

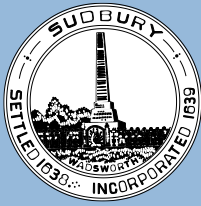
SUDBURY BOARD OF SELECTMEN
TUESDAY OCTOBER 4, 2016
7:30 PM, TOWN HALL - LOWER LEVEL

Item #	Time	Action	Item
	7:30 PM		CALL TO ORDER
			Opening remarks by Chairman
			Reports from Town Manager
			Selectmen Announcements
			Citizen's comments on items not on agenda
PUBLIC HEARING			
1.	8:00 PM	<i>VOTE / SIGN</i>	Vote to approve New Officer Thavaree Ngamsettam as partner of the corporation and to approve a Transfer of Stock of 20% of shares in the corporation from Christopher Segur to Thavaree Ngamsettam and 5% of shares in the corporation from Christopher Segur to Tharaneer Rojthanasirivanich for PTT Restaurant, Inc. d/b/a Chili Basil Restaurant at 385 Boston Post Road.
2.	8:15 PM	<i>VOTE / SIGN</i>	As the Local Licensing Authority, vote on whether to approve the application of Da Vinci Bistro LLC, d/b/a Da Vinci Bistro, 457 Boston Post Rd., Sudbury, for a Restaurant License for the Sale of All Alcoholic Beverages, under G. L. Ch. 138, s.12, Jaswant Singh, Manager.
MISCELLANEOUS			
3.		<i>VOTE</i>	Discuss and possibly vote on further revision of the RFP documents relative to the sale of the former Police Station as suggested by Facilities Director and approved by Town Counsel. James Kelly, Facilities Director, to attend.
4.		<i>VOTE</i>	Discussion and possible vote concerning Special Town Meeting Article 6, Artificial Turf Replacement at Lincoln-Sudbury Regional High School. Superintendent Bella Wong to attend.
5.		<i>VOTE</i>	Prepare for Special Town Meeting on Oct. 17, 2016, and vote to take positions on all warrant articles.
6.		<i>VOTE</i>	Discussion and possible vote on request for Lights on Afterschool proclamation.
7.		<i>VOTE</i>	Review draft BOS meeting schedule for 2017, and possibly vote to approve schedule.
8.			Discussion on Goodnow Library parking lot.

These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Item #	Time	Action	Item
9.		<i>VOTE</i>	Discussion and possible vote concerning BOS meeting practices, including Selectmen's Announcements and the Consent Calendar agenda.
10.			Citizen's Comments (Cont)
11.			Discuss future agenda items
CONSENT CALENDAR			
12.		<i>VOTE</i>	Vote to Grant a Special Permit to SMILE Mass, to Hold the "Gobble Wobble for SMILE MASS" on Saturday November 19, 2016, from 10:00 A.M. through approximately 12:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race's conclusion.
13.		<i>VOTE</i>	Vote to approve the regular session minutes of 9/20/16.
14.		<i>VOTE</i>	Vote to approve a request dated Sept. 28, 2016 from Rebecca McEnroe, P.E., Superintendent of Sudbury Water District, to grant permission for one 32 ft. temporary office trailer at 199 Raymond Road, from October 2016 through October 2018, subject to approval of the Building Inspector.

These agenda items are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

PUBLIC HEARING

1: Chili Basil Change of Manager and Stock Transfer

REQUESTOR SECTION

Date of request:

Requestor: PTT Restaurant, Inc. d/b/a Chili Basil

Formal Title: Vote to approve New Officer Thavaree Ngamsettam as partner of the corporation and to approve a Transfer of Stock of 20% of shares in the corporation from Christopher Segur to Thavaree Ngamsettam and 5% of shares in the corporation from Christopher Segur to Tharaneer Rojthanasirivanich for PTT Restaurant, Inc. d/b/a Chili Basil Restaurant at 385 Boston Post Road.

Recommendations/Suggested Motion/Vote: Vote to approve New Officer Thavaree Ngamsettam as partner of the corporation and to approve a Transfer of Stock of 20% of shares in the corporation from Christopher Segur to Thavaree Ngamsettam and 5% of shares in the corporation from Christopher Segur to Tharaneer Rojthanasirivanich for PTT Restaurant, Inc. d/b/a Chili Basil Restaurant at 385 Boston Post Road. No alterations to the premises are planned. The premises (i.e, 385 Boston Post Road) are described as follows: one floor with kitchen, dining area, office, sidewalk dining area; one entrance on south side and one entrance on north side.

Background Information:
Please see application attached.

Financial impact expected:\$150 Application Fee

Approximate agenda time requested: 15 minutes

Representative(s) expected to attend meeting: Tharaneer Rojthanasirivanich, Partner and Pavarisa Doucette, Manager

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

Chili Basil Change of Manager & Stock Transfer Application

Department Feedback

Board of Health Approval:

From: Murphy, Bill
Sent: Friday, September 09, 2016 1:05 PM
Subject: RE: Chili Basil Alcohol Application

The Board of Health **DOES NOT HAVE ANY ISSUES** with this application.

William C. Murphy, MS,RS,CHO
Director of Public Health

Building Department Approval:

From: Herweck, Mark
Sent: Monday, September 12, 2016 8:17 AM
Subject: RE: Chili Basil Alcohol Application

Hi Leila, The Building Department has **NO ISSUES** with Chili Basil.

Thank you.

Fire Department Approval:

From: Whalen, John
Sent: Friday, September 09, 2016 1:57 PM
Subject: RE: Chili Basil Alcohol Application

Hello Leila,

The Fire Department has **NO ISSUES** with this application.

John M. Whalen
Assistant Fire Chief

Police Department Approval:

From: Nix, Scott
Sent: Sunday, September 11, 2016 4:09 PM
Subject: RE: Chili Basil Alcohol Application

Leila,

The police department **DOES NOT HAVE AN ISSUE** with the change.

Respectfully,
Scott Nix
Chief of Police



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please complete Name of Licensee and Application Contact sections completely, leaving no fields blank.

NAME OF LICENSEE (Business Contact)	PTT RESTAURANT, INC.		
ABCC License Number	125000022	City/Town of Licensee	SUDBURY

APPLICATION CONTACT			
The application contact is required and is the person who will be contacted with any questions regarding this application.			
First Name:	THAVAREE	Middle:	
		Last Name:	NGAMSETTAMAS
Title:	Employee	Primary Phone:	[REDACTED]
Email:	[REDACTED]		

AMENDMENT OPTIONS

Please check off all of the amendments for which you are applying below. You will only be required to complete the sections of this amendment application that correspond to the amendments you check. Next to each amendment is the page that you will find the necessary application questions to complete. Please see the instructions page for additional required documents based on transaction.

If there are ANY financial considerations for the transactions for which you are applying, you must complete the financial section on page 2 of this application.

- Change in Business Contact Information - Page 2
This is only to change a mailing or business address (corporate headquarters, NOT premises address), phone number or email.
- Change of Manager - Page 3
- Alteration of Premises / Change of Location - Page 4
- Change of Beneficial Interest / Transfer or Issuance of Stock - Page 5
- Pledge of Collateral (License, Inventory, Beneficial Interest) - Page 6
- Change of Corporate Name - Page 6
- Change of DBA - Page 6
- Change of Corporate Structure (i.e. Corporation to LLC, Sole Proprietor to LLC) - Page 6
- Change of Category (i.e. Wine and Malts to All Alcohol) - Page 6
- Change of Class (i.e. Seasonal to Annual) - Page 6
- Change of Type (i.e. Restaurant to General on Premises) - Page 6

APPLICATION FOR MULTIPLE AMENDMENTS

FINANCIAL INFORMATION

Complete this section if there are financial consideration for any of the amendments for which you are applying.

Associated Cost:

A. Purchase Price for Building/Land	<input type="text"/>
B. Purchase Price for any Business Assets	<input type="text"/>
C. Costs of Renovations/Construction	<input type="text"/>
D. Purchase Price of Inventory	<input type="text"/>
E. Initial Start-Up Costs	<input type="text"/>
F. Other (Please specify)	<input type="text"/>
G. Total Cost (Add lines A-F)	<input type="text"/>

Please note, the total amount of Cash Investment (top right table) plus the total amount of Financing (bottom right table) must be equal to or greater than the Total Cost (line G above).

You are required to provide all documents relating to financing and/or loans you receive for this transaction

Please provide information about the sources of cash and/or financing for this transaction

Source of Cash Investment

Name of Contributor	Amount of Contribution
Total:	<input type="text"/>

Source of Financing

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
Total:			<input type="text"/>

BUSINESS CONTACT

Complete this section ONLY if there are changes to the Licensee phone number, business address (corporate headquarters), or mailing address. If you are changing your premises location, you must also complete the premises section on page 4.

Primary Phone: Fax Number:

Alternative Phone: Email:

Business Address (Corporate Headquarters)

Street Number: Street Name:

City/Town: State:

Zip Code: Country:

Mailing Address

Check here if your Mailing Address is the same as your Business Address

Street Number: Street Name:

City/Town: State:

Zip Code: Country:

APPLICATION FOR MULTIPLE AMENDMENTS

MANAGER CONTACT

Complete this section if you are requesting a change of manager. The Manager Contact is the individual who will have day-to-day, operational control over the liquor license.

Form fields for Manager Contact: Salutation, First Name (PAVARISA), Middle Name, Last Name (DOUCFTTE), Suffix, Social Security Number, Date of Birth, Primary Phone, Email, Mobile Phone, Place of Employment (CHILI BASIL), Alternative Phone, Fax Number.

Citizenship / Residency / Background Information of Proposed Manager

Form fields for Citizenship/Residency/Background: Do you have direct, indirect, or financial interest in this license? (Yes/No), If yes, percentage of interest, If yes, please indicate type of interest (checkboxes for Officer, Stockholder, LLC Member, Partner, Contractual, Management Agreement, Sole Proprietor, LLC Manager, Director, Landlord, Revenue Sharing, Other).

Please indicate how many hours per week you intend to be on the licensed premises: 40

Employment Information of Proposed Manager

Please provide your employment history for the past 10 years

Table with 5 columns: Date(s), Position, Employer, Address, Phone. Rows include employment from 2012-Present (SERVER at CHILI BASIL), 2011-2012 (INTERNSHIP at BRIGHAM AND WOMEN'S HOSPITAL), JULY-DEC 2011 (PER DIEM at WALNUT STREET CENTER), 2007-2011 (SUPERVISOR at SUGAR & SPICE), and 2005-2006 (PERSONAL CARE ATTENDANT at PORTLAND CENTER FOR ASSISTANCE).

Prior Disciplinary Action of Proposed Manager

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Table with 5 columns: Date of Action, Name of License, State, City, Reason for suspension, revocation or cancellation.

APPLICATION FOR MULTIPLE AMENDMENTS

PREMISES INFORMATION

Please complete this section if you are altering your premises or changing your premises location.
Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:
 City/Town: State: Zip Code:
 Country:

Description of Premises

Please provide a complete description of the premises, 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.

Floor Number	Square Footage	Number of Rooms	Patio/Deck/Outdoor Area Total Square Footage
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises Landlord Name
 Lease Beginning Term Landlord Phone
 Lease Ending Term Landlord Address
 Rent per Month
 Rent per Year

If leasing or renting the premises, a signed copy of the lease is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol: Yes No

APPLICATION FOR MULTIPLE AMENDMENTS

CHANGE IN BENEFICIAL INTEREST / TRANSFER or ISSUANCE OF STOCK

CURRENT OWNERSHIP (Before Change in Beneficial Interest)

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license. This pertains to the current licensee (before change in beneficial interest occurs).

Table with 4 columns: Name, Title / Position, % Owned, Other Beneficial Interest. Rows include Tharanee Rojthanasirivanich (Partner, 75%), Christopher A. Segur (LLC Manager, 25%), Christopher A. Segur (Director, 25%), and Supachai Pochaitong (Director).

PROPOSED OWNERSHIP (After Change in Beneficial Interest)

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the licensee's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

- A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Table with 4 columns: Name, Title / Position, % Owned, Other Beneficial Interest. Rows include Tharanee Rojthanasirivanich (Partner, 80%), Thavaree Ngamsettam (Partner, 20%), Pavarisa Doucette (LLC Manager), and Supachai Pochaitong (Director).

APPLICATION FOR MULTIPLE AMENDMENTS

AMENDMENT APPLICATION FOR:

Change of Corporate Name, Change of DBA, Change of Legal Structure, Change of Class, Change of Category

Please check the amendment that you are applying for and complete the corresponding section. Please refer to the requirements page for required documents.

PLEDGE INFORMATION

Are you seeking approval for a pledge? Yes No

To whom is the pledge is being made:

Please indicate what you are seeking to pledge (check all that apply)

License Stock / Beneficial Interest Inventory

Does the lender have a beneficial interest in this license? Yes No

Does the lease require a pledge of this license? Yes No

Change of Corporate Name

This is the License Entity Name or the Business Contact

Last-Approved Corporate Name:

Requested New Corporate Name:

Change of DBA

Last-Approved DBA:

Requested New DBA:

Change of Corporate Structure

LLC, Corporation, Sole Proprietor, etc

Last-Approved Corporate Structure:

Requested New Corporate Structure:

Change of License Category

All Alcohol, Wine and Malt, Wine Malt and Cordials

Last-Approved License Category:

Requested New License Category:

Change of License Class

Seasonal or Annual

Last-Approved License Class:

Requested New License Class:

Change of License Type*

i.e. Restaurant to Club
Package: Store to Supermarket

Last-Approved License Type:

Requested New License Type:

CAN NOT change from an on-premise to an off-premises license type.

APPLICANT'S STATEMENT

I, THARANEE ROJTHANASIRIVANICH the: sole proprietor; partner; corporate principal; LLC/LLP member
Authorized Signatory

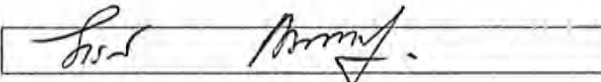
of PTT RESTAURANT, INC., hereby submit this application for CHANGE OF MANAGER, TRANSFER OF STOCK
Name of the Entity/Corporation Transaction(s) you are applying for

(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 statement 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 does not violate any requirement of the ABCC or other state law or local ordinances;
- (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 Application information 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.

Signature:



Date:

08/30/2016

Title:

PRESIDENT

CERTIFICATE OF VOTE

PTT RESTAURANT, INC.

This certifies that at a meeting of the Board of Directors of PTT Restaurant, Inc. on July 11, 2016 at 385 Boston Post Road, Sudbury, Massachusetts, a quorum being present and voting throughout, the following Vote was taken and remains in full force and effect:

“Voted: to elect Thavaree Ngamsettam as Treasurer and Secretary of the corporation, effective upon approval of the Sudbury Licensing Board and the Massachusetts Alcohol Beverages Control Commission; and”

“Voted: to approve the transfer of 200 shares of stock in the corporation from Christopher Allen Segur to Thavaree Ngamsettam for the price of \$1.00, also effective upon approval of the Sudbury Licensing Board and the Massachusetts Alcohol Beverages Control Commission.”

Attested and signed this 29 day of July, 2016.



Tharanee Rojthanasirivanich, President

PTT Restaurant, Inc.

WARRANTY BILL OF SALE

Known all men by these presents, that Christopher Allen Segur ("Seller") for and in consideration of One dollar does hereby grant, sell, assign, transfer and convey to Thavaree Ngamsetthamas ("Buyer"), all right, title and interest in and to following:

800 shares of common stock in PTT Restaurant, Inc., a Massachusetts corporation.

To have and to hold in all singular, the herein described stock is conveyed unto the Buyer and her heirs, successors and assigns forever.

The seller hereby warrants and confirms unto Buyer that Seller has a good right to sell the stock conveyed hereby. Seller does hereby bind himself to indemnify, warrant and forever defend title to the stock unto Buyer, from and against the lawful claims and demands of all person whomsoever.

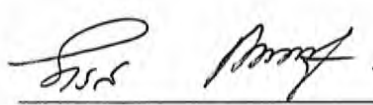
This Bill of Sale and the provisions herein contained shall be binding upon and inure to benefit of the Buyer and Seller and their respective heirs, successors and assigns.

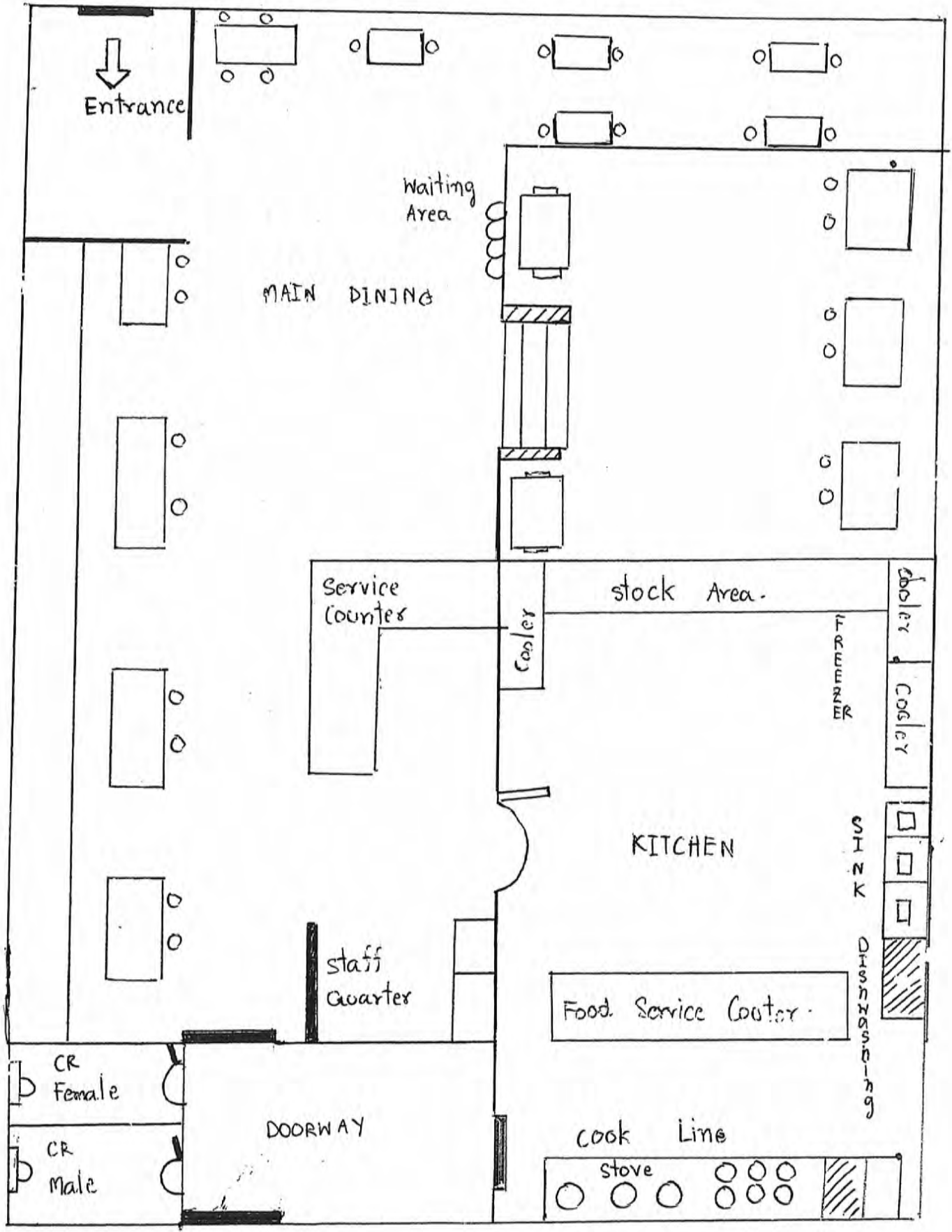
In witness whereof, this instrument has been executed under seal by Seller as of this 27 day of July, 2016.

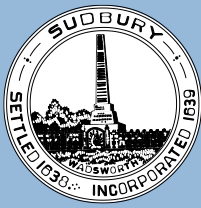
Witness:



Christopher A. Segur







SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

PUBLIC HEARING

2: Da Vinci Bistro All Alcohol Restaurant License

REQUESTOR SECTION

Date of request:

Requestor: Da Vinci Bistro LLC d/b/a Da Vinci Bistro

Formal Title: As the Local Licensing Authority, vote on whether to approve the application of Da Vinci Bistro LLC, d/b/a Da Vinci Bistro, 457 Boston Post Rd., Sudbury, for a Restaurant License for the Sale of All Alcoholic Beverages, under G. L. Ch. 138, s.12, Jaswant Singh, Manager.

Recommendations/Suggested Motion/Vote: As the Local Licensing Authority, vote on whether to approve the application of Da Vinci Bistro LLC, d/b/a Da Vinci Bistro, 457 Boston Post Rd., Sudbury, for a Restaurant License for the Sale of All Alcoholic Beverages, under G. L. Ch. 138, s.12, Jaswant Singh, Manager. The premises proposed to be licensed (i.e., 457 Boston Post Road) is a one story, 2,541 square foot restaurant.

Background Information:
Please see application and license quotas attached.

Financial impact expected:\$3650 License & Application Fees

Approximate agenda time requested: 15 minutes

Representative(s) expected to attend meeting: Darius Zywina, Owner; Jaswant Singh, Manager

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

Sudbury Alcohol License Quota & Availability

ABCC QUOTA of Licenses: 32 Total

Section 12: Restaurant All Alcohol: 18 Restaurant Wine & Malt: 5
 Section 15: Package Store All Alcohol: 4 Package Store Wine & Malt: 5



Licenses ISSUED:

Restaurant All Alcohol: 14 Restaurant Wine & Malt: 5
 Package Store All Alcohol: 4 Package Store Wine & Malt: 3

Licenses AVAILABLE:

Restaurant All Alcohol: 4	Restaurant Wine & Malt: 0
Package Store All Alcohol: 0	Package Store Wine & Malt: 2

ALCOHOL LICENSEES

RESTAURANT/CLUB (Section 12)		PACKAGE STORE (Section 15)	
			
All Alcohol	Wine & Malt	All Alcohol	Wine & Malt
Acapulcos	Chili Basil	Duck Soup	Sudbury Craft Beer
American Legion Post #191	Franco's Trattoria	New Kippy's	Sperry's Wine
Bosse Sports & Health Club	Oishii Too Sushi Bar	Stony Brook	Sudbury Farms
Bullfinch's	Paani-Pure Indian Cuisine	Sudbury Wines, Spirits	1- Available
Conrad's	Rossini's	None Available	2- Available
Da Vinci Bistro – PENDING	None Available		
El Basha			
Fugakyu Café			
Lavender Asian Cuisine			
Longfellow's Wayside Inn			
Lotus Blossom			
No. 29 Sudbury			
Soul of India			
Victory Cigar Bar			
1- Available			
2- Available			
3- Available			
4- Available			
Quota:	18	5	4
Total Issued:	14	5	4
Available:	4	0	0

Attachment 2.a: Alcohol License Quotas (1985 : Da Vinci Bistro All Alcohol Restaurant License)

Da Vinci Bistro All Alc Restaurant License Application Department Feedback

Board of Health Approval:

From: Murphy, Bill
Sent: Friday, September 09, 2016 1:52 PM
Subject: RE: New License Application: Da Vinci Bistro

The Board of Health **DOES NOT HAVE ANY ISSUES** with the application subject to compliance with 105 CMR 590.000 Minimum Sanitation Standards for Food Establishments. Inspections are on-going.

William C. Murphy, MS,RS,CHO
Director of Public Health

Building Department Approval:

From: Herweck, Mark
Sent: Friday, September 09, 2016 2:50 PM
Subject: RE: New License Application: Da Vinci Bistro

Hi Leila, I have **NO ISSUES AT THE PRESENT**. The restaurant is under construction. They must have all Building Inspections completed and Fire department & Board of Health approvals before I will issue the CO.

Thank you.

Fire Department Approval:

From: Whalen, John
Sent: Monday, September 12, 2016 8:09 AM
Subject: RE: New License Application: Da Vinci Bistro

Hello Leila,
The Fire Department has **NO ISSUES** with his application at this time.
John M. Whalen
Assistant Fire Chief

Police Department Approval:

From: Nix, Scott
Sent: Sunday, September 11, 2016 4:08 PM
Subject: RE: New License Application: Da Vinci Bistro

Leila,
The police department **DOES NOT HAVE AN ISSUE** with the application.
Respectfully,
Scott Nix
Chief of Police

2.c

Packet Pg. 19



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
 www.mass.gov/abcc

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF PROPOSED LICENSEE (Business Contact)

This is the corporation or LLC which will hold the license, not the individual submitting this application. If you are applying for this license as a sole proprietor, not an LLC, corporation or other legal entity, you may enter your personal name here.

2. RETAIL APPLICATION INFORMATION

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license New Transfer or the transfer of an existing license?

If transferring, please indicate the current ABCC license number you are seeking to obtain:

If applying for a new license, are you applying for this license pursuant to special legislation?

Yes No Chapter Acts of

If transferring, by what method is the license being transferred?

3. LICENSE INFORMATION / QUOTA CHECK

City/Town On/Off-Premises

TYPE	CATEGORY	CLASS
<input type="text" value="§12 Restaurant"/>	<input type="text" value="All Alcoholic Beverages"/>	<input type="text" value="Annual"/>

4. APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name: Middle: Last Name:

Title: Primary Phone:

Email:

5. OWNERSHIP Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the licensee's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
 B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
 C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Jaswant Singh	LLC Manager	33.33	
Dariusz Zywna	LLC Manager	33.34	

For additional space, please use next page

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

2.c

Packet Pg. 20

5. OWNERSHIP (continued)

Name	Title / Position	% Owned	Other Beneficial Interest
Harkamaljit Singh	LLC Manager	33.33	

6. PREMISES INFORMATION

Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:

City/Town: State: Zip Code:

Country:

Description of Premises

Please provide a complete description of the premises, 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.

Floor Number	Square Footage	Number of Rooms
1	2,541	5

Patio/Deck/Outdoor Area Total Square Footage

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises Landlord Name

Lease Beginning Term Landlord Phone

Lease Ending Term Landlord Address

Rent per Month

Rent per Year

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.

Please indicate if the terms of the lease include payments based on the sale of alcohol: Yes No

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

7. BUSINESS CONTACT

The Business Contact is the proposed licensee. If you are applying as a Sole Proprietor (the license will be held by an individual, not a business), you should use your own name as the entity name.

* Please see last page of application for required documents based on Legal Structure *

Entity Name: FEIN:

DBA: Fax Number:

Primary Phone: Email:

Alternative Phone: Legal Structure of Entity

Business Address (Corporate Headquarters) Check here if your Business Address is the same as your Premises Address

Street Number: Street Name:

City/Town: State:

Zip Code: Country:

Mailing Address Check here if your Mailing Address is the same as your Premises Address

Street Number: Street Name:

City/Town: State:

Zip Code: Country:

Is the Entity a Massachusetts Corporation? Yes No

If no, is the Entity registered to do business in Massachusetts? Yes No

If no, state of incorporation

Other Beneficial Interest

Does the proposed licensee have a beneficial interest in any other Massachusetts Alcoholic Beverages Licenses? Yes No *If yes, please complete the following table.*

Name of License	Type of License	License Number	Premises Address

Prior Disciplinary Action:

Has any alcoholic beverages license owned by the proposed licensee ever been disciplined for an alcohol related violation?

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

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

7. MANAGER CONTACT

The Manager Contact is required and is the individual who will have day-to-day, operational control over the liquor license.

Salutation First Name Middle Name Last Name Suffix

Social Security Number Date of Birth

Primary Phone: Email:

Mobile Phone: Place of Employment

Alternative Phone: Fax Number

Citizenship / Residency / Background Information of Proposed Manager

Do you have direct, indirect, or financial interest in this license? Yes No

If yes, percentage of interest

If yes, please indicate type of Interest (check all that apply):

Officer Sole Proprietor

Stockholder LLC Manager

LLC Member Director

Partner Landlord

Contractual Revenue Sharing

Management Agreement Other

Have you ever been Manager of Record of a license to sell alcoholic beverages? Yes No

If yes, please list the licenses for which you are the current or proposed manager:

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

Employment Information of Proposed Manager

Please provide your employment history for the *past 10 years*

Date(s)	Position	Employer	Address	Phone
2013-Current	Owner	Soul of India Restaurant	103 Boston Post Rd, Sudbury, MA 01776	978-261-5790
2006-2013	Sous Chef	Da Vinci Restaurant	162 Columbus Ave, Boston, MA 02116	617-834-0915

Prior Disciplinary Action of Proposed Manager

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

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

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

9. FINANCIAL INFORMATION

Please provide information about associated costs of this license.

Associated Costs

A. Purchase Price for Building/Land	Lease
B. Purchase Price for any Business Assets	165,000
C. Costs of Renovations/Construction	175,000
D. Purchase Price of Inventory	36,000
E. Initial Start-Up Costs	36,000
F. Other (Please specify)	
G. Total Cost (Add lines A-F)	412,000

Please note, the total amount of **Cash Investment** (top right table) plus the total amount of **Financing** (bottom right table) must be equal to or greater than the **Total Cost** (line G above).

Please provide information about the sources of cash and/or financing for this transaction

Source of Cash Investment

Name of Contributor	Amount of Contribution
Dariusz Zywna	24,000
Jaswant Singh	24,000
Harkamaljit Singh	24,000
Total:	72,000

Source of Financing

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
Cambridge Savings Bank	340,000	No	N/A
Total:			340,000

10. PLEDGE INFORMATION

Are you seeking approval for a pledge? Yes No

To whom is the pledge is being made: Cambridge Savings Bank

Please indicate what you are seeking to pledge (check all that apply)

Does the lender have a beneficial interest in this license? Yes No

License Stock / Beneficial Interest Inventory

Does the lease require a pledge of this license? Yes No

APPLICANT'S STATEMENT

I, Dariusz Zywna the: sole proprietor; partner; corporate principal; LLC/LLP member
Authorized Signatory

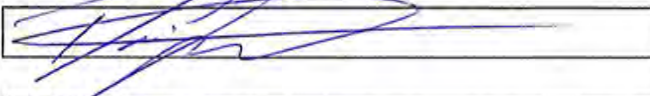
of Da Vinci Bistro LLC, hereby submit this application for Retail Alcoholic Beverages License (On Premise)
Name of the Entity/Corporation Transaction(s) you are applying for

(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 statement 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 does not violate any requirement of the ABCC or other state law or local ordinances;
- (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 Application information 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.

Signature:


Date: 08/31/2016

Title:

LLC Manager

APPLICANT'S STATEMENT

I, Jaswant Singh the: sole proprietor; partner; corporate principal; LLC/LLP member
Authorized Signatory

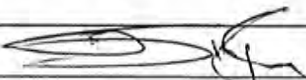
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- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

Signature:


Date: 08/31/2016

Title:

LLC Manager

APPLICANT'S STATEMENT

I, Harkamaljit Singh the: sole proprietor; partner; corporate principal; LLC/LLP member
Authorized Signatory

of Da Vinci Bistrot LLC, hereby submit this application for Retail Alcoholic Beverages License (On Premise)
Name of the Entity/Corporation Transaction(s) you are applying for

(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.

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- (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.

Signature: Harkamaljit Singh

Date: 08/31/2016

Title: LLC Manager

**ACTION BY MEMBERS AND MANAGERS OF
DA VINCI BISTRO, LLC
A MASSACHUSETTS LIMITED LIABILITY COMPANY**

The undersigned being all of the Members and Managers of Da Vinci Bistro, LLC, a Massachusetts Limited Liability Company

Do hereby take the following actions:

AUTHORIZE Jaswant Singh to sign the application submitted in the name of Da Vinci Bistro, LLC, and to execute in the LLC's behalf, any documents necessary and to do all things necessary to have the application for a new/transfer of license granted.

APPOINT Jaswant Singh of Da Vinci Bistro, LLC as its manager or principal representative, and hereby grant him with full authority and control of the premises described in the license and authority and control of the conduct to all business therein, as the licensee itself could in any way and exercise if it were a natural person residing in the Commonwealth of Massachusetts.


VOTED: That a copy of this action by voting members and managers of the Limited Liability Company be certified and delved red to the manager appointed or principal representative, shall constitute the written authority required by G. L. c. 138, §26.

It is hereby certified that all the Voting Members and Managers of Da Vinci Bistro, LLC, a Massachusetts Limited Liability Company, duly organized under the law of the Commonwealth of Massachusetts, are citizens of the United States and a majority are residents of the Commonwealth of Massachusetts.

The Limited Liability Company has not been dissolved.

Executed this 7th day of September, 2016

Managers:



DARIUSZ ZYWINA



JASWANT SINGH

Members



DARIUSZ ZYWINA



JASWANT SINGH



HARKAMALJIT SINGH

**OPERATING AGREEMENT FOR
DA VINCI BISTRO, LLC**

A MASSACHUSETTS LIMITED LIABILITY COMPANY

Agreement dated as of the 13 day of April, 2016 among DARIUSZ ZYWINA and JASWANT SINGH (the "Managers") and the persons identified as Members in Schedule A annexed hereto, made a part hereof and hereby incorporated herein by reference (each such person being individually referred to as a "Member" and collectively as the "Members").

Whereas, **DA VINCI BISTRO, LLC** (the "LLC") has been formed as a limited liability company under Chapter 156C of the Massachusetts General Laws by the filing on April 13, 2016, a Certificate of Organization in the office of the Secretary of State of the Commonwealth of Massachusetts ("the Certificate"); and

Whereas, the Manager and the Members wish to set out fully their respective rights, obligations and duties with respect to the LLC and its assets;

Now, therefore, in consideration of the mutual covenants herein expressed, the parties hereto hereby agree as follows:

ARTICLE I

Organization and Powers

- 1.01 Purpose.** The Company is formed for the object and purpose of, and the nature of the business to be conducted and promoted by the Company is, establishment of a RETAIL RESTAURANT FOOD SERVICE BUSINESS AND BAR as well as engaging in any lawful act or activity for which limited liability companies may be formed under the Act and engaging in any and all activities necessary, advisable, convenient, or incidental thereto. Such purpose shall include, without limitation, providing health care services in house to patients and all matters incidental thereto.
- 1.02 Organization.** The rights and liabilities of all the Members shall be determined pursuant to the Act and this Agreement. To the extent that the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control. The Managers shall file on April , 2016 (the "**Effective Date**") the Certificate and such other documents as are appropriate to comply with the applicable requirements for the operation of a limited liability company in accordance with the laws of any

jurisdictions in which the LLC shall conduct business and shall continue to do so as long as the LLC conducts business therein. By the approval of the Managers, the LLC may establish places of business within and without the Commonwealth of Massachusetts, as and when required by its business and in furtherance of its purposes set forth in Section 1.02 hereof, and may appoint agents for service of process in all jurisdictions in which the LLC shall conduct business. By the Approval of the Manager, the LLC may from time to time change its name, its resident agent for service of process, the location of its registered office and/or any other matter described in the Certificate; provided, however, that a change in the general character of the business of the LLC shall require the Approval of the Managers and the consent of the Members. The Managers shall have no obligation to deliver or mail a copy of the Certificate or any amendment thereto to the Members.

- 1.03** The name of the Company is **DA VINCI BISTRO, LLC**. The business of the Company may be conducted under that name or, upon compliance with applicable laws, any other name that the Managers deems appropriate or advisable. The Managers shall file, or shall cause to be filed, any fictitious name certificates or similar filings, and any amendments thereto, that the Managers considers appropriate or advisable.
- 1.04** **Principal Office/Resident Agent.** The Principal Office and the address of the Resident Agent of the Company shall initially be **490 Concord Road, Sudbury, Massachusetts 01776**. The Company may, in the discretion of the Managers, upon compliance with the applicable provisions of the Act, from time to time change its principal office or resident agent for service of process.
- 1.05** **Term.** The term of the Company shall be indefinite, subject to the limitations and condition of the statute or such date as shall be designated by the Managers unless sooner terminated as hereinafter provided.
- 1.06** **Powers.** Subject to all other provisions of this Agreement, in furtherance of the conduct of the business described in the Certificate, the LLC is hereby authorized:
- (a) To enter into, execute, modify, amend, supplement, acknowledge, deliver, perform and carry out contract of any kind, including operating agreements of limited liability companies, whether as a Member or Manager, contracts with Affiliated Persons, and including guarantees and joint venture, limited and general partnership agreements and contracts establishing business arrangements or organizations, necessary to, in connection with, or incidental to the accomplishment of the purposes of the LLC, and to secure the same by mortgages, pledges or other liens.
 - (b) To borrow money and issue evidences of indebtedness in furtherance of any or all of the purposes of the LLC, and to secure the

same by mortgages, pledges, or other liens.

(c) To the extent that funds of the LLC are available, to pay all expenses, debts and obligations of the LLC.

(d) To enter into or engage in any kind of activity necessary to, in connection with, or incidental to the accomplishment of the purposes of the LLC, so long as said activities may be lawfully carried on or performed by a limited liability company under the laws of the Commonwealth of Massachusetts.

(e) To take any other action not prohibited under the Act or other applicable law.

1.07 Designation of Managers. DARIUSZ ZYWINA and JASWANT SINGH are hereby designated as the Managers of the LLC. Except as provided in Section 7.05, any Person may be designated as a Manager at any time by the Approval of the then Managers with the Consent of the Members. A Manager's status as a Manager may be terminated at any time when there is at least one other Manager by the Approval of such other Manager with the Consent of the Members. No Manager may resign from, retire from, abandon or otherwise terminate his, her or its status as a Manager except after 60 days notice to all Members. If a Manager has given such notice, such Manager shall not unreasonably withhold his, her or its Approval of any proposed new Manager who has the Consent of the Members.

ARTICLE II

Capital Contributions and Liability of Members

2.01 Capital Accounts. A separate Capital Account shall be maintained for each Member, including any Member who shall hereafter acquire an interest in the LLC.

2.02 Capital Contributions.

(a) On the date of this Agreement, each of the Members has made a Capital Contribution to the LLC as set forth opposite his, her or its name in Schedule I.

(b) Except as set forth in Article III, no Member or Manager shall be entitled, obligated or required to make any Capital Contribution in addition to his, her or its Capital Contribution made under section 2.02(a), or any loan, to the LLC. No loan made to the LLC by any Member or Manager shall constitute a Capital Contribution to the LLC for any purpose.

2.03 No Withdrawal of or Interest on Capital. No Member shall have the right to resign and receive any distribution from the LLC as a result of such resignation, and no Member shall have the right to receive the return of all or any part of his, her or its Capital Contribution or Capital Account, or any other distribution, except

as provided in Sections 5.01, 5.02 and 9.02. No Member shall have any right to demand and receive property of the LLC in exchange for all or any portion of his, her or its Capital Contribution or Capital Account, except as provided in Sections 9.02 and 5.02 upon dissolution and liquidation of the LLC. No interest or prior or preferred return shall accrue or be paid on any Capital Contribution or Capital Account or any loan from a Member or Manager to the LLC, except pursuant to Sections 3.01, 5.01, 5.02 and 9.02.

2.04 Manager as a Member. A Manager may hold interests in the LLC as a Member.

2.05 Liability of Members. No Member, in his, her or its capacity as a Member, shall have any liability to restore any negative balance in his, her or its Capital Account or to contribute to, or in respect of, the liabilities or the obligations of the LLC, or to restore any amounts distributed from the LLC, except as may be required under the Act or other applicable law. In no event shall any Member, in his, her or its capacity as a Member, be personally liable for any liabilities or obligations of the LLC.

ARTICLE III

Additional Capital

3.01 Funding Capital Requirements.

(a) In the event that the LLC requires additional funds to carry out its purposes, to conduct its business, or to meet its obligations, the LLC may borrow funds from such lenders, including a Manager and Members, and on such terms and conditions as are approved by the Manager.

(b) No Member or Manager shall have any obligation to give notice of an existing or potential default of any obligation of the LLC to any of the Members or Managers, nor shall any Member or Manager be obligated to make any Capital Contributions or loans to the LLC, or otherwise supply or make available any funds to the LLC, even if the failure to do so would result in a default of any of the LLC's obligations or the loss or termination of all or any part of the LLC's assets or business.

3.02 Third Party Liabilities. The provisions of the Article II are not intended to be for the benefit of any creditor or other Person (other than a Member in his, her or its capacity as a Member) to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the LLC or any of the Members. Moreover, notwithstanding anything contained in this Agreement, including specifically but without limitation this Article III, no such creditor or other Person shall obtain any rights under this Agreement or shall, by reason of this Agreement, make any claim in

respect of any debt, liability or obligation (or otherwise) against the LLC or any Member.

ARTICLE IV

Distributions; Profits and Losses

4.01 Distribution of LLC Funds. Except as provided in Section 4.02, Section 4.09, and Section 4.10, all moneys received by the LLC, which are determined by Approval of the Manager to be available for distribution, shall be distributed to the Members as follows:

- (i) First, to the Members in proportion to their Adjusted Capital Contributions until their Adjusted Capital Contributions are reduced to zero; and
- (ii) Second, the balance to the Members in proportion to their respective Percentage Interests.

4.02 Distribution upon Dissolution. Proceeds from a Terminating Capital Transaction and amounts available upon dissolution, and after payment of, or adequate provision for, the debts and obligations of the LLC, and liquidation of any remaining assets of the LLC, shall be distributed and applied in the following priority:

- (i) First, to fund reserves for liabilities not then due and owing and for contingent liabilities to the extent deemed reasonable by Approval of the Manager, provided that, upon the expiration of such period of time as the Manager by Approval shall deem advisable, the balance of such reserves remaining after payment of such contingencies shall be distributed in the manner hereinafter set forth in this Section 4.02; and
- (ii) Second, to the Members, an amount sufficient to reduce the Members' Capital Accounts to zero, in proportion to the positive balances in such Capital Accounts (after reflecting in such Capital Accounts all adjustments thereto necessitated by (A) all other LLC transactions (distributions and allocations of Profits and Losses and items of income, gain, deduction, and loss) and (B) such Terminating Capital Transaction).

4.03 Distribution of Assets in Kind. No Member shall have the right to require any distribution of any assets of the LLC in kind. If any assets of the LLC are distributed in kind, such assets shall be distributed on the basis of their fair market value as determined by Approval of the Manager. Any Member entitled to any interest in such assets shall, unless otherwise determined by Approval of the Manager, receive separate assets of the LLC and not an interest as tenant-in-common, with other Members so entitled, in each asset being distributed.

4.04 Required Regulatory Allocations.

(a) **Limitation on and Reallocation of Losses.** At no time shall any allocations of Losses, or any item of loss or deduction, be made to a Member if and to the extent such allocation would cause such Member to have, or would increase the deficit in, any Adjusted Capital Account Deficit of such Member at the end of any fiscal year. To the extent any Losses or items are not allocated to one or more Members pursuant to the preceding sentence, such Losses shall be allocated to the Members to which such losses or items may be allocated without violation of this Section 4.04(a).

(b) **Minimum Gain Chargeback.** If there is a net decrease in the Minimum Gain of the LLC during any fiscal year, then items of income or gain of the LLC for such fiscal year (and, if necessary, subsequent fiscal years) shall be allocated to each Member in an amount equal to such Member's share of the net decrease in the Minimum Gain, determined in accordance with Regulations Section 1.704-2 (d) (1). A Member's share of the net decrease in the Minimum Gain of the LLC shall be determined in accordance with Regulations Section 1.704-2 (g). The items of income and gain to be so allocated shall be determined in accordance with Regulations Section 1.704-2 (j) (2) (i).

(c) **Nonrecourse Deductions.** Nonrecourse Deductions for any fiscal year or other period (not including, any Partner Nonrecourse Deductions allocated pursuant to Section 4.04(d)) shall be allocated among the Members in proportion to their respective Percentage Interests. Solely for purposes of determining each Member's proportionate share of the "excess nonrecourse liabilities" of the LLC, within the meaning of Regulations Section 1.752-3(a)(3), each Member's interest in LLC profits shall be equal to his, her or its Percentage Interest. The items of losses, deductions and Code Section 705(a)(2)(B) expenditures to be so allocated shall be determined in accordance with Regulations Section 1.704-2(j)(1)(ii).

(d) **Partner Nonrecourse Deductions.** Any Partner Nonrecourse Deductions for any fiscal year or other period shall be allocated to the Member who bears the economic risk of loss with respect to the nonrecourse liability, as determined and defined under Regulations Section 1.704-2(b)(4) to which such Partner Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1). The items of losses, deductions and Code Section 705(a)(2)(B) expenditures to be so allocated shall be determined in accordance with Regulations Section

1.704-2(j)(1)(ii).

(e) **Partner Minimum Gain Chargeback.** Notwithstanding any contrary provisions of this Article IV, other than Section 4.04(b) above, if there is a net decrease in Partner Minimum Gain attributable to Partner Nonrecourse Debt during any fiscal year, then each Member who has a share of such Partner Minimum Gain, determined in accordance with Regulations Section 1.704-2(i), shall be allocated items of income and gain of the LLC, determined in accordance with Regulations Section 1.704-2(j)(2)(ii), for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to each such Member's share of the net decrease in such Partner Minimum Gain, determined in accordance with Regulations Section 1.704-2(i)(3) and 2(i)(5).

(f) **Qualified Income Offset.** If any Member unexpectedly receives an item described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of income and gain shall be allocated to each such Member in an amount and manner sufficient to eliminate, as quickly as possible and to the extent required by Regulations Section 1.704-1(b)(2)(ii)(d), the Adjusted Capital Account Deficit of such Member, provided that an allocation pursuant to this Section 4.04(f) shall be made if and only to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 4.04(f) were not in the Agreement.

(g) **Basis Adjustment.** To the extent an adjustment to the adjusted tax basis of any LLC asset pursuant to either of Code Sections 734(b) or 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m) to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be allocated to the Members in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the Regulations.

(h) **Gross Income Allocation.** In the event any Member has a Capital Account deficit at the end of any LLC fiscal year, which is in excess of the sum of the items to be credited to a Member's Capital Account under clause (a) of the definition of Adjusted Capital Account Deficit, then each such Member shall be allocated items of income and gain in the amount of such excess as quickly as possible provided that an allocation pursuant to this Section 4.05(h) shall be made if and only to the extent that such Member would have a Capital Account deficit in excess of such sum after all other allocations provided for in this Article IV have been tentatively

made as if this Section 4.04(h) were not in this Agreement. As among Members having such excess if there are not sufficient items of income and gain to eliminate all such excesses, such allocations shall be made in proportion to the amount of any such excess.

(i) **Manager Share.** Any other provision of this Agreement notwithstanding, the Manager in the Manager's capacity as a Member shall at all times have allocated and distributed to them not less than an aggregate of 1% of each item of income, gain, loss, deduction and credit allocated or distributed hereunder.

4.05 Curative Allocations. The allocations set forth in Section 4.04 are intended to comply with certain requirements of Regulations Sections 1.704(b) and 1.704-2 and shall be interpreted consistently therewith. Such allocations may not be consistent with the manner in which the Members intend to divide LLC distributions and to make Profit and Loss allocations. Accordingly, by Approval of the Manager other allocations of Profits, Losses and items thereof shall be divided among the Members so as to prevent the allocations in Section 4.04 from distorting the manner in which LLC distributions will be divided among the Members pursuant to Section 4.01 and 4.02 hereof. In general, the Members anticipate that this will be accomplished by specially allocating other Profits, Losses and items of income, gain, loss and deduction among the Members so that the net amount of allocations under Section 4.04 and allocations under this Section 4.05 to each such Member is zero. However, the Manager shall have discretion to accomplish this result in any reasonable manner.

4.06 Allocation of Profits and Losses.

(a) After given effect to the allocations set forth in Sections 4.04 and 4.05, Profits shall be allocated in the following order and priority:

(i) First, to the extent Losses have previously been allocated pursuant to clauses (ii) or (iii) of Section 4.06(b) for any prior period, Profits shall be allocated to the Partners first to offset any Losses allocated pursuant to said clause (iii) of Section 4.06(b), and then to offset any Losses allocated pursuant to said clause (ii) of Section 4.06(b), (in each case pro rata among the Partners in proportion to their shares of the Losses to be offset under such clause), and to the extent any allocations of Losses are offset pursuant to this clause First, such allocations of Losses shall be disregarded for purposes of computing subsequent allocations pursuant to this clause First; and

(ii) Second, any remaining Profits shall be allocated among the Members in proportion to their respective Percentage Interests.

(b) After giving effect to the allocations set forth in Section 4.04 and 4.05, Losses shall be allocated in the following order and priority:

(i) First, to the extent Profits have previously been allocated pursuant to clause (ii) of Section 4.06(a) for any prior period, Losses shall be allocated to the Partners first to offset any Profits allocated pursuant to said clause (ii) of Section 4.06(a), (in each case pro rata among the Partners in proportion to their shares of the Profits to be offset under such clause), and to the extent any allocations of Profits are offset pursuant to this clause First, such allocations of Profits shall be disregarded for purposes of computing subsequent allocations pursuant to this clause First;

(ii) Second, Losses shall be allocated among the Members in proportion to the respective amounts of their capital contributions until the cumulative Losses allocated pursuant to this clause (ii) of Section 4.06(b) are equal to the aggregate amount of all such capital contributions; and

(iii) Third, any remaining Losses shall be allocated among the Members in proportion to their respective Percentage Interests.

4.07 Tax Allocations and Book Allocations. Except as otherwise provided in this Section 4.07, for federal income tax purposes, each item of income, gain, loss and deduction shall, to the extent appropriate, be allocated among the Members in the same manner as its correlative item of "book" income, gain, loss or deduction has been allocated pursuant to the other provisions of this Article IV.

In accordance with Code Section 704(c) and the Regulations thereunder, depreciation, amortization, gain and loss, as determined for tax purposes, with respect to any property whose Book Value differs from its adjusted basis for federal income tax purposes shall, for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the LLC for federal income tax purposes and its Book Value, such allocation to be made by Approval of the Manager in any manner which is permissible under said Code Section 704(c) and the Regulations thereunder and the Regulations under Code Section 704(b).

In the event the Book Value of any property of the LLC is subsequently adjusted, subsequent allocations of income, gain, loss and deduction with respect to any such property shall take into account any variation between the adjusted basis of such assets for federal income tax purposes and its Book Value in the manner provided under Section 704(c) of the Code and the Regulations thereunder.

Allocations pursuant to this Section 4.07 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

4.08 General Allocation and Distribution Rules.

(a) For purposes of determining the Profits, Losses, or any other items allocable to any period, Profits, Losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by Approval of the Manager using any permissible method under Code Section 706 and the Regulations thereunder. Except as otherwise provided in this Agreement, all items of income, gain, loss, and deduction shall be allocable among the Members in the same proportions as the profits or Losses for the fiscal year in which such item is included is allocated.

(b) Upon the admission of a new Member or the Transfer of an interest, the new and old Members or the transferor and transferee shall be allocated shares of Profits and Losses and other allocations and shall receive distributions, if any, based on the portion of the fiscal year that the new or transferred LLC interest was held by the new and old Members, or the transferor, and transferee, respectively. For the purpose of allocating Profits and Losses and other allocations and distributions, (i) such admission or Transfer shall be deemed to have occurred on the first day of the month in which it occurs, or if such date shall not be permitted for allocation purposes under the Code or the Regulations, on the nearest date otherwise permitted under the Code or the Regulations, and (ii) if required by the Code or the Regulations, the LLC shall close its books on an interim basis on the last day of the previous calendar month.

4.09 Tax Withholding. If the LLC incurs a withholding tax obligation with respect to the share of income allocated to any Member, (a) any amount which is (i) actually withheld from a distribution that would otherwise have been made to such Member and (ii) paid over in satisfaction of such withholding tax obligation shall be treated for all purposes under this Agreement as if such amount had been distributed to such Member, and (b) any amount which is so paid over by the LLC, but which exceeds the amount, if any, actually withheld from a distribution which would otherwise have been made to such Member, shall be treated as an interest-free advance to such Member. Amounts treated as advanced to any Member pursuant to this Section 4.09 shall be repaid by such Member to the LLC within 30 days after the Manager, acting by Approval, gives notice to such Member making demand therefor. Any amounts so advanced and not timely repaid shall bear interest, commencing on the expiration of said 30 day period, compounded monthly on unpaid balances, at an annual rate equal to the

Applicable Federal Rate as of such expiration date. The LLC shall collect any unpaid amounts from any LLC distributions that would otherwise be made to such Member.

4.10 Distributions to Cover Members' Tax Liability. The Manager shall, at a minimum, distribute to Members amounts intended to cover the potential federal, state or local tax obligations of such Members on account of the cumulative allocation to them of taxable income in excess of tax losses pursuant to this Agreement. For purposes of the foregoing, such federal, state and local tax obligations of each Member shall be assumed to equal the highest effective combined federal and state income tax rate applicable to any Member multiplied by each Member's Percentage Interest multiplied by the cumulative allocation to all Members of taxable income in excess of tax losses determined as described in the definition of Profits and Losses without the adjustments listed therein, with the result reduced by the cumulative amount previously distributed pursuant to this Section 4.10. Partial distributions made to the Members pursuant to this Section 4.10 shall be made in proportion to their respective amounts calculated under the previous sentence. For purposes of applying Section 4.10 to subsequent distributions to the Members, distributions made pursuant to this Section 4.10 shall be disregarded and shall not be deemed to have been made pursuant to Section 4.01.

ARTICLE V

Management

5.01 Management of the LLC. The overall management and control of the business and affairs of the LLC shall be vested in the Manager or, if there shall be more than one, in the Managers, acting by Approval of the Manager. All management and other responsibilities not specifically reserved to the Members in this Agreement shall be vested in the Manager, and the Members shall have no voting rights except as specifically provided in this Agreement. Each Manager shall devote, and shall cause its officers and directors, if any, to devote, such time to the affairs of the LLC as is reasonably necessary for performance by the Manager of his, her or its duties, provided such Persons shall not be required to devote full time to such affairs. The Manager shall have the right and power to manage, operate, and control the LLC, to do all things necessary or appropriate to carry on the business and purposes of the LLC, including without limitation the right:

- (a) to manage the business of the LLC, including through Persons employed by the LLC for such purpose;
- (b) to execute, deliver, make, modify or amend such documents and instruments, in the name of the LLC, as the Manager acting by Approval may deem necessary or desirable in connection with the management of

the business of the LLC or for other purposes of the LLC;

(c) to acquire, sell, transfer, assign, finance, convey, lease, mortgage or otherwise dispose of all or any part of the business of the LLC and/or all or any part of the assets of the LLC;

(d) to borrow money and otherwise obtain credit and other financial accommodations;

(e) to perform or cause to be performed all of the LLC's obligations under any agreement to which the LLC is a party, including without limitation, any obligations of the LLC or otherwise in respect of any indebtedness secured in whole or in part by, or by lien on, or security interest in, any asset(s) of the LLC;

(f) to employ, engage, retain or deal with any Persons to act as employees, agents, brokers, accountants, lawyers or in such other capacity as the Manager, acting by Approval may deem necessary or desirable;

(g) to appoint individuals to act as officers of the LLC and delegate to such individuals such authority to act on behalf of the LLC and such duties and functions as the Manager, acting by Approval, shall determine, including such duties as would normally be delegated to officers of a corporation holding similar offices;

(h) to adjust, compromise, settle or refer to arbitration any claim in favor of or against the LLC or any of its assets, to make elections in connection with the preparation of any federal, state and local tax returns of the LLC, and to institute, prosecute, and defend any legal action or any arbitration proceeding;

(i) to acquire and enter into any contract of insurance necessary or proper for the protection of the LLC and/or any Member and/or any Manager and/or any officers and/or directors of a Manager, including without limitation to provide the indemnity described in Section 5.05 or any portion thereof; and

(j) to establish a record date for any distribution to be made under Article IV; and

(k) to perform any other act which the Manager, acting by Approval, may deem necessary or desirable for the LLC or its business.

5.02 Binding the LLC. Any action taken by a Manager as a Manager of the LLC shall bind the LLC and any other Manager and shall be deemed to be the action of the LLC and of any other Manager. The signature of one Manager on any agreement, contract, instrument or other document shall be sufficient to bind the LLC in respect thereof and conclusively evidence the authority of such Manager and the LLC with respect thereto, and no third party need look to any other evidence or require joinder or consent of any other party.

5.03 Compensation of a Manager and a Member. No payment shall be made by the LLC to any Manager or Member for such Manager or Member's services as a Manager or Member except as provided in this Agreement. Each Manager shall

be entitled to reimbursement from the LLC for all expenses incurred by such Manager in managing and conducting the business and affairs of the LLC. The Manager, acting by Approval, shall determine which expenses, if any, are allocable to the LLC in a manner which is fair and reasonable to the Manager and the LLC, and if such allocation is made in good faith it shall be conclusive in the absence of manifest error.

5.04 Contracts with Affiliated Persons. With the Approval of the Manager and the Consent of the Members in each case, the LLC may enter into one or more agreements, leases, contracts or other arrangements for the furnishing to or by the LLC of goods, services or space with any Member, Manager or Affiliated Person, and may pay compensation thereunder for such goods, services or space, provided in each case the amounts payable thereunder are reasonably comparable to those which would be payable to unaffiliated Persons under similar agreements, and if the determination of such amounts is made in good faith it shall be conclusive absent manifest error.

5.05 Indemnification. Each Manager, and the officers, directors and shareholders of any Manager which is a corporation in accordance with applicable law and the articles of organization, by-laws and other governing documents of such corporation, shall be entitled to indemnity from the LLC for any liability incurred and/or for any act performed by them within the scope of the authority conferred on them, by this Agreement, and/or for any act omitted to be performed except for their gross negligence or willful misconduct, which indemnification shall include all reasonable expenses incurred, including reasonable legal and other professional fees and expenses. The doing of any act or failure to do any act by a Manager, the effect of which may cause or result in loss or damage to the LLC, if done in good faith to promote the best interests of the LLC, shall not subject the Manager to any liability to the Members except for gross negligence or willful misconduct.

5.06 Other Activities. The Members, Managers and any Affiliates of any of them may engage in and possess interests in other business ventures and investment opportunities of every kind and description, independently or with others, including serving as Managers of other limited liability companies and general partners of partnerships with purposes similar to those of the LLC. Neither the LLC nor any other Member or Manager shall have any rights in or to such ventures or opportunities or the income or profits therefrom.

ARTICLE VI

Fiscal Matters

6.01 Books and Records. The Manager shall keep or cause to be kept complete and accurate books and records of the LLC, using the same methods of accounting

which are used in preparing the federal income tax returns of the LLC to the extent applicable and otherwise in accordance with generally accepted accounting principles consistently applied. Such books and records shall be maintained and be available, in addition to any documents and information required to be furnished to the Members under the Act, at an office of the LLC for examination and copying by any Member or Manager, or such Member's or Manager's duly authorized representative, at such Member's or Manager's reasonable request and at such Member's or Manager's expense during ordinary business hours. A current list of the full name and last known address of each Member and Manager, a copy of this Agreement, any amendments thereto and the Certificate, including all certificates of amendment thereto, executed copies of all powers of attorney, if any, pursuant to which this Agreement, any amendment, the Certificate or any certificate of amendment has been executed, copies of the LLC's financial statements and federal, state and local income tax returns and reports, if any, for the three most recent years, shall be maintained at the registered office of the LLC required by Section 5 of the Act. Within 120 days after the end of each fiscal year of the LLC, each Member shall be furnished with financial statements which shall contain a balance sheet as of the end of the fiscal year and statements of income and cash flows for such fiscal year. Any Member may, at any time, at such Member's own expense, cause an audit or review of the LLC books to be made by a certified public accountant of such Member's own selection.

6.02 Bank Accounts. Bank accounts and/or other accounts of the LLC shall be maintained in such banking and/or other financial institution(s) as shall be selected by the approval of the Manager, and withdrawals shall be made and other activity conducted on such signature or signatures as shall be approved by the Manager.

6.03 Fiscal Year. The fiscal year of the LLC shall end on December 31 of each year.

6.04 Tax Matters Partner. The Manager is hereby designated as the "tax matters partner." At any time and from time to time if there is more than one Manager which is eligible under the Code to be a "tax matters partner," a "tax matters partner" may be designated by the Approval of the Manager. The "tax matters partner" is hereby authorized to and shall perform all duties of a "tax matters partner" under the Code and shall serve as "tax matters partner" until such Manager's resignation or until the designation of such Manager's successor, whichever occurs sooner.

ARTICLE VII

Transfers of Interests

7.01 General Restrictions on Transfer.

(a) No Member may transfer all or any part of such Member's interest as a Member of the LLC or otherwise withdraw from the LLC except as provided in Section 7.02 or with the Approval of the Manager, which may be withheld for any reason or for no reason.

(b) Every Transfer of an interest as a Member of the LLC permitted by this Article VII, including without limitation Transfers permitted by Sections 7.01(a), 7.02, 7.03, 7.04, shall nevertheless be subject to the following:

(i) No Transfer of any interest in the LLC may be made if such Transfer would cause or result in a breach of any agreement binding upon the LLC or of then applicable rules and regulations of any governmental authority having jurisdiction over such Transfer. The Manager, acting by Approval, may require as a condition of any Transfer that the transferor assume all costs incurred by the LLC in connection therewith and furnish an opinion of counsel, satisfactory to the LLC both as to counsel and opinion, that the proposed Transfer complies with applicable law, including federal and state securities laws, and does not cause the LLC to be an investment company as such term is defined in the Investment Company Act of 1940, as amended.

(ii) The Manager shall require, as a condition to the admission to the LLC as a Member of any transferee who is not otherwise a Member, that such transferee demonstrate to the reasonable satisfaction of the Manager that such transferee is not then under indictment and has not at any time been convicted of a felony and either is a financially responsible Person or has one or more financially responsible Persons who have affirmatively assumed the financial obligations of the transferee under this Agreement, if any, on such transferee's behalf. In addition, a transferee of an interest pursuant to Section 7.02 or Section 7.03, who is not otherwise a Member, shall not be admitted to the LLC as a Member without the Approval of the Manager, which may be withheld for any reason or for no reason, and such a transferee who is not so admitted need not be recognized by the LLC for any purpose and shall be entitled only to the rights which are required under the Act to be afforded to a transferee who does not become a Member.

(iii) Notwithstanding anything contained herein to the contrary, no interest as a Member of the LLC shall be transferred if, by reason of such Transfer, the classification of the LLC as an LLC for federal income tax purposes would be adversely affected or jeopardized, or if such transfer would have any other substantial adverse effect for federal income tax purposes.

(iv) In the event of any Transfer, there shall be filed with the LLC a duly executed and acknowledged counterpart of the instrument effecting such Transfer. The transferee, if any, shall execute such additional instruments as shall be reasonably required by the Manager. If and for so long as such instruments are not so executed and filed, the LLC need not recognize any such Transfer for any purpose, and the transferee shall be entitled only to the rights which are required under the Act to be afforded to a transferee who does not become a Member.

(v) Upon the admission or withdrawal of a Member, this Agreement (including without limitation Schedule I hereto) and/or the Certificate shall be amended appropriately to reflect the then existing names and addresses of the Members and Managers and their respective Percentage Interests.

(c) A transferor of an interest as a Member of the LLC shall, if the transferee is a Member hereunder or if the transferee becomes a Member pursuant to the provisions of this Agreement, be relieved of liability under this Agreement with respect to the transferred interest arising or accruing on or after the effective date of the Transfer (unless such transferor affirmatively assumes liability as provided in Section 7.01(b) (ii)).

(d) Any Person who acquires in any manner whatsoever an interest (or any part thereof) in the LLC, whether or not such Person has accepted and assumed in writing the terms and provisions of this Agreement or been admitted into the LLC as a Member as provided in Section 7.01(b), shall be deemed, by acceptance of the acquisition thereof, to have agreed to be subject to and bound by all of the obligations of this Agreement with respect to such interest and shall be subject to the provisions of this Agreement with respect to any subsequent Transfer of such interest.

(e) Any Transfer in contravention of any of the provisions of this Agreement shall be null and void and ineffective to transfer any interest in the LLC, and shall not bind, or be recognized by, or on the books of, the LLC, and any transferee or assignee in such transaction shall not be or be treated as or deemed to be a Member for any purpose. In the event any Member shall at any time Transfer an interest in the LLC in contravention of any of the provisions of this Agreement, then each other Member shall, in addition to all rights and remedies at law and equity, be entitled to a decree or order restraining and enjoining such transaction, and the offending Member shall not plead in defense thereto that there would be an adequate remedy at law; it being expressly hereby acknowledged and agreed that damages at law would be an inadequate remedy for a breach or threatened breach of the violation of the provisions concerning such transaction set forth in this Agreement.

7.02 Permitted Transfers. The following Transfers shall be permitted without the Approval of the Manager otherwise required under Section 7.01(a) above, but such permitted Transfers shall in any event be subject to Sections 7.01(b)-(e) hereof:

(a) An interest as a Member of the LLC may be Transferred from time to time as a part of any proceeding under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors, and subject to the requirements and provisions thereof.

(b) An interest as a Member of the LLC may be Transferred from time to time to any Legal Representative(s) and/or Affiliate(s) and/or Member(s) of the Immediate Family of the transferring Member.

7.03 Right of First Refusal.

(a) A Member may Transfer the whole or any portion of such Member's interest as a Member of the LLC without the Approval of the Manager otherwise required under Section 7.01(a) above (and such Transfer shall be a permitted Transfer in addition to those permitted under Section 7.02 and shall in any event be subject to Sections 7.01(b)-(e) hereof) if such Member (the "Offering Member") first obtains a Bona Fide Offer for the purchase of the entire interest to be Transferred and makes the interest which is the subject of the Bona Fide Offer available to the other Members on a first refusal basis upon the same terms and provisions as set forth in such Bona Fide Offer, in the manner hereinafter set forth.

(b) The Offering Member shall furnish a true and complete copy of the Bona Fide Offer to each other Member, together with full and fair disclosure of any material information available as to the proposed transaction and the parties thereto, and the other Members shall have a period of sixty days thereafter within which to elect, by written notice to the Offering Member (the "Exercise Notice"), to purchase the entire interest to be Transferred at the price (the "Purchase Price") and upon the terms set forth in the Bona Fide Offer. Each Exercise Notice shall contain a statement of the maximum percentage of the Offering Member's interest which the Member giving such notice wishes to purchase, and if such amounts do not total at least 100% of the Offering Member's interest which is the subject of the Bona Fide Offer, then no Member shall have the right to purchase any interest of the Offering Member.

(c) If there shall be a dispute as to the amount of the Offering Member's interest which any Member(s) may purchase pursuant to Section 7.03(b),

each Member participating in any such purchase (a "Purchasing Member") shall be entitled to purchase a pro rata amount of the Offering Member's interest based upon the Percentage Interest of such Purchasing Member in relation to the aggregate Percentage Interests held by all Members participating in such purchase, unless the Purchasing Members agree to purchase such interest based upon an allocation other than such pro rata allocation.

(d) If the interest of the Offering Member is being purchased by one or more Purchasing Members, the closing shall take place at the principal office of the LLC on the date specified for such closing, and as otherwise specified, in the Exercise Notice of the Purchasing Member who is purchasing the largest portion of such interest (which date shall not be earlier than ten nor more than thirty days after the delivery of such Exercise Notice to the Offering Member). At the closing, the Purchase Price shall be paid by the Purchasing Members upon the terms set forth in the Bona Fide Offer and the Offering Member shall execute and deliver such instruments as may be required to vest in the Purchasing Members (or the designee or designees thereof) the interest to be sold free and clear of all liens, claims and encumbrances. The Purchasing Members shall have the right to continue the business of the LLC after the closing and shall have the right to use any names used by the LLC in connection with its business. All information, trade secrets or confidential financial or other data of the LLC shall be the property of the LLC, and the Offering Member shall not disclose or use to the detriment of the Purchasing Members any confidential information, trade secrets or confidential financial or other data of the LLC; provided, however, that the Offering Member may make such disclosures as such Offering Member reasonably believes may be required by law, regulation, or rule of any governmental authority or any court order or other legal process.

(e) If the interest of the Offering Member shall not be purchased by Purchasing Member(s) as aforesaid, the Offering Member may sell such interest to the maker of the Bona Fide Offer, but only upon the terms and provisions originally set forth in the Bona Fide Offer, provided such sale satisfies the following requirements:

(i) Such sale is concluded within one hundred twenty days after the delivery to the offer of the Bona Fide Offer; and

(ii) The maker of the Bona Fide Offer shall enter into a valid and binding agreement the effect of which will be that any interest in the LLC which is so transferred shall continue to remain subject to the provisions of this Agreement with the same force and effect as if such Person had originally been a party hereto.

7.04 Special Rules for Managers.

(a) Sections 7.01, 7.02(a), 7.03, 7.05 and this Section 7.04, but not Section 7.02(b), shall apply to a Manager's interest as a Member in the LLC.

(b) No Manager who is also a Member may resign from, retire from, abandon or otherwise terminate such Manager's status as a Manager unless there is then at least one other Manager who is also a Member.

7.05 Continuation of the LLC. Notwithstanding a Transfer or other withdrawal from the LLC of a Member who is also a Manager, as to all of such Member's interest as a Member, the LLC shall not be dissolved and its affairs shall not be wound up, and it shall remain in existence as a limited liability company under the laws of the Commonwealth of Massachusetts, if the remaining Members, acting by Consent within ninety days thereafter, elect to continue the LLC and the business of the LLC and appoint, as of the date of such Transfer or withdrawal, one or more new such Managers.

ARTICLE VIII**Dissolution and Termination**

8.01 Events Causing Dissolution. The LLC shall be dissolved and its affairs wound up upon:

(a) The sale or other disposition of all or substantially all of the assets of the LLC, unless the disposition is a transfer of assets of the LLC in return for consideration other than cash and, by Approval of the Manager, a determination is made not to distribute any such non-cash items to the Members;

(b) A Transfer or other withdrawal of a Member who is also a Manager, as to all of such Member's interest as a Member, if there is no election pursuant to Section 7.05, to continue the LLC;

(c) The election to dissolve the LLC made in writing by the Approval of the Manager with the Consent of the Members;

(d) Any consolidation or merger of the LLC with or into any entity in which the LLC is not the resulting or surviving entity; or

(e) Upon the occurrence of an event specified under the laws of the Commonwealth of Massachusetts as one effecting dissolution, except that where, under the terms of this Agreement the LLC is not to terminate,

then the LLC shall immediately be reconstituted and reformed on all the applicable terms, conditions, and provisions of this Agreement. The LLC shall not be dissolved upon the death, insanity, retirement, resignation, expulsion, bankruptcy, dissolution or occurrence of any other event which terminates the Membership of a Member, except as provided in Section 8.01(b).

8.02 Procedures on Dissolution. Dissolution of the LLC shall be effective on the day on which the event occurs giving rise to the dissolution, but the LLC shall not terminate until the Certificate shall be canceled. Notwithstanding the dissolution of the LLC, prior to the termination of the LLC, as aforesaid, the business and the affairs of the LLC shall be conducted so as to maintain the continuous operation of the LLC pursuant to the terms of this Agreement. Upon dissolution of the LLC, the Manager acting by Approval, or if none, a liquidator elected by the Consent of the Members shall liquidate the assets of the LLC, apply and distribute the proceeds thereof under Section 4.02 of this Agreement, and cause the cancellation of the Certificate.

ARTICLE IX

General Provisions

9.01 Notices. Any and all notices under this Agreement shall be effective (a) on the fourth business day after being sent by registered or certified mail, return receipt requested, postage prepaid, or (b) on the first business day after being sent by express mail, telecopy, or commercial expedited delivery service providing a receipt for delivery. All such notices in order to be effective shall be addressed, if to the LLC at its registered office under the Act, if to a Member at the last address of record on the LLC books, and copies of such notices shall also be sent to the last address for the recipient which is known to the sender, if different from the address so specified.

9.02 Word Meanings. The words such as "herein", "hereinafter", "hereof", and "hereunder" refer to this Agreement as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

9.03 Binding Provisions. Subject to the restrictions on transfers set forth herein, the covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto, their heirs, Legal Representatives, successors and assigns.

9.04 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, including the Act, as interpreted by the courts of the Commonwealth of Massachusetts, notwithstanding any rules regarding choice of law to the contrary.

9.05 Counterparts. This Agreement may be executed in several counterparts and as so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all of the parties have not signed the original or the same counterpart.

9.06 Separability of Provisions. Each provision of this Agreement shall be considered separable. If for any reason any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid, and if for any reason any provision or provisions herein would cause the Members to be liable for or bound by the obligations of the LLC, such provision or provisions shall be deemed void and of no effect.

9.07 Section Titles. Section titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

9.08 Amendments. Except as otherwise specifically provided herein, including without limitation in Section 7.01(b) (v), this Agreement may be amended or modified only with the Approval of the Manager and the Consent of the Members. Specifically, and without limiting the generality of the foregoing, this Agreement may be amended to provide for Capital Contributions from, distributions to, and allocations of Profits and Losses to one or more additional classes of Members, with the Approval of the Manager and the Consent of the Members. Except as provided in Section 7.03, no Member shall have any preemptive, preferential or other right with respect to the issuance or sale of any Member interests or any warrants, subscriptions, options or other rights with respect thereto.

9.09 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to such subject matter.

9.10 Waiver of Partition. Each Member agrees that irreparable damage would be done to the LLC if any Member brought an action in court to dissolve the LLC. Accordingly, unless otherwise expressly authorized in this Agreement, each Member agrees that such Member shall not, either directly or indirectly, take any action to require partition or appraisal of the LLC or of any of the assets or properties of the LLC, and notwithstanding any provisions of this Agreement to the contrary, each Member (and such Member's successors and assigns) accepts the provisions of the Agreement as such Member's sole entitlement on

termination, dissolution and/or liquidation of the LLC and hereby irrevocably waives any and all right to maintain any action for partition or to compel any sale or other liquidation with respect to such Member's interest, in or with respect to, any assets or properties of the LLC; and each Member agrees that such Member will not petition a court for the dissolution, termination or liquidation of the LLC.

9.11 Survival of Certain Provisions. The Members acknowledge and agree that this Agreement contains certain terms and conditions which are intended to survive the dissolution and termination of the LLC, including, but without limitation, the provisions of Sections 2.05 and 5.05. The Members agree that such provisions of this Agreement which by their terms require, given their context, that they survive the dissolution and termination of the LLC so as to effectuate the intended purposes and agreements of the Members shall survive notwithstanding that such provisions had not been specifically identified as surviving and notwithstanding the dissolution and termination of the LLC or the execution of any document terminating this Agreement, unless such termination document specifically provides for non-survival by reference to this Section 9.12 and to specific non-surviving provisions.

ARTICLE X

Definitions

The following defined terms used in this Agreement shall have the meanings specified below:

"Accountants" means such firm of independent certified public accountants as may be engaged from time to time by the LLC.

"Act" means the Massachusetts Limited Liability Company Act, in effect at the time of the initial filing of the Certificate with the office of the Secretary of State of the Commonwealth of Massachusetts, and as thereafter amended from time to time.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal year, after giving effect to the following adjustments:

(a) credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(b) debit to such Capital Account the items described in Regulations

Section 1.704-1 (b)(2)(ii)(d)(4),(5) and (6).

The foregoing definition is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

"Adjusted Capital Contribution" means a Member's capital contribution to the LLC reduced by all distributions made to such Member under Section 4.01.

"Affiliated Person" or "Affiliate" means, with reference to a specified Person, any (i) Person who owns directly or indirectly 10% or more of the beneficial ownership in such Person; (ii) one or more Legal Representatives of such Person and/or any Persons referred to in the preceding clause (i); (iii) entity in which any one or more of such Person and/or the Persons referred to in the preceding clauses (i) and (ii) owns directly or indirectly 10% or more of the beneficial ownership.

"Agreement" means this Operating Agreement as it may be amended, supplemented, or restated from time to time.

"Approval" or "Approved" means the written consent or approval of the Manager or, if there is then more than one, of a majority of the Managers.

"Applicable Federal Rate" means the Applicable Federal Rate as that term is defined in Code Section 7872, whether the short-term, mid-term or long-term rate, as the case may be, as published from time to time by the Secretary of the Treasury based on average market yields for relevant recent periods.

"Bankruptcy" means any of the following:

(i) If any Member shall file a voluntary petition in bankruptcy, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors, or shall file any answer or other pleading admitting or failing to contest the material allegations of any petition in bankruptcy or any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief filed against such Member, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver, conservator, or liquidator of such Member or of all or any substantial part of his, her or its properties or his, her or its interest in the LLC (the term "acquiesce" as used herein includes but is not

limited to the failure to file a petition or motion to vacate or discharge any order, judgment, or decree within thirty days after such order, judgment or decree; or

(ii) If a court of competent jurisdiction shall enter in an order, judgment or decree approving a petition file against any Member seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state, or other statute or law relating to bankruptcy, insolvency, or other relief for debtors and such Member shall acquiesce in the entry of such order, judgment, or decree, or if any Member shall suffer the entry of an order for relief under title 11 of the United States Code and such order, judgment, or decree shall remain un-vacated and un-stayed for an aggregate of sixty days (whether or not consecutive) from the date of entry thereof, or if any trustee, receiver, conservator, or liquidator of any Member or of all or any substantial part of such Member's properties or such Member's interest in the LLC shall be appointed without the consent or acquiescence of such Member and such appointment shall remain un-vacated and un-stayed for an aggregate of sixty days (whether or not consecutive); or

(iii) If any Member shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors.

"Bona Fide Offer" means an offer which complies with the following conditions:

(i) The offer shall be in writing and shall constitute an agreement legally binding on the offeror without any material conditions precedent or right on the part of the offeror to withdraw the offer within ninety days;

(ii) The offeror shall be a financially responsible Person;

(iii) The offer shall be for a purchase solely for cash payable all at the time of sale; and

(iv) The offeror shall be a Person who has no prohibited relationship with the Offering Members. A "prohibited relationship" is any relationship of any kind whereby any Offering Members (and/or any Affiliates of any Offering Members) directly or indirectly has, or will have after the closing of the transaction, a financial interest greater than 10% in the offeror or the purchasing

Person. For this purpose, Affiliate shall include, in addition to the Persons specified in the definition thereof, as clause (iv) in such definition, all beneficial owners of the specified Person and all individuals related by blood or marriage to such beneficial owners.

"Book Value" means, with respect to any asset of the LLC, such asset's adjusted basis for federal income tax purposes, except that:

(i) the initial Book Value of any asset contributed by a Member to the LLC shall be the gross fair market value of such asset (not reduced for any liabilities to which it is subject or which the LLC assumes), as such value is determined and for which credit is given to the contributing Member under this Agreement;

(ii) the Book Value of all assets of the LLC shall be adjusted to equal their respective gross fair market values, as determined by Approval of the Manager, at and as of the following times:

(a) the acquisition of an additional or new interest in the LLC by a new or existing Member in exchange for other than a de minimus capital contribution by such Member, if the Manager acting by Approval reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members;

(b) the distribution by the LLC to a Member of more than a de minimus amount of any asset of the LLC (including cash or cash equivalents) as consideration for all or any portion of an interest in the LLC, if the Manager acting by Approval reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Members;

(c) the liquidation of the LLC within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); and

(iii) the Book Value of the assets of the LLC shall be increased (or decreased) to reflect any adjustment to the adjusted basis for such assets pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Book Value shall not be adjusted pursuant to this clause (iii) to the extent that the Manager, acting by Approval, determines that an adjustment pursuant to clause (ii) hereof is necessary or appropriate in

connection with the transaction that would otherwise result in an adjustment pursuant to this clause (iii).

If the Book Value of an asset has been determined or adjusted pursuant to the preceding clauses (i), (ii) or (iii), such Book Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses, and the amount of the adjustment shall thereafter be taken into account as gain or loss from the distribution of such asset for purposes of computing Profits or Losses.

"Capital Account" shall mean a capital account maintained and adjusted in accordance with the Code and the Regulations, including the Regulations under Sections 704(b) and (c) of the Code. The Capital Account of each Member shall be:

(i) credited with all payments made to the LLC by such Member on account of capital contributions (and as to any property other than cash or a promissory note of the contributing Member, the agreed (as between the Members) fair market value of such property, net of liabilities secured by such property and assumed by the LLC or subject to which such contributed property is taken) and by such Member's allocable share of Profits and items in the nature of income and gain of the LLC;

(ii) charged with the amount of any distributions to such Member (and as to any distributions of property other than cash or a promissory note of a Member or the LLC, by the agreed fair market value of such property, net of liabilities secured by such property and assumed by such Member or subject to which such distributed property is taken), and by such Member's allocable share of Losses and items in the nature of losses and deductions of the LLC;

(iii) adjusted simultaneously with the making of any adjustment to the Book Value of the LLC's assets pursuant to the definition thereof, to reflect the aggregate net adjustments to such Book Value as if the LLC recognized Profit or Loss equal to the respective amount of such aggregate net adjustments immediately before the event causing such adjustments; and

(iv) otherwise appropriately adjusted to reflect transactions of the LLC and the Members.

"Capital Contribution" means the amount of cash and the value of any other property contributed to the LLC by a Member.

"Certificate" means the Certificate of Organization creating the LLC, as it may, from time to time, be amended in accordance with the Act.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and any subsequent federal law of similar import.

"Consent" means the written consent or approval of more than 50% in interest, based on Percentage Interests held as Members, of those Members entitled to participate in giving such Consent, and if more than one class of Members is so entitled then more than 50% shall be so required with respect to each such class.

"Depreciation" means, for each year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset for such year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount that bears the same relationship to the Book Value of such asset as the depreciation, amortization, or other cost recovery deduction computed for tax purposes with respect to such asset for such period bears to the adjusted tax basis for such asset, or if such asset has a zero adjusted tax basis, Depreciation shall be determined with reference to the initial Book Value of such asset using any reasonable method selected by Approval of the Manager, but not less than depreciation allowable for tax purposes for such year.

"Exercise Notice" shall have the meaning given in Section 7.03.

"Immediate Family" (i) with respect to any individual, means his ancestors, spouse, issue, spouses of issue, any trustee or trustees, including successor and additional trustees, principally for the benefit of any one or more of such individuals, and any entity or entities all of the beneficial owners of which are such trusts and/or such individuals, but (ii) with respect to a Legal Representative, means the Immediate Family of the individual for whom such Legal Representative was appointed and (iii) with respect to a trustee, means the Immediate Family of the individual with respect to whom the principal beneficiaries are Members of the Immediate Family.

"LLC" means the limited liability company formed pursuant to the Certificate and this Agreement, as it may from time to time be constitute and amended.

"Legal Representative" means, with respect to any individual, a duly appointed executor, administrator, guardian, conservator, personal representative or other legal representative appointed as a result of the death or incompetency of such individual.

"Losses" shall have the meaning provided below under the heading "Profits and Losses."

"Manager" shall refer to the Person named as Manager in this Agreement and

any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity as a Manager of the LLC. "Managers" shall refer collectively to the Person named as Manager in this Agreement and any Person who becomes an additional, substitute or replacement Manager as permitted by this Agreement, in each such Person's capacity as a Manager of the Partnership.

"Member" shall refer severally to the Persons named as Members in this Agreement and any Person who becomes an additional, substitute or replacement Member as permitted by this Agreement, in each such Person's capacity as a Member of the LLC. "Members" shall refer collectively to the Persons named as Members in this Agreement and any Person who becomes an additional, substitute or replacement Member as permitted by this Agreement, in each such Person's capacity as a Member of the Partnership.

"Minimum Gain" shall have the meaning given in Regulations Section 1.704-2(d).

"Nonrecourse Deductions" shall have the meaning given in Regulations Section 1.704-2(b)(1).

"Offering Member" shall have the meaning given in Section 7.03.

"Partner Minimum Gain" shall mean "Member nonrecourse debt minimum gain" as set forth in Regulations Section 1.704-2(i)(3).

"Partner Nonrecourse Debt" shall have the meaning given in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Deductions" shall have the meaning given in Regulations Section 1.704-2(i)(2).

"Percentage Interest" shall be the percentage interest of a Member set forth in Schedule I, as amended from time to time.

"Person" means any natural person, partnership (whether general limited), limited liability company, trust, estate, association or corporation.

"Profits and Losses" means, for each year or other period, an amount equal to the LLC's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss, with the following adjustments):

- (i) Any income of the LLC that is exempt from federal income tax

and not otherwise taken into account in computing Profits or Losses pursuant to this provision shall be added to such taxable income or loss;

(ii) Any expenditures of the LLC described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this provision, shall be subtracted from such taxable income or loss;

(iii) Gain or loss from a disposition of property of the LLC with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the book value of such property, rather than its adjusted tax basis;

(iv) In lieu of the depreciation, amortization and other cost recovery deductions taken into account in computing taxable income or loss, there shall be taken into account the Depreciation on the assets for such fiscal year or other period; and

(v) Any items which are separately allocated pursuant to Sections 4.05 and/or 4.06 which otherwise would have been taken into account in calculating Profits and Losses pursuant to the above provisions shall not be taken into account and, as the case may be, shall be added to or deducted from such amounts so as to be not part of the calculation of the Profits or Losses.

If the LLC's taxable income or loss for such year, as adjusted in the manner provided above, is a positive amount, such amount shall be the LLC's Profits for such year; and if negative, such amount shall be the LLC's Losses for such year.

"Purchase Price" shall have the meaning given in Section 7.03.

"Purchasing Member" shall have the meaning given in Section 7.03.

"Regulations" means the Regulations promulgated under the Code, and any successor provisions to such Regulations, as such Regulations may be amended from time to time.

"Terminating Capital Transaction" means a sale or other disposition of all or substantially all of the assets of the Partnership.

"Transfer" and any grammatical variation thereof shall refer to any sale, exchange, issuance, redemption, assignment, distribution, encumbrance,


hypothecation, gift, pledge, retirement, resignation, transfer or other withdrawal, disposition or alienation in any way as to any interest as a Member. Transfer shall specifically, without limitation of the above, include assignments and distributions resulting from death, incompetency, Bankruptcy, liquidation and dissolution.

The definitions set forth in the Act shall be applicable, to the extent not inconsistent herewith, to define terms not defined herein and to supplement definitions contained herein.

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

Managers:


DARIUSZ ZYWINA



JASWANT SINGH

Members:


DARIUSZ ZYWINA



JASWANT SINGH



HARKAMALJIT SINGH

Schedule A
To
Operating Agreement
Of
DA VINCI BISTRO, LLC

Name and Addresses of Members	Percentage Interest	Capital Contribution
_____	_____	_____
<p><u>DARIUSZ ZYWINA</u> <u>88 Cedar Street, Unit 8</u> <u>Boston, MA 02119</u></p>	33.34 %	\$ _____
<p><u>JASWANT SINGH</u> <u>725 Main Street</u> <u>Woburn, MA 01801</u></p>	33.33 %	\$ _____
<p><u>HARKAMALJIT SINGH</u> <u>725 Main Street</u> <u>Woburn, MA 01801</u></p>	33.33%	\$ _____

MA SOC Filing Number: 201680027530 Date: 4/13/2016 4:53:00 PM
 APR/13/2016/WED 04:50 PM Highland Law Group FAX No. 781 429 3113 P. 002

DA VINCI BISTRO, LLC

CERTIFICATE OF ORGANIZATION

Pursuant to the Massachusetts Limited Liability Company Act, M.G.L. Chapter 156C, Section 12 (the "Act"), the undersigned hereby certifies that a Limited Liability Company has been organized under the Act as follows:

1. **Name:** The name of the limited liability company is **DA VINCI BISTRO, LLC** (the "LLC").
2. **Office:** The street address of the office of the LLC in the Commonwealth of Massachusetts for purposes of the Act is **490 Concord Road, Sudbury, Massachusetts 01776**.
3. **Business of the LLC:** The purpose of the LLC shall be to purchase, own and manage a retail food service business, both dine-in, delivery and take-out and all related activities including all matters of real estate and leasing and to do all things customary and necessary to manage and maintain said property investments. The business and purposes of the LLC shall be not be limited to the within stated purposes, and it shall possess and may exercise all of the powers and privileges granted by the Act or which may be exercised by any person, together with any powers incidental thereto, so far as such powers or privileges are necessary or convenient to the Business.
4. **Date of Dissolution:** The LLC has no specific date of dissolution.
5. **Resident Agent:** The name and address of the resident agent of the LLC for service of process is **DARIUSZ ZYWINA, 490 Concord Road, Sudbury, Massachusetts 01776**.
6. **Managers:** The name and address of the Managers of the LLC on the date of its organization is **DARIUSZ ZYWINA, 88 Cedar Street, Unit 8, Boston, MA 02119. HARKAMALJIT SINGH, 725 Main Street, Woburn, MA 01801 and JASWANT SINGH, 725 Main Street, Woburn, MA 01801**
7. **Execution of Documents:** The only person or entity authorized to execute documents to be filed with the Secretary of State is the **Manager, DARIUSZ ZYWINA**.
8. **Authority to Convey Title:** The Managers of the LLC are authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in personal or real property of the LLC under Section 66 of the Act.

APR/13/2016/WED 04:51 PM Highland Law Group

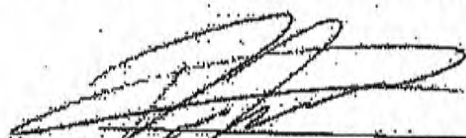
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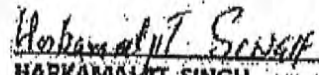
IN WITNESS WHEREOF, the undersigned has executed this Certificate of Organization as of April 13, 2016.



DARIUSZ ZYWNA



JASWANT SINGH

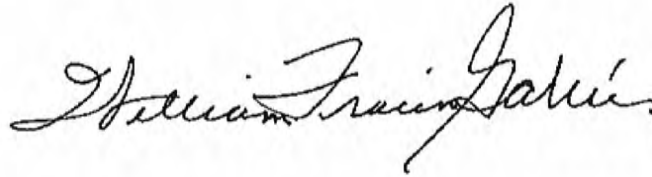


HARKAMALJIT SINGH

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

April 13, 2016 04:53 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive style with a large, prominent initial "W".

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



AUTHORIZATION
(SBA GUARANTEED LOAN)

SBA Loan #	86714450-02
SBA Loan Name	Da Vinci Bistro
Approval Date	August 8, 2016

Lender:

Cambridge Savings Bank
1374 Massachusetts Ave
Cambridge, MA 02138

U. S. Small Business Administration (SBA):

Small Business Administration
409 3rd St. SW
Washington DC 20416

SBA approves, under Section 7(a) of the Small Business Act as amended, Lender's application, received, for SBA to guarantee 75% of a loan ("Loan") in the amount of \$340,000.00 to assist:

Borrower:

- 1 Da Vinci Bistro, LLC
Da Vinci Bistro (dba)
490 Concord Road
Sudbury, MA 01776

All requirements in the Authorization which refer to Borrower also apply to any Co-Borrower.

A. THE GUARANTEE FEE IS \$7,650.00

Lender must pay the guarantee fee within 90 days of the approval date of this Authorization. Failure to timely pay the guarantee fee will result in cancellation of the SBA guarantee. The 90-day deadline may not be extended. Lenders are required to make their payments electronically. Payment can be made at www.pay.gov or by ACH if they enrolled with the SBA. No part of the guarantee fee is refundable if Lender has made any disbursement. Lender may collect this fee from Borrower after initial disbursement of Loan, except when an escrow closing is used, Lender may not collect the fee until all Loan funds have been disbursed to the Borrower from the escrow account. Borrower may use Loan proceeds to reimburse Lender for the guarantee fee.

For loans of \$150,000 or less, Lender may retain 25% of any required guarantee fee but must remit the remainder to SBA.

A. ONGOING GUARANTEE FEE (Lender's Annual Service Fee):

1. Lender agrees to pay SBA an ongoing guarantee fee equal to 0.473% of one percent per year of the guaranteed portion of the outstanding balance.
2. Lender may not charge or otherwise pass through this fee to Borrower.

B. IT IS LENDER'S SOLE RESPONSIBILITY TO:

1. Close the Loan in accordance with the terms and conditions of this Authorization.
2. Obtain valid and enforceable Loan documents, including obtaining the signature or written consent of any obligor's spouse if such consent or signature is necessary to bind the marital community or create a valid lien on marital property.
3. Retain all Loan closing documents. Lender must submit these documents, along with other required documents, to SBA for review if Lender requests SBA to honor its guarantee on the Loan, or at any time SBA requests the documents for review.

C. REQUIRED FORMS

1. Lender may use its own forms except as otherwise instructed in this Authorization. Lender must use the following SBA forms for the Loan:

NOTE: LENDER MAY USE ITS OWN NOTE AND GUARANTEE AGREEMENTS IN LIEU OF THE SBA NOTE AND GUARANTEE AGREEMENTS. IF LENDER USES ITS OWN NOTE AND OR GUARANTEE FORMS, LENDER MUST ENSURE THE DOCUMENTS COMPLY WITH THE REQUIREMENTS SET FORTH IN SOP 50 10.

SBA Form 147, Note or Lender's own Note that complies with SOP 50 10
SBA Form 1050, Settlement Sheet
SBA Form 722, Equal Opportunity Poster
Guarantee: SBA Form 148 or Lender equivalent
SBA Form 601, Agreement of Compliance

2. Lender may use computer-generated versions of mandatory SBA Forms, as long as the text is identical.

D. CONTINGENCIES- SBA issues this Authorization in reliance on representations in the Loan application, including supporting documents. The guarantee is contingent upon Lender:

1. Having and complying with a valid SBA Loan Guarantee Agreement(SBA Form 750, SBA Form 750B for short-term

SBA Loan Number: 86714450-02
SBA Loan Name: Da Vinci Bistro

two (a) loans merely to benefit the Lender. 13 CFR 120.120 and 120.130(e).

Lender must document that Borrower used the loan proceeds for the purposes stated in this Authorization. When closing a '7a Small Loan, Lender must use the same closing and disbursement documentation as it uses for its similarly-sized non-SBA guaranteed commercial loans.

G. COLLATERAL CONDITIONS

Lender must obtain a lien on 100% of the interests in the following collateral and properly perfect all lien positions.

The following language must appear in Lender's Guarantee when Lender uses its own Guarantee.

"When SBA is the holder, this Note and this Guarantee will be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax or liability. As to this Guarantee, Guarantor may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law."

1. First perfected security interest, subject to no other liens in the following personal property (including any proceeds and products), wherever located owned by Da Vinci Bistro, LLC
Other Miscellaneous (Security Interest)

-Lender must obtain a written agreement from all Lessors (including sublessors) agreeing to:

- (1) Subordinate to Lender the Lessor's interest, if any, in this property;
- (2) Provide Lender written notice of default and reasonable opportunity to cure the default; and
- (3) Allow Lender the right to take possession and dispose of or remove the collateral.

-Lender must obtain an appropriate Uniform Commercial Code lien search evidencing all required lien positions. If UCC search is not available, another type of lien search may be substituted.

2. Guarantee on SBA Form 148, by Jaswant Singh, resident in Massachusetts.

3. Guarantee on SBA Form 148, by Eight Regions LLC, resident in Massachusetts.

4. Guarantee on SBA Form 148, by Wioletta Zywna, resident in Massachusetts.

5. Guarantee on SBA Form 148, by Shingara Singh, resident in Massachusetts.

6. Guarantee on SBA Form 148, by LID Partners LLC, resident in Massachusetts.

7. Guarantee on SBA Form 148, by Gurwinder Kaur, resident in Massachusetts.

8. Guarantee on SBA Form 148, by Dariusz Zywna, resident in Massachusetts.

9. Guarantee on SBA Form 148, by Harkamaljit Singh, resident in Massachusetts.

The following language must appear in all security instruments including Mortgages, Deeds of Trust, and Security Agreements:

"The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

- a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.*
- b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.*

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument."

H. ADDITIONAL CONDITIONS

■ Insurance Requirements

Prior to disbursement, Lender must require Borrower to obtain the following insurance coverage and maintain this coverage for the life of Loan:

■ **Flood Insurance.** Based on the Standard Flood Hazard Determination (FEMA Form 81-93 or FEMA Form 086-0-32):

- (1) If any portion of a building that is collateral for the Loan is located in a special flood hazard area, Lender must require Borrower to obtain flood insurance for the building under the NFIP.

portion of which is located in a special flood hazard area and that building is collateral for the Loan, Lender must require Borrower to also obtain flood insurance for the Personal Property Collateral under the NFIP.

(3) If any Personal Property Collateral is in a building any portion of which is located in a special flood hazard area and that building is not collateral for the Loan, Lender must require Borrower to obtain available flood insurance for the Personal Property Collateral. Lender may waive this requirement when the building is not collateral for the Loan if it uses prudent lending standards and includes in the Loan file a written justification that fully explains why flood insurance is not economically feasible or, if flood insurance is not available, the steps taken to determine that it is not available.

Insurance coverage must be in amounts equal to the lesser of the insurable value of the property or the maximum limit of coverage available. Insurance coverage must contain a MORTGAGEE CLAUSE/LENDER'S LOSS PAYABLE CLAUSE (or substantial equivalent) in favor of Lender. This clause must provide that any action or failure to act

by the debtor or owner of the insured property will not invalidate the interest of Lender and SBA. (Borrower will be ineligible for any future SBA disaster assistance or business loan assistance if Borrower does not maintain any required flood insurance for the entire term of the Loan.)

■ **Personal Property Hazard Insurance** coverage on all equipment, fixtures or inventory that is collateral for the Loan, in the amount of full replacement costs. If full replacement cost insurance is not available, coverage must be for maximum insurable value. Insurance coverage must contain a LENDER'S LOSS PAYABLE CLAUSE in favour of Lender. This clause must provide that any action or failure to act by the debtor or owner of the insured property will not invalidate the interest of Lender. The policy or endorsements must provide for at least 10 days prior written notice to Lender of policy cancellation.

■ **Life Insurance**, satisfactory to Lender:

1. on the life of Shingara Singh in the amount of \$340,000.00.
2. on the life of Wioletta Zywna in the amount of \$340,000.00.
3. on the life of Gurwinder Kaur in the amount of \$340,000.00.
4. on the life of Harkamaljit Singh in the amount of \$340,000.00.
5. on the life of Jaswant Singh in the amount of \$340,000.00.
6. on the life of Dariusz Zywna in the amount of \$340,000.00.

Lender must obtain a collateral assignment of each policy with Lender as assignee, and Lender must also obtain acknowledgment of the assignment by the Home Office of the Insurer. Lender must assure that Borrower pays the premium on the policy.

Lender and Borrower may agree to pay an additional amount into an escrow account for payment of life insurance premiums. Any such account must comply with SOP 50 10.

■ **Liability Insurance** in an amount and with an insurance company satisfactory to Lender.

■ **Workers' Compensation Insurance** in an amount meeting state law requirements and with an insurance company satisfactory to Lender.

■ **Borrower, Guarantor and Operating Company Documents**

a. Prior to closing, Lender must obtain from Borrower, Guarantor and Operating Company a current copy of each of the following as appropriate:

(1) **Corporate Documents** -Articles or Certificate of Incorporation (with amendments), any By-laws,

Certificate of Good Standing (or equivalent), Corporate Borrowing Resolution, and, if a foreign corporation, current authority to do business within this state.

(2) **Limited Liability Company (LLC) Documents** - Articles of Organization (with amendments), Fact Statement or Certificate of Existence, Operating Agreement, Borrowing Resolution, and evidence of registration with the appropriate authority.

(3) **General Partnership Documents** - Partnership Agreement, Certificate as to Partners, and Certificate of Partnership or Good Standing (or equivalent), as applicable.

(4) **Limited Partnership Documents** -Partnership Agreement, Certificate as to Partners, and Certificate of Partnership or Good Standing (or equivalent), as applicable, Certificate of Limited Partnership, and evidence of registration with the appropriate authority.

(5) **Limited Liability Partnership (LLP) Documents** -Partnership Agreement, Certificate as to Partners, Certificate of Partnership or Good Standing (or equivalent) as applicable, and evidence of registration with the appropriate authority.

(6) **Trustee Certification** -A Certificate from the trustee warranting that:

- (b) The trustee has authority to act;
- (c) The trust has the authority to borrow funds, guarantee loans, and pledge trust assets;
- (d) If the trust is an Eligible Passive Company, the trustee has authority to lease the property to the Operating Company;
- (e) There is nothing in the trust agreement that would prevent Lender from realizing on any security interest in trust assets;
- (f) The trust agreement has specific language confirming the above; and
- (g) The trustee has provided and will continue to provide Lender/SBA with a true and complete list of all trustors and donors.

(7) **Trade Name** - Documentation that Borrower has complied with state requirements for registration of Borrower's or Operating Company's trade name (or fictitious name), if one is used.

b. Prior to closing, Lender must obtain from Borrower and Operating Company:

- **Ownership**-Evidence that ownership and management have not changed without Lender's approval since the application was submitted.

■ **Operating Information**

Prior to any disbursement of Loan proceeds, Lender must obtain:

- **Verification of Financial Information** - Lender must submit IRS Form 4506-T (SBA version) to the Internal Revenue Service to obtain federal income tax information on Borrower, or the Operating Company if the Borrower is an EPC, for the last 3 years (unless Borrower or Operating Company is a start-up business). If the business has been operating for less than 3 years, Lender must obtain the information for all years in operation. This requirement does not include tax information for the most recent fiscal year if the fiscal year-end is within 6 months of the date SBA received the application. If the applicant has filed an extension for the most recent fiscal year, Lender must obtain a copy of the extension along with evidence of payment of estimated taxes. Lender must compare the tax data received from the IRS with the financial data or tax returns submitted with the Loan application, and relied upon in approving the Loan. Borrower must resolve any significant differences to the satisfaction of Lender and SBA. Failure to resolve differences may result in cancellation of the Loan.

If the Loan involves a change of ownership, Lender must verify financial information provided by the seller of the business in the same manner as above.

If the IRS responds and the transcript reflects "Record not Found" for any tax year, Lender must follow the procedures detailed in SOP 50 10 to determine what steps must be taken to satisfy the SBA tax verification requirement.

If Lender does not receive a response from the IRS or copy of the tax transcript within 10 business days of submitting the IRS Form 4506-T, then Lender may close and disburse the loan provided that Lender sends a second request following precisely the procedures detailed in SOP 50 10 and Lender performs the verification and resolves any significant differences discovered, even if the Loan is fully disbursed.

- **Authority to Conduct Business** - Evidence that Borrower and Operating Company have an Employer Identification Number and all insurance, licenses, permits and other approvals necessary to lawfully operate the business.

- **Flood Hazard Determination** - A completed Standard Flood Hazard Determination (FEMA Form 81-93).
- **Lease**— Current lease(s) on all business premises where collateral is located at 457 Boston Post Road, Sudbury MA 01776 with term, including options, at least as long as the term of the Loan plus 2 years.

■ **Injection**

Lender must obtain evidence that prior to disbursement:

- 1 **Cash Injection**- At least \$72,000.00 cash has been injected into the business as equity capital. This cash is for associated startup costs.

■ **Construction Provisions**

- **Building Standards:** In the construction of a new building or an addition to an existing building, the construction must conform with the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings" (NEHRP), or a building code that SBA has identified as having substantially equivalent provisions. Lender must obtain from Borrower evidence of compliance with these requirements. Examples of evidence include a certificate issued by a licensed building architect, construction engineer or similar professional, or a letter from a state or local government agency stating that an occupancy permit is required and that the local building codes upon which the permit is based include the Seismic standards.

- Lender may charge Borrower a one-time fee not to exceed 2% of the portion of the Loan designated for construction. The actual fee must not exceed the cost of the extra service.
- Prior to closing, if an "as completed" appraisal was obtained prior to construction, Lender must obtain a statement from the appraiser after construction is completed that the building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based.

SBA CLSC or any deviation(s) and work with the SBACLSC to determine an appropriate course of action, including securing additional collateral. Lender's notification to SBA must comply with SOP 50 10.

If the appraiser is unable to issue a statement that the building was built with only minor deviations (if any) from the plans and specifications upon which the original estimate of value was based, but is able to provide a new appraisal demonstrating that the market value meets or exceeds the original estimate of value, then no additional action by Lender is necessary.

- **Compliance Form** - Lender must obtain SBA Form 601, Applicant's Agreement of Compliance, for projects where the construction costs exceed \$10,000.
- **Construction Safeguards** - Lender must take all normal construction Loan safeguards appropriate for the Loan. These safeguards may include reviewing plans and specifications, cost breakdowns, bonds, contracts, and builder's controls, and imposing necessary changes or requirements.
- **Certifications and Agreements**
- Prior to disbursement, Lender must require Borrower and Operating Company to certify that:
 - **Receipt of Authorization** - Borrower and Operating Company have received a copy of this Authorization from Lender, and acknowledge that:
 - (a) The Authorization is not a commitment by Lender to make a loan to Borrower;
 - (b) The Authorization is between Lender and SBA and creates no third party rights or benefits to Borrower;
 - (c) The Note will require Borrower to give Lender prior notice of intent to prepay;
 - (d) If Borrower defaults on Loan, SBA may be required to pay Lender under the SBA guarantee. SBA may then seek recovery of these funds from Borrower. Under SBA regulations, 13 CFR Part 101, Borrower may not claim or assert against SBA any immunities or defenses available under local law to defeat, modify or otherwise limit Borrower's obligation to repay to SBA any funds advanced by Lender to Borrower; and
 - (e) Payments by SBA to Lender under SBA's guarantee will not apply to the Loan account of Borrower, or diminish the indebtedness of Borrower under the Note or the obligations of any personal guarantor of the Note.
 - **Adverse Change** - There has been no adverse change in Borrower's (and Operating Company) financial condition, organization, operations, or fixed assets since the date the Loan application was signed.
 - **Child Support** - No principal who owns at least 50% of the ownership or voting interest of the company is delinquent more than 60 days under the terms of any (a) administrative order, (b) court order, or (c) repayment agreement requiring payment of child support.
 - **Current Taxes** - Borrower and Operating Company are current (or will be current with any loan proceeds specified for eligible tax payments) on all federal, state, and local taxes, including but not limited to income taxes, payroll taxes, real estate taxes, and sales taxes.
 - **Environmental** - For any real estate pledged as collateral for the Loan or where the Borrower or Operating Company is conducting business operations (collectively "the Property"):
 - (a) At the time Borrower or Operating Company submitted the Loan application, Borrower was in compliance with all local, state, and federal environmental laws and regulations pertaining to reporting or clean-up of any hazardous substance, hazardous waste, petroleum product, or any other pollutant regulated by state or federal law as hazardous to the environment (Contaminant), and regarding any permits needed for the creation, storage, transportation or disposal of any Contaminant;
 - (b) Borrower or Operating Company will continue to comply with these laws and regulations;
 - (c) Borrower or Operating Company, and all of its principals, have no knowledge of the actual or potential existence of any Contaminant that exists on, at, or under the Property, including groundwater under such Property other than what was disclosed in connection with the Environmental Investigation of the Property;
 - (d) Until full repayment of Loan, Borrower or Operating Company will promptly notify Lender and SBA if it knows or suspects that there has been, or may have been, a release of a Contaminant, in, at or under the Property, including groundwater, or if Borrower or Operating Company or such property are subject to any investigation or enforcement action by any federal, state or local environmental agency (Agency) pertaining to any Contaminant on, at, or under such Property, including groundwater; and
 - (e) As to any Property owned by Borrower or Operating Company, Borrower or Operating Company indemnifies, and agrees to defend and hold harmless, Lender and SBA, and any assigns or successors in interest which take title to the Property, from and against all liabilities, damages, fees, penalties or losses arising out of any demand, claim or suit by any Agency or any other party relating to any Contaminant found on, at or under the Property, including groundwater, regardless of whether such Contaminant resulted from Borrower's or Operating Company's operations. (Lender or SBA may require Borrower or Operating Company to execute a separate indemnification agreement).
- Prior to disbursement, Lender must require Borrower and Operating Company to certify that they will:
 - (1) **Reimbursable Expenses** Reimburse Lender for expenses incurred in the making and administration of the Loan.
 - (2) **Books, Records, and Reports-**
 - (a) Keep proper books of account in a manner satisfactory to Lender;

- (c) Furnish additional financial statements or reports whenever Lender requests them;
- (d) Allow Lender or SBA, at Borrower's or Operating Company's expense, to:
- [1] Inspect and audit books, records and papers relating to Borrower's and Operating Company's financial or business condition; and
 - [2] Inspect and appraise any of Borrower's and Operating Company's assets; and
 - [3] Allow all government authorities to furnish reports of examinations, or any records pertaining to Borrower and Operating Company, upon request by Lender or SBA.
- (3) Equal Opportunity** Post SBA Form 722, Equal Opportunity Poster, where it is clearly visible to employees, applicants for employment and the general public.
- (4) American-made Products** To the extent practicable, purchase only American-made equipment and products with the proceeds of the Loan.
- (5) Taxes** Pay all federal, state, and local taxes, including income, payroll, real estate and sales taxes of the business when they come due.
- **Occupancy** - Occupy at least 51% of the total Rentable Property and may lease up to 49% for business or residential use. Borrower will not use Loan proceeds to improve or renovate any of the Rentable Property leased to third parties. Borrower may provide up to 49% of the Rentable Property to be occupied by Borrower for use by a resident owner or manager only if the nature of the business demands it.
- Lender must require Borrower and Operating Company to certify that they will not, without Lender's prior written consent:
- **Distributions** - Make any distribution of company assets that will adversely affect the financial condition of Borrower and/or Operating Company;
 - **Ownership Changes** - Change the ownership structure or interests in the business during the term of the Loan;
 - **Transfer of Assets** - Sell, lease, pledge, encumber (except by purchase money liens on property acquired after the date of the Note), or otherwise dispose of any of Borrower's property or assets, except in the ordinary course of business
- **Minimum Debt Service Coverage of 1.20x:** Debt Service Coverage Ratio_t means, for the applicable period tested, the ratio of

DINING AREA / 70 SEATS	
1	HOSTESS STAND
2	BAR
3	COFFEE BAR
4	BREAD BAR
5	CUSTOM SHELVES
6	CUSTOM SHELVES
7	OPEN SERVICE COUNTER

N.O.T.A.

1	REMOVE EXISTING DOOR CLOSE THE OPENING AND FINISH TO MATCH EXTERIOR OF THE BUILDING	7	EXISTING KITCHEN TO REMAIN WITH NEW PLUMBING, ITES, SINKS AND TOILETS
2	REMOVE EXISTING WINDOW AND INSTALL NEW DOOR AND TWO NEW WINDOWS	8	NEW KITCHEN EQUIPMENT AND NEW PLUMBING
3	REMOVE EXISTING WINDOW AND INSTALL NEW ENTRANCE DOOR	9	NEW FLOORING
4	BUILD NEW WALL WITH THE OPENING FOR FAST HANG WINDOW	10	NEW OPENING OPEN SERVICE COUNTER
5	BUILD NEW BAR WITH NEW PLUMBING		
6	REMOVE EXISTING WINDOW AND CLOSE THE OPENING		

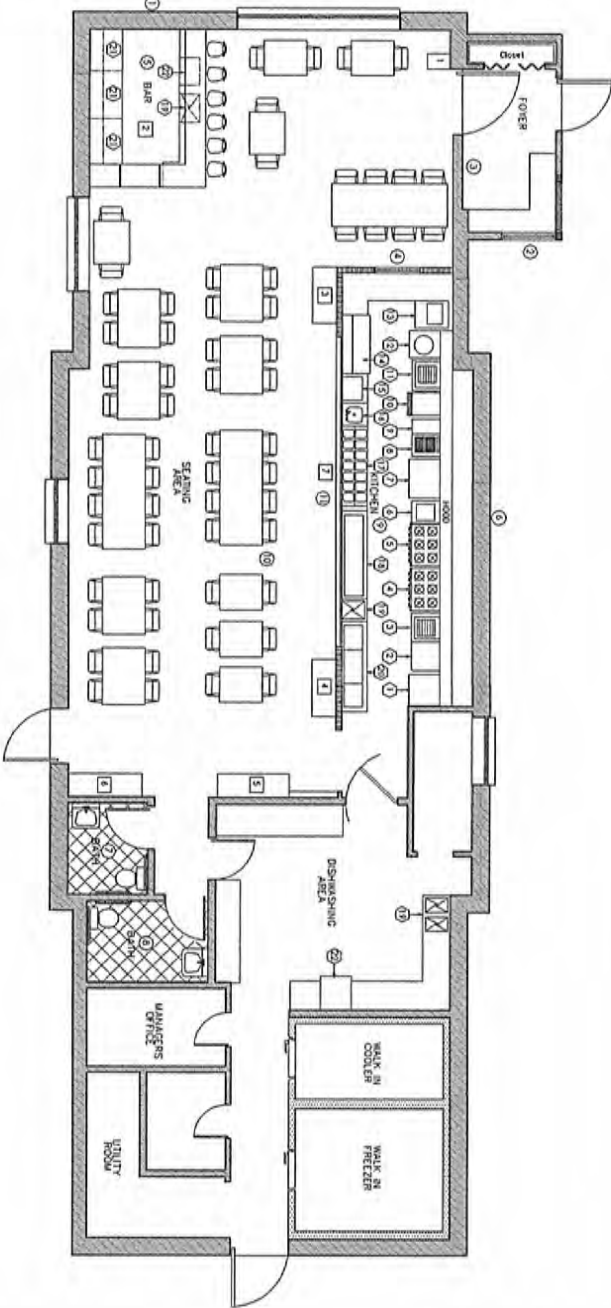
LEGEND

1	OVEN	7	OVEN	13	PASTA MACHINE	19	SINK
2	REP. STEEL TABLE	8	FRYER	14	DESSERT STATION	20	CAULI STATION Fridge
3	CAULI	9	REP. STEEL TABLE	15	FREEZER	21	FRIDGE
4	STOVE	10	OVEN	16	SINK	22	DISHWASHER
5	STOVE	11	CAULI	17	SALAD STATION		
6	PASTA COOKER	12	COOKING POT	18	PASTA Fridge		

LEGEND

[Pattern]	DINING WALLS
[Pattern]	PROPOSED NEW NON BEARING WALL

NOTE:
CONTRACTOR SHALL PERFORM ALL WORK
CONFORMING TO ALL CITY, STATE AND FEDERAL
CODES AND ALL APPLICABLE PERMITS.
OF MAJOR CONTRACTS. LATER EDITIONS OF THE
BUILDING CODE, THE FIRE ALARM AND
SIGNALING CODE, THE MECHANICAL AND
PLUMBING CODE, THE ELECTRICAL CODE AND THE
CODE OF SUSTAINABLE DESIGN.



PROPOSED FLOOR PLAN

<p>MDJ MARCUS & DEGEN, L.L.C. ARCHITECTURAL & CONSTRUCTION 1000 W. BROADWAY, SUITE 100 DALLAS, TEXAS 75203 TEL: 214.760.0001 FAX: 214.760.0002 WWW.MDJARCHITECTS.COM</p>	
<p>PROJECT: DAVINCI BISTRO</p> <p>LOCATION: 500 BERRY, 100 BOSTON POINT RD</p> <p>OWNER: [Redacted]</p> <p>DESIGNER: MARCUS & DEGEN, L.L.C.</p> <p>DESIGN DATE: 06/01/2016</p> <p>DESIGNED BY: COURTNEY JENNIFER REVISED BY: MAD INCORPORATED</p> <p>APPROVED BY: MAD INCORPORATED</p> <p>SCALE: AS SHOWN</p>	
<p>FLOOR PLAN: A-1</p> <p>SCHEDULE: 1</p>	<p>DATE: 1/1</p>

LAND AND BUILDING SUBLEASE AGREEMENT

APRIL 12, 2016

LANDLORD:

O ICE, LLC,
A DELAWARE LIMITED LIABILITY COMPANY

TENANT:

DA VINCI BISTRO, LLC,
A MASSACHUSETTS LIMITED LIABILITY COMPANY

PREMISES LOCATION:

DA VINCI BISTRO
457 BOSTON POST ROAD
SUDBURY, MA 01776

LAND AND BUILDING SUBLEASE AGREEMENT

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Exhibit "A-1" – Legal Description of Real Property

Exhibit "A-2" – Ground Lease

Exhibit "B" – Intentionally omitted

Exhibit "C" – ACH Automatic Payment Authorization

Exhibit "D" – Subordination, Non-disturbance and Attornment Agreement

Exhibit "E" – Tenant Estoppel Certificate

LAND AND BUILDING SUBLEASE AGREEMENT

This Land and Building Sublease Agreement (“**Lease**”), dated for reference purposes only as of April 12, 2016, is made by and between O ICE, LLC, a Delaware limited liability company (“**Landlord**”), and DA VINCI BISTRO, LLC, a Massachusetts limited liability company (“**Tenant**”), with reference to the recitals set forth below.

RECITALS

A. Landlord owns the following described property (collectively referred to herein as the “**Premises**”): (i) the leasehold estate of the tenant under the Ground Lease (as defined in Section 2.3 below) in and to the lot or parcel of land as to which Landlord holds the leasehold interest as tenant (“**Leasehold Estate**”), the legal description of which is attached hereto and incorporated herein as Exhibit “A-1,” together with the easements, rights and appurtenances thereunto belonging or appertaining (together with the Leasehold Estate, the “**Land**”); (ii) the buildings, structures and other improvements, if any, on the Land (collectively, “**Improvements**”) and (iii) the machinery and equipment, if any, which is attached to the Improvements in such a manner as to become fixtures under applicable law, together with all additions and accessions thereto, substitutions therefor and replacements thereof permitted by this Lease, excepting therefrom Tenant’s Personal Property (as defined below), commonly referred to as:

Da Vinci Bistro
457 Boston Post Road
Sudbury, MA 01776

B. Landlord and FRIENDLY’S RESTAURANTS, LLC, a Delaware limited liability company, as tenant (“**Existing Tenant**”) are parties to that certain Land and Building Lease Agreement dated August 30, 2007 as amended (“**Prior Lease**”) as evidenced by that certain Confirmatory Memorandum of Lease recorded on January 1, 2009 as Instrument No. 2009 00002077 in the official records of the County of Middlesex, State of Massachusetts. The expiration date of the Prior Lease is May 16, 2016. Landlord hereby advises Tenant of the existence of the Prior Lease; provided, however, the parties agree that as a condition to the parties’ obligations under this Lease, the Prior Lease and Existing Tenant’s right to possession must be terminated. Notwithstanding any provision of this Agreement to the contrary, Tenant’s rights under this Lease are subject to the rights of Existing Tenant under the Prior Lease until such time as possession of the Premises under the Prior Lease has been surrendered to Landlord. Until such time, Tenant shall not have the right to take any actions that would disturb Existing Tenant’s use, occupancy and quiet possession and enjoyment of the Premises.

C. Landlord desires to lease the Premises to Tenant, and Tenant desires to lease the Premises from Landlord pursuant to the provisions of this Lease.

1. DEFINITIONS

The following terms, when used in this Lease, shall have the meaning set forth in this Article.

1.1 Lease Year

The term "**Lease Year**" shall mean the first twelve (12) full calendar months after the Rent Commencement Date (as defined in Section 4.2) and each subsequent twelve (12) month period thereafter during the term and any extensions. If the Rent Commencement Date is other than the first day of the month, then the first Lease Year also will include the partial month in which the Rent Commencement Date occurs.

1.2 Hazardous Material

The term "**Hazardous Material**" means any substance, material, or waste which is toxic, ignitable, reactive, or corrosive and which is or becomes regulated by the local or state governmental authority or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," or "hazardous material," by any United States federal, local or state law, (ii) oil and petroleum products and their by-products, (iii) asbestos, or asbestos-containing materials, (iv) designated as a "hazardous substance" pursuant to the Federal Water Pollution Control Act, (v) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, or (vi) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

1.3 Environmental Laws

The term "**Environmental Laws**" shall mean any law, statute, regulation, order, or rule now or hereafter promulgated by any governmental entity, whether local, state, or federal, relating to air pollution, water pollution, noise control, and/or transporting, storing, handling, release, discharge or disposal of Hazardous Material, including, without limitation, the following: the Clean Air Act; the Resource Conservation and Recovery Act, as amended by the Hazardous Waste and Solid Waste Amendments of 1984; the Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Toxic Substances Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Safe Drinking Water Act; OSHA; the Hazardous Liquid Pipeline Safety Act; the Hazardous Materials Transportation Act; and the National Environmental Policy Act, as each may be amended from time to time.

2. LANDLORD'S WORK; PREMISES; GROUND LEASE

2.1 Landlord's Work

Notwithstanding anything contained herein to the contrary, Landlord shall deliver the heating, ventilation and air conditioning units ("**HVAC**") and roof ("**Roof**") in good working order within sixty (60) days following the Commencement Date (*i.e.*, by July 16, 2016), weather and availability of materials permitting ("**60-day Period**"). Landlord's Work (a) shall include replacement of the HVAC and Roof, if necessary; and (b) with respect to the HVAC shall exclude ducting. If, upon the expiration of the 60-day Period, the HVAC and/or Roof shall not be in good working order as set forth herein, Tenant shall notify Landlord in writing, and Landlord shall thereafter have a reasonable time not to exceed thirty (30) days (weather and availability of materials permitting) to make any necessary repairs or replacements to the reasonable satisfaction of Tenant. Tenant shall be deemed to have accepted the HVAC and Roof in the event Tenant fails to timely notify Landlord in writing as set forth herein.

Notwithstanding anything herein to the contrary, Landlord's obligations under this Section 2.1 shall be limited to the actual and reasonable costs directly incurred to deliver the HVAC and Roof to Tenant in good working order, it being the intention of the parties that Landlord shall not be responsible for consequential damages or any actions, damages, liabilities, claims and expenses (including, without limitation, attorneys' fees and costs), incurred by or asserted against Tenant, arising out of a claim of breach by Landlord of its obligations hereunder.

2.2 As Is, Where Is, With All Faults

Except as set forth in Section 2.1 above, Landlord leases to Tenant and Tenant leases from Landlord the Premises in its "**AS IS, WHERE IS, WITH ALL FAULTS**" condition with no representations or warranties whatsoever and on the terms and conditions set forth in this Lease. By affixing its initials below, Tenant acknowledges and agrees that: (i) no representations have been or are made by Landlord or relied upon by Tenant, or responsibility assumed by Landlord, with respect to the Premises or its operation, or the condition or repair of the Premises, or as to any fact, circumstance, thing or condition which may affect or relate to the Premises, except as specifically set forth in this Lease; (ii) the Premises is leased in its "**AS IS, WHERE IS, WITH ALL FAULTS**" condition as of the Commencement Date; and (iii) other than as specifically set forth in this Lease, Landlord shall have no obligation to alter, restore, improve, repair, or develop the Premises, and further shall have no obligation to remove therefrom any items of personal property, or other trade fixtures or equipment which may be upon the Premises.

DZ
Tenant's Initials

2.3 Ground Lease

This Lease is, in all respects, subject and subordinate to all of the terms and conditions of that certain Sublease dated May 17, 1966 ("**Ground Lease**") between 1776 Plaza Limited Partnership, as successor to Eleanor Thanos, Trustee of Sudbury Associates Realty Trust ("**Ground Lessor**") and Landlord, as successor to Curtis L. Blake and S. Priestly Blake, as Trustees of Blake Brother Company, as the same may have been or may be supplemented or amended ("**Ground Lease**"), a copy of which is attached hereto and incorporated hereby as "Exhibit A-2," and Tenant shall acquire by this Lease no rights or privileges in and to the Premises greater than those Landlord has obtained by virtue of the Ground Lease.

Except as specifically provided in this Lease, all of the terms and conditions of the Ground Lease shall apply to Tenant's use and occupancy of the Premises. Landlord and Tenant each hereby covenant and agree that it will not do, or cause or suffer to be done, any act (whether of commission or omission) which would result in a breach of or default under any term, covenant, provision or condition of the Ground Lease. In the event of any conflict between the provisions of this Lease and the Ground Lease, the provisions of this Lease shall prevail, unless the provisions of the Ground Lease impose a stricter obligation upon the tenant, in which event the Ground Lease shall prevail unaffected by the Lease and be binding on Tenant. In the event Landlord becomes the fee owner of the Premises ("**Fee Acquisition**"), and the Ground Lease is terminated as a result, this Lease shall continue in full force and effect as a direct lease between Landlord and Tenant, and the terms hereof shall be amended and interpreted as reasonably necessary to reflect the same.

Landlord shall not materially amend or modify the Ground Lease without Tenant's consent, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, the foregoing shall in no way be deemed to restrict Landlord's ability to terminate the Ground Lease in the event of a Fee Acquisition by Landlord of the Premises. Subject to the foregoing, provided there is no uncured Event of Default under this Lease, Landlord shall not voluntarily terminate or consent to any termination of the Ground Lease.

The term "**Ground Lease Rental**" shall mean, collectively, any monthly scheduled "rental" payments required to be paid under the terms of the Ground Lease. The term "**Ground Lease Additional Rent**" shall mean, collectively, any monetary obligation of Landlord, as tenant, under the Ground Lease, other than the Ground Lease Rental. Effective on the Commencement Date, Tenant shall be responsible for all Ground Lease Rental and Ground Lease Additional Rent obligations. Ground Lease Rental shall be paid by Tenant as Additional Rent to Landlord (who shall pay such Ground Lease Rental and Ground Lease Additional Rent to Ground Lessor or other appropriate party pursuant to the Ground Lease) in monthly installments during the term of this Lease commencing upon the Commencement Date and on or before the first day of each calendar month thereafter, concurrently with the Base Monthly Rent due pursuant to Section 4.2.

Landlord shall maintain the Ground Lease in full force and effect and agrees that it shall promptly provide: (a) Ground Lessor with notice of a change in the notice address (if applicable) for "tenant" under the Ground Lease and (b) Tenant with a copy of any notice of default received by Landlord, as tenant under the Ground Lease. If Landlord acts or fails to act in a manner which results in a default under the Ground Lease, then Tenant shall have the right to cure such default (but shall have no obligation to do so) and Landlord shall reimburse Tenant (within ten (10) days upon demand) for any and all actual and reasonable expenses including, without limitation, reasonable experts and attorneys' fees incurred by Tenant in connection therewith.

3. TERM

3.1 Primary Term

Subject to Recital B above, the effective date ("**Commencement Date**") of this Lease shall be May 17, 2016. The primary term ("**Primary Term**") of this Lease shall commence upon the Commencement Date. The expiration ("**Expiration Date**") of the Primary Term shall be May 16, 2026. References to the term of the Lease shall include extensions, if any. Except as otherwise expressly stated, the terms and conditions of this Lease shall remain in effect during any extension, renewal, or holdover of the Primary Term. Notwithstanding anything contained herein to the contrary, in no event shall the term of this Lease, extend beyond the expiration date of the Ground Lease.

3.2 Surrender of Premises; Holding Over

On the last day or sooner termination of the term of this Lease, Tenant shall quit and surrender the Premises, together with all alterations, vacant and free of all tenancies and any leasehold rights therein and in good condition and repair, normal wear and tear excepted, broom clean and free of violations, and shall surrender all keys for the Premises to Landlord at the place

then fixed for the payment of rent and shall inform Landlord of all combinations of locks, safes, and vaults, if any, in the Premises. If Tenant does not do so, then after expiration of this Lease, it will be a tenant at will upon the applicable conditions of this Lease. In such event the rent payable shall be increased by fifty percent (50%) over the rent payable during the last full month of the term of this Lease that just ended. If the Premises is not so surrendered, Tenant shall indemnify Landlord from and against loss or liability resulting from the delay by Tenant in so surrendering the Premises, including without limitation, any claims made by the Ground Lessor, or any succeeding occupant or purchaser founded on such delay. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

3.3 Early Access to the Premises

Subject to Recital B and in coordination with Prior Tenant, Landlord, and other parties as may be reasonably necessary, Tenant shall have the ability to access the Premises after the execution of this Lease but prior to the Commencement Date ("**Early Access Period**"). Tenant may not make any modifications or improvements to the Premises during the Early Access Period. Tenant shall indemnify, defend and protect Landlord, and hold Landlord harmless from any and all loss, cost, damage, expense and/or liability (including, without limitation, court costs and reasonable attorneys' fees) incurred in connection with or arising from Tenant's entry upon the Premises during the Early Access Period. Additionally, Landlord shall be under no obligation to provide access to the Premises prior to the date upon which Tenant has provided satisfactory evidence to Landlord of the existence and amounts of the insurance required under Section 13 hereof. The provisions of this paragraph shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination.

4. BASE MONTHLY RENT

4.1 Net-Net-Net Lease

This is a net-net-net lease. It is the intention of Landlord and Tenant that the Base Monthly Rent (as defined below) and other sums and charges provided herein shall be absolutely net to Landlord. Except as otherwise specifically set forth in this Lease, Tenant shall pay, as additional rent ("**Additional Rent**"), all costs, charges, obligations, assessments, and expenses of every kind and nature against or relating to the Premises or the use, occupancy, area, possession, leasing, operation, management, maintenance, or repair thereof, which may arise or become due during the term hereof, or which may pertain to this transaction, whether or not now customary or within the contemplation of the parties hereto, and which, except for the execution and delivery of this Lease, would have been payable by Landlord.

4.2 Base Monthly Rent

Tenant shall pay to Landlord as base monthly rent ("**Base Monthly Rent**") the following sums:

Period	Base Monthly Rent
November 13, 2016 – November 30, 2018	\$7,500.00
December 1, 2018 – November 30, 2019	\$7,725.00
December 1, 2019 – November 30, 2020	\$7,956.75
December 1, 2020 – November 30, 2021	\$8,195.45

December 1, 2021 – November 30, 2022	\$8,441.32
December 1, 2022 – November 30, 2023	\$8,694.56
December 1, 2023 – November 30, 2024	\$8,955.39
December 1, 2024 – November 30, 2025	\$9,224.05
December 1, 2025 – May 16, 2026	\$9,500.78

Notwithstanding anything contained in this Lease to the contrary, in no event shall the rental to be paid by Tenant hereunder ever be less than the amount payable by Tenant as Base Monthly Rent. Base Monthly Rent shall be payable by Tenant to Landlord in advance in equal monthly installments commencing ("**Rent Commencement Date**") on the first day following the Abatement Period and on or before the first day of each calendar month thereafter, without prior notice, invoice, demand, deduction, or offset whatsoever. As used herein, "**Abatement Period**" means the period of time from the Commencement Date through November 12, 2016 (such that the Rent Commencement Date is November 13, 2016). If the first day of the calendar month falls on a day which is a Saturday, Sunday, or a day which is, in the city and state in which Tenant is located, either a legal holiday or a day on which banking institutions are authorized by law to remain closed for the entire day, then Base Monthly Rent shall be payable on the last business day of the immediately preceding calendar month.

Tenant acknowledges and agrees the rental abatement afforded Tenant during the Abatement Period expressly is conditioned upon Tenant's full and faithful performance of each and every provision of this Lease, it being the intention of the parties that the Abatement Period is granted by Landlord in consideration of Tenant's covenant to perform its duties and obligations under this Lease. In the event Tenant at any time is in default of this Lease beyond any applicable cure period, then, notwithstanding anything contained herein to the contrary, Landlord shall be entitled to recover the full amount of Base Monthly Rent so abated, and Tenant hereby agrees that such Base Monthly Rent shall be based upon the Base Monthly Rent owing by Tenant for the first full calendar month following the Rent Commencement Date. In such event, such Base Monthly Rent shall not be deemed to have been abated, but immediately shall become due and payable as unpaid rental earned at the time of the uncured default.

Landlord shall have the right to accept all rent and other payments, whether full or partial, and to negotiate checks and payments thereof without any waiver of rights, irrespective of any conditions to the contrary sought to be imposed by Tenant. Base Monthly Rent and Additional Rent payable to Landlord pursuant to the terms hereof shall be paid via electronic transfer of funds (or via ACH transfer by completion of the ACH Automatic Payment Authorization attached hereto as Exhibit "C"), or at Landlord's option (upon thirty (30) days advance written notice to Tenant), by check paid to Landlord at the address to which notices to Landlord are given or to such other address as Landlord may designate in writing. Base Monthly Rent for any partial month shall be prorated based upon the actual number of days in the period subject to proration.

5. INTENTIONALLY OMITTED**6. INTENTIONALLY OMITTED****7. SECURITY DEPOSIT**

Tenant shall, on or before the Commencement Date, deposit with Landlord, the sum of TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) ("Security Deposit"), as a Security Deposit to secure the faithful performance by Tenant of all the terms, covenants, and conditions of this Lease. Landlord may use the Security Deposit or any portion thereof to cure a default by Tenant or to compensate Landlord for all damages sustained by Landlord resulting from the default. Tenant shall, within five (5) days of demand, pay to Landlord a sum equal to the portion of the Security Deposit expended or applied by Landlord so as to maintain the Security Deposit in the sum initially deposited with Landlord. Any interest earned on the Security Deposit shall accrue to the benefit of Landlord. Landlord shall not be required to keep this Security Deposit separate from its general funds. Tenant shall have no right to have the Security Deposit applied to the last month's or any other rent payable by Tenant hereunder. If Tenant has complied with all of the terms and conditions of this Lease, Landlord shall return the Security Deposit to Tenant within thirty (30) days of the expiration or termination of the Lease.

To protect Landlord in the event Tenant defaults hereunder, Tenant hereby grants to Landlord a security interest in the Security Deposit. Said security interest shall secure all amounts to be paid by Tenant to Landlord hereunder, including all costs of collection and any other indebtedness of Tenant to Landlord. Tenant agrees to sign any financing statement or security agreement requested by Landlord in order to perfect such security interest. The lien granted hereunder shall be in addition to any Landlord's lien that may now or at any time hereafter be provided by law.

8. USE OF THE PREMISES

Tenant shall use the Premises only for a restaurant and such other uses as may be incidental thereto ("Use") and no other uses without the prior written consent of Landlord which consent may be withheld in its sole and absolute discretion. Tenant has satisfied itself, and represents to Landlord, that such Use is lawful and conforms to all applicable zoning and other use restrictions and regulations applicable to the Premises. In no event may the Premises be used in violation of the terms of the Ground Lease.

9. PROPERTY TAXES, OTHER CHARGES, ASSESSMENTS AND UTILITIES**9.1 Tenant's Required Payments**

Effective on the Rent Commencement Date, Property Taxes (as defined below) that accrue during or are otherwise allocable to the term of this Lease shall be paid by Tenant to Landlord in monthly installments, all as more particularly set forth in Section 9.5 below. In addition, effective on the Rent Commencement Date, Tenant shall (i) pay before delinquency and as Additional Rent, all Other Charges (as defined below) that accrue during or are otherwise allocable to the term of this Lease; and (ii) concurrently provide Landlord with evidence of payment thereof upon request.

- 9.1.1 “**Property Taxes**” shall mean all taxes, assessments, excises, levies, fees, and charges (and any tax, assessment, excise, levy, fee, or charge levied wholly or partly in lieu thereof or as a substitute therefor or as an addition thereto) of every kind and description, general or special, ordinary or extraordinary, foreseen or unforeseen, secured or unsecured, whether or not now customary or within the contemplation of Landlord and Tenant, that are levied, assessed, charged, confirmed, or imposed on or against, or otherwise with respect to, the Premises or any part thereof or any personal property used in connection with the Premises, including, without limitation, real, *ad valorem*, personal property, gross income, franchise, margin, commercial activity, withholding, profits, and gross receipts taxes. It is the intention of Landlord and Tenant that all new and increased taxes, assessments, levies, fees and charges be included within the definition of Property Taxes for the purpose of this Lease.
- 9.1.2 “**Other Charges**” shall mean all other taxes, assessments, excises, levies, fees, and charges (including, without limitation, common area maintenance charges, charges relating to the cost of providing facilities or services, and charges relating to documents or instruments of record affecting or encumbering the Premises), whether or not now customary or within the contemplation of Landlord and Tenant, that are levied, assessed, charged, confirmed, or imposed upon, or measured by, or reasonably attributable to (a) the Premises; (b) the cost or value of Tenant’s furniture, fixtures, equipment, or personal property located in the Premises or the cost or value of any leasehold improvements made in or to the Premises by or for Tenant, regardless of whether title to such improvements is vested in Tenant or Landlord; (c) Base Monthly Rent and all Additional Rent payable under the Lease, including, if applicable, Property Taxes, Other Charges, insurance, maintenance, and other costs incurred by Tenant by which Landlord may benefit, including, without limitation, any gross income tax or excise tax levied by any public or government authority with respect to the receipt of any such rents and costs; (d) the possession, leasing, operation, management, maintenance, alteration, repair, use, or occupancy by Tenant of the Premises; (e) any license fee, occupancy fee, tax based upon the collection of rent, or any other fees or taxes assessed or charged in connection with the rental under this Lease; and (f) this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises.
- 9.1.3 In addition to the foregoing, during the term of this Lease, Tenant shall timely perform all obligations of the owner of the Premises under, and pay all expenses which the owner of the Premises may be required to pay in accordance with any declarations or reciprocal easement agreements or any other documents or instruments of record now (or of record in the future if created or filed by or with the consent of Tenant) affecting the Premises (referred to collectively herein as the “**Title**

Instruments”). Tenant promptly shall comply with all of the terms and provisions of the Ground Lease and all Title Instruments, including without limitation, all insurance requirements set forth in the Ground Lease or Title Instruments, regardless of whether any such requirements exceed the requirements otherwise set forth in Article 13 below.

9.2 Assessments

If any assessment for a capital improvement made by a public or governmental authority shall be levied or assessed against the Premises, and the assessment is payable either in a lump sum or on an installment basis, then Landlord shall have the right to elect the basis of payment; provided however, throughout the entire term of this Lease, Tenant shall pay, as part of Property Taxes, all assessments that accrue during or are otherwise allocable to the term of this Lease.

9.3 Utility Payments

Tenant shall promptly pay when due all charges for water, gas, electricity, and all other utilities furnished to or used upon the Premises, including all charges for installation, termination, and relocations of such service. Landlord, at its option, may require Tenant to furnish Landlord with evidence of payment of such charges.

9.4 Property Taxes Paid in Monthly Installments

Property Taxes shall be paid by Tenant as Additional Rent to Landlord in monthly installments during the term of this Lease commencing upon the Rent Commencement Date and on the first day of each calendar month thereafter. Such monthly installments shall be an estimated amount equal to one-twelfth (1/12) of the Property Taxes for the immediate preceding year, subject to adjustment when the actual amount of Property Taxes is determined. At such time as the actual amount of Property Taxes is determined, Landlord shall furnish to Tenant a statement indicating the actual amount of Property Taxes. Within thirty (30) days after receipt of such statement by Tenant, Tenant shall pay to Landlord any deficiency due (i) by check from Tenant to Landlord, or (ii) at Landlord’s option, and if so indicated in the communication accompanying such statement, concurrently with an ACH transfer of Base Monthly Rent, pursuant to Paragraph 4.2, provided such transfer date is at least thirty (30) days (and no more than ninety (90) days) after receipt of such statement by Tenant. Any surplus paid by Tenant shall, at Landlord’s option, be credited against the next installment(s) of Base Monthly Rent or other charges due from Tenant or be refunded to Tenant.

9.5 Landlord’s Right to Contest Taxes and/or Seek Reduction of Assessed Valuation of the Premises

Without in any way limiting Tenant’s obligation to pay Property Taxes pursuant to Section 9.5 above, Landlord shall have the right, at any time before or during the Lease term, to seek a reduction in the assessed valuation of the Premises or to contest any Property Taxes paid or to be paid in connection with the Premises. In the event of a final determination favorable to Landlord, the tax refund or savings and the expenses associated with the appeal or contest (excluding attorneys’ fees and costs associated with any lawsuit brought by Landlord unless Tenant shall first have consented to such lawsuit) shall be prorated and apportioned between Tenant and Landlord such that Tenant shall receive all benefit and bear all expenses for the

period applicable to and accruing during the Lease term, and Landlord shall receive all benefit and bear all expenses for any other period, i.e., applicable to and accruing prior to the Rent Commencement Date and/or following the Expiration Date (regardless of (i) when the appeal or contest was initiated, (ii) when the appeal or contest was finalized, (iii) when the refund actually was paid or (iv) when expenses actually were incurred or billed).

9.6 Partial Lease Years and Adjustment of Property Taxes

Property Taxes (and Other Charges, as may be applicable) payable by Tenant in accordance with the terms of this Lease shall be appropriately adjusted for any partial Lease Year. Property Taxes which cannot be ascertained with certainty as of the Expiration Date shall be prorated on the basis of the parties' reasonable estimates of such amount(s) and shall be the subject of a final proration as soon thereafter as the precise amounts can be ascertained. The provisions of this paragraph shall survive the expiration or termination of this Lease.

10. FURNITURE, FIXTURES AND EQUIPMENT

10.1 Furniture, Fixtures, and Equipment

During the term Tenant may, at Tenant's expense, place or install such furniture, trade fixtures, equipment, machinery, furnishings, face plates of signage and other articles of movable personal property (collectively, "**Tenant's Personal Property**") on the Premises as may be needed for the conduct of Tenant's business. It is expressly understood that the term Tenant's Personal Property as used herein shall in no event extend to leasehold improvements, fixtures or similar "vanilla shell" items such as light fixtures, HVAC equipment, or other fixtures and equipment permanently affixed to the Premises. Landlord further authorizes Tenant to utilize or remove any furniture, fixtures, and equipment present in the Premises on the Commencement Date, provided, however, (i) Landlord makes no representation or warranty with regard to the furniture, fixtures, and equipment, and (ii) Tenant shall not remove HVAC equipment or other fixtures and equipment permanently affixed to the Premises.

10.2 Landlord's Waiver

Tenant may finance Tenant's Personal Property at any time and from time to time during the term of this Lease. Upon request of Tenant, Landlord shall execute and deliver to any lender a Landlord's Waiver in such form as shall be reasonably acceptable to Landlord. Tenant may remove and replace Tenant's Personal Property periodically during the term of this Lease.

10.3 Removal of Tenant's Personal Property at Expiration of Lease

At the expiration or earlier termination of the Lease, providing there is no material uncured Event of Default, Tenant's Personal Property may be removed at the option of Tenant. In the alternative, at the expiration or earlier termination of the Lease, Landlord may require Tenant to remove Tenant's Personal Property within a reasonable time following receipt of written notice from Landlord. Tenant immediately shall make such repairs and restoration of the Premises as may be necessary to repair any damage to the Premises from removal of Tenant's Personal Property. Any of Tenant's Personal Property not so removed shall be deemed abandoned, and Landlord may cause such property to be removed from the Premises and disposed of, but the reasonable cost of any such removal shall be borne by Tenant. The provisions of this paragraph shall survive the expiration or termination of this Lease.

10.4 Right to Affix Signs, Banners and Decals

Tenant shall have the right to decorate the Premises and affix such signs, banners and decals customarily used in its business upon the windows, doors, interior and exterior walls (excluding the roof) of the Premises, and such sign panels or free-standing signs as may seem appropriate to Tenant and are authorized by any governmental authority having jurisdiction over the Premises and permitted by the Ground Lease and any covenants, conditions and restrictions encumbering the Premises ("**Signage**"). Upon the expiration or earlier termination of the Lease, Tenant shall remove such Signage within a reasonable time following receipt of written notice from Landlord; provided, however, in no event may Tenant remove free-standing Signage (such as pole-mounted or monument signs) from the Premises. Any sign panels removed from any pylon sign structures promptly shall be replaced with blank sign panels, so as to preserve the integrity of the pylon sign structure. Tenant promptly shall make such repairs and restoration of the Premises as are necessary to repair any damage to the Premises from removal of the Signage. Notwithstanding the foregoing, in no event shall Tenant exercise any rights under this Section 10.4 that may adversely affect any existing Signage rights benefiting the Premises (including without limitation any existing variance or legal-nonconforming Signage rights) without the prior written consent of Landlord.

11. MAINTENANCE AND REPAIRS OF THE PREMISES; COMPLIANCE

11.1 Obligation to Maintain the Premises

During the term of this Lease, Tenant shall, at its own expense, keep and maintain the entire Premises in good order and repair. Tenant shall make such repairs and replacements as may be necessary, regardless of whether the benefit of such repair or replacement extends beyond the term of this Lease. The Premises shall be returned to Landlord at the termination or expiration of this Lease in good condition, ordinary wear excepted. For as long as Tenant is not in default of any of the terms and conditions of this Lease, Landlord hereby assigns to Tenant all building contractor, subcontractor, and manufacturer's warranties and guarantees, if any, applicable to the Premises; and Landlord shall cooperate with Tenant at Tenant's request and sole cost in any action to enforce such warranties and guarantees. In the event of destruction of the Premises by fire or other casualty, the condition of the Premises upon termination of this Lease shall be governed by Article 14. Except as otherwise set forth herein, Landlord shall have no obligation whatsoever to alter, remodel, improve, repair, renovate, retrofit or maintain the Premises or any portion thereof.

Without limiting the generality of the foregoing, Tenant shall maintain the HVAC and Roof under commercially reasonable maintenance contracts ("**Maintenance Contracts**"), which shall provide for maintenance of the HVAC and Roof, respectively, at intervals that are no less frequent than quarterly and semi-annually, respectively. Tenant shall deliver copies of the applicable Maintenance Contracts to Landlord upon engagement of the contractors and thereafter, within ten (10) days following receipt of a request therefor. Tenant shall deliver to Landlord copies of each quarterly HVAC inspection report and semi-annual Roof inspection report within ten (10) days following receipt by Tenant. Should Tenant fail to obtain and maintain the Maintenance Contracts as required hereby, Landlord (upon five (5) business days notice to Tenant) may procure the Maintenance Contracts on behalf of and at the expense of Tenant. Upon written notice from Landlord of the procurement of the Maintenance Contracts, (i)

Tenant shall immediately pay to Landlord, as Additional Rent, an amount equal to the total cost incurred by Landlord in procuring and maintaining the Maintenance Contracts, and (ii) Tenant shall permit the contractors to enter upon the Premises at all reasonable times for the purpose of carrying out the terms of the Maintenance Contracts. For the avoidance of doubt, Tenant's obligations with respect to the HVAC shall include ducting.

11.2 Obligation to Keep the Premises Clear

Tenant shall keep the Premises, all sidewalks adjacent to the Premises and loading area allocated for the use of Tenant, clean and free from rubbish and debris. Tenant shall store all trash and garbage within the Premises and arrange for regular pickup and cartage of such trash and garbage at Tenant's expense.

11.3 Compliance

Tenant, at Tenant's sole expense, promptly shall comply with all applicable statutes, ordinances, rules, regulations, orders, covenants and restrictions of record, and requirements in effect during the term or any part of the term hereof (including, without limitation, the Ground Lease), regulating the use by Tenant of the Premises, including, without limitation, the obligation at Tenant's cost, to alter, maintain, or restore the Premises in compliance and conformity with all laws relating to the condition, use or occupancy of the Premises during the term (including, without limitation, any and all requirements as set forth in the Americans with Disabilities Act) and regardless of (i) whether such laws require structural or non-structural improvements, (ii) whether the improvements were foreseen or unforeseen, and (iii) the period of time remaining in the term.

12. ALTERATIONS AND IMPROVEMENTS

12.1 Right to Make Alterations

Subject to obtaining any approval required under the Ground Lease, at all times during the term of this Lease, except as provided in Article 17, Tenant shall have the right to make alterations, additions and improvements ("**Alterations**") to the interior or exterior of the Premises and parking areas adjacent to the Premises. Nevertheless, the following shall not be made by Tenant without the prior written consent of Landlord: Alterations that (i) are over TWENTY-FIVE THOUSAND DOLLARS (\$25,000), (ii) are structural in nature, (iii) negatively impact parking, (iv) in any manner involve or impact the roofing system, and/or (v) require a variance, conditional use permit, or similar instrument from a governmental authority. Any Alterations made or installed by Tenant shall remain upon the Premises and, at the expiration or earlier termination of this Lease, shall be surrendered with the Premises to Landlord. Alterations shall be accomplished by Tenant in a good, expeditious, quality workmanlike manner, in conformity with the Ground Lease and applicable laws, zoning, regulations, ordinances, orders and covenants, conditions and restrictions encumbering the Premises, and by a licensed contractor; and with respect to Alterations requiring Landlord's consent, the contractor shall be approved by Landlord. Prior to commencement of any such work, Tenant shall provide to Landlord copies of documents as shall reasonably be requested by Landlord, including, without limitation, permits and governmental approvals, architectural plans and manufacturer specifications. Within Thirty (30) days of completion of any such work, Tenant shall provide to Landlord final "as-built" plans, copies of all construction contracts, inspection reports, proof of payment of all labor and materials (including final unconditional lien waivers from the general

contractor and all subcontractors), and such documentation as reasonably may be requested by Landlord (including, without limitation, digital photographs documenting the progress and completion of the Alterations). Tenant shall pay when due all claims for such labor and materials and shall give Landlord at least ten (10) days' prior written notice of the commencement of any such work. Landlord may enter upon the Premises, in such case, for the purpose of posting appropriate notices, including, but not limited to, notices of non-responsibility.

12.2 Tenant Shall Not Render Premises Liable For Any Lien

Tenant shall have no right, authority, or power to bind Landlord, or any interest of Landlord in the Premises, nor to render the Premises liable for any lien or right of lien for the payment of any claim for labor, material, or for any charge or expense incurred to maintain, to repair, or to make Alterations to the Premises. Tenant shall in no way be considered the agent of Landlord in the construction, modification, repair, or alteration of the Premises. Notwithstanding the above, Tenant shall have the right to contest the legality or validity of any lien or claim filed against the Premises. No contest shall be carried on or maintained by Tenant after the time limits in the sale notice of the Premises for any such lien or claim unless Tenant shall have (i) duly paid the amount involved under protest; (ii) procured and recorded a lien release bond from a bonding company acceptable to Landlord in an amount not less than one and one-half (1-1/2) times the amount involved; or (iii) procured a stay of all proceedings to enforce collection. Upon a final adverse determination of any contest, Tenant shall pay and discharge the amount of the lien or claim determined to be due, together with any penalties, fines, interest, cost, and expense which may have accrued, and shall provide proof of payment to Landlord.

13. INDEMNITY AND INSURANCE

13.1 Indemnification

To the fullest extent permitted by law, Tenant shall indemnify, defend and protect Landlord, and hold Landlord harmless from any and all loss, cost, damage, expense and/or liability (including, without limitation, court costs and reasonable attorneys' fees) incurred in connection with or arising at any time and from any cause whatsoever in or about the Premises, other than damages proximately caused by reason of the gross negligence or willful misconduct of Landlord or its agents and employees, including, without limiting the generality of the foregoing: (i) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease on Tenant's part to be observed or performed; (ii) the use or occupancy of the Premises by Tenant or any person claiming by, through, or under Tenant; (iii) the condition of the Premises or any occurrence or happening on the Premises from any cause whatsoever; or (iv) any acts, omissions or negligence of Tenant or any person claiming by, through or under Tenant, or of the contractors, agents, servants, employees, visitors or licensees of Tenant or any such person, in, on or about the Premises, either prior to or during the Lease term (including, without limitation, any holdovers in connection therewith), including, without limitation, any acts, omissions, or negligence in the making or performance of any Alterations. Tenant further agrees to indemnify and hold harmless Landlord, Landlord's agents, and the landlord or landlords under all ground or underlying leases, from and against any and all loss, cost, liability, damage, and expense (including, without limitation, reasonable attorneys' fees) incurred in connection with or arising from any claims by any persons by reason of injury to persons or damage to property occasioned by any use, occupancy, condition, occurrence,

happening, act, omission or negligence referred to in the preceding sentence. The provisions of this Section shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination, and shall not be limited by reason of any insurance carried by Landlord and Tenant.

13.2 Insurance Company Requirement

Insurance required by this Lease shall be issued by companies holding a general policyholder's rating of A-VIII or better as set forth in the most current issue of Best's Insurance Guide and authorized to do business in the state in which the Premises are located. If this publication is discontinued, then another insurance rating guide or service generally recognized as authoritative shall be substituted by Landlord.

13.3 Insurance Certificate Requirements

- 13.3.1 Tenant shall deliver to Landlord or Landlord's designee evidence of the existence and amounts of the insurance with additional insured endorsements and loss payable clauses as required herein. Tenant shall deliver to Landlord or Landlord's designee the then most current versions of an ACORD 25 Certificate of Liability Insurance in connection with Tenant's liability policy(ies) and an ACORD 28 Evidence of Commercial Property Insurance in connection with Tenant's property policy(ies) (together, the "**ACORD Forms**"), such ACORD Forms to be delivered to Landlord or Landlord's designee, together with a copy of the additional insured endorsement set forth in Section 13.5 below, on or before the Commencement Date and thereafter, prior to expiration of the policies. In the event Tenant delivers ACORD Forms or procures policies that set forth an entity other than Tenant as the "insured" ("**Insured Party**") under the applicable policy(ies), Tenant hereunder represents and agrees that (i) the Insured Party is an affiliate of Tenant and has an insurable interest in Tenant and the Premises, (ii) Tenant has the right to bind the Insured Party and (iii) the Insured Party automatically shall be joined in this Lease for the purposes of being bound by the provisions of Articles 13 and 14. To the extent Tenant delivers ACORD Forms to Landlord that indicate a variance between the requirements of this Article 13 and the policy provisions and coverages maintained by Tenant, under no circumstances shall Landlord's acceptance of such ACORD Forms ever be deemed to constitute a waiver by Landlord of the express requirements set forth herein. Within ten (10) days following Landlord's request, Tenant shall deliver to Landlord complete, certified copies of Tenant's insurance policies. Neither the issuance of any insurance policy required hereunder, nor the minimum limits specified herein with respect to any insurance coverage, shall be deemed to limit or restrict in any way the liability of Tenant arising under or out of this Lease.

13.4 Minimum Acceptable Insurance Coverage Requirements

- 13.4.1 Tenant shall, at Tenant's expense, obtain and keep in full force during the term of this Lease a policy of combined single limit bodily injury and property damage insurance written on an occurrence basis insuring Tenant against any liability arising out of ownership, use, occupancy or maintenance of the Premises and all of its appurtenant areas including, without limitation, the parking lot and other common areas of the shopping center in which the Premises is located (also known as 1776 Plaza Shopping Center). The policy shall provide blanket contractual liability coverage and an Amendment of Insured Contract CG 2426 07 04 endorsement (without modification) and shall include an endorsement for liquor liability in the event alcoholic beverages are being sold on the Premises. The insurance shall be in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per occurrence, and a general aggregate limit which shall apply separately to the Premises or shall be in an amount no less than three times the required occurrence limit; provided however, following receipt of written notice from Landlord the limits of such insurance shall be increased from time to time during the term of the Lease to such amount as may then be generally procured and maintained by owners or occupants of similar properties in the geographic area of the Premises. Any deductibles or self-insured retentions or sub-limits must be declared and approved by Landlord. The insurance to be maintained by Tenant pursuant to this Section 13.4.1 may be procured in any combination of primary, umbrella and/or excess coverage (as long as the umbrella and/or excess policies are at least as broad as the primary policies), but in all events shall be primary and not contributory to any other insurance maintained by Landlord, it being expressly understood and agreed that any policy(ies) maintained by Landlord are solely for its own benefit (and not for the benefit of Tenant), and under no circumstances shall any such policy(ies) ever be deemed to be other insurance covering loss or damage otherwise the responsibility of Tenant pursuant to the terms hereof. In no event shall the limits of insurance maintained by Tenant limit any liability of Tenant under this Lease.
- 13.4.2 Tenant shall, at Tenant's expense, obtain and keep in force during the term of this Lease a special causes of loss insurance policy covering all of Tenant's Personal Property in an amount not less than eighty percent (80%) of the replacement value thereof, together with such other coverages as Tenant shall deem reasonable or necessary.
- 13.4.3 Tenant shall also obtain and keep in force for the benefit of Landlord and Tenant during the term of this Lease, a policy of business interruption insurance ("**Business Interruption Insurance**") covering Base Monthly Rent and other operating expenses for a period of SIX (6) MONTHS).

13.4.4 Tenant shall also obtain and keep in force during the term of this Lease a worker's compensation policy and Employer's Liability policy insuring against and satisfying Tenant's minimum statutory obligations and liabilities under the worker's compensation laws of the state in which the Premises is located.

13.4.5 Tenant shall also obtain and keep in force during the term of this Lease such other types and amounts of insurance for the Premises and its operations as Landlord shall from time to time reasonably require, consistent with the types and amounts of insurance commonly maintained by owners or occupants of similar properties in the geographic area of the Premises.

13.5 Additional Insureds; Loss Payee

Tenant shall name as additional insureds (by way of a CG 20 26 11 85 endorsement (without modification) or equivalent endorsement), on all liability policies, the following parties:

O ICE, LLC, TOGETHER WITH REALTY INCOME CORPORATION, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBSIDIARIES, AFFILIATES, SUCCESSOR(S) AND ASSIGN(S).

Tenant shall cause any and all contractors performing work on the Premises for or on behalf of Tenant to maintain commercial general liability insurance with limits of coverage commensurate with the scope of work being performed, and naming both Tenant and Landlord as additional insureds thereunder by way of a CG 2038 04 13 endorsement (or equivalent endorsement).

Tenant shall name Landlord as loss payee by way of a Lender's Loss Payable Provisions endorsement (ISO Form CP 12 18 06 95) without modification (or equivalent endorsement) on all property policies insuring the Premises.

13.6 Insurance to be Maintained by Landlord

13.6.1 Landlord shall obtain and keep in force during the term of this Lease a "Special Form" (as such term is used in the insurance industry) policy of insurance covering loss or damage to the improvements (but excluding Tenant's Personal Property). The policy shall be commercially reasonable in form and substance, and, at Landlord's option, may contain one or more of the following provisions and/or endorsements: (i) be in an amount not less than the full guaranteed replacement cost of the building(s) (less slab, foundation, supports and other customarily excluded improvements); (ii) contain only standard printed exclusions; (iii) contain no coinsurance clause; (iv) include an agreed value endorsement; (v) include business interruption with extra expense or rent loss; and (vi) include an ordinance or law coverage endorsement covering loss to the undamaged portion of the building,

demolition costs and increased cost of construction resulting from changes in laws or codes. The deductible (“**Deductible**”) payable in connection with such policy shall be any amount deemed reasonable by Landlord in its reasonable business judgment. In the event of casualty, Tenant shall be responsible for payment of the Deductible.

- 13.6.2 If the Premises is located in Special Flood Hazard Area as defined by the Federal Emergency Management Agency (FEMA), Landlord may, at Tenant’s expense, obtain and keep in force during the term of this Lease a policy of insurance covering loss or damage due to flood with respect to the Premises.
- 13.6.3 Intentionally omitted.
- 13.6.4 Upon request, Landlord shall deliver to Tenant a certificate with respect to the policy maintained by Landlord pursuant to this Section.
- 13.6.5 Effective on the Commencement Date, Tenant shall be responsible as Additional Rent for all costs and fees assessed by Landlord in connection with procurement, maintenance and administration of the aforementioned policies of insurance (“**Insurance Costs and Fees**”). The Insurance Costs and Fees shall be paid by Tenant to Landlord in monthly installments during the term of this Lease commencing upon the Commencement Date and on or before the first of each calendar month thereafter. Such monthly installments shall be an estimated amount equal to one-twelfth (1/12) of the Insurance Costs and Fees for the immediate preceding year, subject to adjustment when the actual Insurance Costs and Fees are determined. At such time as the actual Insurance Costs and Fees are determined, Landlord shall furnish to Tenant a statement indicating the actual amount of Insurance Costs and Fees. Within ten (10) business days after receipt of such statement by Tenant, Tenant shall pay to Landlord any deficiency due (i) by check from Tenant to Landlord, or (ii) at Landlord’s option, and if so indicated in the communication accompanying such statement, concurrently with an ACH transfer of Base Monthly Rent, pursuant to Paragraph 4.2, provided such transfer date is at least ten (10) days (and no more than ninety (90) days) after receipt of such statement by Tenant.
- 13.6.6 Tenant shall not do or permit to be done anything which shall invalidate the insurance policies. Landlord’s delay, or the failure of Landlord beyond commencement of any renewal period, in computing or billing for the Insurance Costs and Fees shall in no way impair the continuing obligation of Tenant to pay the Insurance Costs and Fees otherwise due pursuant to this Section.

13.7 Mortgage Endorsement

At Landlord’s option, the policies of insurance required to be maintained hereunder shall bear a standard first mortgage endorsement in favor of any holder or holders of a first

mortgage lien or security interest in the property with loss payable to such holder or holders as their interests may appear.

14. PARTIAL AND TOTAL DESTRUCTION OF THE PREMISES

In the event any portion or all of the Premises shall at any time during the term of this Lease be damaged or destroyed, regardless of cause, Tenant shall give prompt notice to Landlord. If the Premises is "substantially damaged or destroyed" (as defined below), Landlord shall have the right to terminate this Lease upon thirty (30) days' written notice to Tenant, which notice shall be delivered within thirty (30) days following the date upon which Landlord learns of the casualty. In the event of such termination by Landlord, this Lease shall terminate effective as of the date of casualty, and Base Monthly Rent and Additional Rent shall be adjusted as between Landlord and Tenant as of such date. As used herein, the phrase "substantially damaged or destroyed" shall mean that the restoration or repair cost, as estimated by one (1) general contractor selected by Landlord and properly licensed in the State in which the Premises is located, exceeds twenty-five percent (25%) of the replacement value of the improvements immediately prior to such damage or destruction. In the event Landlord does not elect to terminate the Lease as set forth above and (i) the Premises is substantially damaged or destroyed, (ii) any such damage or destruction renders the Premises inaccessible or unusable by Tenant, and (iii) the remaining Lease term, including exercised extension options, if any, is less than TWO (2) years, Tenant shall have the right to terminate this Lease upon thirty (30) days' written notice to Landlord, which notice shall be delivered within thirty (30) days following the date of the casualty. In the event of such termination by Tenant, this Lease shall terminate effective as of the date Tenant's termination notice is received by Landlord, and Base Monthly Rent and Additional Rent shall be adjusted as between Landlord and Tenant as of such date.

If the Lease is not terminated as provided above, and providing there are no uncured Events of Default then existing under the Lease, then to the extent permitted by applicable law and subject to the Ground Lease, the availability of insurance proceeds and Tenant's payment of the Deductible, Landlord shall, as soon as circumstances reasonably permit, commence repair and restoration of the Premises and shall thereafter work diligently to substantially complete such repair and restoration of the Premises to a complete architectural unit of the substantially same value, condition and character that existed immediately prior to such casualty, and with any and all modifications as may be necessary to meet code compliance (excluding Tenant's Personal Property). If necessary with respect to repair and restoration of the Premises, Landlord may require Tenant to temporarily remove certain or all of Tenant's Personal Property from the Premises, and Tenant covenants and agrees to so remove Tenant's Personal Property promptly following notice from Landlord. Tenant is not entitled to any rent abatement during or resulting from any disturbance from partial or total destruction of the Premises for the first SIX (6) MONTHS ("**First Six Months**") following the event of casualty, and in no event shall Tenant be entitled to terminate the Lease; provided, however, Tenant's obligation for payment of Base Monthly Rent and Additional Rent shall be reduced dollar for dollar by the amount of Business Interruption Insurance received by Landlord. Base Monthly Rent otherwise due hereunder following the First Six Months shall abate to the extent the Premises are unusable by Tenant until such time as repairs and restoration of the Premises are substantially complete.

15. CONDEMNATION

15.1 Condemnation Damages

In the event of the taking or conveyance in fee of, or temporary use of, or perpetual easement upon, the whole or any part of the Premises by reason of condemnation by any public or quasi-public body (“**Condemnation**”), Landlord and Tenant shall represent themselves independently in seeking damages before the condemning body (the “**Condemnor**”). Each party shall be entitled to the amount awarded respectively to each. Landlord shall be entitled to the entirety of the award and any and all damages arising from or associated with the Condemnation, except that Tenant shall have the right to make a claim against the Condemnor for the following:

- 15.1.1 That portion of the award expressly attributable to the value of Tenant’s leasehold improvements made to the Premises by Tenant in accordance with this Lease, so long as Tenant has the right to remove such improvements from the Premises upon the expiration or termination of the Lease pursuant to the provisions of this Lease, but elects not to remove;
- 15.1.2 That portion of the award expressly attributable to the value of Tenant’s Personal Property installed in the Premises in accordance with this Lease, so long as Tenant has the right to remove such Tenant’s Personal Property from the Premises upon the expiration or termination of the Lease pursuant to the provisions of this Lease;
- 15.1.3 All relocation benefits separately awarded for: (i) removing Tenant’s Personal Property; (ii) damage or loss to Tenant’s business and good will and (iii) moving and relocation expenses; and
- 15.1.4 Providing (i) Tenant is then occupying the Premises (i.e., at the time the Condemnor is physically occupying the portion of the Premises subject to a temporary Condemnation) and (ii) there is no then uncured Event of Default, that portion of the award attributable to a temporary Condemnation to the extent the temporary Condemnation solely affects Tenant’s leasehold interest in the Premises during the Lease term and not Landlord’s fee interest in the Premises, such as (by way of example only) the taking of a temporary construction easement which easement shall expire prior to expiration of the Lease.

15.2 Termination of Lease Due to Condemnation

In the event the entirety of the Premises or a material and significant portion of the land and/or building comprising the Premises is permanently acquired in Condemnation, which Condemnation will materially adversely affect the Use of the Premises, Tenant may terminate the Lease by giving Landlord written notice of its intention to terminate the Lease within thirty (30) days following the date upon which Tenant receives written notice of the nature, extent and scope of the Condemnation or otherwise becomes aware, or reasonably should be aware, of such facts sufficient to put Tenant on notice of the full effects of the Condemnation. This Section 15.2 shall not alter the method of distribution of any Condemnation award set forth above in Section 15.1. In the event this Lease is terminated as provided herein, the effective date of the termination shall be the date upon which fee simple interest in the Premises is deemed to

have passed to the Condemnor, and Tenant shall be released from further obligations or liabilities arising under the Lease with the exception of those obligations which accrued or arose prior to the effective date of the Condemnation and those liabilities which, pursuant to the terms of the Lease, survive expiration or termination of the Lease. In the event of termination, Base Monthly Rent, Property Taxes, Other Charges and any other items of Additional Rent (collectively, "**Rent and Charges**") shall be prorated based upon the actual number of days in the period to be prorated. Within thirty (30) days following the termination, Landlord shall refund to Tenant any Rent and Charges paid to Landlord in advance of the termination.

16. ASSIGNMENT AND SUBLETTING

16.1 Tenant's Right of Assignment and Subletting

Tenant shall not voluntarily or by operation of law assign or encumber its interest in this Lease or in the Premises, or sublease all or any part of the Premises, or allow any other person or entity to occupy or use any part of the Premises, without first obtaining the written consent of Landlord. If Tenant is a corporation (other than a public corporation whose stock is traded on a nationally recognized stock exchange), an unincorporated association, limited liability company, trust, or partnership, then (i) any direct or indirect transfer or assignment of a forty-nine percent (49%) or more beneficial ownership interest in such entity (including without limitation by merger, consolidation, or reorganization), (ii) any change of an ownership or management interest in Tenant, either directly or indirectly, through one or more tiers of ownership, which transfers control or management of Tenant, or (iii) any other transfer or assignment the effect of which is to circumvent the Landlord's approval rights under this Section, will be deemed an assignment requiring Landlord's prior written consent, which consent will not be unreasonably withheld. Any assignment, encumbrance, or sublease without Landlord's consent shall be voidable and, at Landlord's election, shall constitute a default. It shall not be unreasonable for Landlord to withhold its consent to any proposed assignment or subletting if the proposed transferee does not meet certain criteria, including, but not limited to, the transferee's financial condition and business experience; the identity, nature, quality, and business character of the transferee; and the nature of the use and occupancy. In addition, Landlord reserves the right, in exercise of its reasonable business judgment, to condition its consent on obtaining additional security under the Lease, such as, by way of example only, an additional or increased security deposit.

16.2 Landlord's Option to Preserve Subtenancies

In the event of Tenant's surrender of this Lease or the termination of this Lease in any other manner, Landlord may, at its option, either terminate any or all subtenancies or succeed to the interest of Tenant as sublandlord thereunder. No merger shall result from Tenant's sublease of the Premises under this Article, Tenant's surrender of this Lease, or the termination of this Lease in any other manner.

16.3 Tenant's Assignment of All Rent from Subletting as Security for Tenant's Obligations

Tenant immediately and irrevocably assigns to Landlord, as security for Tenant's obligations under this Lease, all rent from any subletting of all or a part of the Premises as permitted by this Lease. In the event of a default by Tenant, Landlord, as assignee and as attorney-in-fact for Tenant, or a receiver for Tenant appointed on Landlord's application, may collect the rent and apply it toward Tenant's obligations under this Lease.

16.4 Continuing Obligation of Tenant

No transfer permitted by this Article 16 shall release Tenant or change Tenant's primary liability to pay the rent and to perform all other obligations of Tenant under this Lease. Landlord's acceptance of rent from any other person is not a waiver of any provision of this Article. Landlord's consent to one transfer is not a consent to any subsequent transfer. If Tenant's transferee defaults under this Lease, Landlord may proceed directly against Tenant without pursuing remedies against the transferee. Landlord may consent to subsequent assignments or modifications of this Lease by Tenant's transferee, without notifying Tenant or obtaining its consent. Such action shall not relieve Tenant's liability under this Lease.

16.5 Landlord's Right of Assignment

Landlord shall be free at all times, without need of consent or approval by Tenant, to assign its interest in this Lease and/or to convey fee title to the Premises, provided, however, notice to Tenant shall be provided within thirty (30) days of any such assignment. Each conveyance by Landlord of Landlord's interest in the Lease or the Premises prior to expiration or termination hereof shall be subject to this Lease and shall relieve the grantor of any further obligations or liability as Landlord, and Tenant shall look solely to Landlord's successor in interest for all future obligations of Landlord. Tenant hereby agrees to attorn to Landlord's successors in interest, whether such interest is acquired by sale, transfer, foreclosure, deed in lieu of foreclosure, or otherwise. The term "Landlord" as used in this Lease, so far as covenants and obligations on the part of Landlord are concerned, shall be limited to mean and include only the owner at the time in question of the fee title of the Premises. Without further agreement, the transferee of such title shall be deemed to have assumed and agreed to observe and perform any and all obligations of Landlord hereunder during its ownership of the Premises.

17. DEFAULT AND TERMINATION

17.1 Event of Default

The occurrence of any of the following events (each an "**Event of Default**") shall constitute a default by Tenant:

- 17.1.1 Failure by Tenant to pay Base Monthly Rent or Additional Rent when due.
- 17.1.2 Failure by Tenant to deliver to Landlord evidence of the existence and amounts of the insurance with endorsements and loss payable clauses as required pursuant to Article 13, if the failure is not cured within ten (10) days after notice has been given to Tenant.
- 17.1.3 Failure by Tenant to perform or comply with any provision of this Lease (other than as set forth in Subsections 17.1.1 or 17.1.2) if the failure is not cured within thirty (30) days after notice has been given to Tenant, or in the event of an emergency ("**Emergency**"), within twenty-four (24) hours after notice has been given to Tenant. As used herein, the term "Emergency" shall mean a condition that gives rise to a reasonable basis for Landlord to believe the integrity of the improvements situated on the Premises may be or may imminently be in peril or jeopardy if immediate action is not taken. If, however, the

failure cannot reasonably be cured within the above cure period, Tenant shall not be in default of this Lease if Tenant commences to cure the failure within the cure period and diligently and in good faith continues to cure the failure.

17.1.4 The abandonment or vacation of the Premises by Tenant for a period of five (5) days.

17.1.5 A default by Tenant under any other lease in which Landlord (or an affiliate of Landlord) is the landlord and Tenant (or an affiliate of Tenant) is the tenant. As used herein, "affiliate" means any person or entity which, directly or indirectly, (a) controls, or is controlled by Landlord or Tenant (as the case may be) or (b) is also controlled by the same entity having a controlling interest in Landlord or Tenant (as the case may be).

17.1.6 To the extent permitted by law, a general assignment by Tenant or any guarantor of the Lease for the benefit of creditors, or the filing by or against Tenant or any guarantor of any proceeding under any insolvency or bankruptcy law, unless in the case of a proceeding filed against Tenant or any guarantor the same is dismissed within sixty (60) days, or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within (30) days, or any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Premises or of Tenant's interest in this Lease, unless such seizure is discharged within thirty (30) days.

17.1.7 Any notice delivered pursuant to this Section 17.1 shall be in lieu of, and not in addition to, any notice required by law.

17.2 Landlord's Remedies

Landlord shall have any one or more of the following remedies after the occurrence of a default by Tenant. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law, in equity, or otherwise:

17.2.1 Terminate this Lease by giving written notice of termination to Tenant, in which event Tenant immediately shall surrender the Premises to Landlord. Subject to applicable law, if Tenant fails to so surrender the Premises, then Landlord, without prejudice to any other remedy it has for possession of the Premises or arrearages in rent or other damages, may seek to re-enter and take possession of the Premises and expel or remove Tenant and any other person or entity occupying the Premises or any part thereof, without being liable for any damages.

17.2.2 No act by Landlord other than giving notice of termination to Tenant shall terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease shall not constitute a

termination of this Lease. Notwithstanding anything contained herein to the contrary, if Landlord elects to terminate this Lease or to terminate Tenant's right to possession without terminating the Lease, or if Tenant's right to possession is otherwise terminated by operation of law, then Landlord may, to the extent not prohibited under applicable law, recover as damages from Tenant the following: (i) all Base Monthly Rent and Additional Rent then due under the Lease through the date of termination; (ii) the Base Monthly Rent due for the remainder of the Lease term in excess of the fair market rental value of the Premises for the remainder of the Lease term plus any and all Additional Rent (each discounted by the discount rate of the Federal Reserve Bank of San Francisco plus One Percent (1%)); (iii) the cost of reletting the Premises, including without limitation the anticipated period of vacancy until the Premises can be re-let at its fair market rental value; and (iv) any other costs and expenses that Landlord may reasonably incur in connection with the Event of Default.

17.2.3

Landlord may re-enter and take possession of the Premises without terminating this Lease and without being liable for any damages. Landlord may relet the Premises, or any part of them, to third parties, but has no obligation to do so. Landlord may relet the Premises on whatever terms and conditions Landlord, in its sole discretion, deems advisable. Reletting can be for a period shorter or longer than the remaining term of this Lease. Landlord's action under this Subsection is not considered an acceptance of Tenant's surrender of the Premises unless Landlord so notifies Tenant in writing. Tenant shall be immediately liable to Landlord for all costs Landlord incurs in reletting the Premises, including brokers' commissions, expenses of remodeling the Premises required by the reletting, and like costs. Tenant shall pay to Landlord the rent due under this Lease on the dates the rent is due, less the rent Landlord receives from any reletting.

If Landlord elects to relet the Premises without terminating this Lease, any rent received will be applied to the account of Tenant, not to exceed Tenant's total indebtedness to Landlord; no reletting by Landlord is considered to be for its own account unless Landlord has notified Tenant in writing that the Lease has been terminated. If Landlord elects to relet the Premises, rent that Landlord receives from reletting will be applied to the payment of: (i) first, any indebtedness from Tenant to Landlord other than rent due from Tenant; (ii) second, all costs, including maintenance, incurred by Landlord in reletting; and (iii) third, rent due and unpaid under the Lease. After deducting the payments referred to in this Subsection, any sum remaining from the rent Landlord receives from reletting will be held by Landlord and applied in payment of future rent as rent becomes due under this Lease. If, on the date rent is due under this Lease, the rent received from the reletting is less than the rent due on that date, Tenant will pay to Landlord, in addition to the remaining rent due, all costs, including

maintenance, Landlord incurred in reletting which remain after applying the rent received from the reletting. Tenant shall have no right to or interest in the rent or other consideration received by Landlord from reletting to the extent it exceeds Tenant's total indebtedness to Landlord.

17.2.4 Re-enter the Premises, without terminating this Lease and without being liable for any damages, and do whatever Tenant is obligated to do under the terms of this Lease. The expenses incurred by Landlord in effecting compliance with Tenant's obligations under this Lease immediately shall become due and payable to Landlord as Additional Rent.

17.2.5 In all events, Tenant is liable for all direct damages suffered by Landlord as a result of the occurrence of an Event of Default. If Tenant fails to pay Landlord in a prompt manner for the damages suffered, Landlord may pursue a monetary recovery from Tenant. Included among these damages are all expenses incurred by Landlord in repossessing the Premises (including, but not limited to, increased insurance premiums resulting from Tenant's vacancy), all expenses incurred by Landlord in reletting the Premises (including, but not limited to, those incurred for advertisements, brokerage fees, repairs, remodeling, and replacements), all losses incurred by Landlord as a result of Tenant's Event of Default (including, but not limited to, any unamortized commissions paid in connection with this Lease). In addition, Tenant shall pay all expenses incurred by Landlord (including, without limitation, reasonable attorneys fees) in connection with: (i) the enforcement of Landlord's rights under the Lease in any proceeding whether formal or informal relating to or arising under the Lease, including without limitation, any proceedings in connection with a petition for relief under the Bankruptcy Code filed by or against Tenant and whether or not the matter is settled before a judgment or order is entered; or (ii) any assumption by Tenant or assignment of the Lease to and by any assignee of Tenant whether pursuant to the Bankruptcy Code or otherwise. Notwithstanding anything to the contrary in this Lease, in no event shall Tenant be liable for special, indirect or consequential damages.

17.2.6 Pursuit of any of the foregoing remedies does not constitute an irrevocable election of remedies nor preclude pursuit of any other remedy provided elsewhere in this Lease or by applicable law. Likewise, forbearance by Landlord to enforce one or more of the remedies available to it on an Event of Default does not constitute a waiver of that default or of the right to exercise that remedy later or of any rent, damages, or other amounts due to Landlord hereunder. Nothing herein shall be deemed to preclude Landlord from pursuing non-judgment collection and related activities (including, without limitation, skip-tracing and payment negotiations) to the extent

permitted by applicable law, nor from placing derogatory information in a debtor's credit profile to the extent such information is based upon an Event of Default under the Lease and is otherwise materially accurate.

- 17.2.7 Whether or not Landlord elects to terminate this Lease or Tenant's right to possession of the Premises on account of any default by Tenant, Landlord shall have all rights and remedies at law or in equity, including, but not limited to, the right to re-enter the Premises and, to the maximum extent provided by law, Landlord shall have the right to terminate any and all subleases, licenses, concessions, or other consensual arrangements for possession entered into by Tenant and affecting the Premises or, in Landlord's sole discretion, may succeed to Tenant's interest in such subleases, licenses, concessions, or arrangements. In the event of Landlord's election to succeed to Tenant's interest in any such subleases, licenses, concessions, or arrangements, Tenant shall have no further right to or interest in the rent or other consideration receivable thereunder as of the date of notice by Landlord of such election.

17.3 Late Charge; Default Interest

If Tenant fails to pay when due any payment of rent or other charges which Tenant is obligated to pay to Landlord under this Lease, there shall be a late charge, immediately payable by Tenant as Additional Rent, in the amount of six percent (6%) of each such obligation. Landlord and Tenant agree that this sum is reasonable to compensate Landlord for accounting and administrative expenses incurred by Landlord. In addition to the foregoing, if any payment tendered by Tenant to Landlord is dishonored by the financial institution upon which the payment is drawn (e.g., insufficient funds, uncollected funds, account closed, payment stopped, etc.), Tenant shall pay to Landlord the greater of Twenty Dollars (\$20.00) or the actual service fee charged by Landlord's financial institution in connection with such dishonored payment.

In addition to the late charge, any and all rent or other charges which Tenant is obligated to pay to Landlord under this Lease which are unpaid, shall bear interest from the date said payment was due until paid at the lesser of (i) the prime commercial rate being charged by the Bank of America N.A. in effect on the date due plus two percent (2%) per annum; or (ii) the maximum rate permitted by law, said interest to be payable by Tenant as Additional Rent. If Bank of America N.A. is no longer in existence, then another comparable bank or financial institution shall be substituted by Landlord. Landlord and Tenant agree that this sum is reasonable to compensate Landlord for the loss of the use of funds.

17.4 Right of Landlord to Re-Enter

In the event of any termination of this Lease or of Tenant's possession of the Premises (without termination of the Lease), Landlord shall have the immediate right to enter upon and repossess the Premises, and any personal property of Tenant may be removed from the Premises and discarded and/or stored in any public warehouse at the risk and expense of Tenant.

17.5 Surrender of Premises

No act or thing done by Landlord or any agent or employee of Landlord during the Lease term shall be deemed to constitute an acceptance by Landlord or a surrender of Premises unless such intent is specifically acknowledged in a writing signed by Landlord. The delivery of keys to the Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord and, notwithstanding such delivery, Tenant shall be entitled to the return of such keys at any reasonable time upon request until this Lease shall have been terminated properly. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Premises.

17.6 Default by Landlord

Landlord shall be in default if Landlord fails to perform any provision of this Lease required of it and the failure is not cured within thirty (30) days after notice has been given to Landlord. If, however, the failure cannot reasonably be cured within the cure period, Landlord shall not be in default of this Lease if Landlord commences to cure the failure within the cure period and diligently and in good faith continues to cure the failure. Notices given under this Section 17.6 shall specify the alleged breach and the applicable Lease provisions. If Landlord shall at any time default beyond the applicable notice and cure period, Tenant shall have the right to cure such default on Landlord's behalf. Any sums expended by Tenant in doing so, and all reasonably necessary incidental costs and expenses incurred in connection therewith, shall be payable by Landlord to Tenant within thirty (30) days following demand therefor by Tenant, provided, however, that Tenant shall not be entitled to any deduction or offset against any rent otherwise payable to Landlord under this Lease, and in no event may Tenant terminate this Lease in the event of a default by Landlord.

18. RIGHT OF ENTRY

Landlord and Landlord's authorized representatives shall have the right (but not the obligation) after written notice to Tenant (except in the event of an Emergency, when written notice is not required and notice may be given telephonically to Tenant by Landlord), to enter upon the Premises at all reasonable hours for the purpose of inspecting the Premises, making repairs, additions, or Alterations in or upon the Premises, addressing Events of Default concerning Emergencies, and for the purpose of exhibiting the Premises to prospective tenants, purchasers, or others. Provided Tenant is not in default beyond any applicable cure period, Landlord shall not exhibit any "for sale" or "for lease" signs during the term of the Lease.

19. WAIVER OF BREACH

No waiver by Landlord of any breach of any one or more of the terms, covenants, conditions, or agreements of this Lease shall be deemed to imply or constitute a waiver of any succeeding or other breach. Failure of Landlord to insist upon the strict performance of any of the terms, conditions, covenants, and agreements of this Lease shall not constitute or be considered as a waiver or relinquishment of Landlord's rights to subsequently enforce any default, term, condition, covenant, or agreement, which shall all continue in full force and effect.

20. NOTICES

All notices, requests, or demands herein provided to be given or made, or which may be given or made by either party to the other (excluding Emergencies), shall be given or made only in writing in the English language and shall be deemed to have been duly given:

- (i) upon delivery, or if delivery is rejected when delivery was attempted, of U.S. Certified Mail, properly addressed, postage prepaid with return receipt requested; or
- (ii) upon delivery, or if delivery is rejected when delivery was attempted, when sent via overnight or express mail courier, properly addressed and postage prepaid; or
- (iii) when delivered personally at the address set forth below, or to any agent of the party to whom notice is being given, or if delivery is rejected when delivery was attempted; or
- (iv) via facsimile transmission on a machine that prints the date and time of transmission on the notice or
- (v) by e-mail, and if so sent, (a) the subject line of the e-mail shall state "URGENT: NOTICE TO [LANDLORD] [TENANT]" (or substantially similar thereto) and (b) followed within one (1) business day by a copy sent by a method prescribed in (i), (ii) or (iv) above.

Notwithstanding the above-prescribed methods of delivery, actual receipt of written notice by a party designated below shall constitute notice given in accordance with this Lease on the date received, unless deemed earlier given pursuant to the foregoing methods of delivery. The proper address, facsimile number and e-mail to which notices, requests or demands may be given or made by either party shall be as set forth below, or to such other address or to such other person as any party shall designate in writing. Such address, facsimile number or e-mail may be changed by written notice given to the other party in accordance with this Article.

If to Landlord:

O ICE, LLC
 c/o Realty Income Corporation
 Attn: Legal Department
 11995 El Camino Real
 San Diego, CA 92130
 Phone Number: (858) 284-5000
 Fax Number: (858) 481-4862
 E-mail Address: notices@realtyincome.com

If to Tenant:

DA VINCI BISTRO, LLC
 Attn: Wioletta Zywna

130 Warren Street
Brookline, MA 02445
Phone number: (207) 329-4781 (cell)
Phone number: (617) 350-0007 (work)
Fax number: _____
E-mail Address: wioletta@davinciboston.com

21. RELATIONSHIP OF THE PARTIES

This Lease shall not be deemed or construed by the parties, nor by any third party, as creating the relationship of (i) principal and agent, (ii) partnership, or (iii) joint venture between the parties. Neither the method of computation of rent nor any acts of the parties are other than in the relationship of Landlord and Tenant.

22. SUBORDINATION, ATTORNMENMENT AND ESTOPPEL

22.1 Subordination and Non-Disturbance

Subject to the provisions of this Section, this Lease and the leasehold estate created hereby shall be, at the option and upon written declaration of Landlord, subject, subordinate, and inferior to the lien and estate of any liens, trust deeds, and encumbrances ("**Mortgages**"), and all renewals, extensions, or replacements thereof, now or hereafter imposed by Landlord upon the Premises; provided, however, that this Lease shall not be subordinate to any Mortgage arising after the date of this Lease, or any renewal, extension, or replacement thereof, unless and until Landlord provides Tenant with a subordination, non-disturbance and attornment agreement ("**Non-Disturbance Agreement**"), substantially in the form of Exhibit "D," attached hereto and incorporated hereby, in recordable form, which Non-Disturbance Agreement also shall include such commercially reasonable modifications and additional provisions as are customarily requested by secured lenders with liens encumbering real property similar to the Premises, including, without limitation, Tenant's agreement to attorn as set forth in Section 22.2 below. Tenant shall, promptly following a request by Landlord and after receipt of the Non-Disturbance Agreement, execute and acknowledge any subordination agreement or other documents required to establish of record the priority of any such encumbrance over this Lease, so long as such agreement does not otherwise increase Tenant's obligations or diminish Tenant's rights hereunder.

22.2 Attornment

In the event of foreclosure of any Mortgage, whether superior or subordinate to this Lease, then (i) this Lease shall continue in force; (ii) Tenant's quiet possession shall not be disturbed if Tenant is not in default hereunder; (iii) Tenant shall attorn to and recognize the mortgagee or purchaser at foreclosure sale ("**Successor Landlord**") as Tenant's landlord for the remaining term of this Lease; and (iv) the Successor Landlord shall not be bound by (a) any payment of rent for more than one month in advance; (b) any amendment, modification, or ending of this Lease without the Successor Landlord's consent after the Successor Landlord's name is given to Tenant, unless the amendment, modification, or ending is specifically authorized by the original Lease and does not require Landlord's prior agreement or consent; and (c) any liability for any act or omission of a prior Landlord. At the request of the Successor

Landlord, Tenant shall execute a new lease for the Premises, setting forth all of the provisions of this Lease except that the term of the new lease shall be for the balance of the term of this Lease.

22.3 Estoppel Certificate

Tenant shall execute and deliver to Landlord, within twenty (20) days after receipt of Landlord's request, an estoppel certificate or other statement to be furnished to any prospective purchaser of or any lender against the Premises ("**Estoppel Certificate**"), substantially in the form of Exhibit "E," attached hereto and incorporated hereby, which Estoppel Certificate also shall include such commercially reasonable modifications and additional provisions as are customarily requested by purchasers or lenders, including, without limitation, any or all of the following matters, to the extent each may be true: that the Lease is in effect and not subject to any rental offsets, claims, or defenses to its enforcement; the commencement and expiration dates of the term; that Tenant is paying rent on a current basis; that any improvements required to be furnished under the Lease have been completed in all respects; that the Lease constitutes the entire agreement between Tenant and Landlord relating to the Premises; that Tenant has accepted the Premises and is in possession thereof; that the Lease has not been modified, altered, or amended except in specified respects by specified instruments; that Tenant has no notice of any prior assignment, hypothecation, or pledge of rents or the Lease. Tenant shall also, upon request of Landlord, certify and agree for the benefit of any lender against the Premises or the building ("**Lender**") that Tenant will not look to such Lender: as being liable for any act or omission of Landlord; as being obligated to cure any defaults of Landlord under the Lease which occurred prior to the time Lender, its successors or assigns, acquired Landlord's interest in the Premises by foreclosure or otherwise; as being bound by any payment of rent or Additional Rent by Tenant to Landlord for more than one (1) month in advance; or as being bound by Landlord to any amendment or modification of the Lease without Lender's written consent. Failure to deliver the documents required under this Article 22 in the time period required shall constitute an Event of Default without the need for any notice or cure period.

22.4 Leasehold Mortgage

Tenant is hereby given the right by Landlord to mortgage its interest in this Lease under one or more leasehold mortgages without obtaining the consent of Landlord upon the condition that all rights acquired under such mortgages shall be subject to each and all of the terms, covenants, conditions, and restrictions set forth in this Lease, and to all rights and interests of Landlord herein, none of which terms, covenants, conditions, or restrictions is or shall be waived by Landlord by reason of the right given so to mortgage such interest in this Lease, except as expressly provided herein. If Tenant shall mortgage this leasehold, and if Tenant or the holder of such mortgage shall, within thirty (30) days of execution send to Landlord a true copy thereof together with written notice specifying the name and address of the mortgagee and the pertinent recording date with respect to such mortgage, Landlord agrees that so long as any such leasehold mortgage shall remain unsatisfied of record or until written notice of satisfaction is given by the holder to Landlord, the following provisions shall apply:

- 22.4.1 There shall be no cancellation, surrender or material modification of this Lease by joint action of Landlord and Tenant without the prior consent in writing of the leasehold mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed); provided however, under no circumstances shall failure to obtain such prior written

consent constitute a breach of, or default under, the Lease or related or supplemental agreement thereto by Landlord; and further provided that this subsection shall not impair Landlord's rights under subsection 22.4.3 below.

- 22.4.2 Landlord shall, upon serving Tenant with any notice of default, simultaneously mail a copy of such notice to the holder of such mortgage; provided however, under no circumstances shall Landlord's failure to mail such notice constitute a breach of, or default under, the Lease, nor shall Tenant or the leasehold mortgagee have any recourse whatsoever against Landlord for such failure to give notice. The leasehold mortgagee shall thereupon have the same period to remedy or cause to be remedied the defaults complained of, and Landlord shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Tenant.
- 22.4.3 Anything herein contained notwithstanding, while such leasehold mortgage remains unsatisfied of record, or until written notice of satisfaction is given by the holder of such mortgage to Landlord, if any default shall occur which, pursuant to any provision of this Lease, entitles Landlord to terminate this Lease, and if before the expiration of ten (10) days from the date of service of notice of termination upon such leasehold mortgagee, such leasehold mortgagee shall have notified Landlord of its desire to nullify such notice and shall have paid to Landlord all rent and other payments herein provided for, and then in default, and shall have complied with all of the other requirements of this Lease or, if immediate compliance is impossible, shall have commenced the work of complying with all of the other requirements of this Lease, if any are then in default, and shall prosecute the same to completion with reasonable diligence, then in such event Landlord shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect.
- 22.4.4 Landlord agrees that the name of the leasehold mortgagee may be added to the "Loss Payable Endorsement" of any and all insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied in the manner specified in this Lease, and that the leasehold mortgage document shall so provide.
- 22.4.5 The proceeds from any insurance policies or awards arising from a condemnation shall be distributed pursuant to the provisions of this Lease, but the leasehold mortgagee may reserve rights to apply to the leasehold mortgage debt all, or any part, of Tenant's share of such proceeds pursuant to such mortgage to the extent same shall be excess over and above what is required to carry out the covenants and requirements of Tenant pursuant to Articles 13, 14 and 15 hereof.
- 22.4.6 The leasehold mortgagee shall be given notice of any adjudicative proceedings by the parties hereto, and shall have the right to intervene

therein and be made party to such proceedings, and the parties hereto do hereby consent to such intervention, provided however, that under no circumstances shall failure to give such notice constitute a breach of, or default under, the Lease, nor shall Tenant or the leasehold mortgagee have any recourse whatsoever against Landlord for such failure to give such notice. In the event that the leasehold mortgagee shall not elect to intervene or become a party to such proceedings, the leasehold mortgagee shall be entitled to receive notice of, and a copy of, any award or decision made in said adjudicative proceedings.

- 22.4.7 Any and all assignments of the Lease shall be consistent with the provisions of Article 16.
- 22.4.8 Landlord shall, upon request, execute, acknowledge and deliver to each leasehold mortgagee, an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to Landlord and such leasehold mortgagee, between Landlord, Tenant and leasehold mortgagee, agreeing to all of the provisions of this Section. To the extent any conflicts exist between the terms of the leasehold mortgage, the terms of the loan agreement, or the terms of this Lease, the terms of this Lease shall govern. Landlord's consent to the execution and recordation of a leasehold mortgage by Tenant in no way constitutes approval of Landlord of any of the provisions of the leasehold mortgage. The term "**mortgage**," whenever used herein, shall include whatever security instruments are used in the locale of the Premises, such as, without limitation, deeds to secure debt, deeds of trust and conditional deeds, as well as financing statements, security agreements and other documentation required pursuant to the Uniform Commercial Code.
- 22.4.9 Any and all leasehold mortgage(s) shall at all times be subject, subordinate, and inferior to the lien and estate of any liens, trust deeds, mortgages or encumbrances, and all renewals, extensions or replacements thereof, now or hereafter imposed by Landlord upon the Premises.

23. TENANT'S FINANCIAL STATEMENTS

During the term of the Lease, Tenant shall provide Landlord with current financial statements as follows:

- (i) Within sixty (60) days of the end of each fiscal year, Tenant's detailed profit and loss statement for the retail sales operations located upon the Premises; and
- (ii) Within thirty (30) days of filing same with the Internal Revenue Service, a copy of the annual federal tax returns filed with respect to Tenant, any business entity operating upon the Premises (if other than Tenant) and any and all guarantors of the Lease.

In the event the Premises is subleased during the term, the obligations of Tenant under this Article 23 shall become the obligation of the subtenant, and Tenant covenants and agrees to require its subtenant (under the Sublease) to comply with the provisions hereof.

Landlord acknowledges that the financial information (“**Information**”) provided by Tenant pursuant to this Article 23 is for Landlord’s informational purposes only. Subject to the terms and conditions contained herein, Landlord shall hold as confidential all Information and shall not release any Information to third parties without Tenant’s prior written consent, except (1) for Landlord’s directors, officers, employees, affiliates, attorneys, accountants, auditors, lenders, financial or legal consultants or advisors, others providing professional services, investors or prospective purchasers of Landlord or the Premises and (2) as may be required to comply with regulatory requirements (e.g., filings with the Securities and Exchange Commission), or pursuant to a court order requiring such release or as otherwise may be required by law or legal process.

24. ATTORNEYS’ FEES

24.1 Recovery of Attorneys’ Fees and Costs of Suit

Tenant shall reimburse Landlord, upon demand, for any costs or expenses incurred by Landlord in connection with any breach or default under this Lease, whether or not suit is commenced or judgment entered. Such costs shall include legal fees and costs incurred for the negotiation of a settlement, enforcement of rights, or otherwise. Furthermore, if any action for breach of or to enforce the provisions of this Lease is commenced, the court in such action shall award to the party in whose favor a judgment is entered, a reasonable sum as attorneys’ fees and costs. Such attorneys’ fees and costs shall be paid by the losing party in such action.

24.2 Party to Litigation

Tenant shall indemnify Landlord against and hold Landlord harmless from all costs, expenses, demands, and liability incurred by Landlord if Landlord becomes or is made a party to any claim or action (i) instituted by Tenant, or by any third party against Tenant, or by or against any person holding any interest under or using the Premises by license of or agreement with Tenant; (ii) for foreclosure of any lien for labor or material furnished to or for Tenant or such other person; (iii) otherwise arising out of or resulting from any action or transaction of Tenant or such other person; or (iv) necessary to protect Landlord’s interest under this Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the United States Code, as amended. Tenant shall defend Landlord against any such claim or action at Tenant’s expense with counsel reasonably acceptable to Landlord or, at Landlord’s election, Tenant shall reimburse Landlord for any legal fees or costs incurred by Landlord in any such claim or action.

25. CONSENT

Tenant shall pay Landlord’s reasonable attorneys’ fees and other costs incurred in connection with Tenant’s request for Landlord’s consent under Article 16, “Assignment and Subletting,” or in connection with any other act which Tenant proposes to do and which requires Landlord’s consent (whether or not consent is ultimately given), which fees and costs shall not exceed One Thousand Five Hundred Dollars (\$1,500) for each such request. Landlord shall have no liability for damages resulting from, nor may Tenant terminate this Lease as a result of,

Landlord's failure to give any consent, approval or instruction reserved to Landlord. Tenant's sole remedy in any such event shall be an action for injunctive relief.

26. AUTHORITY TO MAKE LEASE; COVENANT OF QUIET ENJOYMENT

26.1 Full Power and Authority to Enter Lease

The parties covenant and warrant that each has full power and authority to enter into this Lease. If Tenant is a corporation, trust or general or limited partnership, all individuals executing this Lease on behalf of that entity represent that they are authorized to execute and deliver this Lease on behalf of that entity.

26.2 Quiet Enjoyment

Landlord covenants and warrants that Tenant shall have and enjoy full, quiet, and peaceful possession of the Premises and all rights and privileges incidental thereto during the term, as against all persons claiming by, through, or under Landlord, subject to the provisions of this Lease and any title exceptions or defects in existence on the Commencement Date.

26.3 Encumbrances, Covenants and Restrictions

Tenant leases the Premises subject to (i) all encumbrances, covenants, conditions, restrictions, easements, rights of way, and all other matters of record now or in the future affecting the Premises; (ii) all matters known to Tenant as of the Commencement Date and (iii) any state of facts which a current survey or physical inspection of the Premises might disclose. Tenant shall not violate, permit a violation, or cause Landlord to violate any zoning ordinance or regulation, recorded covenants or restrictions affecting the Premises. Tenant shall defend, indemnify, and hold harmless Landlord from any costs or expenses incurred from such a violation.

Tenant hereby acknowledges and agrees that Landlord reserves the right, in its reasonable business judgment, at any time during the term of this Lease, to enter into new (or amend or supplement existing) agreements encumbering the Premises that have the effect of benefiting and/or burdening the Premises; provided, however, no such agreements shall have the effect of unreasonably interfering with Tenant's use and enjoyment of the Premises.

27. HAZARDOUS MATERIAL

27.1 Environmental Compliance

Tenant shall not cause or permit any Hazardous Material to be brought upon, or used in or about the Premises by Tenant, its agents, employees, contractors, or invitees, without the prior written consent of Landlord (which Landlord shall not unreasonably withhold as long as Tenant demonstrates to Landlord's reasonable satisfaction that such Hazardous Material is necessary or useful to Tenant's business and will be used, kept, and stored in a manner that complies with all Environmental Laws relating to such Hazardous Material). If Tenant breaches the obligations stated in the preceding sentence, if the presence of Hazardous Material on the Premises caused or permitted by Tenant results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs and Landlord is not responsible for the contamination, then Tenant shall indemnify, defend, and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or

losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space of the Premises, and sums paid in settlement of claims, attorneys' fees, consultation fees, and expert fees) which arise during or after the term of the Lease as a result of such contamination. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation or site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in or emanating from the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take all actions at its sole expense as are recommended by environmental engineers hired by Tenant and are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises.

27.2 Survival

Provisions of this Article 27 shall survive expiration or termination of tenancy.

28. GENERAL PROVISIONS

28.1 Recitals

The Recitals set forth on Page 1 above are incorporated herein by this reference.

28.2 Gender; Number

The use of (i) the neuter gender includes the masculine and feminine and (ii) the singular number includes the plural, whenever the context requires.

28.3 Captions

Captions in this Lease are inserted for the convenience of reference only and do not define, describe, or limit the scope or the intent of this Lease or any of its terms.

28.4 Exhibits

All attached exhibits are a part of this Lease and are incorporated in full by this reference. Except as specifically provided herein, if any provision contained in any exhibit hereto is inconsistent or in conflict with any provisions of this Lease, the provisions of this Lease shall supersede the provisions of such exhibit and shall be paramount and controlling.

28.5 Entire Agreement

Other than that certain Retail Use Waiver and Restrictive Covenant dated as of May 17, 2016, by and between Landlord, Tenant, Ground Lessor and Roche Bros. Supermarkets Co., this Lease contains the entire agreement between the parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Lease.

28.6 Drafting

This Lease shall not be construed more strictly against one party than the other because it may have been drafted by one of the parties or its counsel, each having contributed substantially and materially to the negotiation and drafting hereof.

28.7 Modification

No modification, waiver, amendment, discharge, or change of this Lease shall be valid unless it is in writing and signed by the party against which the enforcement of the modification, waiver, amendment, discharge, or change is or may be sought.

28.8 Joint and Several Liability

If any party consists of more than one person or entity, the liability of each such person or entity signing this Lease shall be joint and several.

28.9 Governing Law

This Lease shall be construed and enforced in accordance with the laws of the state in which the Premises are located. Notwithstanding the foregoing, Tenant warrants and represents that the terms of this Lease are fully enforceable in the locality in which the Premises is located. In the event any provision contained in this Lease is inconsistent or in conflict with local law, custom, or practice, the provisions of this Lease shall supersede and shall be paramount and controlling.

28.10 Attorneys' Fees

With respect to Article 24 and any other provision in this Lease providing for payment or indemnification of attorneys' fees, such fees shall be deemed to include reasonable fees incurred through any applicable appeal process, and shall include fees attributable to legal services provided by any in-house counsel and staff to the prevailing or indemnified party. For purposes hereof, the services of in-house counsel and their staff shall be valued at rates for independent counsel prevailing in the metropolitan area in which such counsel and staff practice.

28.11 Time of Essence

Time is of the essence of every provision of this Lease.

28.12 Severability

In the event any term, covenant, condition, or provision of this Lease is held to be invalid, void, or otherwise unenforceable by any court of competent jurisdiction, the fact that such term, covenant, condition, or provision is invalid, void, or otherwise unenforceable shall in no way affect the validity or enforceability of any other term, covenant, condition, or provision of this Lease.

28.13 Successors and Assigns

Except as otherwise provided herein, all terms of this Lease shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and assigns.

28.14 Independent Covenants

This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent, and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any offset of the rent or other amounts owing hereunder against Landlord; provided, however, the foregoing shall in no way impair the right of Tenant to commence a separate action against Landlord for any violation by Landlord of the provisions hereof so long as notice is first given to Landlord and any holder of a mortgage or deed of trust covering the Premises (of whose address Tenant has theretofore been notified) and an opportunity is granted to Landlord and such holder to correct such violation as provided above.

28.15 Information Provided

Tenant warrants and represents that all information Tenant has provided to Landlord is accurate and correct and Tenant acknowledges that Landlord has relied upon such information in entering into this Lease.

28.16 Limitation of Landlord's Liability

Notwithstanding anything contained in this Lease to be contrary, Landlord shall not incur any liability beyond Landlord's interest in the Premises upon a breach of this Lease, except to the extent any such breach stemmed from a breach by Landlord under the Ground Lease (as tenant thereunder) and resulted in termination of the Ground Lease, and Tenant shall look exclusively to such interest in the Premises for the payment and discharge of any obligations imposed upon Landlord under this Lease.

28.17 Waiver of Trial by Jury

Landlord and Tenant do hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other, upon any matters whatsoever arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Premises and/or any claim of injury or damage. It further is agreed that in the event Landlord commences any summary proceeding for non-payment of rent or Additional Rent, Tenant will not interpose any counterclaim of whatever nature or description in any such proceeding.

28.18 OFAC Compliance

- 28.18.1 Tenant represents and warrants that (a) Tenant and each person or entity owning an interest in Tenant is (i) not currently identified on the Specially Designated Nationals and Blocked Persons Listed maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and/or on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation (collectively, the "List"), and (ii) not a person or entity with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States, (b) none of the funds or other assets of Tenant constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person (as hereinafter defined), (c) no Embargoed Person

has any interest of any nature whatsoever in Tenant (whether directly or indirectly), (d) none of the funds of Tenant have been derived from any unlawful activity with the result that the investment in Tenant is prohibited by law or that the Lease is in violation of law, and (e) Tenant has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times. The term "**Embargoed Person**" means any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C.A. § 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Tenant is prohibited by law or Tenant is in violation of law.

28.18.2 Tenant covenants and agrees (a) to comply with all requirements of law relating to money laundering, anti-terrorism, trade embargos economic sanctions, now or hereafter in effect, (b) to immediately notify Landlord in writing if any of the representations, warranties or covenants set forth in this Article are no longer true or have been breached or if Tenant has a reasonable basis to believe that they may no longer be true or have been breached, (c) not to use funds from any "Prohibited Person" (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to Landlord under the Lease and (d) at the request of Landlord, to provide such information as may be requested by Landlord to determine Tenant's compliance with the terms hereof.

28.18.3 Tenant hereby acknowledges and agrees that Tenant's inclusion on the List at any time prior to the expiration or earlier termination of the Lease shall constitute a material Event of Default under the Lease, and the Lease shall automatically terminate. Notwithstanding anything to the contrary, Tenant shall not permit the Premises or any portion thereof to be used or occupied by any person or entity on the List or by any Embargoed Person (on a permanent, temporary or transient basis), and any such use or occupancy of the Premises by any such person or entity shall constitute a material Event of Default under the Lease.

28.19 No Lease Until Accepted

Landlord's delivery of unexecuted copies or drafts of this Lease is solely for the purpose of review by the party to whom delivered and is in no way to be construed as an offer by Landlord nor in any way implies that Landlord is under any obligation to lease the Premises. When this Lease has been executed by both Landlord and Tenant, it shall constitute a binding agreement to lease the Premises upon the terms and conditions provided herein and Landlord and Tenant agree to execute all instruments and documents and take all actions as may be reasonably necessary or required in order to consummate the lease of the Premises as contemplated herein.

28.20 Four Party Agreement.

This Lease is contingent on the execution of that certain Retail Use Waiver and Restrictive Covenant dated as of May 13, 2016, by and between Landlord, Tenant, Ground Lessor and Roche Bros. Supermarkets Co. ("Four Party Agreement"). In the event the Four Party Agreement is not fully executed by the Commencement Date, Landlord hereby acknowledges and agrees to diligently pursue obtaining the full execution of the Four Party Agreement.

THE REMAINDER OF THIS PAGE WAS LEFT BLANK INTENTIONALLY.

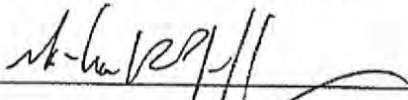
28.20 Counterparts

This Lease may be executed in any number of counterparts, each of which shall be deemed an original. The counterparts shall together constitute but one agreement. Any signature on a copy of this Lease or any document necessary or convenient thereto sent by electronic transmission or facsimile shall be binding upon transmission and the electronic or facsimile copy may be utilized for the purposes of this Lease.

LANDLORD:

O ICE, LLC,
a Delaware limited liability company

By: REALTY INCOME CORPORATION,
a Maryland corporation,
its sole and managing member

By: 

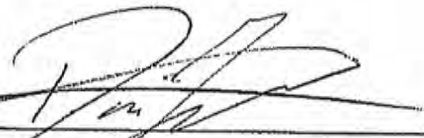
Name: Michael R. Pfeiffer
Executive Vice President

Title: General Counsel

Date: 5/13/2016

TENANT:

DA VINCI BISTRO, LLC,
a Massachusetts limited liability company

By: 

Name: Dariusz Zywna

Title: Manager

Date: 05/09/16

**NULL AND VOID AT LANDLORD'S OPTION
IF NOT FULLY EXECUTED BY TENANT
AND DELIVERED TO LANDLORD ON OR
BEFORE MAY 9, 2016.**

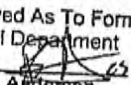
Approved As To Form
Legal Department

W. Andersen

EXHIBIT "A-1"

LEGAL DESCRIPTION OF REAL PROPERTY

PREMISES LOCATION: Da Vinci Bistro
457 Boston Post Road
Sudbury, MA 01776

A certain parcel of land situated in the City of Sudbury, County of Middlesex, State of Massachusetts, being part of Lot A as shown on a Plan entitled "Plan of Land in Sudbury, Massachusetts, belonging to Filomena Vana, Rowland H. Barnes & Co., C.E.s" dated February 8, 1963, and recorded with the Middlesex County S.D. Registry of Deeds in Book 10219, Page 304, being more particularly described as follows:

BEGINNING at a point on the southerly right-of-way line of Boston Post Road (U.S. Highway 20, a 50' public right-of-way), said point being approximately 155 feet from the intersection of Boston Post Road and Nobscot Road;

THENCE South $89^{\circ}30'00''$ East a distance of 145.00 feet along the southerly right-of-way line of said Boston Post Road to a point;

THENCE South $35^{\circ}49'40''$ West a distance of 228.85 feet to a point;

THENCE North $54^{\circ}10'20''$ West a distance of 118.30 feet to a point in the easterly right-of-way line of the New York, New Haven & Hartford Railroad;

THENCE North $35^{\circ}49'40''$ East a distance of 145.00 feet along the easterly line of said New York, New Haven & Hartford Railroad to the POINT OF BEGINNING;

Containing 22,113 Square Feet or 0.5076 Acres, more or less, as surveyed in August of 2007 by William A. Robenstein, Registered Professional Land Surveyor No. 35413 for and on behalf of Millman Surveying, Inc. and is subject to all legal highways and easements of record.

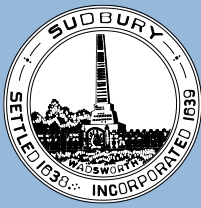
The meridian for all bearings shown hereon is the southerly right-of-way line of Boston Post Road, assumed as being South $89^{\circ}30'00''$ East, and is used to denote angles only.

Together with an easement for the purpose of access to and egress from Lot A and parking as described in a Deed recorded at Book 10219, Page 298; as modified by a Cross Easement Agreement recorded at Book 15794, Page 91 and as further modified by a Partial Release of easement recorded at Book 15986 Page 366, and an easement recorded at Book 10566, Page 125 as modified by easement at Book 15351, Page 458 and as partially released by instrument recorded at Book 15351, Page 474.

EXHIBIT "A-2"
GROUND LEASE

Comprised of:

- 1) Sublease dated May 17, 1966
- 2) Guaranty dated May 17, 1966
- 3) Letter Agreement dated May 17, 1966
- 4) Letter Agreement dated May 18, 1966
- 5) Letter Agreement dated September 12, 1966
- 6) Notice of sublease dated December 16, 1966
- 7) Letter Agreement dated October 15, 1985
- 8) Letter Agreement dated October 3, 1995
- 9) Subordination, Non-Disturbance and Attornment Agreement dated May 18, 2005
- 10) Letter Agreement dated September 2, 2005
- 11) Rent Increase Letter dated February 14, 1989
- 12) Estoppel Certificate dated August 9, 2007
- 13) Seller's Estoppel Certificate dated September 12, 2007
- 14) Assignment and Assumption of Ground Lease dated August 30, 2007
- 15) Confirmatory Assignment and Assumption of Ground Lease dated November 18, 2008
- 16) Estoppel Certificate dated January 9, 2013
- 17) Notice of exercise of option to extend dated November 2, 2015



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

3: Old Police Station

REQUESTOR SECTION

Date of request:

Requestor: Chairman Iuliano

Formal Title: Discuss and possibly vote on further revision of the RFP documents relative to the sale of the former Police Station as suggested by Facilities Director and approved by Town Counsel. James Kelly, Facilities Director, to attend.

Recommendations/Suggested Motion/Vote: Discuss and possibly vote on further revision of the RFP documents relative to the sale of the former Police Station as suggested by Facilities Director and approved by Town Counsel. James Kelly, Facilities Director, to attend.

Background Information:

No proposals were received in response to the RFP issued relative to the sale of the Boston Post Road Police Station property. It is intended to revise the RFP documents for advertisement.

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting: James Kelly, Facilities Director

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

**TOWN OF SUDBURY
FACILITIES DEPARTMENT
REQUEST FOR PROPOSALS**

The Town of Sudbury will receive sealed proposals for the sale of a building and land located at 415 Boston Post Road, Sudbury, MA, as further described herein. The Request for Proposals (RFP) packets shall be available at the Facilities Department, at the DPW Building, 275 Old Lancaster Road, Sudbury, MA as of **September 7, 2016**, or by e-mail at kellyj@sudbury.ma.us, and will be posted on the Town of Sudbury Website: www.sudbury.ma.us.

All proposals require a refundable deposit in the form of a certified check or money order made payable to the Town of Sudbury in the amount of five percent of the proposed sale price. Deposits of proposers not selected shall be refunded. All proposals must be in a sealed envelope or package and be submitted to **The Flynn Building, 278 Old Sudbury Road, Sudbury, MA 01776, Attn: Town Manager, no later than 2:00 P.M. on Friday, October 6, 2016.** All proposals must be complete and in compliance with the submission requirements outlined in the Request for Proposals (RFP).

The Town of Sudbury reserves the right to reject any and all proposals that do not meet the requirements set forth in the RFP or that are not in the best interests of the Town or to cancel this disposition of real property.

FACILITIES DIRECTOR

TOWN OF SUDBURY

REQUEST FOR PROPOSALS

For the

Disposition of Real Property
(Former Police Station)

At 415 Boston Post Road
Parcel ID: K08-0006
Sudbury, MA 01776

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

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9. Price Proposal Form
10. Miscellaneous
11. Evaluation & Decision-Making Procedures
12. Exhibit A- Certificate of Non Collusion
13. Exhibit B- Certificate of Tax Compliance
14. Exhibit C- Certificate of Corporate Bidder
15. Exhibit D- Certificate of Authority
16. Exhibit E- Disclosure Statement MGL c.7C, S38
17. Exhibit F- Form of Purchase and Sale Agreement
18. Attachment A – Site Plan & Building Plans
19. Attachment B – Police Station Space Study 2002
20. Attachment C – Asbestos Report

INTRODUCTION

The Town of Sudbury will receive sealed proposals for the sale of a building and land located at 415 Boston Post Road, Sudbury, MA, as further described herein. The Request for Proposals (RFP) packets shall be available at the Facilities Department, at the DPW Building, 275 Old Lancaster Road, Sudbury, MA as of **October 5, 2016**, or by email at kellyj@sudbury.ma.us, and will be posted on the Town of Sudbury Website: www.sudbury.ma.us.

All proposals require a refundable deposit in the form of a certified check or money order made payable to the Town of Sudbury in the amount of five percent of the proposed sale price. Deposits of proposers not selected shall be refunded. All proposals must be in a sealed envelope or package and be submitted to the Town Manager's Office, Flynn Building, 278 Old Sudbury Road, no later than **2:00 P.M. on Thursday, November 3, 2016**. All proposals must be complete and in compliance with the submission requirements outlined in the Request for Proposals (RFP).

The Town of Sudbury reserves the right to reject any and all proposals that do not meet the requirements set forth in the RFP or that are not in the best interests of the Town or to cancel this disposition of real property.

SUBMISSION REQUIREMENTS

All proposals must be submitted in a sealed envelope and/or package clearly labeled with the following three items:

1. Title: PROPOSAL FOR DISPOSITION OF REAL PROPERTY
Sudbury, MA
415 Boston Post Road
MAP DESCRIPTION:
Parcel ID: K08-0006
2. From: NAME AND ADDRESS OF PROPOSER
3. To: Town of Sudbury
Melissa Murphy-Rodrigues, Town Manager
278 Old Sudbury Road
Sudbury, MA 01776

The Submission Deadline is:

2:00 P.M. (Local time)

Thursday, November 3, 2016

Town Manager's Office Flynn Building
278 Old Sudbury Road Sudbury, MA 01776

Timely delivery of a proposal at the location designated shall be the responsibility solely of the Proposer. Proposals received after this time will not be considered. The Town assumes no responsibility for delivery made or attempted to be made outside of regular business hours. The Town will not accept a bid delivered by telephonic, electronic or facsimile means.

All proposals must contain the following:

- A. Description of Proposer
- B. Address of Proposer
- C. Authorization to Submit Proposal (if applicable) (See Exhibit C)
- D. Certified Check for five percent of Proposal Price as deposit
- E. Written and Numerical Statement of Proposal Price
- F. Certificate of Non Collusion (See Exhibit A)
- G. MGL Chapter 62C sec 49A Cert of Tax Compliance (See Exhibit B)
- H. Certificate of Authority (See Exhibit D)
- I. MGL Chapter 7C sec 38 Disclosure of Beneficial Interest (See Exhibit E)
- J. Submission of Highest and Best Use Narrative & Price Proposal

CONTRACT TERMS AND CONDITIONS

The following terms and conditions will apply to the sale of the property described within this Request for Proposals:

1. The sale of the property is subject to review and recommendation by the Town Manager and by an evaluation committee consisting of Town officials. The sale of the property is subject to the provisions of G.L. Chapter 30B and any/all other applicable state/local provisions. The Sudbury Board of Selectmen must approve the disposition of the property.
2. The selected Buyer must execute a Purchase and Sales Agreement with the Town of Sudbury in substantially the same form as is attached hereto as Exhibit F within thirty days of notice by the Town of the award to the selected Buyer. The Town reserves the right to waive or extend this deadline as it sees fit.
3. The selected Buyer must purchase the property within sixty days, or as otherwise agreed, of the execution of the Purchase and Sales Agreement. An additional fifteen percent deposit must be submitted with the Purchase and Sales Agreement. The Town reserves the right to extend this deadline.
4. The selected Buyer agrees to buy the property "AS IS" and agrees to be solely responsible for obtaining any and all permits, approvals, waivers, releases, or any other requirements necessary to use or develop the property. The Buyer shall be solely responsible at its sole cost and expense for its own inspection of and due diligence on the property.
5. No broker's commission shall be paid by the Town, and Buyer shall indemnify and hold harmless the Town from any claims for such commission.

MUNICIPAL PROPERTY OVERVIEW

PROPERTY DESCRIPTION

The property is located at 415 Boston Post Road. The lot is 27,443 square feet (.63 acres). The structure is a one story concrete block building with 6,249 square feet of gross floor area. Additional building information is contained in Attachments A, B and C.

CONDITION OF PROPERTY

The property for disposition is available "AS IS" and the Town of Sudbury will not make any improvements or changes to the property as a condition of sale. Conveyance to the successful Proposer shall be subject to all restrictions and conditions of record, insofar as they may be in force and applicable to said parcel and are subject to the Town of Sudbury Zoning By Law.

SITE INSPECTION/DUE DILIGENCE

A formal walk-through of the building will take place on Wednesday, **October 26th**, at 10am followed by a pre-proposal conference for the consideration of questions from prospective purchasers.

The Town of Sudbury makes no representation or warranty, express or implied, as to the accuracy and completeness of the information in this RFP. The proposer assumes all risk in connection with the use of the information, and releases the Town from any liability in connection with the use of the information provided by the Town. Further, the Town makes no representation or warranty with respect to the Property, including without limitation, the value, quality or character of the Property or its fitness or suitability for any particular use and/or the physical and environmental condition of the Property. The Property will be sold in "AS-IS" condition.

Each proposer shall undertake its own review and analysis (due diligence) concerning the physical and environmental condition of the Property, applicable zoning and other land use laws, required permits and approvals, and other development, ownership, and legal considerations pertaining to the Property and any proposed use. All costs and expenses of purchasing and developing the Property, including without limitation, all costs of permitting and improvements, shall be the sole responsibility of the successful proposer.

CHAPTER 21E/M.G.L.

The Town of Sudbury has not undertaken a full Chapter 21E study for the property. The property has been used as a municipal building. However, the Town does not warrant that any land parcel available for disposition is free and clear of any contamination as defined by Chapter 21E. Proposer will assume all costs and responsibilities for any contamination and will hold the Town harmless for any costs to clean the property of any contamination.

SUBDIVISION/PERMITS/APPROVALS

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

All costs and responsibilities for obtaining any necessary or desired subdivision approval, zoning, and/or site plan approval, and releases for any easements, covenants, or any other restrictions that may be present on the property will be the responsibility of the Buyer including but not limited to any municipal, state or federal provisions.

PERMITTING

The Buyer will be allowed ____ days to obtain necessary permits and approvals/agreements to construct the Proposed Use.

ZONING

Allowed uses will be according to the Town of Sudbury Zoning By-Law. Any proposed use of the property shall be in compliance with the said Zoning District. The Premises are zoned partially as “Limited Business District” and partially Residential; these zoning classifications do not support all potential uses.

QUESTIONS

Proposers may submit requests for clarification and any questions about information contained in this RFP in writing and addressed to: Town Manager’s Office, Flynn Building, 278 Old Sudbury Road, Sudbury, MA 01776, or by email to rodriguesm@sudbury.ma.us. Proposers are requested to forward questions early in the procurement process and no later than **October ?th**, 2016. The name, address, telephone number and e-mail address of the person requesting the information must be provided by the proposer. Answers to all questions of a substantive nature shall be provided in writing to all proposers. The Town will issue an addendum to this RFP to address the written questions submitted by the aforementioned deadline. Only answers provided by the Town in writing may be relied upon by the proposers.

REQUESTS FOR ADDITIONAL INFORMATION

The Town reserves the right to request additional information from any and all proposers if it is deemed necessary in order to identify the most advantageous proposal, and may request proposers to appear before the awarding authority at a public meeting to make presentations or answer questions concerning their proposals.

Minimum Evaluation Criteria

All Proposers must include the following components in their respective Proposals in order to be considered for review to meet the minimum criteria to be considered acceptable for this property sale.

1. The applicant must have experience in a minimum of three projects over the past three years in the area of property development; any and all property development that the applicant has been involved in over the past three years must be included, or the applicant must be an established business owner with demonstrated ability to renovate/construct/reconstruct real estate property and commercial space.
2. The applicant must demonstrate and verify that it is in good financial standing by providing certified financial statements and/or previous audit and such other related verification as is required.
3. If the applicant is an out-of-state corporation they must be licensed to do business in Massachusetts and have a resident agent documented in the proposal.
4. The applicant must be able to close on the property within sixty days of notice of award.
5. The applicant must have cash or pre-approval for full funding without further lending approvals.

COMPARATIVE EVALUATION CRITERIA

THE BEST USE NARRATIVE: The Town of Sudbury is looking for a detailed narrative of the applicant's vision of the proposed use of this site, in particular utilizing municipal information, and the proposal that provides the highest tax revenue to the town; the least impact on town services; compliance with the applicable zoning and other town by-laws; and This narrative should not be more than five pages with appropriate attachments documenting in detail the applicant's position for implementation and development of this site.

Impacts that should be described in writing, in detail by the proposer that will be evaluated include but are not limited to: volume and type of traffic generated, noise levels, hours of operation, clear explanation and measurement of any environmental impacts on air, land and/or water, quality of life, and visual impacts.

The Town will include the following criteria in evaluating proposals. Each criteria response to be included in the narrative" will be judged on a scale of 1-15 with a maximum of 15 points per criterion provided:

1. Description of the added economic enhancement and benefits to the Town of Sudbury, including anticipated tax revenue, and benefits to the surrounding business area; inclusion of a fiscal impact analysis is encouraged.
2. Information regarding job descriptions for full-time, part-time or subcontracted staff and supervisory personnel, which may result in employment opportunities for the Town of Sudbury residents.
3. Any improvements that the proposal would make to the quality of life of the residents of Sudbury.
4. Demonstrated need for the proposed use in the Sudbury community.
5. Proof of successful present or past performance working in the area of real estate development and/or facility development/operation.

***Note:** The narrative will constitute 50% of the Town's decision in order to determine the most highly advantageous Proposer.

Ranking:

- A. Highly Advantageous: Provides substantial expected benefits in accordance with Town's criterion with extensive supportive documentation regarding best use analysis. 15 points

- B. Advantageous: Provides significant expected benefits in accordance with the Town's criterion with appropriate supportive documentation regarding best use analysis.
8 points
- C. Acceptable: Provides some expected benefits in accordance with the Town's criterion with only limited supportive documentation regarding best use analysis.
3-4 points
- D. Disadvantageous: Provides few, if any benefits in accordance with the Town's criterion with minimal supportive documentation regarding best use analysis.
0 points

COMPARATIVE EVALUATION CRITERIA: PRICE PROPOSAL

The applicant must submit a price proposal based on all of the information included in this application. The Town will weigh the price proposal on the following scale:

- A. Highly advantageous: Substantially highest price 50 points
- B. Advantageous: Significantly higher price within 50-75% of highest price 30 points
- C. Acceptable: Moderately higher price within 25-50% of highest price 10 points
- D. Disadvantageous: Lowest price 1 point

Rule for award: The responsive and qualified proposal the meeting the minimum evaluation criteria whose submittal receives the highest total number of points.

MISCELLANEOUS

AMENDMENTS/MODIFICATIONS TO PROPOSALS

The Proposer may, at any time prior to the deadline for submission of the Proposals, amend or modify their Proposal by submitting their amendment/modification to the address specified in the RFP, in a sealed envelope/package containing the amendment/modification and clearly marked with the following:

1. Title: PROPOSAL FOR DISPOSITION OF REAL PROPERTY (Amendment)
Sudbury, MA
415 Boston Post Road
MAP DESCRIPTION:
Parcel ID: K08-0006
2. From: NAME AND ADDRESS OF PROPOSER
3. To: Town of Sudbury
Melissa Murphy-Rodrigues, Town Manager
278 Old Sudbury Road
Sudbury, MA 01776

All proposals, including the price stated therein, submitted in response to this Request for Proposals must remain firm for **one hundred and twenty days** following the bid opening.

WITHDRAWAL OF PROPOSALS

Any Proposer may withdraw its Proposal at any time prior to deadline established in this RFP. Any Proposer wishing to withdraw a Proposal must provide a written authorization and/or acknowledgment that they are withdrawing their Proposal and that the Town of Sudbury is held harmless from any responsibility as a result of the Proposal withdrawal.

REJECTION OF PROPOSAL

The Town reserves the right to reject any / or all Proposals that do not meet the submission requirements or evaluation criteria contained in the RFP or that are not in the best interests of the Town.

ADDENDUM

Any changes to the terms for this RFP shall be made in the form of an Addendum to the RFP which will be forwarded to those who received a copy of the RFP by e-mail notification. The Town will not be notifying anyone who received a copy of the Request for Proposals from anyone other than the originator. If it is impossible to notify all parties who received an RFP

from the Town Manager’s Office of an Addendum prior to the deadline for submission, the Town reserves the right to extend the deadline for submission through proper notice.

SITE VISIT

The Town will conduct a site visit on Wednesday, **October 26, 2016** at 10:00 a.m.

SUMMARY OF RFP SCHEDULE

Activity	Date
Post in Central Register	Wednesday, October 5, 2016
Advertise in local newspaper	Thursday, October 13 th , Thursday, October 20 th
Site Visit	Wednesday, October 26, 2016 at 10:00 a.m.
RFP Due	Thursday, November 3 th , 2016 at 2:00 p.m.

TOWN’S RIGHT TO REJECT PROPOSALS AND/OR CANCEL DISPOSITION

The Town of Sudbury reserves the right to reject any and all proposals that do not meet the requirements set forth in the RFP or that are not in the best interests of the Town or to cancel this disposition of real property.

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

EVALUATION AND DECISION MAKING PROCEDURES

The proposals will be opened publicly **on Thursday, November 3, 2:00 p.m.**, at the Flynn Building, Silva Conference Room, 278 Old Sudbury Road. The Town will review the proposals. Following the review, the most advantageous proposal will be recommended to the Board of Selectmen for Award. After the review of the proposal recommendation and a compliance check in conjunction with other Departments, the Board of Selectmen may issue a Notice of Award to the successful proposer. The Town of Sudbury reserves the right to reject any and all proposals that do not meet the requirements set forth in the RFP or that are not in the best interests of the Town or to cancel this disposition of real property.

PRICE PROPOSAL FORM

In accordance with the information, terms and conditions attached hereto, I (We) hereby offer to purchase from the Town of Sudbury the property identified as:

**An approximate .6 acre parcel and building in the Town of Sudbury, MA
415 Boston Post Road
Sudbury, MA 01776
Parcel ID: K08-0006**

For the sum of:

\$ _____

Offer Written: _____
Dollars

This proposal shall remain firm for **one hundred and twenty days** following the date of the bid opening. Attached hereto is a certified check or money order drawn on a banking institution licensed in the Commonwealth of Massachusetts in an amount equal to five percent of the above offer which shall serve as surety for the faithful performance of this disposition of property from the Town of Sudbury. This sum shall be forfeited to the Town of Sudbury if selected bidder does not execute a purchase and sale agreement as required herein. Bid deposits of parties not selected will be returned.

Signature of Proposer _____

Print Name _____

Address _____

City _____ State _____ Zip _____

Telephone # _____

NOTE: If a partnership or corporation, list all partners or all officers of the corporation and include a sealed corporate vote to allow an officer to act on this matter.

Partnership or Corporation Officers Names & Addresses

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

The Town of Sudbury reserves the right to reject any and all proposals or to cancel this disposition of real property if in its best interest to do so.

EXHIBIT A

CERTIFICATE OF NON-COLLUSION

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

Signature of Individual, or Corporation Name

By: _____
Corporate Officer & Title (if applicable)

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

EXHIBIT B

TAX COMPLIANCE CERTIFICATE

Pursuant to General Laws Chapter 62C Section 49A, the undersigned certifies under the pains and penalties of perjury that _____ is in compliance with (name of proposer) the laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature

Print Name

Title

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

EXHIBIT C

CERTIFICATE AS TO CORPORATE PROPOSER

I _____, certify

that I am the _____ of the entity named

as Proposer in the within Proposal; that _____

who signed said Proposal on behalf of the Proposer was then _____

_____ of said entity; that I know his/her

signature and that his/her signature hereto is genuine and that said Proposal was duly

signed, sealed, and executed for and in behalf of said entity by authority of its

governing body.

(Corporate Seal)

Title

This Certificate must be completed where Proposer is a limited liability entity, and should be so completed by its Clerk or person authorized in the records of the entity to execute documents relating to real property. In the event that the Clerk is the person signing the Proposal on behalf of the Corporation, this Certificate must be completed by another Officer of the Corporation.

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

EXHIBIT D

Certificate of Authority

Give full names and residences of all persons and parties interested in the foregoing proposal:

(Notice: Give first and last name in full; in case of Corporation give names of President, Treasurer and Manager; and in case of limited liability entities or partnerships, give names of the individual members.)

NAMES	ADDRESSES	ZIP CODE
_____	_____	
_____	_____	
_____	_____	

Provide the following information regarding the Proposer:

(1) If a Proprietorship

Name of Owner: _____

ADDRESS _____ ZIP CODE _____ TEL. # _____

Business: _____

Home: _____

(2) If a Partnership

Full names and address of all partners:

NAMES	ADDRESSES	ZIP CODE
_____	_____	_____
_____	_____	_____
_____	_____	_____

BUSINESS ADDRESS	ZIP CODE	TEL. #
_____	_____	_____

(3) If a Corporation, Limited Liability Company, or other entity

Full Legal Name:

State of Incorporation:

Principal Place of Business:

ZIP _____

Qualified in Massachusetts:

Yes _____ No _____

Place of Business in Massachusetts:

ZIP CODE _____ TEL. # _____

(4) If a trust

Full Legal Name of Trust:

Date of Declaration of Trust and Recording Information:

Name of all Trustees:

NAMES

ADDRESSES

ZIP CODE

Authorized Signature of Proponent: __ Title:

Date: _____

EXHIBIT E

DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY

M.G.L. c. 7C, §38

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) Real Property: A parcel of land located at 415 Boston Post Road, Sudbury, MA containing approximately 0.63 acres of land together with the building and other improvements thereon

(2) Type of Transaction, Agreement, or Document: Sale of property by the Town of Sudbury

(3) Public Agency Participating in Transaction: Town of Sudbury

(4) Disclosing Party's Name and Type of Entity (if not an individual):

_____.

(5) Role of Disclosing Party (Check appropriate role):

___ Seller/Grantor ___ Buyer/Grantee

___ Other (Please describe): _____

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, §38, are hereby disclosed as follows (attach additional pages if necessary):

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY

M.G.L. c. 7C, §38

(6) CONT.

NAME

RESIDENCE

(7) None of the above-named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert "none" if none):

(8)) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a

leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms-length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(9) This Disclosure Statement is hereby signed under penalties of perjury.

Print Name of Disclosing Party (from Section 4, above)

Authorized Signature of Disclosing Party

Date (mm / dd / yyyy)

Print Name & Title of Authorized Signer

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

EXHIBIT F
FORM OF PURCHASE AND SALE AGREEMENT

555032/SUDB/0001

Attachment3.b: 2nd - KP-555808-v1-SUDB_police_station_RFP_final (1975 : Old Police Station)

PURCHASE AND SALE AGREEMENT

SECTION 1 -- INFORMATION AND DEFINITIONS

1.1 DATE OF AGREEMENT: _____, 2016

1.2 PREMISES: 415 Boston Post Road, Sudbury, MA
Parcel ID: K08-0006

1.3 SELLER: Town of Sudbury

Address: c/o Melissa Murphy-Rodrigues, Town Manager
278 Old Sudbury Road
Sudbury, MA 01776

SELLER'S Attorney: Barbara J. Saint Andre, Esq.
Address: Kopelman and Paige, P.C.
101 Arch St., Boston, MA 02110

Phone: (617) 556-0007 Fax: (617) 654-1735

1.4 BUYER:
Address:

BUYER'S Attorney: _____

Address: _____

Phone: _____

1.5.0 PURCHASE PRICE: The agreed purchase price for said Premises is _____, of which:

\$ _____ has been paid as a deposit under this Agreement; and
\$ _____ .00 are to be paid at the time of delivery of the deed by certified or bank
check or by wire transfer
\$ _____ .00 TOTAL

1.6 CLOSING DATE: _____, 2016 at 11:00 a.m. Time is of the essence.

PLACE: Middlesex County Registry of Deeds or a closing by mail,
at SELLER'S option.

1.7 Title: Quitclaim Deed

1.8 BROKER: None

Attachment3.c: Appendix F - with Permitting Clause (1975 : Old Police Station)

2. Covenant. SELLER agrees to sell and BUYER agrees to buy the Premises upon the terms hereinafter set forth.

3. Buildings, Structures, Improvements, Fixtures. Included in the sale as a part of said Premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to SELLER and used in connection therewith, if any.

4. Title Deed. Said Premises are to be conveyed by a good and sufficient quitclaim deed running to BUYER, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (d) Easements, restrictions and reservations of record, if any, provided the same do not materially interfere with the use of the Premises for residential purposes; and

5. Deed; Plans. SELLER shall be responsible for drafting the deed. If said deed refers to a plan necessary to be recorded therewith SELLER shall deliver such plan with the deed in a form adequate for recording or registration.

6. Registered Title. In addition to the foregoing, if the title to said Premises is registered, said deed shall be in a form sufficient to entitle BUYER to a Certificate of Title of said Premises, and SELLER shall deliver with said deed all instruments, if any, necessary to enable BUYER to obtain such Certificate of Title.

7. Possession and Control of Premises. Full possession of said Premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said Premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) not in violation of said building and zoning laws, and (c) in compliance with provisions of any instrument referred to in Section 4 hereof. BUYER shall be entitled to inspect said Premises personally prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this Agreement.

8. Extension to Perfect Title or Make Premises Conform. If SELLER shall be unable to give title or to make conveyance, or to deliver possession of the Premises, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, then SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions hereof, as the case may be, and thereupon the time for performance hereof shall be extended for a period of thirty calendar days. In no event, however, shall reasonable efforts require SELLER to expend more than \$500.00, including attorneys' fees in connection with such efforts, exclusive of monetary or other voluntary liens.

9. Failure to Perfect Title or Make Premises Conform. If at the expiration of the extended time SELLER shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then the deposit shall be returned to BUYER and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

10. BUYER'S Election to Accept Title. BUYER shall have the election, at either the original or any extended time for performance, to accept such title as SELLER can deliver to the said Premises in their then condition and to pay therefor the purchase price, without deduction, in which case SELLER shall convey such title

11. Acceptance of Deed. The acceptance of a deed by BUYER, or its assignee or nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

12. Insurance. Until the delivery of the deed, SELLER shall maintain insurance on the Premises as it presently has.

13. Adjustments. A payment in lieu of taxes shall be paid in accordance with G.L. c. 44, §63A as of the day of performance of this Agreement and the amount thereof shall be added the purchase price payable by BUYER at the time of delivery of the deed. If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year. Any sewer, water, and/or fuel charges shall be adjusted as of the date of closing.

14. Brokers. BUYER and SELLER each represent and warrant to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. BUYER and SELLER agree to defend, indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other by any broker in connection with this transaction. The provisions of this paragraph shall survive delivery of the deed.

15. Deposit. All deposits made hereunder shall be held in escrow by the Town of Sudbury Treasurer as escrow agent, in a non-interest bearing account, subject to the terms of this Agreement and shall be duly accounted for at the time for performance of this Agreement. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under this Agreement pending instructions mutually given by SELLER and BUYER.

16. Liability of Trustee, Shareholder, Fiduciary. If SELLER or BUYER executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

17. Representations and Warranties. BUYER acknowledges that BUYER has not been influenced to enter into this transaction nor has it relied upon any warranties or representations not set forth or incorporated in this Agreement or previously made in writing, except for the following additional warranties and representations, if any, made by either SELLER or the Broker(s): NONE.

18. Contingencies. SELLER'S performance hereunder is, at SELLER'S option, expressly subject to the following conditions:

- (a) Compliance with the provisions of G.L. c. 30B;
- (b) SELLER shall have complied with the disclosure provisions of G.L. c.7C, §38, and SELLER and BUYER agree to diligently pursue full compliance with said statute. BUYER hereby agrees to execute a "Disclosure of Beneficial Interests in Real Property Transaction" certificate as required by G.L.c.7C, §38;
- (c) Compliance with any other requirements of the Massachusetts General or Special Laws relative to the sale of the Premises by SELLER.

19. Title to Premises. Notwithstanding anything herein contained, the Premises shall not be considered to be in compliance with the provisions of this Agreement with respect to title unless:

- (a) no building, structure or improvement of any kind belonging to any person or entity encroaches upon or under the Premises from other Premises;
- (b) title to the Premises is insurable, for the benefit of BUYER, by a title insurance company acceptable to BUYER, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use;
- (c) all structures and improvements on the Premises shall not encroach upon or under any property not within the lot lines of the Premises; and
- (d) the Premises abut a public way, duly laid out or accepted as such by the municipality in which the Premises are located, or SELLER shall have an easement in a private way for pedestrian and vehicular access to a public way.

20. Affidavits, etc. Simultaneously with the delivery of the deed, SELLER shall execute and deliver: (a) Affidavits and indemnities with respect to due authority, parties in possession and mechanic's liens to induce BUYER'S title insurance company to issue lender's and owner's policies of title insurance without exception for those matters; (b) An affidavit, satisfying the requirements of Section 1445 of the Internal Revenue Code and regulations issued thereunder, which states, under penalty of perjury, SELLER'S United States taxpayer identification number, that SELLER is not a foreign person, and SELLER'S address (the "1445 Affidavit"); (c) Internal Revenue Service Form W-8 or Form W-9, as applicable, with

SELLER'S tax identification number, and an affidavit furnishing the information required for the filing of Form 1099S with the Internal Revenue Services and stating Seller is not subject to back-up withholding; and (d) such additional and further instruments and documents as may be consistent with this Agreement and customarily and reasonably required by BUYER and/or the BUYER'S title insurance company to complete the transactions described in this Agreement.

21. Title Standards. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Real Estate Bar Association at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable.

22. Inspection; Hazardous Materials. BUYER acknowledges that BUYER has not been influenced to enter into this transaction and that it has not relied upon any warranties or representations not set forth in this Agreement. BUYER represents and warrants that it or its agents have conducted a full inspection of the Premises, and based upon BUYER'S investigation, BUYER is aware of the condition of the Premises and will accept the Premises "AS IS". BUYER acknowledges that SELLER has no responsibility for, and hereby releases and holds harmless SELLER from any and all damages, loss, costs expenses (including any and all attorneys' fees, and expenses of SELLER), claims, suits, demands or judgments of any nature whatsoever, related to any hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, M.G. L. c. 21E, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as "Hazardous Waste"). **The provisions of this Section shall survive delivery of the deed.**

23. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be deemed to have been given upon the earlier of: (i) two business days after deposit with the United States Postal Service, if sent by registered or certified mail, return receipt requested, postage prepaid; (ii) one business day after deposit with an express courier service such as Federal Express; (iii) actual receipt, or (iv) facsimile transmission, receipt by addressee confirmed (provided such facsimile notice is promptly followed by other acceptable means of sending notice), addressed to the party and the party's attorney at the addresses set forth in Section 1.

24. Permitting. The Buyer shall have ____ days from the expiration of the Due Diligence Period to obtain all requisite and necessary permits and approvals/agreements to construct the Proposed Use. If at the end of this Permitting/Approval Period all necessary permits/approvals have not been received (and all appeal periods have expired without appeal having been taken), despite the Buyer's good faith, continuous and diligent efforts, then the Buyer shall have the right to extend the Permitting Period by up to ____ days. If after the expiration of the Permitting Period, as it may be extended, Buyer has not secured all such requisite and necessary permits and approvals/agreements with all appeal periods having expired, then at Buyer's option, the entire Deposit together with interest thereon shall be returned to the

Buyer forthwith and this agreement shall be terminated without further recourse to the parties hereto.

24. Closing. The deed and other documents required by this Agreement are to be delivered and the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. All documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land. Unless otherwise agreed, SELLER'S attorney may disburse the funds if no report has been received by 4:00 p.m. of the next business day following the date of the delivery of the deed that the documents have not been recorded due to some problem beyond the recording attorney's control.

25. Condition of Premises at Closing. SELLER agrees to deliver the Premises at the time of delivery of SELLER'S deed in a condition substantially similar to its condition at the time of the signing of this Agreement, removing all of SELLER'S personal property therefrom which is not being sold to BUYER, or left for its benefit, as consented to by it.

26. Casualty. Notwithstanding anything herein to the contrary, in the event that the Premises are substantially damaged by fire, vandalism or other casualty that is not the result of the negligence of BUYER, or its agents, employees, contractors and invitees, or in the event of a taking of all or part of the Premises by eminent domain by any entity, then at BUYER'S sole option, this Agreement may be terminated, whereupon all deposits made by BUYER under this Agreement shall be returned to BUYER.

27. Extensions. BUYER and SELLER hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. BUYER and SELLER shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile signatures shall be construed as original.

28. Default. In the event that BUYER fails to fulfill its obligations hereunder for any reason, SELLER shall be entitled to terminate this Agreement, and retain all deposits made by BUYER in addition to any other remedies it may have available at law or in equity.

In the event that SELLER fails to fulfill its obligations hereunder for any reason, BUYER shall be entitled to terminate this Agreement, and receive a refund of the deposit. The foregoing shall be BUYER'S sole and exclusive remedy at law and in equity for any breach of this Agreement by SELLER.

29. Assignment. BUYER shall not assign this Agreement or any of its rights hereunder without prior written consent of SELLER, which may be withheld in SELLER'S sole and absolute discretion.

30. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and any dispute or claim arising hereunder shall be brought in the courts of the Commonwealth of Massachusetts.

31. Construction of Agreement. This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both SELLER and BUYER

32. Errors. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice thereof is given within sixty days of the date of delivery of the deed to the party to be charged, then such party agrees to make payment to correct the error or omission.

33. Captions. The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

34. Prior Agreements. All prior agreements of the parties are hereby superseded and shall have no further force and effect.

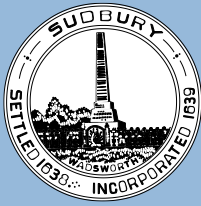
In Witness whereof, the parties hereto sign this Purchase and Sale Agreement under seal as of this _____ day of _____, 2016.

BUYER:

SELLER: Town of Sudbury,
By its Board of Selectmen

555041/SUDB/0001

Attachment3.c: Appendix F - with Permitting Clause (1975 : Old Police Station)



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

4: STM Article 6

REQUESTOR SECTION

Date of request:

Requestor: Chairman Iuliano

Formal Title: Discussion and possible vote concerning Special Town Meeting Article 6, Artificial Turf Replacement at Lincoln-Sudbury Regional High School. Superintendent Bella Wong to attend.

Recommendations/Suggested Motion/Vote: Discussion and possible vote concerning Special Town Meeting Article 6, Artificial Turf Replacement at Lincoln-Sudbury Regional High School. Superintendent Bella Wong to attend.

Background Information:
none

Financial impact expected:N/A

Approximate agenda time requested: 10 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

L-S FY18 Capital Request:
Lower Turf Fields
Security Cameras
Sudbury October STM

Presented to Sudbury Board of Selectmen
October 4, 2016



History of Use

Completed in time for fall 2004

22 seasons of use

23rd and 24th season will occur 2016-17

Typical life expectancy for FieldTurf is 10 years

We are currently in our 12th year

Users

L-S girls and boys soccer

L-S girls and boys lacrosse (and other spring sports before snow melt)

L-S field hockey

Town Youth Sports (Sudbury Youth Football, Sudbury Youth Soccer, Lincoln Youth Soccer, LS Boys Youth lacrosse, Sudbury Girls Youth Lacrosse)

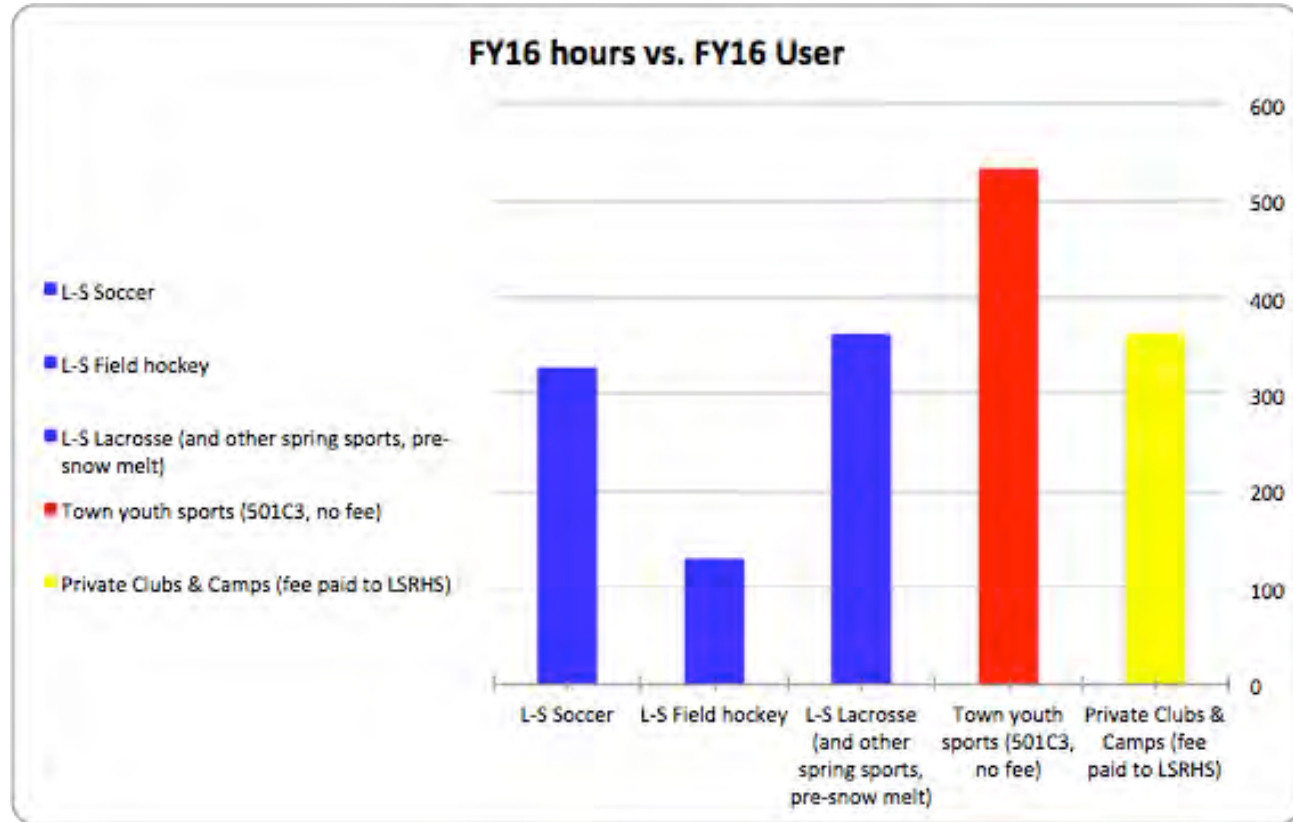
Private renters* (Federation Lacrosse, REAL Field Hockey Camp, DCL Soccer Pre-Season Camp, Flag Football, Girls Youth Lacrosse Jamboree, Youth Soccer Tournaments, Boys youth Lacrosse Jamboree)

It is the most highly used capital asset by LS and town youth.

Only private users are assessed a fee

Use data FY16

1716 hours



Current State

Deterioration occurring in high use areas

One lacrosse goal crease face-off circle were replaced summer 2016

Three additional goal creases are about to fail as is the other face-off circle

‘Painted’ lines are deteriorating and are now ½” below main field

Entire field resembles look & feel of old artificial field technology (‘astro turf’)

Impaction—loss of cushioning

Cleat “catch” – as turf degrades cleats do not release as cleanly increasing likelihood of injury

2016 Spring Repair of Goal Crease

Replaced crease V.1



2016 Spring Repair – Creates uneven surface

Replaced crease V.2



2016 Spring repair – Uneven surface

Note wear and tear in foreground



2016 Spring Repair of Face Off Circle

Replaced face-off circle V.1



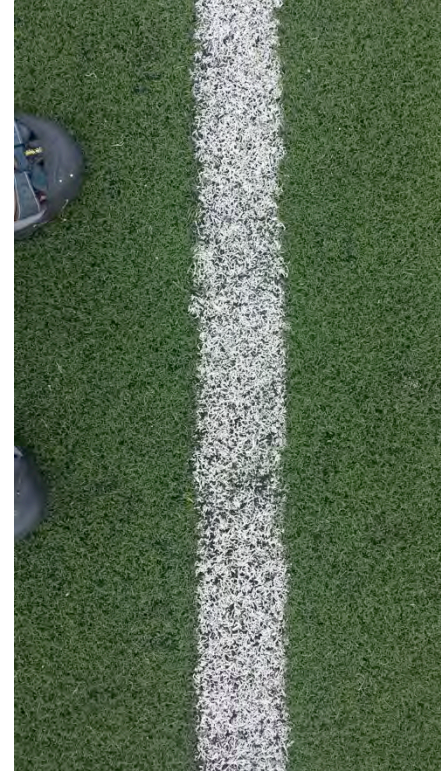
2016 Spring Repair – Uneven Surface

Replaced Face-off circle V.2



Depression occurring at field lines

Woven Line Depressions V.1



Why Synthetic Field Turf?

	Natural	Field Turf
	?	875,000
Maint Cost/yr	30,000	5,000
Re-sodding	100,000	0
Water/yr	2,000	0
Paint/yr	6,000	2,000
	700 hrs/yr = 7,000 hrs/10 yrs	1716 hrs/yr = 17,160 hrs
	480,000/ 7,000 = \$69//hour	945,000/ 17,160 = \$55/hour

Estimated Cost to Replace

150,500 sq ft

Recommendation: Turf Prep Slit Film Fiber Elite (HD) 2.5" w/ CoolPlay (cryo rubber top dressed with coated Cork) infill

Provides coated cork layer between user and rubber

Utilizes 'clean' rubber fill, **not** re-used tire crumb fill

Cost Estimate: \$840,000 + Architecture/Engineering \$35,000 = \$875,000

Funding

Town of Sudbury Capital Plan

Town of Lincoln Capital Plan

Versus

Lincoln-Sudbury Regional High School

L-S athletic revolving (gate receipts plus athletic user fees minus transportation & coaching stipends) ~ \$100,000

L-S field rental revolving (started spring FY16) ~\$7,500

L-S All Sports Boosters = \$10,000

L-S can contribute at least \$117,500 to mitigate total project cost

Sufficient funds exist in LS E & D Fund to cover remainder of cost

Request

Replace L-S lower T1 & T2 fields during summer 2017 (FY18)

Recommendation: Turf Prep Slit Film Fiber Elite (HD) 2.5" w/ CoolPlay (cryo rubber top dressed with Cork) infill

Total Estimated Project Cost: \$875,000

Proposal for funding: Gate Receipts, User fees, Boosters, LS E & D

LS Security Camera Replacement and Upgrade

- Replace existing 26 cameras
- Replace head end, storage and switching components
- Add internal and exterior cameras to cover: fields, parking under solar array, exterior doors (fitness center, maintenance delivery and back of auditorium), under stairwells (3), auditorium interior entry points, musical equipment storage areas
- Purpose: replace outdated equipment and enhance safety and security for the campus
- Estimated Total Project Cost: \$150,000
- Funding Sources:
 - Lincoln Appropriation in Spring 2016
 - Sudbury TM approval of funding form free cash

Public presentations to date

9/6/16 LS SC voted 'placeholder' request for warrant article

9/6/16 Sudbury BOS

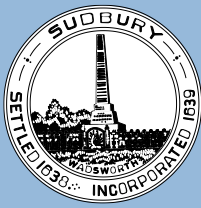
9/13/16 LS School Committee

9/21/16 Lincoln Finance Committee

9/26/16 Sudbury Finance Committee

10/4/16 Sudbury BOS

10/5/16 Sudbury CIAC



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

5: Prepare for STM

REQUESTOR SECTION

Date of request:

Requestor: Chairman Iuliano

Formal Title: Prepare for Special Town Meeting on Oct. 17, 2016, and vote to take positions on all warrant articles.

Recommendations/Suggested Motion/Vote: Prepare for Special Town Meeting on Oct. 17, 2016, and vote to take positions on all warrant articles.

Background Information:
attached warrant

Financial impact expected:

Approximate agenda time requested: 15 minutes

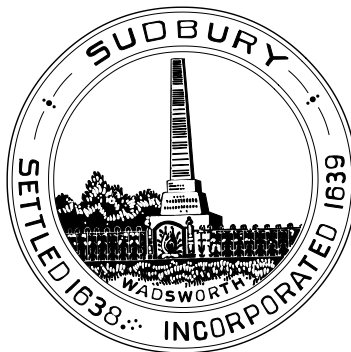
Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

**Town of Sudbury
Massachusetts**



OFFICIAL WARRANT

SPECIAL TOWN MEETING

MONDAY, OCTOBER 17, 2016 7:30 P.M.

Lincoln-Sudbury Regional High School Auditorium

**TOWN OF SUDBURY
SPECIAL TOWN MEETING WARRANT**

Commonwealth of Massachusetts
Middlesex, ss.

To the Constable of the Town of Sudbury:

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify and warn the inhabitants of the Town of Sudbury qualified to vote in Town affairs to meet at the Lincoln-Sudbury Regional High School Auditorium in said Town on Monday, October 17, 2016, at 7:30 o'clock in the evening, then and there to act on the following articles:

ARTICLE 1. STREET ACCEPTANCE – TREVOR WAY

To see if the Town will vote to accept the layout, relocation, or alteration of the following way:

Trevor Way from Horse Pond Road to a dead end, a distance of 415 ft.+/-

as laid out by the Board of Selectmen in accordance with the descriptions and plans on file in the Town Clerk's Office; to authorize the acquisition by purchase, by gift or by eminent domain, an easement or fee simple, over the way shown on said plan and any associated drainage, utility or other easements; or act on anything relative thereto.

Submitted by the Board of Selectmen.

(Two-thirds vote required)

BOARD OF SELECTMEN REPORT: An article for acceptance of the layout of Trevor Way was approved by the 2016 Annual Town Meeting. Having completed the layout process prior to Town Meeting, the Selectmen, with advice from the Planning Board, set requirements for subdivision completion as a precondition for completion of the Eminent Domain Taking process. The developer pursued these requirements but was unable to complete them within the schedule set by the Town. Therefore, the article must be resubmitted for Town Meeting approval and the eminent domain taking process will be repeated. If Trevor Way is voted and accepted by the Town Meeting as a public way, all future maintenance and repair will be done by the Town. The Board will report further at Town Meeting.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 2. DPW ROLLING STOCK REPLACEMENT

To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of \$210,000 or any other sum, for the purchase or acquisition of rolling stock/vehicles/equipment for the Department of Public Works and determine whether such funding will be raised by borrowing or otherwise; and to determine whether such funding will be subject to a Proposition 2 ½ exclusion; or act on anything relative thereto.

Submitted by the Interim Director of Public Works.

(Two-thirds vote required, if borrowed.)

INTERIM DIRECTOR OF PUBLIC WORKS REPORT: This article is requesting \$210,000 for the purchase of a much needed reliable, efficient, new Front End Loader capable of meeting multiple needs of the DPW including snow/salting operations. The Department currently uses three Front End Loaders; however, the oldest one is 16 years old and has become problematic and unreliable as a front line machine. The current plan is that the older Loader will become a back-up in times of emergency, and will be primarily the Loader stationed at the DPW yard. This older loader will be responsible for loading salt during snow emergencies, and will replace a less efficient backhoe during the snow season. It is thought that this new Loader will make the sanding operations more efficient, and ultimately provide the staff with the proper equipment to treat the roads during the snow and ice season.

The replacement cycle of these types of DPW vehicles and equipment is 7 to 10 years. The Department of Public works depends on the yearly replacement of vehicles and equipment. Without these vehicles and equipment, employees will not be able to do their jobs effectively, causing delays in snow removal operations and construction projects.

After many years of deferring the replacement of the DPW department's fleet of trucks and equipment we are catching up with the backlog of replacements. Some equipment and trucks are between 12 and 16 years old and are in need of replacement. Repair cost for these pieces of equipment have been increasing each year. These replacements are important to continue to provide a high level of road and property maintenance and plowing for Sudbury. Last May the residents at Town Meeting voted to support this request, however, at the ballot vote it was rejected. This request has been reduced from last Mays request of \$492,500 for three trucks, to the single, most critical truck, the Loader. With approval, this vehicle will be in operation this coming Winter.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 3. TOWN AND SCHOOL SECURITY AND ACCESS CONTROLS

To see if the Town will vote to raise and appropriate, or transfer from available funds, \$95,000 or any other sum, to be expended under the direction of the Facilities Director for the purpose of constructing, reconstructing, or making extraordinary repairs to the Sudbury Town Buildings for the purpose of Building Safety, Security, and Access Controls; and to determine whether said sum shall be raised by borrowing or otherwise; and to determine whether such funding will be subject to a Proposition 2 ½ exclusion; or act on anything relative thereto.

Submitted by the Facilities Director.

(Two-thirds vote required, if borrowed.)

FACILITIES DIRECTOR'S REPORT: The goal of this Town Meeting request is to provide secure and safe facilities for our children, staff and residents with the installation of town and school security and access controls. In 2015, Sudbury residents supported a similar article to begin the implementation of new security and access controls in the Sudbury Schools. Last May, residents at Town Meeting approved this same article, however, in the special election voters chose not to fund the capital expenditure. This article requests \$95,000 to be raised to continue the installation of electronic card access and exterior security cameras at the Curtis, Haynes, Noyes, Nixon and Loring Schools as well as the Flynn Building, Goodnow Library, and the Fairbank Community Center and Atkinson Pool. This year's appropriation will include door controls, warning alarms when exterior doors are forced open, and additional cameras

and other safety measures to insure our kids and residents are safe. As we have learned, school and workplace violence can happen anywhere. The implementation of entry access control and the installation of security cameras, will allow the staff the ability to better control entry into the building.

There is no guarantee that our schools or town buildings will be free from violence, however, this added security feature, along with training and communication, will give the staff a valuable tool to protect our children, teachers and parents in and around our buildings.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 4. SECURITY SYSTEM UPGRADE (CCTV SYSTEM) – LINCOLN-SUDBURY REGIONAL HIGH SCHOOL

To see if the Town will vote to raise and appropriate, or transfer from available funds, its proportionate share of \$150,000, or any other sum, to be expended under the direction of the Lincoln-Sudbury School Committee for the purpose of constructing, reconstructing, or making extraordinary repairs to the Lincoln-Sudbury Regional School District for the purpose of building and personal safety and security; and to determine whether said sum shall be raised by borrowing or otherwise; and to determine whether such funding will be subject to a Proposition 2 ½ exclusion; or act on anything relative thereto.

Submitted by the Lincoln-Sudbury Regional School District Committee.

(Two-thirds vote required, if borrowed.)

LINCOLN-SUDBURY SCHOOL COMMITTEE REPORT: Approval of this article would enable the upgrade and expansion of the existing Video Camera Security System for Lincoln-Sudbury Regional High School. This plan would replace the head end, storage and switching components which control the existing 26 cameras with high resolution (720p) wide dynamic range IP cameras and head end equipment and install new exterior cameras to allow viewing of critical infrastructure not currently available at: 1) loading dock, 2) Tech Labs, 3) Auditorium backstage, 4) emergency exit Gym, and 5) emergency exit Fitness Center. Additional interior locations will include two (2) interior stairwells not currently visible from existing system and relocation of existing cameras to allow full view of Auditorium entrance and Instrument Room. The existing system does not provide full security view due to limited capability of the existing infrastructure both from the field of view of the existing camera and the placement of certain units. The existing head end control components are not capable of supporting new high resolution cameras.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 5. ARTIFICIAL TURF FIELD REPLACEMENT – LINCOLN-SUDBURY REGIONAL HIGH SCHOOL

To see if the Town will vote to raise and appropriate, or transfer from available funds, its proportionate share of \$875,000 or any other sum, to be expended under the direction of the Lincoln-Sudbury School Committee for the purpose of replacing the two lower turf fields at the Lincoln-Sudbury Regional High School; and to determine whether said sum shall be raised by borrowing or otherwise; and to determine whether such funding will be subject to a Proposition 2 ½ exclusion; or act on anything relative thereto.

Submitted by the Lincoln-Sudbury Regional School District Committee.

(Two-thirds vote required, if borrowed.)

LINCOLN-SUDBURY SCHOOL COMMITTEE REPORT: Approval of this article would enable the replacement of the two lower artificial turf fields for Lincoln-Sudbury Regional High School to maintain safe, durable and usable playing fields. The fields are used by Lincoln-Sudbury Regional High School, Sudbury Recreation and other community groups. Replacement will address the deterioration of high use areas (goal creases) and the lines deteriorating at an accelerated rate (1/2" below the main field). They were originally installed in 2004 with a 10-year life expectancy. They are now entering their twelfth year, or 24 seasons of play. If this project is not approved, it is possible that the field deterioration may be deemed unsafe for use and/or player injury may occur.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 6. SPECIAL ACT – GRANT OF ADDITIONAL ALL ALCHOLIC BEVERAGE LICENSE NOT TO BE DRUNK ON THE PREMISES

To see if the Town will vote to petition the General Court of the Commonwealth pursuant to the Provisions of Clause (1) of Section 8 of Article 2 of the Amendments to the Constitution of the Commonwealth of Massachusetts and all other applicable laws for a Special Law, substantially in the following form, or to take any action relative thereto.

AN ACT AUTHORIZING THE TOWN OF SUDBURY TO GRANT AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

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

SECTION 1.

- (a) Notwithstanding section 17 or chapter 138 of the General Laws, the licensing authority of the Town of Sudbury may grant an additional license for the sale of all alcoholic beverages not to be drunk on the premises pursuant to section 15 of said chapter 138 to Eastbrook, Inc., located at 435 Boston Post Road in the town of Sudbury. The license shall be subject to all of said chapter 138, except said section 17.

- (b) Upon issuance of the license authorized by this act, Eastbrook, Inc. shall surrender to the licensing authority the license currently held for the sale of wines and malt beverages not to be drunk on the premises.
- (c) The licensing authority shall not approve the transfer of the license granted pursuant to this act to any other location, but it may grant the license to a new applicant at the same location if the applicant files with the licensing authority a letter from the Department of Revenue and the Department of Unemployment Assistance indicating that the licensee is in good standing with those departments, and that all applicable taxes, fees and contributions have been paid.
- (d) If the license granted pursuant to this act is cancelled, revoked, or no longer in use, it shall be physically returned with all legal rights, privileges and restrictions pertaining thereto, to the licensing authority, which may then grant the license to a new applicant at the same location and under the same conditions as specified in this act.

SECTION 2. This act shall take effect upon its passage.

Submitted by Petition.

(Majority vote required.)

PETITIONER’S REPORT: The petitioner, Eastbrook, Inc. (“Eastbrook”), presently holds a wine and malt license at 435 Boston Post Road, Sudbury, Massachusetts, which is a store in the Sudbury Crossing Shopping Center. Eastbrook is asking for approval of a Home Rule Petition to request the State Legislature to approve an additional all alcoholic beverage not to be drunk on the premises license. Sudbury is presently limited to four such licenses which are already issued. The new license will be restricted to the Sudbury Crossing Shopping Center location.

The addition of liquors and spirits has been requested by Eastbrook’s existing customers and local shoppers would benefit from the convenience of one stop shopping. Eastbrook has an established track record of operating responsibly and with community involvement.

Upon approval of the all alcoholic liquor store license by Town Meeting, the Legislature and Board of Selectmen, the existing wine and malt license will be returned to the Town.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

ARTICLE 7. POLES, OVERHEAD WIRES AND STRUCTURES PROGRAM STUDY

To see if the Town will vote to request that the Planning Board conduct preliminary consideration and study of a program (a) prohibiting new installation or construction of or (b) requiring progressive removal of poles and overhead wires and associated overhead structures within parts of Sudbury, as per the provisions of Massachusetts General Law, Chapter 166, Section 22B.

Submitted by Petition.

(Majority vote required.)

Attachment5.a: Warrant 10-17-16 final (1937 : Prepare for STM)

PETITIONER’S REPORT: Poles and overhead wires can detract from the beauty and character, public safety, health, convenience or welfare of parts of Sudbury. Mass. General Law provides for a program to prohibit and progressively remove certain kinds of poles and wires in parts of town. Towns including Needham have used this program. This article requests that the Planning Board conduct preliminary study to determine the potential scope, and what is involved in coordinating such a program. Having such a study in hand could make it easier to coordinate the burying of existing wires if streets are dug up for another project.

BOARD OF SELECTMEN REPORT: The Board of Selectmen will report at Town Meeting.

FINANCE COMMITTEE REPORT: The Finance Committee will report at Town Meeting.

And you are required to serve this Warrant by posting an attested copy thereof at the Town Hall at least fourteen days before the time appointed for said meeting.

Hereof fail not and make due return by your doing thereon to the Town Clerk at or before the time of meeting aforesaid.

Given under our hands this twentieth day of September, two thousand and sixteen.

SELECTMEN OF SUDBURY:

Susan N. Iuliano

Charles C. Woodard

Patricia A. Brown

Robert C. Haarde

Leonard A. Simon

Attachment5.a: Warrant 10-17-16 final (1937 : Prepare for STM)

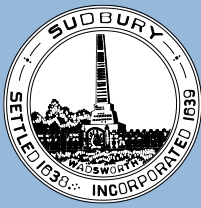


**Board of Selectmen
Sudbury, MA 01776**

**U.S. POSTAGE
PAID
Permit No. 4
Sudbury, MA 01776
ECRWSS**

**POSTAL PATRON
SUDBURY
MASSACHUSETTS 01776**

Attachment5.a: Warrant 10-17-16 final (1937 : Prepare for STM)



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

6: Proclamation request

REQUESTOR SECTION

Date of request:

Requestor: Susan Iuliano

Formal Title: Discussion and possible vote on request for Lights on Afterschool proclamation.

Recommendations/Suggested Motion/Vote: Discussion and possible vote on request for Lights on Afterschool proclamation.

Background Information:
see attached documents

Financial impact expected:n/a

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

CITATIONS AND PROCLAMATIONS

a) Citations - Any member of the Board of Selectmen shall have a citation issued as a congratulatory message to any person or business in Sudbury upon request to the support staff. Citations will be signed by the member requesting the citation or by the Chairman upon request of the member.

b) Proclamations may be made on behalf of the Town of Sudbury by majority vote of the Board of Selectman in accordance with the following guidelines:

Proclamations are ceremonial documents signed by the Board of Selectman and issued for:

- Public awareness
- Charitable fundraising campaigns
- Arts and cultural celebrations
- Special honors

Proclamations will not be issued for:

- Matters of political controversy, ideological or religious beliefs, or individual conviction
- Events or organizations with no direct relationship to the Town of Sudbury

Other: The Board of Selectmen reserves the right to modify or deny any proclamation request. More than one cause can be proclaimed simultaneously. A person/organization does not have exclusive rights to the day, week or month of their proclamation. A citation is an alternative where proclamation criteria are not met.

Who can make a proclamation request?

- Request must be made by a Town of Sudbury resident to the Office of the Board of Selectmen.

How should a proclamation request be made?

- All requests must be made in writing. Requests can be mailed, faxed, or hand-delivered or e-mailed. If mailed or faxed, please call to verify receipt by our office.
- Requests should be made at least thirty days in advance of the date the document is needed. Exceptions to this rule may be made as required.

What must the request include?

- Contact person's first and last name, address, and telephone number
- A brief summary and/or background of the event or organization
- The name and date(s) of the day, week, month, or event to be proclaimed
- Draft text for the proclamation, including 4-6 "whereas" clauses

- An indication of whether the proclamation should be mailed or will be picked up and the date
- A date when the proclamation is needed (should be at least 45 days after the date of the request.)

Keeping the Lights On After School: A Proclamation

WHEREAS, the citizens of the City or «Town» stand firmly committed to quality afterschool programs and opportunities because they provide challenging and engaging learning experiences that help children develop social, emotional, physical and academic skills while supporting working families, ensuring their children are safe and productive after the traditional school day ends.

WHEREAS, the City of «Town» has provided significant leadership in the area of community involvement in the education and well-being of our youth, grounded in the principle that quality afterschool programs are key to helping our children become successful adults.

WHEREAS, *Lights On Afterschool*, the national celebration of afterschool programs held this year on October 20, 2016, promotes the importance of quality afterschool programs in the lives of children, families and communities.

WHEREAS, more than 28 million children in the U.S. have parents who work outside the home, and 15.1 million children have no place to go after school.

WHEREAS, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights.

WHEREAS, the City of «Town» is committed to investing in the health and safety of all young people by providing afterschool and out-of-school time programs that will help close the achievement gap and prepare young people to compete in the global economy.

WHEREAS, it is important to engage families, schools and communities in advancing the welfare of our children and ensure the lights stay on and the doors stay open for all children after school,

NOW, THEREFORE, I, «**First_Name**» «**Last_Name**», «Title» of the City of «Town» «Language_Insert_2», do hereby proclaim **October 20, 2016**, to be,

Lights On Afterschool Day

And urge all the citizens of «Town» to take cognizance of this event and participate fittingly in its observance.

Given this xxxxxxxx day of October, in the year two thousand and fifteen, and of the Independence of the United States of America, the two hundred and thirty-ninth.

Dear City or Town:

This October 20th, communities all across Massachusetts will be celebrating Lights On! Afterschool, a nationwide event organized each year by the Afterschool Alliance to celebrate afterschool and out-of-school time (ASOST) programs and the educational and developmental opportunities they provide children, families and communities. These vital programs provide safe, challenging, and engaging learning experiences to help children develop the social, emotional, physical and academic skills they need to be ready for school and 21st century success.

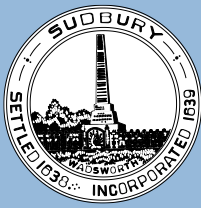
We ask that you consider recognizing Lights On Afterschool this year by issuing a proclamation declaring October 20, 2016, Lights On! Afterschool Day. If you would like to celebrate a Lights On! event in your community and present your proclamation, we would be happy to facilitate your visit.

The declaration of October 20th as Lights On! Afterschool Day serves as an excellent opportunity to highlight your commitment to providing a broad range of afterschool and extended learning opportunities for the children and youth who need them most. Your leadership on education and youth issues, and support for afterschool programs has helped your community make significant progress towards providing children, youth and families with access to high quality out-of-school time learning opportunities. Lights On! Afterschool Day will celebrate and highlight these tremendous efforts. If your office has any questions or wants to learn more about the Afterschool Alliance or Lights On! Afterschool, we invite you to contact Ursula Helminski with the Afterschool Alliance at 202-347-2030, or by e-mail at uhelminski@afterschoolalliance.org and to visit the Lights On Afterschool website at <http://www.afterschoolalliance.org/loa.cfm>.

We ask that your office please review the enclosed language and contact Patrick Stanton, Creative Research Director at the Massachusetts Afterschool Partnership by phone at 617-338-0005 or by email at pstanton@massafterschool.org with any questions. Please let us know that we can count on your support for Lights On! Afterschool by issuing a proclamation.

Thank you for your support of children and families in Massachusetts.
Sincerely,

Ardith Wieworka
Massachusetts Afterschool Partnership



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

7: Draft BOS meeting schedule 2017

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Review draft BOS meeting schedule for 2017, and possibly vote to approve schedule.

Recommendations/Suggested Motion/Vote: Review draft BOS meeting schedule for 2017, and possibly vote to approve schedule.

Background Information:
attached schedule

Financial impact expected:

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM

TOWN OF SUDBURY
Board of Selectmen Meeting Schedule - DRAFT

Meetings Commence at 7:30 PM at Town Hall, 322 Concord Rd. (see Town website for updates)

2017

Red=LSRHS School Comm Meetings

Yellow=BOS Mtg

Blue=Holiday/other event

JANUARY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY						
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

MARCH						
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Jan. 1 New Year's Day
 Jan. 2 New Year's Day Observed
 Jan. 16 MLK Day
 Feb. 20 President's Day
 Feb. 21-24 School Vacation
 March 27 Annual Town Election

APRIL						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

MAY						
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21	22	23	24	25	26	27
28	29	30	31			

JUNE						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

April 10 (evening) Passover
 April 14 Good Friday
 April 16 Easter
 April 17 Patriot's Day
 April 18-21 School Vacation
 May 1-3 Annual Town Meeting @LSRHS
 May 29 Memorial Day

JULY						
S	M	T	W	T	F	S
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

AUGUST						
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27	28	29	30	31		

SEPTEMBER						
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24	25	26	27	28	29	30

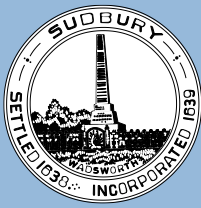
July 4 Independence Day
 Sept. 4 Labor Day
 Sept. 20 (evening) Rosh Hashanah
 Sept. 29 (evening) Yom Kippur

OCTOBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER						
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19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER						
S	M	T	W	T	F	S
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3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Oct. 9 Columbus Day
 Nov. 10 Veterans Day Observed
 Nov. 11 Veterans Day
 Nov. 23 Thanksgiving Day
 Dec. 12 (evening) Hannukah
 Dec. 23-Jan. 1 School Vacation
 Dec. 25 Christmas Day



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

8: Goodnow Library Parking Lot

REQUESTOR SECTION

Date of request:

Requestor: Chairman Iuliano

Formal Title: Discussion on Goodnow Library parking lot

Recommendations/Suggested Motion/Vote: Discussion on Goodnow Library parking lot

Background Information:

Discussion on Goodnow Library parking lot

Financial impact expected:n/a

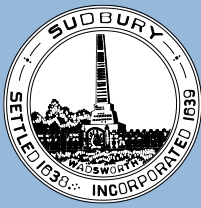
Approximate agenda time requested: 15 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

9: BOS Meeting practices

REQUESTOR SECTION

Date of request:

Requestor: Chairman Iuliano

Formal Title: Discussion and possible vote concerning BOS meeting practices, including Selectmen's Announcements and the Consent Calendar agenda.

Recommendations/Suggested Motion/Vote: Discussion and possible vote concerning BOS meeting practices, including Selectmen's Announcements and the Consent Calendar agenda.

Background Information:

Financial impact expected:N/A

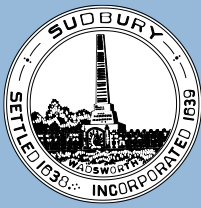
Approximate agenda time requested: 10 minutes

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

10: Citizen's Comments (Cont)

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Citizen's Comments (Cont)

Recommendations/Suggested Motion/Vote: Citizen's Comments (Cont)

Background Information:

Financial impact expected:

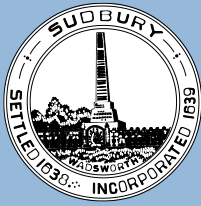
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

MISCELLANEOUS (UNTIMED)

11: Future agenda items

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Discuss future agenda items

Recommendations/Suggested Motion/Vote: Discuss future agenda items.

Background Information:

Financial impact expected:

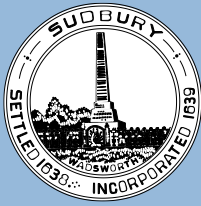
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

CONSENT CALENDAR ITEM
12: SMILE Mass Gobble Wobble 2016

REQUESTOR SECTION

Date of request:

Requestor: Susan Brown, SMILE Mass

Formal Title: Vote to Grant a Special Permit to SMILE Mass, to Hold the “Gobble Wobble for SMILE MASS” on Saturday November 19, 2016, from 10:00 A.M. through approximately 12:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race’s conclusion.

Recommendations/Suggested Motion/Vote: Vote to Grant a Special Permit to SMILE Mass, to Hold the “Gobble Wobble for SMILE MASS” on Saturday November 19, 2016, from 10:00 A.M. through approximately 12:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race’s conclusion.

Background Information:
CONSENT CALENDAR

Financial impact expected:N/A

Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

- Melissa Murphy-Rodrigues Pending
- Barbara Saint Andre Pending
- Leila S. Frank Pending
- Patty Golden Pending
- Susan N. Iuliano Pending
- Board of Selectmen Pending

10/04/2016 7:30 PM



TOWN OF SUDBURY

Office of Selectmen
www.sudbury.ma.us

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
978-639-3381
Fax: 978-443-0756

Email: BOSadmin@sudbury.ma.us

APPLICATION FOR A CHARITABLE WALK/RELAY PERMIT ON A PUBLIC WAY

Written permission to conduct a fundraising walk or relay race in any public street, public sidewalk or public way within the Town must be obtained from the Board of Selectmen prior to the event. The Chief of Police will determine the appropriate public safety requirements for this event and the cost of such special duty officers, if any required, will be borne by the applicant. The Town of Sudbury requires a Certificate of Insurance of no less than \$1,000,000, naming the Town as an additional insured. All cleanup from the event will be completed by the applicant within 8 hours after the stated ending time or applicant will be billed for the Town's cost to clean up. Application processing can take up to four weeks as approval from the Police, Building and Park & Recreation departments may be required prior to Board of Selectmen approval. Processing begins after all required materials are received, so please plan accordingly.

Organization Name SMILE MASS

Event Name GOBBLE WOBLE FOR SMILE MASS

Organization Address 66 DUDLEY RD, SUDBURY

Name of contact person in charge LOTTE DIOMEDE / SMILE MASS

Telephone Number(s) of contact [REDACTED]

Email address INFO@SMILEMASS.ORG

Date of event NOV 19TH 2017 Rain Date —

Starting time 10:40 AM Ending time 12:00 NOON

Route of the race/relay and portion of the road requested to be used (please indicate on map and attach to this application) ATTACHED

Anticipated number of participants 300

Assembly area (enclose written permission of owner if private property to be used for assembly) _____

CURBS MIDDLE SCHOOL HAS BEEN RESERVED

Organization that proceeds will go to SMILE MASS

Any other important information WE WILL HIRE 2-4 POLICE DETAIL

The undersigned applicant agrees that the applicant and event participants will conform to applicable laws, by-laws and regulations as well as any special requirement that may be made as a condition of the granting of permission pursuant to this application. I/we agree to hold the Town of Sudbury harmless from any and all liability and will defend the Town of Sudbury in connection therewith.

Signature of Applicant [Signature]

Date 9/15/16



TOWN OF SUDBURY

Office of Selectmen
www.sudbury.ma.us

Flynn Building
 278 Old Sudbury Rd
 Sudbury, MA 01776-1843
 978-639-3381
 Fax: 978-443-0756

Email: BOSSadmin@sudbury.ma.us

CONTINUED: APPLICATION FOR A CHARITABLE WALK/RELAY PERMIT...

Application Checklist:

- Application Form
- Map of Route
- Evidence of Certificate of Insurance (please see details above)

WILL PROVIDE WHEN POLICY RENEWS
 IN OCTOBER

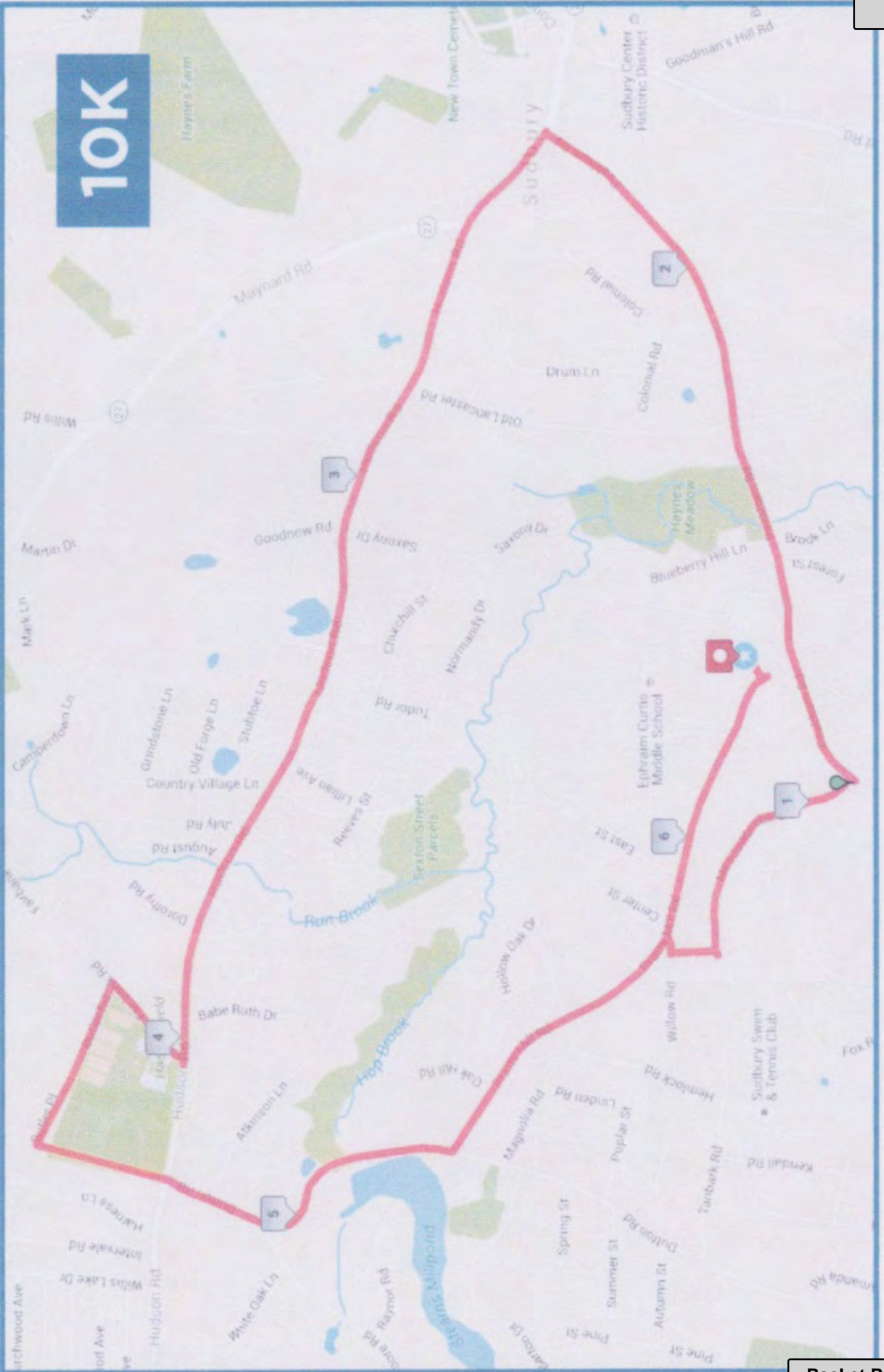
Please submit completed application and materials to:

Board of Selectmen
 278 Old Sudbury Rd.
 Sudbury, MA 01776
 Fax: 978-443-0756
 Email: BOSSadmin@sudbury.ma.us

THIS IS OUR 5TH ANNUAL
 Gobble Wobble



10K



Attachment12.a: Gobble Wobble 2016 Application_BOS (1989 : SMILE Mass Gobble Wobble 2016)

SMILE Mass Gobble Wobble 2016 Department Feedback

November 19, 2016

Fire Department Approval:

From: Whalen, John
Sent: Thursday, September 15, 2016 2:44 PM
Subject: **ACCEPTED**: Gobble Wobble 2016
When: Saturday, November 19, 2016 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Highway Department Approval:

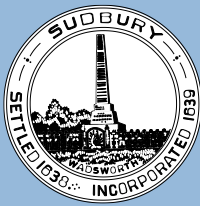
From: Nix, Scott
Sent: Monday, September 19, 2016 7:16 PM
Subject: **ACCEPTED**: Gobble Wobble 2016
When: Saturday, November 19, 2016 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Park & Recreation Approval:

From: McNamara, Kayla
Sent: Thursday, September 15, 2016 1:39 PM
Subject: **ACCEPTED**: Gobble Wobble 2016
When: Saturday, November 19, 2016 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Police Department Approval:

From: Nix, Scott
Sent: Monday, September 19, 2016 7:16 PM
Subject: **ACCEPTED**: Gobble Wobble 2016
When: Saturday, November 19, 2016 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

CONSENT CALENDAR ITEM

13: Minutes approval

REQUESTOR SECTION

Date of request:

Requested by: Patty Golden

Formal Title: Vote to approve the regular session minutes of 9/20/16.

Recommendations/Suggested Motion/Vote: Vote to approve the regular session minutes of 9/20/16.

Background Information:

Attached draft

Financial impact expected:n/a

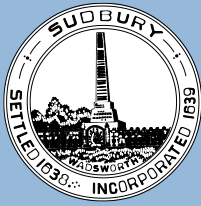
Approximate agenda time requested:

Representative(s) expected to attend meeting:

Review:

Patty Golden	Pending
Melissa Murphy-Rodrigues	Pending
Barbara Saint Andre	Pending
Susan N. Iuliano	Pending
Board of Selectmen	Pending

10/04/2016 7:30 PM



SUDBURY BOARD OF SELECTMEN
Tuesday, October 4, 2016

CONSENT CALENDAR ITEM

14: Temporary Office Trailer Permit - Sudbury Water District

REQUESTOR SECTION

Date of request:

Requestor: Rebecca McEnroe, Supt. Sudbury Water District

Formal Title: Vote to approve a request dated Sept. 28, 2016 from Rebecca McEnroe, P.E., Superintendent of Sudbury Water District, to grant permission for one 32 ft. temporary office trailer at 199 Raymond Road, from October 2016 through October 2018, subject to approval of the Building Inspector.

Recommendations/Suggested Motion/Vote: Vote to approve a request dated Sept. 28, 2016 from Rebecca McEnroe, P.E., Superintendent of Sudbury Water District, to grant permission for one 32 ft. temporary office trailer at 199 Raymond Road, from October 2016 through October 2018, subject to approval of the Building Inspector.

Background Information:
See attached memo and map of the construction site.

Financial impact expected:\$50 application fee

Approximate agenda time requested:

Representative(s) expected to attend meeting: Steve Senna, Natl Development?

Review:

- Patty Golden Pending
- Melissa Murphy-Rodrigues Pending
- Barbara Saint Andre Pending
- Susan N. Iuliano Pending
- Board of Selectmen Pending

10/04/2016 7:30 PM

Sudbury Water District of Sudbury, Massachusetts

September 28, 2016

Board of Selectmen
Town of Sudbury

Re: Installation of a temporary office trailer at 199 Raymond Rd

Dear Board,

The Sudbury Water District has outgrown its existing 1300 sq. ft. facility which was originally built in 1968. We are currently involved in a space feasibility study with Weston and Sampson Engineers which may result in an expansion of our existing facilities.

The District is in need of immediate additional office space. As a result we would like to install an office trailer 8 ft wide by 32 ft. long at 199 Raymond Rd. The chosen location of the trailer is to facilitate utilities hookup from the existing office as well as eliminating the need to move the trailer in the future due to the possible expansion. I anticipate that the trailer will be needed for approximately 2 years. I have included a drawing to indicate the proposed location of the trailer.

If you have any questions or concerns regarding this matter kindly contact me at (978) 443-6602.

Sincerely,



Rebecca McEnroe, P.E.
Superintendent



- Water Hydrants
- Water Gate Valves
- Water Pipes
- Water Hydrants - Historic
- Water Gate Valve - Historic
- Parcels with Orbits
- MA Highways
- Interstate
- US Highway
- Numbered Routes
- Town Boundary



As shown on this site are
 for informational and
 purposes only. The
 and its consultants are not
 liable for the misuse or
 representation of the data.

**TOWN OF SUDBURY
REGULATIONS FOR TEMPORARY BUSINESS OR INDUSTRIAL TRAILERS**

The temporary business or industrial use of trailers for storage or office purposes under Section 2324 of the Sudbury Zoning Bylaw shall conform to the following requirements:

1. No trailer shall be put in place prior to the filing and approval of a request as follows:
 - a. Where the temporary use shall be for three months or less, the applicant shall file a request with the Building Inspector stating the name and address of the owner and lessee of the premises, the name of the company and a responsible official, the number, size and purpose of the proposed trailer(s), and the name and address of the owner/lessor of the trailer(s). A plan of the premises conforming to paragraph 5(b) shall also be filed. The Building Inspector may consider and approve the same with or without conditions or modifications, and shall notify the Selectmen's Office of such approval, or may, if he deems it appropriate in any case, refer the matter to the Board of Selectmen, stating his reasons for referral, and it shall then be handled under paragraph 1(b).
 - b. Where the temporary use shall exceed three months, the applicant shall file the request and plan described above with the Board of Selectmen who shall consider and approve the same at a regular meeting, with or without conditions or modifications. Such approval shall not authorize such use for a period exceeding twelve months.
2. The Building Inspector or Board of Selectmen shall consider the following factors in reviewing a request under these Regulations:
 - a. Whether the proposed placement is upon or obstructs access to parking areas, roadways, fire lanes, or building entrances/exits.
 - b. Where the proposed placement is visible from a public street, way or place, whether such placement is appropriate considering the intended use, or detrimental to the neighborhood.
 - c. Whether the proposed placement obstructs visibility affecting traffic flow or other safety considerations.
 - d. Whether the proposed time period, number or size of the trailers is reasonable in light of the intended use of the trailers.
 - e. Any other factor relating to the placement or use of the trailers which may affect the surrounding neighborhood or health or safety considerations.
3. The trailer(s) shall be removed from the premises prior to the expiration of the permitted time period unless an extension has been requested and received from the Board of Selectmen.

4. Request for an extension of time to permit the continued use or placement of trailer(s) shall be directed to the Board of Selectmen. Such request shall state the reasons for an extension and the additional time period desired.
5. A. A filing fee of \$50 is required under this procedure.
B. The plan submitted under this procedure shall be clear and legible, and drawn to an appropriate scale so as to show all buildings, parking areas, setback distances, dimensions, roadways and the proposed location of the trailer(s) on the premises. It need not be reproducible or professionally prepared.
C. The Selectmen may waive any one or more of the provisions of these regulations if, in their opinion, the application of the regulation would create a hardship or is not reasonable in the circumstances.

Adopted by the Board of Selectmen

June 20, 1983