, the State Police, of its intention to conduct a road race in the Town of Middleboro.

The Board of Selectmen understands that it must give the Police and Fire Departments at least 48 hours notice before the commencement of the proposed work or event.

The Grantee must supply a Traffic Management Plan when the roadway is occupied and for all detours associated with said events to this Department and to all officials listed below. The Grantee must notify the local and/or State Police to set up a detour of this area with appropriate signs and barricades. The local Fire Department must be notified of the detour to ensure that measures will be taken to minimize disruption to the Fire Department's emergency service during the event. The Grantee must also notify local media (newspapers, radio) of the proposed event.

The following signatures are required prior to the issuance of the Permit. All officials listed below shall assume all responsibility and liability for all activity associated under their jurisdiction.

LOCAL POLICE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

FIRE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

BOARD OF SELECTMEN

Signed: _____

Title: _____

City/Town: _____

STATE POLICE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

NEW BUSINESS

02/04/19

G.

Vote to request the Comcast Engineering Department to make the switch to allow the MCCAM channel to be aired in Lakeville on Friday evening (3/22/19) before the auction (3/23/19 & 3/24/19) and then switch back Monday morning (3/25/19) after the auction



**Town of Middleborough
Permanent Cable Committee**

To: Board of Selectmen
From: Robert W. Silva, Permanent Cable Committee Chairman
Date: January 25, 2019
Re: Middleborough/Lakeville Rotary Cable Auction

Board of Selectmen,

This is to notify you that the Middleborough Permanent Cable Committee (PCC) received a request from the Middleborough/Lakeville Rotary Club to once again have their annual cable auction cablecast on Comcast on LakeCam's access channel.

The auction is scheduled to air LIVE the weekend of March 23 & 24, 2019.

On Wednesday, January 16, 2019, the PCC voted to allow our Comcast access channel to be aired in Lakeville for the weekend of the auction. As you know, the Selectmen are the Issuing Authority for the Town and therefore any requests to Comcast need to come from the Board.

The PCC & the Rotary Club would like to have a vote from the Board of Selectmen to request the Comcast engineering department to make the switch to allow the MCCAM channel to be aired in Lakeville the Friday night before the auction and then switch back Monday morning after the auction. Karen Foye will send the request to Comcast if it is approved and voted by the Selectmen.

If you have any question, please contact Karen Foye at MCCAM, 774-766-6350 or kfoye@mccam02346.com

Thank You

Robert W. Silva, Chairman
Permanent Cable Committee

NEW BUSINESS

02/04/19

H.
FY '20 Budget Presentation