

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, April 22, 2019

6:00 P.M. Executive Session

7:00 P.M. Call to Order

6:00 P.M. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

I. CALL TO ORDER

II. APPROVAL OF MINUTES

April 8, 2019

III. MANAGER'S REPORT

IV. PUBLIC DISCUSSION

V. LEGISLATION AND POLICY

- 19 – 052** To hold a Public Hearing to consider and act on renewing authorization for the Cumberland Police Department to make warrantless arrests outside of Cumberland.
- 19 – 053** To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Southern Maine Coastal Classic Dog Show to be held on May 16th - 19th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds..
- 19 – 054** To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Girls Round Robin Lacrosse Tournament to be held on May 18th from 8:00 a.m. to 5:00 p.m. at Twin Brook.
- 19 – 055** To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Billy Graham Evangelistic Association's 2019 Decision America Tour to be held on May 19th from 7:00 to 9:00 p.m. at the Cumberland Fairgrounds.
- 19 – 056** To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Boys Lacrosse Jamboree Tournament to be held on June 8th and 9th from 8:00 a.m. to 5:00 p.m. at Twin Brook.
- 19 – 057** To hold a Public Hearing to consider and act on a Mass Gathering Permit for The Wicked Good Outdoor Fest to be held on June 15th from 10:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.

- 19 – 058** To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Penobscot Valley Kennel Club Dog Show to be held June 20th through 23rd from 8:00 a.m. to 5:00 p.m. at the Cumberland Fairgrounds.
- 19 – 059** To hold a Public Hearing to consider and act on a Mass Gathering Permit for Hart's Annual Yard and Bake Sale to be held August 22nd through 25th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds.
- 19 – 060** To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement amendment with Heritage Village Development Group, LLC to the Planning Board for a Public Hearing and recommendation.
- 19 – 061** To authorize the Town Manager to execute a 4-year lease agreement with First Data Leasing Company for a point of sale system for Val Halla golf operations.

VI. NEW BUSINESS

- Special Town Council meeting on May 7th at 7:00 a.m. to sign school warrant and notice of election
- May 27th meeting to be cancelled (Memorial Day)
- June meetings moved from June 10th and 24th to June 3rd and 17th
- BUDGET REPORT

VII. ADJOURNMENT

MINUTES
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, April 8, 2019
6:00 P.M. Ordinance Committee Meeting

7:00 P.M. Call to Order

Present: Councilors Bingham, Copp, Edes, Gruber, Stiles, Storey-King and Turner

I. APPROVAL OF MINUTES

Motion by Councilor Bingham, seconded by Councilor Gruber, to accept the March 25, 2019 meeting minutes as presented.

VOTE: 6-0-1 (Stiles abstained) MOTION PASSES

II. MANAGER'S REPORT

Councilor Storey-King introduced Greely High School Senior, Emma Fitzpatrick, who won a scholarship to the University of Maine for her project on invasive species.

Emma explained the project that she did for her Science Research class. Her project focused on finding natural ways to eliminate invasive species. She explained her testing process and the positive results.

III. PUBLIC DISCUSSION

None

V. LEGISLATION AND POLICY

19 – 045 To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement amendment with Heritage Village Development Group, LLC to the Planning Board for a Public Hearing and recommendation. REQUEST TO TABLE BY APPLICANT

Motion by Councilor Bingham, seconded by Councilor Stiles, to table.

VOTE: 7-0 UNANIMOUS

19 – 046 To hold a Public Hearing to consider and act on amendments to Chapter 223 (Shellfish Conservation) of the Cumberland Code, as recommended by the Shellfish Conservation Commission.

Councilor Storey-King explained that the Ordinance and Shellfish Committees met earlier this evening to review the Shellfish Conservation Ordinance amendments, and it was discovered that there is some language that the Department of Marine Resources (DMR) did not approve. She recommended tabling this item until DMR approves the amendments.

Motion by Councilor Storey-King, seconded by Councilor Turner, to table.

VOTE: 7-0 UNANIMOUS

19 – 047 To hold a Public Hearing to consider and act on the 2019 Brown Tail Moth Street Tree Preservation Program.

Town Manager Shane explained that last year, the Council authorized \$20,000 for the brown tail moth spraying program. We have attempted to get the vendor to commit to additional spraying time in Cumberland this year, but they are so booked that we will only have one week to spray, so we will have to prioritize spray areas. We are trying to get to trees that are 50 feet from the right-of-way and we will be injecting oak trees on the embankment at the Broad Cove Reserve in order to protect them.

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Councilor Bingham said that with the amount of residents who opt out, this is basically a feel good operation that is like pouring money down a hole. Stabling the trees along the shore at Broad Cove Reserve makes sense.

Councilor Storey-King said that even though this seems like a futile issue, she feels that spraying the trees along the roadways so that people can get out and walk in the summer is more than just a feel good operation.

Councilor Turner said that if there were no opt outs, he would be willing to spend considerably more to do something about this problem. It's too bad that people can't look at it from the perspective that a lot of their neighbors are suffering from this, and the rationale for opting out reminds him of the current satiation with measles.

Councilor Edes agreed with Councilor Turner. If we were going to spray the entire Town and not allow opt outs, he would be in favor. He suffered last year from the allergic effects of brown tail moths.

Councilor Gruber said that this was discussed during the budget process and he feels somewhat of an obligation to the community that has had health problems. He will vote in favor of this.

Councilor Stiles asked the Manager if this does not pass, will that have any effect on treating the trees at Broad Cove Reserve.

Town Manager Shane said that it would not. The trees at Broad Cove Reserve will be treated regardless.

Motion by Councilor Gruber, seconded by Councilor Turner, to approve the 2019 Brown Tail Moth Street Tree Preservation Program.

VOTE: 4-3 (Bingham, Edes & Stiles opposed) MOTION PASSES

Councilor Edes left the meeting at 7:25 p.m. Chairman Copp explained that he has a State Police detail for the funeral of the State Trooper that was killed last week.

19 – 048 To set the week of May 20th - 24th for Spring Bulky Item Pick Up Week.

Chairman Copp asked for any public comment.

No public comment.

Motion by Councilor Bingham, seconded by Councilor Stiles, to set the week of May 20th - 24th for Spring Bulky Item Pick Up Week.

19 – 049 To hold a Public Hearing to consider and act on adoption of the FY2020 Municipal Budget.
Town Manager Shane presented the following:

FY 2020 Budget Proposal

Town Council Meeting
April 8, 2019

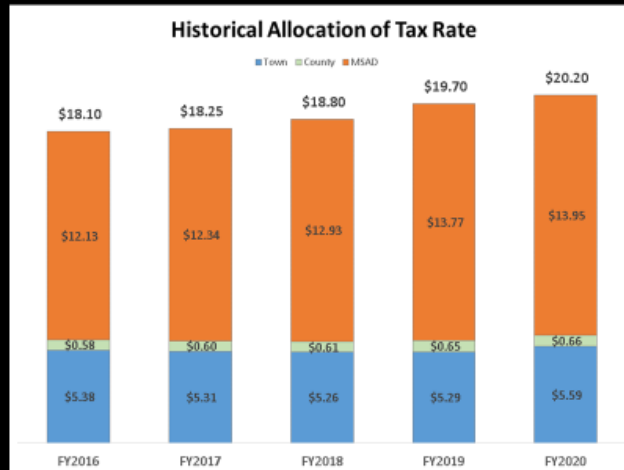
Presented by:

William R. Shane, P.E.
Town Manager

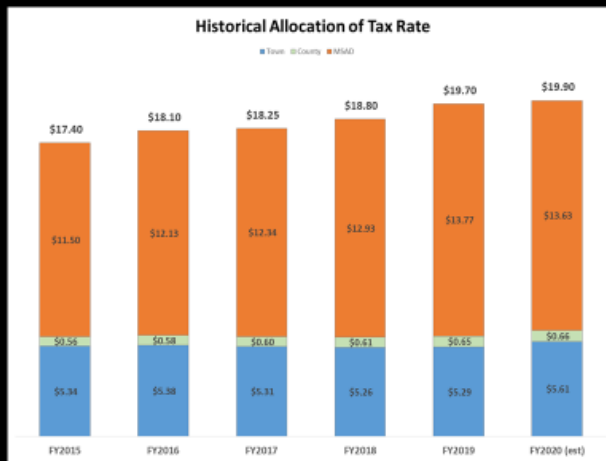
The Proposed Budget includes:

- Contracted Union increases for Police and Public Services of 2% and 3.5%.
- Wage adjustment for all non-union employees of 2.75% (avg. of above)
- Insurance premium increase of ~~10%~~ 5.4%
- Increase in solid waste for trash & recycling (first increase on over 5 years)
- Two new employees in Public Services (Winter at Highway- Summers at Parks – Val Halla)
- 0.5 Detective – funded over two years – start of position Jan 2020- (from TIF)
- 1 Paramedic – originally .5 proposed
- \$50,000 for Senior Tax Rebate Program

February 2019 vs. April 8, 2019 Changes to Tax Impact



February 2019 vs. April 8, 2019 Changes to Tax Impact



Dropped Mil Rate from
Projected \$20.20 to \$19.90

Preliminary Tax Rate FY 2018

	FY 2019	FY 2020
School	\$13.77	\$13.63
County	\$.65	\$.66
Town	\$ 5.29	\$5.61
Total	\$19.70	\$19.90



	House Value	\$250,000	\$350,000	\$450,000	\$550,000	\$650,000	\$750,000
Property Taxes							
FY 19 - \$19.70		\$4,925	\$6,895	\$8,865	\$10,835	\$12,805	\$14,775
FY 20 - \$19.90		\$4,975	\$6,965	\$8,955	\$10,945	\$12,935	\$14,925
Increase		\$50	\$70	\$90	\$110	\$130	\$150

Budget Information can be found at www.cumberlandmaine.com
click on Departments and Finance Located at the top of the screen

Questions?

Chairman Copp opened the Public Hearing.

Public discussion: none

Chairman Copp closed the Public Hearing.

Councilor Bingham said that there was a lot of work done on this budget by the Town Manager and his team prior to it being presented to the Council. The Council met in workshop 4 times and was able to make adjustments to the budget along the way. The Council was able to reach a final budget number at their last workshop on March 16th.

Motion by Councilor Bingham, seconded by Councilor Gruber, to set the Municipal FY 2020 General Fund Expenditure budget at \$10,815,763 and the General Fund Non-Property Tax Revenues Budget of \$5,105,643 to offset the impact of property taxes, as recommended by the Finance Committee.

VOTE: 6-0 UNANIMOUS

19 – 050 To set a Public Hearing date of April 22nd for approval of Mass Gathering Permits for:

- Southern Maine Coastal Classic – May 16th - 19th
- Girls Round Robin Lacrosse Tournament – May 18th
- Decision America Tour, Billy Graham Evangelistic Association – May 19th
- Boys Jamboree Lacrosse Tournament – June 8th & 9th
- The Wicked Good Outdoor Fest – June 15th

Chairman Copp asked for any public comment.

No public comment.

Motion by Councilor Bingham, seconded by Councilor Stiles, to set a Public Hearing of April 22, 2019 to review and approve the attached Mass Gathering Permits.

VOTE: 6-0 UNANIMOUS

19 – 051 To set a special Town Council meeting date of May 7th to countersign the Warrant and Notice of Election calling the June 11, 2019 M.S.A.D. 51 Budget Validation Referendum.

Motion by Councilor Bingham, seconded by Councilor Storey-King, to set a special Town Council meeting date of May 7th to countersign the Warrant and Notice of Election calling the June 11, 2019 M.S.A.D. 51 Budget Validation Referendum.

VOTE: 6-0 UNANIMOUS

VI. NEW BUSINESS

Councilor Bingham – None

Councilor Gruber – The new freezer for the Food Pantry is now installed and it cost the Town nothing because we received a grant for it. We are now able to store more frozen food for the Food Pantry.

Steve Moriarty was voted by the Democrats for consideration of Representative Dale Denno's seat.

Councilor Storey-King – The Bicentennial Committee met last week. What an energetic group of people they are. It is going to be a celebration to remember!

Chairman Copp – None

Councilor Stiles – Thank you to everyone who sent well wishes after his knee surgery. He is recovering well.

He attended a Historical Society Building Committee meeting recently. They are a good committee who will be working on moving the current Historical Society building to the Library property.

He thanked Councilor Copp for his continued support to the 4-H auction fund that benefits the Food Pantry. He reminded everyone of his ongoing efforts to raise money for this very worthy cause that provides meat to the Food Pantry.

Councilor Turner – None

Town Manager Shane – Route 9/Main Street construction will start up again on Wednesday and should be completed this summer.

There will be an open house at Val Halla this Saturday. People can stop by to say goodbye to Brian Bickford, who has accepted a position as Director of the Maine State Golf Association, and meet the new Golf Pro, Nick Plummer.

Nomination papers are due by April 16th. This will be a busy election. We will hold a "Meet the Candidate's" night on May 28th at the performing arts center.

VII. EXECUTIVE SESSION pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

Motion by Councilor Bingham, seconded by Councilor Stiles, to recess to Executive Session pursuant to 1 M.R.S.A., § 405(6)(C) re: real property.

VOTE: 6-0 UNANIMOUS

TIME: 7:40 P.M.

Reconvene to regular session at 8:39 P.M.

VIII. ADJOURNMENT

Motion by Councilor Storey-King, seconded by Councilor Turner, to adjourn.

VOTE: 6-0 UNANIMOUS

TIME: 8:39 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary

ITEM

19-052

To hold a Public Hearing to consider and act on renewing authorization
for the Cumberland Police Department to make warrantless arrests
outside of Cumberland



CUMBERLAND POLICE DEPARTMENT
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021

EMERGENCY
911

BUSINESS
(207) 829-6391

FAX
(207) 829-2211

Charles Rumsey, IV
Chief

David T. Young, Jr.
Lieutenant

March 18, 2019

Mr. William R. Shane, Town Manager
Town of Cumberland
290 Tuttle Road
Cumberland, Maine 04021

Dear Mr. Shane,

I am writing to ask that the Town Council consider voting to renew their authorization of the Cumberland Police Department to make warrantless arrests outside the Town of Cumberland when necessary.

The Town Council first voted to grant qualified members of the Cumberland Police Department this authority in April of 2008.

The relevant law is Title 30-A Section 2671 (attached), which generally describes the powers of a law enforcement officer in Maine. Subsection 2-A of that law states that municipal officers may authorize a municipality's police officers (who have graduated from the full-time police academy) to perform any of the acts described in Title 17-A Section 15 (also attached), which allows officers to make warrantless arrests in certain situations.

I believe that continuing this authorization is very important to the safety of our officers and the general public. It will allow our officers to make arrest decisions in the limited circumstances as described by our department policy, which I've attached for your review and dissemination (please see Section III, Procedures, Subsection B, Arrests Outside Municipal Boundaries). In the event an officer of this department (while conducting a criminal investigation which began within the boundaries of Cumberland) were to travel outside of town to conduct an interview, conduct surveillance, etc. and he or she were confronted by either (a) a serious crime being committed in their presence or (b) the suspect in the crime they were investigating, an arrest could be made.

Our intention is that arrests made under this authority be limited and infrequent and as you can see our policy requires that officers who exercise this authority notify me as soon as possible. No such arrests have been made over the past three years during my tenure.

Please let me know if you or anyone on the Council has any questions or concerns.

Respectfully,

Charles J. Rumsey, IV
Chief of Police

Maine Revised Statutes
Title 30-A: MUNICIPALITIES AND COUNTIES
Chapter 123: MUNICIPAL OFFICIALS

§2671. POLICE OFFICERS

1. Appointment. Except as provided by charter, ordinance or section 2636, subsection 6, the municipal officers may appoint police officers for a definite term, and control and fix their compensation. Police officers, including chiefs of police, may be removed for cause after notice and hearing.

A. Before appointing any law enforcement officer, the municipal officers shall investigate the qualifications and background of any person being considered for appointment. This includes investigating the applicant's abilities, reputation for truthfulness and respect for the law. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. An appointed law enforcement officer is subject to the training requirements of Title 25, chapter 341. [1993, c. 349, §64 (AMD).]

C. Notwithstanding section 2526, residency in the State is not a condition of initial or continued appointment as a municipal police officer. [1989, c. 279, §1 (NEW).]

[1993, c. 349, §64 (AMD) .]

2. Powers. Police officers may serve criminal and traffic infraction processes and arrest and prosecute offenders of the law. A police officer has all the statutory powers of a constable, unless limited by charter or ordinance. No police officer has any authority in criminal or traffic infraction matters beyond the limits of the municipality in which the officer is appointed, except to:

A. Recapture a prisoner whom the officer has arrested and who has escaped; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Take a person before the District Court; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Execute a mittimus given to the officer by the District Court; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Pursue a person who has gone into another municipality and for whose arrest the officer has a warrant; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Arrest a person who travels beyond the limits of the municipality in which the officer is appointed when in fresh pursuit of that person. This paragraph applies to all crimes and traffic infractions. As used in this paragraph:

(1) With respect to Class A, Class B and Class C crimes, the term "fresh pursuit" is defined in Title 15, section 152; and

(2) With respect to Class D and Class E crimes and traffic infractions, "fresh pursuit" means instant pursuit of a person with intent to apprehend; or [1989, c. 104, Pt. C, §§8, 10 (AMD); 1989, c. 104, Pt. D, §6 (AMD).]

F. As provided for in section 2674. [1989, c. 104, Pt. A, §23 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1989, c. 104, Pt. C, §23, Pt (AMD); 1989, c. 104, Pt. D, §6 (AMD) .]

2-A. Optional powers. Notwithstanding subsection 2, municipal officers may authorize a municipality's police officers who have met the requirements of Title 25, section 2804-C to perform any of the acts described in Title 17-A, section 15 while the police officers are outside the jurisdiction in which they are appointed if, when possible, the law enforcement agency of a foreign municipality in which the arrest is to be made is notified in advance or, when not possible, the law enforcement agency of the foreign municipality in which the arrest has been made is notified immediately after the arrest.

A. [2003, c. 233, §4 (RP) .]

B. [2003, c. 233, §4 (RP) .]

[2003, c. 233, §4 (AMD) .]

2-B. Liability. When a municipal police officer makes an arrest, as authorized in subsection 2-A or subsection 4, outside of jurisdictional limits of the municipality in which the police officer is appointed, that police officer has the same immunity from tort liability and all of the pension, relief, disability, workers' compensation, insurance and any other benefits the police officer enjoys while performing duties within the police officer's appointing municipality.

[2005, c. 320, §1 (AMD) .]

3. Representation of the municipality in District Court. The municipal officers may authorize a law enforcement officer certified by the Maine Criminal Justice Academy, under Title 25, section 2803-A, subsection 1, to represent the municipality in District Court in the prosecution of alleged violations of ordinances which the officer may enforce. Under this subsection, the municipal officers may delegate their power to authorize law enforcement officers to represent the municipality to the municipality's full-time chief of police.

[2007, c. 1, §16 (COR) .]

4. Multijurisdictional crimes. If there is probable cause to believe that more than one theft, forgery or negotiation of a worthless instrument committed pursuant to one scheme or course of conduct by the same or several persons has occurred in more than one municipal jurisdiction, a police officer in a municipality in which at least one of the thefts, forgeries or negotiations of worthless instruments was committed may investigate and assist in the prosecution of all the related thefts, forgeries or negotiations of worthless instruments, with the express authorization of the police officer's municipal officers.

[2005, c. 320, §2 (NEW) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A23,C8,C10 D6 (AMD). 1989, c. 279, §1 (AMD). 1993, c. 349, §64 (AMD). 1993, c. 594, §2 (AMD). 2003, c. 233, §4 (AMD). 2005, c. 320, §§1,2 (AMD). RR 2007, c. 1, §16 (COR).

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Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 1: PRELIMINARY

§15. WARRANTLESS ARRESTS BY A LAW ENFORCEMENT OFFICER

1. Except as otherwise specifically provided, a law enforcement officer may arrest without a warrant:
 - A. Any person who the officer has probable cause to believe has committed or is committing:
 - (1) Murder;
 - (2) Any Class A, Class B or Class C crime;
 - (3) Assault while hunting;
 - (4) Any offense defined in chapter 45;
 - (5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
 - (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;
 - (5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;
 - (6) Theft as defined in section 357, when the value of the services is \$1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
 - (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
 - (8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
 - (9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;
 - (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;
 - (11) Theft involving a detention under Title 17, section 3521;
 - (12) Harassment, as set forth in section 506-A;
 - (13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19, section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;
 - (14) A violation of a sex offender registration provision under Title 34-A, chapter 15;
 - (15) A violation of a requirement of administrative release when requested by the attorney for the State;
 - (16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;
 - (17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;
 - (18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;

- (19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;
- (20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, section 3810 and former section 4112 when requested by a juvenile community corrections officer;
- (21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer;
- (22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;
- (23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A;
- (24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; or
- (25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and [2017, c. 148, §3 (AMD).]

B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime. [1995, c. 680, §3 (RPR).]

[2007, c. 475, §8 (AMD); 2007, c. 518, §4 (AMD); 2009, c. 142, §3 (AMD); 2011, c. 341, §6 (AMD); 2011, c. 464, §4 (AMD); 2011, c. 691, Pt. A, §12 (AMD); 2017, c. 148, §3 (AMD) .]

2. For the purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime. An arrest made pursuant to subsection 1, paragraph B must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit.

[1995, c. 680, §3 (RPR) .]

SECTION HISTORY

1975, c. 740, §22 (NEW). 1977, c. 326, (AMD). 1977, c. 510, §24 (AMD). 1977, c. 671, §19 (AMD). 1977, c. 696, §169 (AMD). 1979, c. 578, §§1,7 (AMD). 1979, c. 677, §§2,18 (AMD). 1983, c. 450, §1 (AMD). 1983, c. 735, §1 (AMD). 1983, c. 795, §5 (AMD). 1983, c. 862, §47 (AMD). 1985, c. 737, §A40 (AMD). 1987, c. 758, §22 (AMD). 1987, c. 870, §11 (AMD). 1989, c. 122, §2 (AMD). RR 1991, c. 2, §50 (COR). 1991, c. 566, §1 (AMD). 1993, c. 475, §3 (AMD). 1995, c. 224, §1 (AMD). 1995, c. 356, §20 (AMD). 1995, c. 668, §2 (AMD). 1995, c. 680, §3 (RPR). 1997, c. 393, §A17 (AMD). 1997, c. 464, §3 (AMD). 1999, c. 127, §A33 (AMD). 1999, c. 644, §1 (AMD). 2001, c. 389, §1 (AMD). 2001, c. 439, §0001 (AMD). 2001, c. 667, §A34 (AMD). 2003, c. 102, §1 (AMD). 2007, c. 475, §8 (AMD). 2007, c. 518, §4 (AMD). 2009, c. 142, §3 (AMD). 2011, c. 341, §6 (AMD). 2011, c. 464, §4 (AMD). 2011, c. 691, Pt. A, §12 (AMD). 2017, c. 148, §3 (AMD).

Cumberland Police Department

Standard Operating Procedures

Subject:	Arrest & Fingerprint Procedures	Policy #	2-4
Effective Date:	07-15-2018	Review Date:	12-31-2019
Distribution:	All Personnel	# of Pages:	4
Revised:		Per Order of:	Charles Rumsey, IV

I. Policy

Law enforcement officers are responsible to preserve the peace, protect the safety of citizens and their property, and enforce the criminal laws of the State of Maine. It is recognized that a serious violation of law warrants a serious response in the form of an arrest. Law enforcement officers must use only that amount of physical force that reasonably appears necessary to effect an arrest, control a situation, or defend the officer or a third party from harm. Law enforcement officers are to treat an arrested individual with as much respect as that person will allow. In all instances, the constitutional rights of the accused person are to be recognized and protected. This agency will also ensure full compliance with the fingerprint requirements, as set forth by State and Federal requirements.

II. Purpose

To establish standards, procedural guidelines, and references to information pertaining to arrest activities and fingerprint procedures.

III. Procedures

A. General Guidelines and Requirements: The **MAINE LAW ENFORCEMENT OFFICER'S MANUAL (LEOM)**, provides comprehensive and definitive information on the legal definitions and requirements pertaining to arrest. Chapter 2 of the LEOM pertains specifically to ARREST and the related concept of PROBABLE CAUSE. Law enforcement officers are to be thoroughly familiar with the legal concepts of these sections and to ensure compliance with all legal standards stated. Additional law enforcement officer guidelines and responsibilities are:

1. When making an arrest, law enforcement officers will observe the following provisions:
 - a. It is the policy of this agency that an officer's responsibility is to use only that amount of physical force that reasonably appears necessary to effect an arrest, control a situation, or to defend the officer or a third party from harm.
 - b. Only necessary restraint to assure the safe custody of the arrestee and the safety of the law enforcement officer will be used.
 - c. The arresting law enforcement officer is responsible for the safety and protection of the arrestee while in their custody.
 - d. The arresting law enforcement officer is responsible for the personal property in the possession or under the control of the arrestee at the time of their arrest.
2. Once an arrest is made, if the law enforcement officer intends to question the individual's criminal conduct, it is the law enforcement officer's responsibility to inform the arrestee of applicable constitutional rights (See LEOM Chapter 5, ADMISSIONS AND CONFESSION). Whenever practical, a

written waiver of constitutional rights should be obtained by the questioning law enforcement officer.

- B. Arrests Outside Municipal Boundaries: In accordance with 30-A, M.R.S.A., Section 2671 (2-A), the Cumberland Town Council has granted additional authority to full-time, MCJA certified officers of this agency to make arrests outside the town limits under the following conditions:
1. The action is authorized by 17-A, M.R.S.A., Section 15, Warrantless Arrests by a Law Enforcement Officer.
 2. The officer will notify the on-duty or on-call Cumberland Police Supervisor, and the outside law enforcement agency with jurisdiction of their intent prior to the arrest if possible, or immediately after the arrest if prior notification is not possible.
 3. In all instances when this authority is invoked, the involved officer(s) must complete an incident/arrest report and forward a copy to the Chief of Police through the chain of command without unnecessary delay.

This additional authority is intended to protect the officer against jurisdiction issues arising from the performance of his/her official duties and assignments while on duty and working at the direction of the Chief of Police or his/her designee. Officers who are off duty are discouraged from exercising this authority. Officers who are off duty should exercise this authority only under an extreme emergency where the officer's immediate action is necessary to protect the officer or a third party from imminent assault, injury or death or when the officer's action is necessary to prevent the commission of another crime and when the officer is confident, based on the totality of the circumstances, that his/her intervention will have a positive effect on the situation. In many cases, it will be best for the officer to call on-duty law enforcement and remain on scene to be a witness.

For officers who have additional law enforcement powers or other law enforcement credentials (e.g., a Deputy Sheriff's commission), arrests shall be consistent with their authority and jurisdiction and shall generally conform to this policy.

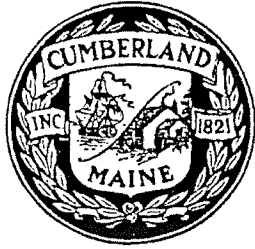
C. Searching of Prisoners:

1. Employees will always conduct a search of a prisoner. The use of handcuffs will not relieve any employee from conducting a search.
2. All prisoners will be searched, in as complete a manner as possible, considering safety and circumstances by the arresting law enforcement officer. Each law enforcement officer taking custody of a prisoner will be required to conduct a search, regardless of prior searches by other law enforcement officers. **In all cases when a search is conducted, the law enforcement officer shall document the search in writing.**
3. Arrestees should be kept handcuffed at all times during transportation or when outside the holding cell at the agency.
4. The arresting law enforcement officer should handcuff all suspects, as long as necessary, to ensure continued custody of the suspect and to ensure the safety of the law enforcement officer and others.
5. Law enforcement officers will use only handcuffs that are agency approved. **Arrestees will be secured in handcuffs behind the back unless a specific and articulable reason exists to justify why this cannot be accomplished (such as an injury or medical condition).** Officers must realize that an arrestee who is handcuffed to the front instead of the rear poses a potential danger to that officer and other law enforcement officers.

ITEM

19-053

To hold a Public Hearing to consider and act on a Mass Gathering
Permit for the Southern Maine Coastal Classic Dog Show to be held on
May 16th - 19th from 8:00 a.m. to 6:00 p.m. at the
Cumberland Fairgrounds



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 4, 2019
Re: **Southern Maine Coastal Classic (Dog Show) – May 16th-19th**

I held a meeting at 9:00 a.m., on Monday, March 25, 2019, with Cumberland Farmer's Club President Mike Timmons, Police Chief Charles Rumsey, Fire Chief Dan Small, and Deputy Clerk Eliza Porter.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- Certificate of Insurance provided.
- This event will run for four days this year, May 16th-19th. The gates will be open from 8am-6pm. The 16th will be a setup day for the event.
- There will be approximately 600 dogs per day at this event. There will be 4 veterinarians at this event.
- No parking fee will be charged.
- Trash collection will be by Toriano Waste Company. Trash barrels will be provided and dumped daily by the Cumberland Farmers Club.
- Attendance levels are expected to be approximately 800 per day. As a result, Police Chief Rumsey and Fire Chief Small do not require a presence of Police or EMS to be on site or to have any ambulance dedicated to the event. Both departments will be on call and staff appropriately. The event will be reviewed yearly by the Police and Fire Departments.
- Communication by parties will be by cell phone and radio.
- The food will be handle by the Cumberland Fairgrounds.
- There will be four portable restrooms available, as well as the restrooms at the fairgrounds.

The Mass Gathering Permit fee of \$250.00 has been received by the Town. There will not be any additional fees unless Police presence or Fire presence is necessary.

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates, and they have a wonderful turnout. Thank you.

201

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: VACATIONLAND DOG CLUB, INC. &
YORK COUNTY KENNEL CLUB OF MAINE, INC

Address of Applicant: P.O. BOX 336 ALFRED, ME 04002

Name of Event: D.B.A., SOUTHERN MAINE COASTAL CLASSIC (SMCC)

Facility where the event will be held: CUMBERLAND FAIR GROUNDS

Is the facility owned by the applicant: _____ yes; X no, (if no, attach a copy of the contract with
The owner which allows use of property)

Name of promoter (if different from above): N/A

Telephone number: 207-324-5400

Date of Event: MAY 16-19, 2019 Time (start and finish times): 0800-1800

Number of tickets available: N/A

Expected attendance: 800 MAX PER DAY

Description of event: AKC SANCTIONED DOG SHOW

Will any food vendors be serving at the event: X yes, _____ no, (if yes, how many, and
what types) 2- FOOD TRUCKS

Will any alcohol vendors be serving at the event? _____ yes, X no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. SMCC, WASSAMKI SPRING CAMPGROUND, SEARBOROUGH, ME,
MAY 17-20, 2018, 3000 ENTRIES
2. SMCC, WASSAMKI SPRING CAMPGROUND, SEARBOROUGH, ME,
MAY 18-21, 2017, 2800 ENTRIES
3. SMCC, WASSAMKI SPRING CAMPGROUND, SEARBOROUGH, ME,
MAY 19-22, 2016, 2750 ENTRIES

Description of facility:

- A. Seating capacity: N/A permanent; _____ temporary
- B. Other seating capacity: N/A festival; _____ standing room only (sq. ft.)
- C. Number of toilets available: 1 permanent; 4+2 HDOP. portable
- D. Number of parking spaces available: UNLIMITED on-site; N/A off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: N/A yes; _____ no, if no, which lots are not lighted _____
- F. Source of potable water: FAIR GROUNDS WATER SUPPLY
- G. Refuse containers available, number and size: 55GAL W/LINERS PROVIDED BY FAIRGROUNDS, EMPTIED DAILY AS IN USE CONTRACT.
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse) TROIANO, UNDER CONTRACT W/ FAIR GROUND.
- I. When will refuse be picked up? DAILY TO 30 YD DUMPSTER

Public Safety:

- J. Describe first aid facilities: LICENSED EMT ON SITE DURING SHOW HOURS.
- K. Describe emergency facilities: LUMBERLAND FIRE & RESCUE
- L. Describe communication facilities: CLUB OWNED 2-WAY RADIOS & CLUB STAFF CELL PHONES.
- M. Number of certified police officers: N/A
- N. Other security personnel (include company name and qualification): N/A
- O. Describe fire personnel: N/A



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/11/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cole Harison Insurance P O Box 358 Kennebunk, ME 040437086	CONTACT NAME: Patrick B Foley PHONE (A/C, No, Ext): (207) 985-3361 E-MAIL ADDRESS: pfoley@coleharison.com FAX (A/C, No): (207) 985-7977
INSURED Vacationland Dog Club, Inc. C/OTeri Welch, Treas. 33 Lafayette Street Yarmouth, ME 04096	INSURER(S) AFFORDING COVERAGE INSURER A: Ohio Security INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			BKS57857774	02/23/2018	02/23/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				PER STATUTE E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

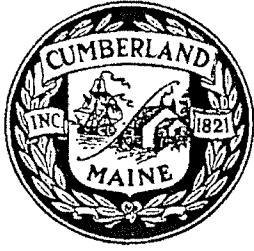
CANCELLATION

TOWN OF CUMBERLAND CUMBERLAND, ME	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--------------------------------------	---

ITEM

19-054

To hold a Public Hearing to consider and act on a Mass Gathering
Permit for the Girls Round Robin Lacrosse Tournament to be held on
May 18th from 8:00 a.m. to 5:00 p.m. at Twin Brook



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 4, 2019
Re: **Girls Round Robin Lacrosse Tournament - May 18th**

I held a meeting at 10:00 a.m., on Monday, April 1, 2019, with Deputy Town Clerk Eliza Porter, Police Chief Charles Rumsey, Police Lt. David Young, Patty Murphy Fire Dept. Rep., and Recreation Program Director Peter Bingham.

We reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- Exact attendance levels are unknown, however, it was determined that 1000 is likely. Therefore, the organizers will pay the Minor Mass Gathering fee of \$250.00.
- The 2019 "Round Robin" Tournament will be held May 18th, rain date, May 19th, 2019. The hours will be from 8 a.m. to 5 p.m.
- There will be 36 teams from all across Maine participating.
- There will be parking attendants for the parking areas. The Cumberland Lacrosse Club parents will be used as parking attendants.
- "No Parking" signs will be posted on the edge of Tuttle Road at the entrance to the park.
- The Lacrosse Club Boosters will be running the concession stands.
- Lacrosse teams will dispose of all trash and place in dumpster. Dumpster will be emptied on Monday, May 20, 2019.
- The Police will not have any coverage at this event per recommendation by Recreation Director Peter Bingham and Police Chief Rumsey. The Police Officer

on duty will monitor Twin Brooks. There will be 2 EMT's on site from 9 a.m.-4:30 p.m.

- There will be seven (7) additional porta potties available.
- Communication between parties will be by two way radio and cell phone.
- Contact person for this event is Mr. Jonathan Becker.

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I have attached our new Mass Gathering Event Public Safety Sign-Off Sheet with the estimated Public Safety costs based on the event numbers and hours provided to us. I wish the Lacrosse Club another successful event, and hope for sunny, warm days. Thank you.



TOWN OF CUMBERLAND
MASS GATHERING EVENT PUBLIC SAFETY SIGN-OFF

Date of event May 18th, 2019

Name of event Girls Round Robin Lacrosse Tournament

Location of event Twin Brooks

Estimated attendance 1,000 (including players)

Police Chief recommendation for event coverage: NONE

Police event coverage cost: N/A

Fire Chief recommendation for event coverage: 2 EMT's 9-4:30 e

25.44/hr.

Fire Department event coverage cost: \$ 381.60

Total safety cost for event coverage: \$ 381.60

***This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.**

Event Coordinator Signature: _____

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons)

This application **must be filed with the Town Clerk not less than 60 days** before the date of the event.
Application must be accompanied by a non-refundable fee of **\$250.00**.

Name of Applicant: Cumberland/North Yarmouth Youth Lacrosse

Address of Applicant: 66 Schooner Ridge Rd.

Name of Event: Girls Round Robin on May 18th and Boys JamLax June 8th and June 9th

Facility where the event will be held: Twin Brook

Is the facility owned by the applicant: _____ yes; X no, (if no, attach a copy of the contract with
The owner which allows use of property)

Name of promoter (if different from above): _____

Telephone number: 207-347-9476

May 18th (19th Rain Date) and June June 8th and June 9th
Date of Event: _____ Time (start and finish times): 8AM-5PM

Number of tickets available: _____

Expected attendance: 200 on May 18th and 500 for June 8th and 9th

Description of event: Youth Lacrosse Tournament throughout the day. Total

spectators are expected at the entire event, not at one time.

Will any food vendors be serving at the event: X yes, _____ no, (if yes, how many, and
what types) _____

Will any alcohol vendors be serving at the event? _____ yes, X no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Round Robin and Jamboree for the last three years: 2016, 2017, 2018
2. _____
3. _____

Description of facility:

- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; X _____ standing room only (sq. ft.)
- C. Number of toilets available: _____ permanent; 4 _____ portable
- D. Number of parking spaces available: 200 on-site; _____ off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: _____ yes;
X _____ no, if no, which lots are not lighted _____

- F. Source of potable water: At Shed
- G. Refuse containers available, number and size: Yes, throughout Twin Brook = 20

- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)

- I. When will refuse be picked up? Twin Brook will be picked up, refuse placed in dumpsters

Public Safety:

- J. Describe first aid facilities: Cumberland EMTs on site
- K. Describe emergency facilities: Cumberland EMTs on site
- L. Describe communication facilities: cell phone numbers for all coaches attending
- M. Number of certified police officers: at least 1.
- N. Other security personnel (include company name and qualification): _____
- O. Describe fire personnel: Cumberland Fire Department

Other:

P. Name of liability insurance Markel
Amount of coverage \$1mm; amount of property insurance

Q. Preferred type of performance guarantee (i.e. escrow account, irrevocable letter of credit)



Jonathan Becker
Authorized Signature

On 3-25-2019 (date), I received a copy of the Cumberland Mass Gathering Ordinance.

Authorized Signature

I certify that the team, league, or event on whose behalf I am requesting this certificate mandates 100% membership in US Lacrosse. In addition, I have verified our team's or league's events roster and all participants are currently registered members of US Lacrosse. I certify that this is true and I understand that liability coverage is only extended to our team, league, or event if all participants are current members of US Lacrosse. Further, I acknowledge by clicking on this box that event liability claims may be denied for coverage if our team/league/event is not 100% registered with US Lacrosse.

Name: Jonathan Becker

Organization: Cumberland/North Yarmouth Youth Lacrosse

Date: 01/25/2019



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/25/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
BOLLINGER, Inc.
150 JFK PARKWAY, 4TH FLOOR
PO Box 390
SHORT HILLS, NJ 07078
PHONE: 1-800-448-5311 FAX: 973-921-8474

CONTACT
NAME:
PHONE
[A/C. No. Ext]: 800-448-5311 FAX
[A/C. No.]: 973-921-8474
E-MAIL
ADDRESS:

INSURER(S) AFFORDING COVERAGE
INSURER A: Markel Insurance Company 38970

INSURED
US Lacrosse, Inc.
2 Loveton Circle
Sparks, MD 21152
Re: Cumberland North Yarmouth Youth Lacrosse

INSURER B:
INSURER C:
INSURER D:
INSURER E:
INSURER F:

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Participants Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC			8502AH221369 Sexual Abuse & Molestation Liab per occurrence: \$1,000,000 Sexual Abuse & Molestation Aggregate limit: \$2,000,000	01/01/2019	01/01/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADY INJURY \$1,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COMPROP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			4602AH221370 Sexual Abuse & Molestation Liab per occurrence: \$1,000,000 Sexual Abuse & Molestation Aggregate limit: \$2,000,000	01/01/2019	01/01/2020	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) Type, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				WC STATUTORY LIMITS EL EACH ACCIDENT \$ EL D SEASE - EA EMPLOYEE \$ EL D SEASE - POLICY LIMIT \$
A	Accident Medical Catastrophic Acc			4102AH025220 4102AH305882	01/01/2019 01/01/2019	01/01/2020 01/01/2020	Accident Limit: \$100,000 Catastrophic Limit: \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Coverage applies to teams/leagues comprised of 100% US Lacrosse members participants during scheduled and supervised Lacrosse activities.

CERTIFICATE HOLDER

CANCELLATION

Cumberland North Yarmouth Youth Lacrosse
66 Schooner Ridge Rd
Cumberland Foreside, ME 04110

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

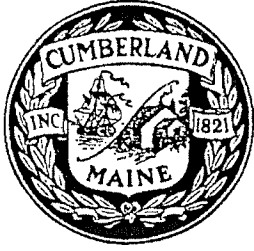
AUTHORIZED REPRESENTATIVE

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ITEM

19-055

To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Billy Graham Evangelistic Association's 2019 Decision America Tour to be held on May 19th from 7:00 to 9:00 p.m. at the Cumberland Fairgrounds



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 4, 2019
Re: **Decision America Tour, Billy Graham Evangelistic Association – May 19th**

I held a meeting at 9:00 a.m., on Monday, March 25, 2019, with Cumberland Farmer's Club President Mike Timmons, Police Chief Charles Rumsey, Fire Chief Dan Small, and Deputy Clerk Eliza Porter.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- Certificate of Insurance forthcoming.
- The date of the event is May 19th, 2019. The gates will be open from 3 p.m.- 6 p.m.
- There will be approximately 2,500 people at this event, although, there is the potential for up to 4,000.
- No parking fee will be charged.
- Trash collection will be by Toriano Waste Company. Trash barrels will be provided and dumped daily by the Cumberland Farmers Club.
- There will be a Pre-Event Donor Dinner at 5:00 p.m. prior to the event. There will be a benefit concert and presentation by Mr. Graham beginning at 7:00 p.m. A fireworks show will be held at 8:45 p.m. provided the proper permitting is obtained through the State Fire Marshall's Office. Chief Small is aware of this effort and will be awaiting receipt of the permit. Fireworks will not be allowed without the proper permitting.
- Communication by parties will be by cell phone and radio.
- The Veterans Association has been hired to provide parking assistance.
- The Tour has a staff of 100 people. They will have two large buses and will be setting up a tent for the event.
- There will be Police Details at the event from 5:30-9:30 p.m., and 2 EMT's from 5:30-9:30 p.m. There will also be 4 firefighters and a firetruck onsite for one hour

prior to and during the fireworks if approved. Please see attached Public Safety Sign-Off for costs.

The Mass Gathering Permit fee of \$250.00 has been received by the Town. There will not be any additional fees unless Police presence or Fire presence is necessary.

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates, and they have a wonderful turnout. Thank you.



TOWN OF CUMBERLAND
MASS GATHERING EVENT PUBLIC SAFETY SIGN-OFF

Date of event May 19, 2019

Name of event 2019 Decision America Tour

Location of event Cumberland Fairgrounds

Estimated attendance 2,500 - 4,000

Police Chief recommendation for event coverage: 4 hour detail 5:30-9:30 p.m.

\$ 61.21/hr. 2 officers

Police event coverage cost: \$ 489.68

Fire Chief recommendation for event coverage: 2 EMT'S @ 25.44/hr 5:30-9:30pm

4 Firefighters for 1 hr. with Truck 25.44

Fire Department event coverage cost: \$ 305.28

Total safety cost for event coverage: \$ 794.96

***This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.**

Event Coordinator Signature: Michael Timmons

Please complete and
Ret. To Mike Timmons,
140 Bruce Hill Rd
Cumberland, Me 04021

Fee 250
Payable: Town of
Cumberland

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: PAUL MANHEY - SITE MANAGER

Address of Applicant: 838 Langtree Rd. Mooresville, NC 28117

Name of Event: 2019 DECISION AMERICA TOUR

Facility where the event will be held: Cumberland Fairgrounds

Is the facility owned by the applicant: _____ yes; ☒ no, (if no, attach a copy of the contract with

Name of promoter (if different from above): Billy Graham Evangelistic Assoc.
The owner which allows use of property)

Telephone number: 704-575-6103

Date of Event: May 19, 2019 Time (start and finish times): 7-9 pm

Number of tickets available: Free Event

Expected attendance: 2,500

Description of event: Billy Graham Crusade and Festival

Will any food vendors be serving at the event: ☒ yes, _____ no, (if yes, how many, and
what types) _____

Will any alcohol vendors be serving at the event? _____ yes, ☒ no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. MAY 31, 2019 Santa Clara, CA Great America Amphitheater 4,800
2. MAY 29, 2019 Modesto, CA Stanislaus Co. Fair 4,600
3. MAY 23, 2019 Oxnard, CA Beach Park 3,700

Description of facility:

- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; ☒ standing room only (sq. ft.)
- C. Number of toilets available: 6+6 permanent; 10 portable + 2 ADA
- D. Number of parking spaces available: 5,000 on-site; _____ off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: ☒ yes; _____ no, if no, which lots are not lighted Also portable lighting
- F. Source of potable water: Town water available
- G. Refuse containers available, number and size: 1-30yd container
We supply Trash Cans throughout the event grounds
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)
Trama Waste Disposal Co.
- I. When will refuse be picked up? Monday AM

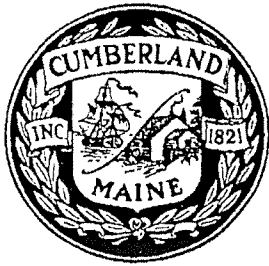
Public Safety:

- J. Describe first aid facilities: We will have 2-10x10 1st Aide Tents
and Cumberland Fire, Police & Rescue
- K. Describe emergency facilities: Truck on ground
- L. Describe communication facilities: We bring our own radios
- M. Number of certified police officers: 2 officers 4 hr shift
- N. Other security personnel (include company name and qualification): _____
- O. Describe fire personnel: Cumberland Fire, Police & Rescue

ITEM

19-056

To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Boys Lacrosse Jamboree Tournament to be held on June 8th and 9th from 8:00 a.m. to 5:00 p.m. at Twin Brook



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 4, 2019
Re: Boys Jamboree Lacrosse Tournament – June 8th & 9th

I held a meeting at 10:00 a.m., on Monday, April 1, 2019, with Deputy Town Clerk Eliza Porter, Police Chief Charles Rumsey, Police Lt. David Young, Patty Murphy Fire Dept. Rep., and Recreation Program Director Peter Bingham.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- The tournament hours on Saturday, June 8, 2019, will be 8 a.m.-5 p.m. Attendance is estimated to be around 1500.
- The tournament hours on Sunday, June 9, 2019, will be 12:30 p.m.-4:30 p.m. The attendance on Sunday is expected to be well below the 500 threshold required for the Mass Gathering Permits.
- There will be one Police Officer on duty from 10:00 a.m.-2:00 p.m. on Saturday, June 9, during the busiest times for game turnover and traffic.
- There will be 1 EMT, 1 Rescue personnel on site, on Saturday, June 8, from 9:00 a.m.-4:30 p.m.
- The Lacrosse Boosters will be running the Snack Shack.
- Recreation staff will be on site during the event.
- Communication will be by cell phone between all parties.
- Insurance certificate is attached.

- Contact person for this event is Johnathan Becker, 347-9476.

I believe that we have covered in full, all of the details required for this event. Mr. Bingham and his staff have done a terrific job managing this event in past years, and Mr. Becker has several years of experience. I have attached our new Mass Gathering Event Public Safety Sign-Off Sheet with the estimated Public Safety costs based on the event numbers and hours provided to us. I wish the Lacrosse Club another successful event, and hope for sunny, warm days.



TOWN OF CUMBERLAND
MASS GATHERING EVENT PUBLIC SAFETY SIGN-OFF

Date of event June 9 & 10, 2019

Name of event Boys Lacrosse Jamboree Tournament

Location of event Twin Brooks

Estimated attendance 1500

Police Chief recommendation for event coverage: 10 am - 2 pm Sat. only
@ 41.21/hr

Police event coverage cost: \$ 244.84

Fire Chief recommendation for event coverage: 2 EMTs 9:00 am - 4:30 pm
@ 25.44/hr Sat. only

Fire Department event coverage cost: \$ 381.60

Total safety cost for event coverage: \$ 626.44

***This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.**

Event Coordinator Signature: _____

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: Cumberland/North Yarmouth Youth Lacrosse

Address of Applicant: 66 Schooner Ridge Rd.

Name of Event: Girls Round Robin on May 18th and Boys JamLax June 8th and June 9th

Facility where the event will be held: Twin Brook

Is the facility owned by the applicant: _____ yes; ☒ no, (if no, attach a copy of the contract with
The owner which allows use of property)

Name of promoter (if different from above): _____

Telephone number: 207-347-9476

May 18th (19th Rain Date) and June June 8th and June 9th
Date of Event: _____ Time (start and finish times): 8AM-5PM

Number of tickets available: _____

Expected attendance: 200 on May 18th and 500 for June 8th and 9th

Description of event: Youth Lacrosse Tournament throughout the day. Total

spectators are expected at the entire event, not at one time.

Will any food vendors be serving at the event: ☒ yes, _____ no, (if yes, how many, and
what types) _____

Will any alcohol vendors be serving at the event? _____ yes, ☒ no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Round Robin and Jamboree for the last three years: 2016, 2017, 2018
2. _____
3. _____

Description of facility:

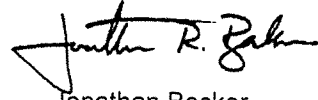
- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; X _____ standing room only (sq. ft.)
- C. Number of toilets available: _____ permanent; 4 _____ portable
- D. Number of parking spaces available: 200 on-site; _____ off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: _____ yes;
X no, if no, which lots are not lighted _____
- F. Source of potable water: At Shed
- G. Refuse containers available, number and size: Yes, throughout Twin Brook = 20
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)
- I. When will refuse be picked up? Twin Brook will be picked up, refuse placed in dumpsters

Public Safety:

- J. Describe first aid facilities: Cumberland EMTs on site
- K. Describe emergency facilities: Cumberland EMTs on site
- L. Describe communication facilities: cell phone numbers for all coaches attending
- M. Number of certified police officers: at least 1.
- N. Other security personnel (include company name and qualification): _____
- O. Describe fire personnel: Cumberland Fire Department

Other:

- P. Name of liability insurance Markel
Amount of coverage \$1mm; amount of property insurance _____
- Q. Preferred type of performance guarantee (i.e. escrow account, irrevocable letter of credit)



Jonathan Becker
Authorized Signature

On 3-25-2019 (date), I received a copy of the Cumberland Mass Gathering Ordinance.

Authorized Signature

I certify that the team, league, or event on whose behalf I am requesting this certificate mandates 100% membership in US Lacrosse. In addition, I have verified our team's or league's events roster and all participants are currently registered members of US Lacrosse. I certify that this is true and I understand that liability coverage is only extended to our team, league, or event if all participants are current members of US Lacrosse. Further, I acknowledge by clicking on this box that event liability claims may be denied for coverage if our team/league/event is not 100% registered with US Lacrosse.

Name: Jonathan Becker

Organization: Cumberland/North Yarmouth Youth Lacrosse

Date: 01/25/2019



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/25/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
BOLLINGER, Inc.
150 JFK PARKWAY, 4TH FLOOR
PO Box 390
SHORT HILLS, NJ 07078
PHONE: 1-800-446-5311 FAX: 973-921-8474

CONTACT
NAME:
PHONE
(A/C. No. Ext): 800-446-5311 FAX
(A/C. No.): 973-921-8474
E-MAIL
ADDRESS:

INSURED
US Lacrosse, Inc.
2 Loveton Circle
Sparks, MD 21152
Re: Cumberland/North Yarmouth Youth Lacrosse

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Market Insurance Company	26970
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Participants Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC			8502AH221369	01/01/2019	01/01/2020	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Each occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COMPROP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMB'D SINGLE LIMIT (Each accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			4602AH221370	01/01/2019	01/01/2020	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) (Yes, describe under DESCRIPTION OF OPERATIONS below)	Y/N	N/A				WC STATUTORY LIMITS \$ EL EACH ACCIDENT \$ EL DISEASE - EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
A	Accident Medical Catastrophic Acc			4102AH025220 4102AH305882	01/01/2019 01/01/2019	01/01/2020 01/01/2020	Accident Limit: \$100,000 Catastrophic Limit: \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Coverage applies to teams/leagues comprised of 100% US Lacrosse members participants during scheduled and supervised Lacrosse activities.

CERTIFICATE HOLDER

CANCELLATION

Cumberland/North Yarmouth Youth Lacrosse
66 Schooner Ridge Rd
Cumberland Foreside, ME 04110

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

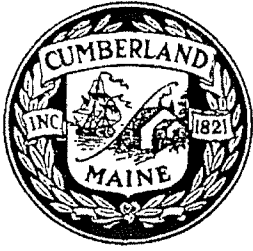
AUTHORIZED REPRESENTATIVE

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ITEM

19-057

To hold a Public Hearing to consider and act on a Mass Gathering Permit for The Wicked Good Outdoor Fest to be held on June 15th from 10:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 4, 2019
Re: **The Wicked Good Outdoor Fest – June 15th**

I held a meeting at 9:00 a.m., on Monday, March 25, 2019, with, Deputy Town Clerk Eliza Porter, Cumberland Farmer's Club President Mike Timmons, Fire Chief Dan Small, and Police Chief Charles Rumsey.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- There will be alcohol at this event. Liquor License to be provided to Cumberland Farmers Club by Applicant. Mr. Timmons will forward to Town.
- Exact attendance levels are unknown, however, it is believed to be 700 attendees.
- The Girl Scouts will have parking attendants.
- There will be two EMT's on site from 12 p.m.- 6 p.m., based on the Fire Chief's recommendations.
- Police coverage will be one officer based from 12 p.m.-6 p.m. the time during which the beer garden will be open.
- The Certificate of Liability Insurance is attached.
- Communication between parties will be by two way radio and cell phone.
- Food will be distributed by 4-5 various food truck vendors.
- There will be musical entertainment at this event.
- This event is to showcase outdoor show items.

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I have attached the Public Safety Sign off sheet to reflect the costs for this event. I hope the weather cooperates and they have a wonderful turnout. Thank you.



TOWN OF CUMBERLAND
MASS GATHERING EVENT PUBLIC SAFETY SIGN-OFF

Date of event June 15, 2019

Name of event The Wicked Good Outdoor Fest

Location of event Cumberland Fairgrounds

Estimated attendance 700

Police Chief recommendation for event coverage: 1 officer 12 pm - 6 pm
@ \$61.21/hr

Police event coverage cost: \$ 367.26

Fire Chief recommendation for event coverage: 2 EMT's 12 pm - 6 pm
@ 25.44 per/hr.

Fire Department event coverage cost: \$ 305.28

Total safety cost for event coverage: \$ 672.54

***This is a cost estimate based on the numbers you provided. If the event changes & additional staff is required, costs will increase.**

Event Coordinator Signature: Michael Timmons

TOWN OF CUMBERLAND

Publication Dates: _____
 Publication Names: _____
 Date Filed: _____
 Fee Received: _____
 Date Ordinance Received: _____
 Issued: _____
 Denied: _____

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
 Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: Girl Scouts of Maine

Address of Applicant: 138 Gannett Dr., So. Portland, ME 04106

Name of Event: The Wicked Good Outdoor Fest

Facility where the event will be held: Cumberland Fairgrounds

Is the facility owned by the applicant: _____ yes; X no, (if no, attach a copy of the contract with
 The owner which allows use of property)

Name of promoter (if different from above): _____

Telephone number: 207-772-1177

Date of Event: June 15, 2019 Time (start and finish times): 10a-6p

Number of tickets available: 1,000

Expected attendance: 700 estimated

Description of event: Event with exhibitors from different outdoor show zones, food trucks (4-5), craft beer garden, and a stage with entertainment

Will any food vendors be serving at the event: X yes, _____ no, (if yes, how many, and what types) We will invite the Lions Club to open their booth, food trucks: Urban Suga

Gorgeous Gelato, Falafel Mafia, Pizza by Fire, & The Salt Box Cafe will be invited to.

Will any alcohol vendors be serving at the event? X yes, _____ no (if yes, list name and attach participate

A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Craft beer and wine

Proof of Lic. Lic.

Proof of Ins. Camb as addition Ins. Cumberland Farmers Club

Mike Timmons

140 Bruce Willard

Cum. Cumberland, Me 04024

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Green ME Up, Campus of L.I. Beans Flagship retail Store, 4/21/18, 600 attendees (doing it again 4/19)
2. Transforming Leadership, Orono, 11/3/18, 245 attendees
3. Celebrate Camp Pondicherry, Bridgton, 10/13/18, 237 attendees

Description of facility:

- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; _____ standing room only (sq. ft.)
- C. Number of toilets available: _____ permanent; _____ portable
- D. Number of parking spaces available: _____ on-site; _____ off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: _____ yes; _____ no, if no, which lots are not lighted _____)
- F. Source of potable water: _____
- G. Refuse containers available, number and size: _____
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse) _____
- I. When will refuse be picked up? _____

Public Safety:

- J. Describe first aid facilities: _____
- K. Describe emergency facilities: _____
- L. Describe communication facilities: _____
- M. Number of certified police officers: _____
- N. Other security personnel (include company name and qualification): _____
- O. Describe fire personnel: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/27/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Sarah Cummings
Chalmers Insurance Agency	PHONE (A/C, No, Ext): (207) 647-3311
100 Main Street	FAX (A/C, No): (207) 647-3003
PO Box 189	E-MAIL ADDRESS: scummings@ChalmersInsuranceGroup.com
Bridgton ME 04009	INSURER(S) AFFORDING COVERAGE
	INSURER A: Acadia Insurance Company
	INSURER B: MEMIC
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES

CERTIFICATE NUMBER: CL1921432794

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Manufacturers and Contractors GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y		CPA0311392	10/01/2018	10/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OPAGG \$ 1,000,000 Employee Benefits \$ 250,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> 19 <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			CAA0295072	10/01/2018	10/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist \$ 1,000,000
A	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$ OCCUR CLAIMS-MADE			CUA0361307	10/01/2018	10/01/2019	COMBINED SINGLE LIMIT EACH OCCURRENCE \$ AGGREGATE \$ PER STATUTE OTH-ER \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	1810071102	10/01/2018	10/01/2019	E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

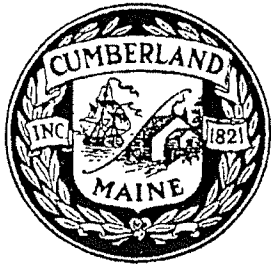
Cumberland Farmer's Club 197 Blanchard Road Cumberland ME 04021	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ITEM

19-058

To hold a Public Hearing to consider and act on a Mass Gathering
Permit for the Penobscot Valley Kennel Club Dog Show to be held June
20th through 23rd from 8:00 a.m. to 5:00 p.m. at the
Cumberland Fairgrounds



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 16, 2019
Re: Penobscot Valley Kennel Club Inc.

I held a meeting at 10:00 a.m., on Monday, April 1, 2019, with Deputy Town Clerk Eliza Porter, Police Chief Charles Rumsey, Police Lt. David Young, Patty Murphy Fire Dept. Rep., and Recreation Program Director Peter Bingham.

- Certificate of Insurance forthcoming.
- The event will run for four days this year, June 20th thru June 23rd, 2019. The gates will be open from 8 a.m.-5 p.m. The 20th will be a set up day for the event.
- There will be fee of \$3.00 per car at the gate. Vehicles will be entering through the East Gate entrance to the parking area.
- No parking fee will be charged.
- Trash collection will be by Toriano Waste Company. Trash barrels will be provided and dumped daily by the Cumberland Farmers Club.
- Attendance levels are expected to be approximately 500 per day. As a result, Police Chief Rumsey and Fire Chief Small do not require a presence of Police on site or to have an ambulance dedicated to the event. Both departments will be on call and staff appropriately. The event will be reviewed yearly by the Police Department and the Fire Department.
- Communication by parties will be by cell phone and radio.
- The food will be handled by the Cumberland Fairgrounds.
- There will be four portable restrooms available.

The Mass Gathering Permit fee of \$250.00 has been received by the Town. There will not be any additional fees unless Police presence or Fire presence is necessary. Fess for the event are as follows:

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates, and they have a wonderful turnout. Thank you.

Fees-

Mass Gathering	\$250.00
----------------	----------

Office of the Town Clerk • Town of Cumberland • 290 Tuttle Road, Cumberland, Maine 04021
Telephone (207)829-5559 • Fax (207)829-2214

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: Ms. Nancy T. Daniels

Address of Applicant: P.O. Box 211 Eddington, Me 04428

Name of Event: Penobscot Valley Kennel Club

Facility where the event will be held: Cumberland Fair

Is the facility owned by the applicant: _____ yes; ☒ no, (if no, attach a copy of the contract with
The owner which allows use of property)

Name of promoter (if different from above): "Same as above"

Telephone number: 207-843-6362

Date of Event: 6/20 6/21 6/22/4/23 Time (start and finish times): 8 AM - 5 PM Daily

Number of tickets available: 500-750

Expected attendance: 1000-1500

Description of event: 4 Day Dog Show (2) clubs

Will any food vendors be serving at the event: 2 (yes) ☒ no, (if yes, how many, and
what types) Hot Lunch Food and beverage

No alcohol served

Will any alcohol vendors be serving at the event? No yes, _____ no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Lewiston - Auburn 700 people
2. Augusta / Waterville 1000 people
3. Cumberland Fairgrounds 1000 people 2018

Description of facility:

- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; _____ standing room only (sq. ft.)
- C. Number of toilets available: 6 permanent; 6 portable -3 handicaps
- D. Number of parking spaces available: 1500 on-site; N/A off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: ✓ yes; _____ no, if no, which lots are not lighted _____)
- F. Source of potable water: Public
- G. Refuse containers available, number and size: Troiano + 55 barrels
40 yard dumpster
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)
Troiano Portland maine
- I. When will refuse be picked up? Monday June 23, 2019 Daily by Staff

Public Safety:

- J. Describe first aid facilities: Town Facility
- K. Describe emergency facilities: Cumberland Fire, Police, Rescue
- L. Describe communication facilities: Speakers - Mobil Phones
- M. Number of certified police officers: Not needed
- N. Other security personnel (include company name and qualification): _____
3 qualified EMT's on show
- O. Describe fire personnel: _____
Cumberland Fire Dept

PENOBSCOT VALLEY KENNEL CLUB

P O BOX 354

BREWER, ME 04412-0354

2324

52-7453/2112

14

April 10, 2019

Date

FRAUD ARMOR+

Pay to the
Order of

Town of Cumberland

\$ 250.00

Two Hundred Fifty & 00/100 —

Dollars



Photo
Safe
Deposit®
Details on back



Machias
Savings Bank
BREWER OFFICE

For

Site permit 6-23-19 Claudia Edwards

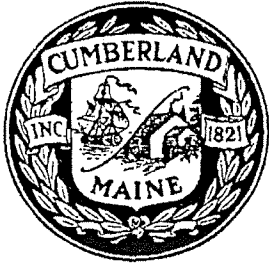
⑆ 211274531⑆

814 01236401 2324

ITEM

19-059

To hold a Public Hearing to consider and act on a Mass Gathering Permit for Hart's Annual Yard and Bake Sale to be held August 22nd through 25th from 8:00 a.m. to 6:00 p.m. at the Cumberland Fairgrounds



MEMORANDUM

Town of Cumberland, Maine
290 Tuttle Road
Cumberland, ME 04021
Telephone (207) 829-5559 • Fax (207) 829-2214

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Date: April 16, 2019
Re: **Hart Homeless Animal Rescue Team Yard Sale**

I held a meeting at 10:00 a.m., on Monday, April 1, 2019, with Deputy Town Clerk Eliza Porter, Police Chief Charles Rumsey, Police Lt. David Young, Patty Murphy Fire Dept. Rep., and Recreation Program Director Peter Bingham.

- Certificate of Insurance forthcoming.
- The event will run for four days this year, August 22nd-August 25th, 2019. The gates will be open from 8 a.m.-6 p.m. The 22nd will be a set up day for the event.
- No parking fee will be charged.
- Trash collection will be by Toriano Waste Company. Trash barrels will be provided and dumped daily by the Cumberland Farmers Club.
- Attendance levels are expected to be approximately 200 per day. As a result, Police Chief Rumsey and Fire Chief Small do not require a presence of Police on site or to have an ambulance dedicated to the event. Both departments will be on call and staff appropriately. The event will be reviewed yearly by the Police Department and the Fire Department.
- Communication by parties will be by cell phone and radio.
- The shelter will be holding a bake sale as well.
- There will be four portable restrooms available.

The Mass Gathering Permit fee of \$250.00 has been received by the Town. There will not be any additional fees unless Police presence or Fire presence is necessary. Fees for the event are as follows:

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates, and they have a wonderful turnout. Thank you.

Fees-

Mass Gathering	\$250.00
----------------	----------

Office of the Town Clerk • Town of Cumberland • 290 Tuttle Road, Cumberland, Maine 04021
Telephone (207)829-5559 • Fax (207)829-2214

TOWN OF CUMBERLAND

Publication Dates: _____
Publication Names: _____
Date Filed: _____
Fee Received: _____
Date Ordinance Received: _____
Issued: _____
Denied: _____

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons) INDOOR

This application must be filed with the Town Clerk not less than 60 days before the date of the event.
Application must be accompanied by a non-refundable fee of \$250.00.

Name of Applicant: HART AKA Homeless Animal Rescue Team

Address of Applicant: P.O. Box 351 Cumberland, ME 04021

Name of Event: HART ANNUAL YARD + BAKE SALE

Facility where the event will be held: Cumberland Fairgrounds - Exhibition Building - INSIDE

Is the facility owned by the applicant: _____ yes; ☒ no, (if no, attach a copy of the contract with
The owner which allows use of property)

Name of promoter (if different from above): _____

Telephone number: 207-829-4116 (Shelter) 207-233-8101 (Yard Sale Manager)

Date of Event: 8/22-25/2019 Time (start and finish times): 8AM - 6PM

Number of tickets available: N/A

Expected attendance: APPROX 200 PER DAY

Description of event: YARD SALE

Will any food vendors be serving at the event: _____ yes, ☒ no, (if yes, how many, and
what types) _____

Will any alcohol vendors be serving at the event? _____ yes, ☒ no (if yes, list name and attach
A copy of the vendors license to sell alcohol, describe what alcohol will be served) _____

Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. _____
2. _____
3. _____

Description of facility:

- A. Seating capacity: _____ permanent; _____ temporary
- B. Other seating capacity: _____ festival; _____ standing room only (sq. ft.)
- C. Number of toilets available: _____ permanent; _____ portable *SEPARATE BUILDING*
- D. Number of parking spaces available: *40* on-site; _____ off-site
- E. Are all parking lots lighted (applicable only if event runs into evening hours: _____ yes; _____ no, if no, which lots are not lighted *NO EVENING HOURS*
- F. Source of potable water: *K. to hen*
- G. Refuse containers available, number and size: *1 - 20-YARD Dumpster*
- H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse) *PENDING*
- I. When will refuse be picked up? *MONDAY - AUG 26, 2019*

Public Safety:

N/A ?

- J. Describe first aid facilities: _____
- K. Describe emergency facilities: _____
- L. Describe communication facilities: _____
- M. Number of certified police officers: _____
- N. Other security personnel (include company name and qualification): _____
- O. Describe fire personnel: _____

4/12/19



Homeless Animal Rescue Team
Adoption Center and Shelter for Cats

April 9, 2019

Mr. Mike Timmons
Cumberland Farmers Club
197 Blanchard Road
Cumberland Center, ME 04021

HART Annual 2019 Yard Sale

Mike:

Thank you for your call confirming HART's use of the Exhibition Building for the Annual 2019 Yard Sale. As you instructed, enclosed is a check in the amount of \$250, made payable to the Town of Cumberland, as partial payment towards the rent of the building. Can you confirm the total rent?

You have confirmed the following dates for this event:

Monday, August 19 – Wednesday, August 21: Move-In Dates
Thursday, August 22 – Sunday, August 25: Yard Sale and Move out Date on Sunday

Questions:

- can this be moved to the week earlier – August 12 – August 18?
- can we have the Monday following the Yard Sale for final move out, as we want to reach out to other charities, e.g., Habitat for Humanity, etc that cannot do pick ups on Sundays?
- any chance we can rent the building week prior to the event, so that we can do our pricing and accept drop offs at the Fairgrounds. It will help the movement of large furniture pieces, if we can give donors the option of dropping off directly at the Fairgrounds for approximately 10 days prior to the event

Mike, you have been such an incredible support for HART and we look forward for to MANY MORE years.

Can you reach out to me to discuss the above questions.

Best regards...

Joann

Joann Wallace
HART Treasurer
Cell: 207-233-8101
E-Mail: jwsummit@msn.com

Homeless Animal Rescue Team of Maine

302 Range Rd., PO Box 351, Cumberland, ME 04021
207-829-4116

www.hartofme.com

info@hartofme.com

jwsummit@msn.com

From: Joann Wallace <jwsummit@msn.com>
Sent: Tuesday, March 26, 2019 9:17 AM
To: Joann Wallace
Subject: HART YARD SALE 2019 - MONDAY, August 19 - Sunday, August 25

* * *

See and check for \$250 made payable to Town of Cumberland.

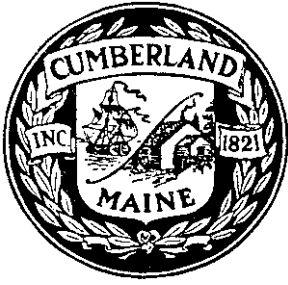
Sent from my Galaxy Tab A

HOMELESS ANIMAL RESCUE TEAM OF MAINE INC PO BOX 351 CUMBERLAND, ME 04021		52-7457/2112	1318
Pay to the order of <i>Town of Cumberland</i>		<i>4/9/19</i> date	\$ 250.00
<i>Two hundred & fifty & 00/100</i>			dollars
Gorham SAVINGS BANK			
<i>for 2019 Year Book-Exhibition Edg Joann Wallace</i>			
⑆211274573⑆ 605 00500501⑆ 1318			

ITEM

19-060

To hold a Public Hearing to consider and act on forwarding a Contract
Zone Agreement amendment with Heritage Village Development
Group, LLC to the Planning Board for a Public Hearing
and recommendation



M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Town Council
From: William R. Shane, Town Manager
Date: April 17, 2019
Re: Heritage Village CZA- Updated

Carla Nixon, Town Planner, and I met today with Phil Gleason and Peter Kennedy and came up with the following CZA changes.

- Elimination of the majority of uses not in **OC-S or TCD**, such as warehouse, gas stations, car sales, mobile home sales, distribution centers, outdoor storage, site preparation activities without an approved site plan. *Accepted by Development Team*
- Elimination of participation in any **Residential** offsite improvements – **Negotiate Commercial offsite Improvements**
- Elimination of participation from Growth Ordinance *Accepted by Development Team*
- Restricted residential uses to Lot 8-7 (closest to Exactitude ~~existing housing~~)
- Required Compliance with RT One Design standards

Significant changes to the CZA are highlighted in yellow in the clean version and include:

Page 4.

II. Permitted Uses Within the Contract Zone:

B) There shall be permitted, on Lot 7, **up to 120 dwelling units** ~~45 single family lots or 90 multiplex units~~. A minimum of ~~30%~~ **25%** of these shall be dwelling units for occupancy by person(s) aged 55 or older and meet up to 140% of the published HUD Median Family Income for the Portland Maine HUD Metro FMR for 2018 \$90,134 x 140% = \$126,188

E) On Lot 1 and 7 8 uses as defined in the OC-S Town Center District TCD 315-21 B. shall be permitted.

Page 7.

III. Restrictions within the Contract Zone:

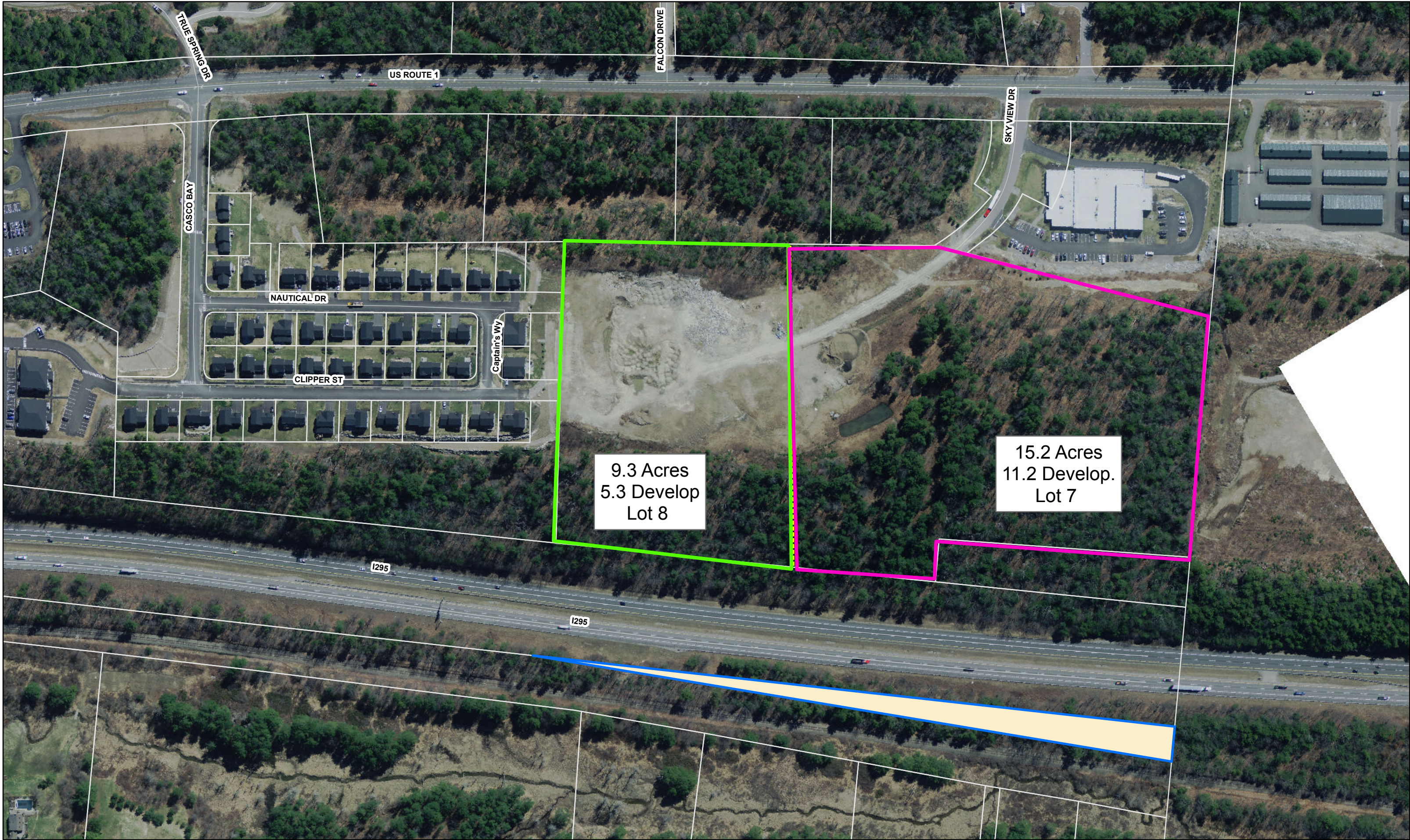
G) Any commercial development or multiplex dwelling development shall be subject to **the Route One Design Standards.**

Page 9.

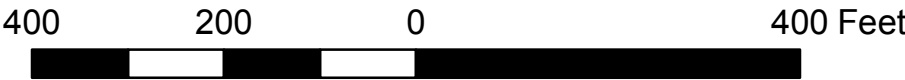
IV. Miscellaneous Provisions:

A) Offsite Improvements: The Developer shall be responsible for the design, engineering and construction of all offsite improvements as may be required by the residential Development. Commercial Development offsite improvements to be negotiated.

I think the exciting piece of this CZA is the professional offices being designed for Lot 8. Very similar to Dr. McCloy's building. New England style architecture, pitched roofs and could be as many as 6 of these buildings placed along a cul-de-sac type road with a buffer nicely buffered area from the existing neighborhood.



1 inch = 200 feet



AMENDED AND RESTATED CONTRACT ZONING AGREEMENT
BY AND BETWEEN THE TOWN OF CUMBERLAND

AND

CUMBERLAND FORESIDE VILLAGE, LLC
HERITAGE VILLAGE
DEVELOPMENT GROUP, LLC

RELATING TO THE CUMBERLAND FORESIDE
HERITAGE VILLAGE
(formerly "HERITAGE-CUMBERLAND FORESIDE VILLAGE") SUBDIVISION
ROUTE 1, CUMBERLAND, MAINE

This Amended and Restated Contract Zoning Agreement is entered into this day of _____, ~~2017~~2019, by and between the Town of Cumberland, a municipal corporation (the "Town"), ~~and Cumberland Foreside Village, LLC~~ Heritage Village Development Group, LLC, a ~~Maine~~ Florida limited liability company qualified to do ~~conduct business in Maine~~ ("the Developer"), pursuant to the Conditional and Contract Rezoning Provisions set forth in 30-A M.R.S.A. Section 4352 (the "Act") and Section 315-79 of the Cumberland Code, as may be amended from time to time.

WHEREAS, the Town and Peter Kennedy ("Kennedy") entered into a Contract Zoning Agreement dated September 10, 2002, which is recorded at the Cumberland County Registry of Deeds in Book 18114, Page 330 (the "Original Agreement"); and

WHEREAS, Kennedy conveyed his property which is subject to the Agreement to ~~the Developer~~ Cumberland Foreside Village, LLC ("CFV") by Deed dated December 27, 2005 and recorded at the Cumberland County Registry of Deeds in Book 23549, Page 231; and

WHEREAS, Kennedy assigned his interest in the Original Agreement to ~~the Developer~~ CFV by Assignment of Contract Zoning Agreement dated December 27, 2005 and recorded at the Cumberland County Registry of Deeds in Book 23652, Page 65; and

WHEREAS, the Town and ~~the Developer~~ CFV amended and restated the Original Agreement in its entirety in the Amended and Restated Contract Zoning Agreement dated January 31, 2007, which is recorded at the Cumberland County Registry of Deeds in Book 24825, Page 242 (the "Amended and Restated Agreement"); and

WHEREAS, the Town and ~~the Developer~~ CFV amended the Amended and Restated Agreement on October 23, 2014 by document titled First Amendment to Amended and Restated Contract Zoning Agreement (the "First Amendment"), which is recorded at the Cumberland County Registry of Deeds in Book 31899, Page 262; and

WHEREAS, the Town and ~~the Developer~~ CFV amended and restated the Original Agreement and the First Amendment in its entirety on February 27, 2015 by document titled Amended and Restated Contract Zoning Agreement, which is recorded at the

Cumberland County Registry of Deeds in Book 32162, Page 191 (the “2015 Amended and Restated Agreement”); and

WHEREAS, the Town and ~~the Developer~~CFV amended and restated the Original Agreement in its entirety in order to incorporate subsequent amendments (the Amended and Restated Agreement, the First Amendment and the 2015 Amended and Restated Agreement), and proposed additional amendments to expand the permitted residential development and revise the lot lines of the parcels consistent with the development goals of the Original Agreement, which is recorded at the Cumberland County Registry of Deeds in Book 33880, Page 87 (the “2016 Amended and Restated Agreement”); and

WHEREAS, the Town and CFV amended and restated the 2016 Amended and Restated Agreement in its entirety on May 11, 2017 in order to amend and clarify the requirements set forth herein related to the common walkway/path and the buffers along Interstate 295 and Route 1 corridors, which is recorded at the Cumberland County Registry of Deeds in Book 34000, Page 177 (the “2017 Amended and Restated Agreement”); and

WHEREAS, CFV conveyed its property which is subject to the 2017 Agreement to the Developer by Deeds dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 330 and to David Chase (as to Lot 9A/B only) by Deed dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 332.

WHEREAS, the Town and the Developer desire to amend and restate the ~~2016~~ 2017 Amended and Restated Agreement in its entirety in order to amend and clarify the requirements set forth herein related to ~~the common walkway/path and the buffers along the Interstate 295 and Route 1 corridors~~the development of the commercial lots; for additional residential dwelling units; to expand where retail stores can be located; and to add new standards for private roads.:-

NOW THEREFORE, the ~~2016~~ 2017 Amended and Restated Agreement is hereby amended and restated in its entirety, as follows, it being understood that this Amended and Restated Contract Zoning Agreement supersedes and replaces the Original Agreement, the former Amended and Restated Agreement dated January 31, 2007, the First Amendment dated October 23, 2014, the 2015 Amended and Restated Contract Zoning Agreement dated February 27, 2015 ~~and~~, the 2016 Amended and Restated Contract Zoning Agreement dated April 12, 2016, and the 2017 Amended and Restated Contract Zoning Agreement dated May 11, 2017, which shall be of no further force and effect:

WHEREAS, the Property subject to this Amended and Restated Contract Zoning Agreement consists of the approximately 74.90 acre parcel of land (the “Project”) located off U.S. Route One, depicted as Lots 1 – ~~9~~ 10B on **Exhibit A** (the “Plan”) prepared by Mohr & Seredin dated February 5, 2019, and more particularly described in **Exhibit A-1** attached hereto; and

WHEREAS, ~~the Developer~~CFV received subdivision approval from the Cumberland Planning Board on August 16, 2016, in accordance with the subdivision plan prepared by Owen Haskell dated August 18, 2016 and recorded in the Cumberland County

Registry of Deeds in Plan Book 216, Page 335, and subsequently amended on March 21, 2017 in accordance with the subdivision plan prepared by Owen Haskell dated January 26, 2017 and recorded in the Cumberland County Registry of Deeds in Plan Book 217, Page 85 and attached hereto as ~~Exhibit B~~ (the "Subdivision Plan") and which may be further amended from time to time, such amendments to be expressly incorporated herein; and

WHEREAS, the Developer's Updated Estimated Schedule of Completion of the Project is attached hereto as ~~Exhibit CB~~; and

WHEREAS, in order for the Project to be financially feasible for the construction and sale of commercial buildings and residential dwelling units while meeting all applicable codes, certain amendments with respect to density, setbacks, road lengths and certain other performance standards of the Cumberland Code are required; and

WHEREAS, on March 28, 2017, the Cumberland Town Council approved the execution of this Amended and Restated Contract Zoning Agreement, subject to later compliance with Subdivision and Site Plan Standards as set forth in Chapter 229 and Chapter 250 the Cumberland Code, provided such Ordinance provisions are not in conflict with the Act.

NOW THEREFORE, pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code (as may be amended from time to time), the Cumberland Town Council hereby finds that this Amended and Restated Contract Zoning Agreement:

A) is consistent with the Comprehensive Plan duly adopted by the Town of Cumberland on April 14, 2014; and

B) establishes a contract zone area consistent with the existing and permitted uses in the original zone of the area involved; and

C) only includes conditions and restrictions which relate to the physical development, **design** and future operation of the proposed development; and

D) imposes those conditions and restrictions which are necessary and appropriate for the protection of the public health, safety and general welfare of the Town of Cumberland.

The parties agree as follows:

I. Establishment of the Contract Zone:

The Town hereby agrees that the approximately 74.90 acres shown on the Plan shall be a Contract Zone pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code.

II. Permitted Uses Within the Contract Zone:

The development permitted within the Contract Zone established in paragraph I above shall be as follows (Note: References to lot numbers herein shall be to those lot numbers as shown on the Plan attached hereto as **Exhibit A**, unless expressly stated otherwise):

A) All uses authorized as of the date of execution of this Amended and Restated Contract Zoning Agreement and as may be amended hereafter either as permitted uses or special exceptions in the Office Commercial South District, including ~~assisted living facilities~~ residential care facilities and light manufacturing as defined in Section 315-4 of the Cumberland Code.

Staff recommends B) is replaced with

B) There shall be permitted, on Lot 7, up to 120 dwelling units. A minimum of 25% of these shall be dwelling units for occupancy by person(s) aged 55 or older and meet up to 140% of the published HUD Median Family Income for the Portland Maine HUD Metro FMR for 2018 \$90,134 x 140% = \$126,188

End recommendation this section

~~B) — Up to 150 300 residential dwelling units, which may be either detached dwelling units (single family) or attached duplex or multiplex dwellings, on Lots 10A and 10B 10A, 10B, 7 and 8 8 as shown on the Plan; said residential development to include buffering as set forth in Section III of this Agreement. Individual house lots shall contain not less than 5,000 square feet. Duplex and Multiplex dwelling units shall can be developed for rent, or lease only and shall not be converted to condominiums for or private sale without prior approval of the Town Council. At least one dwelling unit contained within each multiplex dwelling structure developed under this Paragraph must be occupied by a tenant that is 55 years of age or older and at least 20% (not less than nineteen) of the total dwelling units contained within all of the multiplex dwelling structures developed under this Paragraph must be occupied by a tenant that is 55 years of age or older.~~

The additional residential dwelling units shall consist of the following types and quantities:

A maximum of 44 detached single family units;

A maximum of 50 attached duplex or multiplex units;

A maximum of 50 residential dwelling units for occupancy by person(s) aged 55 years or older;

Affordable Housing which shall be 10% of each residential type proposed, for residents who meet up to 140% of the median income currently published HUD Median Family Income for the Portland, Maine HUD Metro FMR area;

~~There shall be permitted, on Lots 7 and/or 8, one hundred and fifty (150) residential dwelling units including either single family detached units, duplex or multiplex units. A minimum of 50 of these shall be dwelling units for occupancy by person(s) aged 55 or older, and 10% of the units shall be for residents who meet up to 140% of the published HUD Median Family Income for the Portland Maine HUD Metro FMR area.~~

~~The Developer shall have the right to (i) vary the mix between detached dwelling units, duplex and multiplex dwellings, and (ii) convey or subcontract all or any portion of the Project to one or more third parties, subject to the provisions of this Agreement. The residential development permitted under this Paragraph shall not be subject to the net residential density requirements of Section 315-43(E); provided, however, that the requirements of, nor shall Section 315-43(E) shall not apply to the development of multiplex dwellings under this Paragraph. The development of multiplex dwellings permitted under this Paragraph shall also be exempt from the regulations of Section 315-44 of the Cumberland Code related to multiplex dwellings.~~

C) Commercial development of not less than six (6) lots, as shown on the Plan; said commercial development to be developed with buffering from the existing adjacent residential areas of the Project as set forth in Section III of this Agreement.

~~D) — On proposed Lot 7 only (or on any lot created by further subdivision of Lot 8-7), indoor warehouse and storage facilities and wholesale distribution facilities as defined in Section 315-4 of the Cumberland Code shall be permitted, provided that such facilities are set back at least 300 feet from the U.S. Route One right of way and only if no residential use is created or existing on the same lot. Indoor warehouse and storage facilities shall include enclosed buildings for the keeping of nonhazardous goods, commodities, equipment, materials or supplies in which buildings there are not any sales, manufacturing, production or repair activity, except on an incidental or occasional basis. Outdoor storage of any goods, commodities, equipment, materials or supplies in conjunction with an indoor warehouse and storage facility shall not be permitted. If an indoor warehouse and storage facility or a wholesale distribution facility is adjacent to residential property, the buffering requirements set forth in Section III of this Agreement shall apply. Nothing in this section shall preclude the establishment of any other commercial use allowed by the terms of this Agreement.~~

E) A communications tower properly buffered from all residential uses in accordance with Section 315-72 of the Cumberland Code.

F) ~~On Lots 1, 7 and 8 only, retail stores as defined in the Cumberland Land Use Ordinance (uses may include any shop or store for the retail sale of goods or personal services, excluding any drive up service, freestanding retail stand, gasoline and motor vehicle repair service, new and used car sales and service, and trailer and mobile home sales and service).~~

Staff recommends F) be replaced with

F) Lot ~~Lots~~ 1, 8 uses as defined in the Office Commercial – South (OCS) Town Center District TCD 315-21B. shall be permitted.

Examples include:

- (1) Personal services.
- (2) Business and professional offices.
- (3) Retail stores, maximum 2,000 square feet. Square footage shall not include internal storage areas.
- (4) Small markets, maximum 2,500 square feet, with no drive-through. Square footage shall not include internal storage areas.
- (5) Cafes, maximum 2,500 square feet, with no drive-through and in accordance with § **315-18F(3)**. Square footage shall not include internal storage areas and outdoor seating areas. Square footage shall include bathrooms, prep areas, cooking area and dining area.
- (6) Health and fitness studio.
- (7) Day-care centers and nursery schools for no more than 20 children, subject to the provisions of § **315-47** and site plan review.

Staff Recommends Deletion of G & H

G) ~~Tradesmen's offices (i.e., the office of a self-employed craftsman or person in a skilled trade) involving only the management of the business; interior storage of materials and goods related to the business; and outdoor storage of vehicles, equipment and material ancillary to the business provided that such items are not visible from a public way. No on-site retail sales or wholesale distribution shall be permitted as part of such use, except as otherwise permitted within the Office Commercial South District.~~

H) ~~Site preparation activities including grading and aggregate processing, as defined~~

~~in Section 315-4 of the Cumberland Code, which substantially alter terrain and site character shall be permitted subject to the requirements set forth herein. Site preparation activities shall be permitted by the Developer and/or his subcontractor and shall include aggregate processing of materials on site for use in conjunction with the development of the site or off-site, but shall not be permitted unless in preparation of the site for proposed or approved development. The foregoing activities shall be performed in accordance with Maine Department of Environmental Protection requirements for ledge removal and materials processing, regardless of whether such use actually requires a permit from the Maine Department of Environmental Protection. If a permit from the Maine Department of Environmental Protection is not required for the use, the Town shall have the authority to enforce these requirements. Any such activities and any other site work proposed on the site, including development permitted under the terms of this Agreement shall be subject to review and approval by the Planning Board and shall be completed pursuant to all applicable sections of the Cumberland Code including, but not limited to, Sections 315-48 and 315-49. All site preparation activities must be completed within one year of approval unless an extension is requested by the Developer from the Planning Board prior to the expiration date. The Planning Board is authorized to extend the project completion not more than two times for a period of up to six months each time. The Planning Board shall deny a request for extension if the site preparation activities are not at least 35% completed within one year from the date of approval and if an application for site plan and/or subdivision including the area for which site preparation activity was permitted has not been approved.~~

End this Section of Staff recommendation

III. Restrictions within the Contract Zone:

A) The setback provisions within the Contract Zone shall be as follows. All setbacks shall be measured from the exterior wall of the structure and shall not include overhangs, which overhangs shall not exceed one foot on any side of the structure.

(1) setbacks for detached dwelling units:

- Front yard setback not less than 15 feet.
- Side yard setback not less than 9 feet each side;
- Rear yard setback not less than 15 feet.
- Driveway setback not less than 5 feet unless driveways are shared by 2 or more lots, in which case there are no driveway setback requirements.
- If a residential lot is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation.

The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(2) setbacks for commercial lots:

- Front yard setback not less than 25 feet.
- Side yard setback not less than 20 feet each side.
- Rear yard setback not less than 40 feet.
- Driveway setback not less than 10 feet, unless driveways are shared for access by 2 or more lots in which case there are no driveway setback requirements.
- If a commercial lot is adjacent to a residential lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25-foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(3) setbacks for ~~assisted-living~~ residential care facilities and duplex and multiplex dwellings:

- Front yard setback not less than 50 feet.
- Side yard setback not less than 30 feet each side.
- Rear yard setback not less than 50 feet.
- Driveway setback not less than 5 feet.
- If a residential care facility ~~an assisted-living facility~~, duplex or multiplex dwelling is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

- Any building that is constructed for the sole purpose of and used exclusively in connection with the development of multiplex dwellings and located on the same lot as the multiplex dwellings, such as a community center or rental office, shall be subject to the setback requirements of this section; provided, however, that the rear setback for such building shall be not less than 25 feet.

Staff Recommends eliminate # 4

~~(4) setbacks for indoor warehouse and storage and wholesale distribution facilities:~~

- ~~• Front yard setback not less than 25 feet.~~
- ~~• Side yard setback not less than 25-15 feet each side.~~
- ~~• Rear yard setback not less than 25-20 feet.~~
- ~~• If indoor storage and warehouse facilities or wholesale distribution facilities are adjacent to residential development, the above minimum setbacks shall be increased to 60 feet and there shall be a 75-foot undisturbed or replanted buffer on the property line between the commercial and residential uses. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 75-foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.~~

(5) A setback of not less than 100 feet shall be maintained along the entire length of the property boundary that borders the Interstate 295 highway. The setback shall be measured from the edge of the I-295 right of way and shall remain at all times undisturbed. The Town shall periodically survey this setback to ensure that it has been maintained. In the event that this area is disturbed for any reason, the Developer shall be required to prepare and submit a landscape plan to be approved by the Town Council and shall be required to complete plantings in accordance with the approved plan within a timeframe designated by the Town Council. Additional plantings consisting of evergreen trees shall be field located with Town staff. Plantings shall be at least five feet (5') tall when planted. Plantings shall be required within the portion of the setback that runs along Lot 100 the Cumberland Foreside Village Apartments, as shown on **Exhibit B A** to provide a visual buffer of the multiplex dwelling units constructed on that lot.

B) The minimum frontage on the street providing access to each residential lot shall be 50 feet and for each commercial lot shall be 150 feet for lots with frontage on Route 1 and 100 feet for interior lots.

C) The length of Skyview Drive, the dead-end road serving the commercial and residential portion(s) of the Project, shall be not more than 3,000 feet, and the road right-of-way be established at 50 feet in width, with a paved width of at least 24 feet (base shall be 30 feet wide), a five foot paved sidewalk for Skyview Drive, a four foot esplanade and an enclosed drainage system if the road is public. All other roads, except for driveways and alleyways, within the interior commercial lots in the project shall be constructed with a paved width of at least 24 feet, and do not shall require an enclosed drainage system, curbing and a five foot paved sidewalk, and be constructed in accordance with the geometric design standards for commercial subdivisions found in Chapter 250 of the Cumberland Code as amended, unless the roads are private and for residential use, in which case the roads may be constructed as set forth in Exhibit G of this Contract Zone Amendment.

D) The height restriction on all nonresidential structures and multiplex dwellings shall be 50 feet and the height restriction on all detached (single family) and duplex dwellings shall be 40 feet.

E) There shall be no other variances from the Cumberland Zoning Ordinance granted to any lot owner beyond those expressly set forth herein, unless the Town and Developer agree by written and duly authorized amendment to this Agreement.

F) This Agreement shall be subject to the Town's Impact Fee Ordinance to the extent applicable. Impact Fees shall be calculated based on the gross floor area of the total structure for each multiplex dwelling structure constructed under Section II(B) of this Agreement. The gross floor area of the multiplex dwelling structure shall be reduced by the gross floor area of any dwelling unit within that structure that is designated to be occupied by a tenant that is 55 years of age or older.

Staff Recommends Deletion of remainder of F)

~~The residential development permitted under Section II (B) of this Agreement shall be exempt from the requirements of the Town's Growth Management Ordinance pursuant to Section 118-6(D) of the Cumberland Code; provided, however, that the Developer shall be responsible to pay a fee of \$100 per multiplex dwelling unit in lieu of a growth permit.~~

~~G) Any commercial development or multiplex dwelling development shall be subject to the “Design Guidelines for Commercial Properties & Multiplex Dwellings” which are attached hereto as **Exhibit DC**.~~

Staff Recommends Replace with G) with

Any commercial development or multiplex dwelling development shall be subject to the Route One Standards.

H) The Route 1 buffer shown on the Plan shall be 35 feet from the Route 1 right of way 25 feet of the Route 1 buffer shall be undisturbed vegetation and the remaining 10 feet shall be used for a common walkway/path. The common walkway/path shall be constructed within the Route 1 right of way beginning at Sky View Drive and ending at the northerly lot line of Lot 5, subject to approval by the Town, or within 25 feet of the Route 1 right of way beginning at Sky View Drive and ending at Lot 11-C of the Town of Cumberland’s Tax Map R01, shown as the “Seafax” Lot ~~(Seafax) as shown~~ on **Exhibit ED**. The common walkway/path shall be completed prior to the occupancy of any residential dwellings constructed pursuant to Section II(B). No additional buffer shall be required along Route 1 for Lot 9 as shown on **Exhibit BA**, provided that the front setback for the property as set forth in Section III(A) is met and that the setback area includes undisturbed vegetation to the greatest extent practicable and additional plantings as necessary to create a sufficient vegetated buffer within the setback.

I) Notwithstanding anything in Section III(A) above to the contrary, the building setback from Route 1 shall be 65 feet from the Route 1 right of way, except that the building setback from Route 1 on Lot 9 only shall be 25 feet from the Route 1 right of way.

J) The minimum lot size for commercial lots shall be 60,000 square feet.

K) The use of bituminous or concrete curb throughout the road network and on site plans shall be allowed at the developer’s option.

L) The parking requirements of Section 315-57 of the Cumberland Code shall apply to development under this Agreement; provided, however, that the minimum number of parking spaces required for multiplex dwellings under Section II(B) shall be two (2) spaces per dwelling unit. A landscaped berm shall be installed on the exterior perimeter of each parking area designated for the multiplex dwelling structures developed under Section II(B). Such berms shall be designed and constructed to provide screening from vehicle headlights within the parking area facing outward in both easterly and westerly directions.

M) Notwithstanding anything in the Town's Zoning Ordinance to the contrary, Residential Care Facilities shall be subject to the following requirements:

(1) Minimum lot size of two acres;

(2) Site coverage. The facility, as measured by the area of the building footprint of all structures, shall not cover more than 30% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens;

(3) Open Space. At least 20% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas-with a vegetative cover, and gardens. Open space shall not include areas covered by structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements; and

(4) Height. The maximum building height shall not exceed 50 feet.

N) A fifteen foot trail easement shall be located within Lot 8 as conceptually shown on Exhibit A with the exact easement location to be determined at the time of subdivision approval. The trail/path/walk shall be constructed by Heritage Village Development Group, LLC or it's assigns.-

O) All development on Lots 7 and 8 shall comply with the lighting requirements set forth in the International Dark Sky Association (IDA) 2011 Model Lighting Ordinance.

Subject to the following, the Cumberland Planning Board shall have review authority under the applicable provisions of the Cumberland Subdivision, Site Plan and Zoning Ordinances to impose conditions of approval pursuant to said Ordinances relating to the development and construction of the Project.

IV. Miscellaneous Provisions:

Staff Recommends Replace with A) with

A) Offsite Improvements: The Developer shall be responsible for the design, engineering and construction of all offsite improvements as may be required for residential development. Offsite improvements for Commercial uses shall be negotiated.

~~B) Offsite Improvements: The Developer and the Town agree to negotiate the respective obligations of each party as it relates to shall be responsible for the design, engineering and construction of all offsite improvements as may be required by the owners or operators of property within the Project or as may be required by rule, regulation, law~~

or determination of a governmental agency or utility in conjunction with the development of any Lots within the Project, ~~except that the Town shall be responsible for including the widening, paving and striping of a designated portion of Route 1 as may be necessary pursuant to the plan titled "Route 1 Roadway Improvements" drafted by Gorrell Palmer~~

~~Consulting Engineers and dated July 2007~~November 15, 2016, attached hereto as ~~Exhibit E~~, or as otherwise approved by the Town Council.

C) Survival Clause: The terms and conditions of this Agreement shall run with the land and be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of the parties hereto except as specifically set forth herein. A true copy of this Agreement shall be recorded in the Cumberland County Registry of Deeds.

D) Arbitration Clause: In the event of any dispute between the parties hereto arising out of the Town's approval of (or failure to approve) eligible and qualified purchasers, such dispute shall be submitted to arbitration pursuant to the rules and regulations of the American Arbitration Association, or such other similar arbitration tribunal as the parties may select. The decision of such arbitration panel shall be final, binding and conclusive as to all issues arbitrated therein. Any and all other disputes, claims, counterclaims, and other matters in question between the parties hereto arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction.

E) Further Assurances: In order to effectively and properly implement this Agreement, the parties agree to negotiate in good faith the terms and conditions of such further instruments and agreements as may be reasonably necessary from time to time to give effect to this Agreement.

F) Maine Agreement: This contract is a Maine agreement, entered into in the State of Maine and shall be governed by and enforced in accordance with the laws of the State of Maine.

G) Binding Covenants: The above-stated restrictions, provisions, and conditions are an essential part of this contract and shall run with the subject premises, shall bind the Developer, its successors and assigns with respect to the Project or any part thereof or any interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by, the Town, by and through its duly authorized representatives. However, if all site work related to the infrastructure on the subdivision plan is not substantially completed within five (5) years from the date of this Amended and Restated Agreement, then the Town Council shall review the status of the project and shall determine whether to initiate a rezoning of the property to the current zoning classification as it exists at the time of the rezoning determination.

H) Severability: In the event any one or more clauses of this Agreement shall be held to be void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses shall be deemed to be severable and of no force or effect in such jurisdiction, and the remainder of this Agreement shall be deemed to be valid and in full

force and effect, and the terms of this Agreement shall be equitably adjusted if possible so as to compensate the appropriate party for any consideration lost because of the elimination of such clause or clauses.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed as of the day and year first above written.

WITNESS:

TOWN OF CUMBERLAND

By: Name:
William R. Shane
Town Manager

~~CUMBERLAND FORESIDE~~
~~VILLAGEHERITAGE VILLAGE~~
DEVELOPMENT GROUP, LLC

Name: _____

By: _____
~~David Chase~~Peter D. Kennedy
Sole Member and Manager

State of Maine
County of Cumberland, ss.
~~2017~~2019

Then personally appeared the above-named William R. Shane in his capacity as Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Town of Cumberland.

Before me,

Notary Public
Print Name: _____
Commission Expires: _____

**AMENDED AND RESTATED CONTRACT ZONING AGREEMENT
BY AND BETWEEN THE TOWN OF CUMBERLAND**

AND

HERITAGE VILLAGE DEVELOPMENT GROUP, LLC

**RELATING TO THE HERITAGEVILLAGE (formerly CUMBERLAND
FORESIDE VILLAGE”) SUBDIVISION ROUTE 1, CUMBERLAND, MAINE**

This Amended and Restated Contract Zoning Agreement is entered into this day of April 2019, by and between the Town of Cumberland, a municipal corporation (the “Town”), Heritage Village Development Group, LLC, a Florida limited liability company qualified to conduct business in Maine (“the Developer”), pursuant to the Conditional and Contract Rezoning Provisions set forth in 30-A M.R.S.A. Section 4352 (the “Act”) and Section 315- 79 of the Cumberland Code, as may be amended from time to time.

WHEREAS, the Town and Peter Kennedy (“Kennedy”) entered into a Contract Zoning Agreement dated September 10, 2002, which is recorded at the Cumberland County Registry of Deeds in Book 18114, Page 330 (the “Original Agreement”); and

WHEREAS, Kennedy conveyed his property which is subject to the Agreement to Cumberland Foreside Village, LLC (“CFV”) by Deed dated December 27, 2005 and recorded at the Cumberland County Registry of Deeds in Book 23549, Page 231; and

WHEREAS, Kennedy assigned his interest in the Original Agreement to CFV by Assignment of Contract Zoning Agreement dated December 27, 2005 and recorded at the Cumberland County Registry of Deeds in Book 23652, Page 65; and

WHEREAS, the Town and CFV amended and restated the Original Agreement in its entirety in the Amended and Restated Contract Zoning Agreement dated January 31, 2007, which is recorded at the Cumberland County Registry of Deeds in Book 24825, Page 242 (the “Amended and Restated Agreement”); and

WHEREAS, the Town and CFV amended the Amended and Restated Agreement on October 23, 2014 by document titled First Amendment to Amended and Restated Contract Zoning Agreement (the “First Amendment”), which is recorded at the Cumberland County Registry of Deeds in Book 31899, Page 262; and

WHEREAS, the Town and CFV amended and restated the Original Agreement and the First Amendment in its entirety on February 27, 2015 by document titled Amended and Restated Contract Zoning Agreement, which is recorded at the

Cumberland County Registry of Deeds in Book 32162, Page 191 (the “2015 Amended and Restated Agreement”); and

WHEREAS, the Town and CFV amended and restated the Original Agreement in its entirety in order to incorporate subsequent amendments (the Amended and Restated Agreement, the First Amendment and the 2015 Amended and Restated Agreement), and proposed additional amendments to expand the permitted residential development and revise the lot lines of the parcels consistent with the development goals of the Original Agreement, which is recorded at the Cumberland County Registry of Deeds in Book 33880, Page 87 (the “2016 Amended and Restated Agreement”); and

WHEREAS, the Town and CFV amended and restated the 2016 Amended and Restated Agreement in its entirety on May 11, 2017 in order to amend and clarify the requirements set forth herein related to the common walkway/path and the buffers along Interstate 295 and Route 1 corridors, which is recorded at the Cumberland County Registry of Deeds in Book 34000, Page 177 (the “2017 Amended and Restated Agreement”); and

WHEREAS, CFV conveyed its property which is subject to the 2017 Agreement to the Developer by Deeds dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 330 and to David Chase (as to Lot 9A/B only) by Deed dated October 10, 2017 and recorded at the Cumberland County Registry of Deeds in Book 34376, Page 332.

WHEREAS, the Town and the Developer desire to amend and restate the 2017 Amended and Restated Agreement in its entirety in order to amend and clarify the requirements set forth herein related the development of the commercial lots; for additional residential dwelling units; to expand where retail stores can be located; and to add new standards for private roads.

NOW THEREFORE, the 2017 Amended and Restated Agreement is hereby amended and restated in its entirety, as follows, it being understood that this Amended and Restated Contract Zoning Agreement supersedes and replaces the Original Agreement, the former Amended and Restated Agreement dated January 31, 2007, the First Amendment dated October 23, 2014, the 2015 Amended and Restated Contract Zoning Agreement dated February 27, 2015, the 2016 Amended and Restated Contract Zoning Agreement dated April 12, 2016, and the 2017 Amended and Restated Contract Zoning Agreement dated May 11, 2017, which shall be of no further force and effect:

WHEREAS, the Property subject to this Amended and Restated Contract Zoning Agreement consists of the approximately 74.90 acre parcel of land (the “Project”) located off U.S. Route One, depicted as Lots 1 – 10B on **Exhibit A** (the “Plan”) prepared by Mohr & Seredin dated February 5, 2019, and more particularly described in **Exhibit A-1** attached hereto; and

WHEREAS, CFV received subdivision approval from the Cumberland Planning Board on August 16, 2016, in accordance with the subdivision plan prepared by Owen Haskell dated August 18, 2016 and recorded in the Cumberland County

Registry of Deeds in Plan Book 216, Page 335, and subsequently amended on March 21, 2017 in accordance with the subdivision plan prepared by Owen Haskell dated January 26, 2017 and recorded in the Cumberland County Registry of Deeds in Plan Book 217, Page 85 and which may be further amended from time to time, such amendments to be expressly incorporated herein; and

WHEREAS, the Developer's Updated Estimated Schedule of Completion of the Project is attached hereto as **Exhibit B**; and

WHEREAS, in order for the Project to be financially feasible for the construction and sale of commercial buildings and residential dwelling units while meeting all applicable codes, certain amendments with respect to density, setbacks, road lengths and certain other performance standards of the Cumberland Code are required; and

WHEREAS, on _____ (date) the Town Council approved the execution of this Amended and Restated Contract Zoning Agreement, subject to later compliance with Subdivision and Site Plan Standards as set forth in Chapter 229 and Chapter 250 the Cumberland Code, provided such Ordinance provisions are not in conflict with the Act.

NOW THEREFORE, pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code (as may be amended from time to time), the Cumberland Town Council hereby finds that this Amended and Restated Contract Zoning Agreement:

A) is consistent with the Comprehensive Plan duly adopted by the Town of Cumberland on April 14, 2014; and

B) establishes a contract zone area consistent with the existing and permitted uses in the original zone of the area involved; and

C) only includes conditions and restrictions which relate to the physical development, **design** and future operation of the proposed development; and

D) imposes those conditions and restrictions which are necessary and appropriate for the protection of the public health, safety and general welfare of the Town of Cumberland.

The parties agree as follows:

I. Establishment of the Contract Zone:

The Town hereby agrees that the approximately 74.90 acres shown on the Plan shall be a Contract Zone pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code.

II. Permitted Uses Within the Contract Zone:

The development permitted within the Contract Zone established in paragraph I above shall be as follows (Note: References to lot numbers herein shall be to those lot numbers as shown on the Plan attached hereto as **Exhibit A**, unless expressly stated otherwise):

A) All uses authorized as of the date of execution of this Amended and Restated Contract Zoning Agreement and as may be amended hereafter either as permitted uses or special exceptions in the Office Commercial South District, including residential care facilities and light manufacturing as defined in Section 315-4 of the Cumberland Code.

B) There shall be permitted, on Lot 7, up to 120 dwelling units. A minimum of 25% of these shall be dwelling units for occupancy by person(s) aged 55 or older and meet up to 140% of the published HUD Median Family Income for the Portland Maine HUD Metro FMR for 2018 $\$90,134 \times 140\% = \$126,188$

The Developer shall have the right to (i) vary the mix between detached dwelling units, duplex and multiplex dwellings, and (ii) convey or subcontract all or any portion of the Project to one or more third parties, subject to the provisions of this Agreement. The residential development permitted under this Paragraph shall not be subject to the net residential density requirements of Section 315-43(E) nor shall Section 315-43(E) apply to the development of multiplex dwellings under this Paragraph. The development of multiplex dwellings permitted under this Paragraph shall also be exempt from the regulations of Section 315-44 of the Cumberland Code related to multiplex dwellings.

C) Commercial development of not less than six (6) lots, as shown on the Plan; said commercial development to be developed with buffering from the existing adjacent residential areas of the Project as set forth in Section III of this Agreement.

D) A communications tower properly buffered from all residential uses in accordance with Section 315-72 of the Cumberland Code.

E) On Lot 1 and 8 uses as defined in the Office Commercial-South (OCS) and the Town Center District TCD 315-21B. shall be permitted.

TCD Examples include:

- (1) Personal services.
- (2) Business and professional offices.
- (3) Retail stores, maximum 2,000 square feet. Square footage shall not include internal storage areas.
- (4) Small markets, maximum 2,500 square feet, with no drive-through. Square

footage shall not include internal storage areas.

- (5) Cafes, maximum 2,500 square feet, with no drive-through and in accordance with § **315-18F(3)**. Square footage shall not include internal storage areas and outdoor seating areas. Square footage shall include bathrooms, prep areas, cooking area and dining area.
- (6) Health and fitness studio.
- (7) Day-care centers and nursery schools for no more than 20 children, subject to the provisions of § **315-47** and site plan review.

III. Restrictions within the Contract Zone:

A) The setback provisions within the Contract Zone shall be as follows. All setbacks shall be measured from the exterior wall of the structure and shall not include overhangs, which overhangs shall not exceed one foot on any side of the structure.

(1) setbacks for detached dwelling units:

- Front yard setback not less than 15 feet.
- Side yard setback not less than 9 feet each side;
- Rear yard setback not less than 15 feet.
- Driveway setback not less than 5 feet unless driveways are shared by 2 or more lots, in which case there are no driveway setback requirements.
- If a residential lot is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(2) setbacks for commercial lots:

- Front yard setback not less than 25 feet.
- Side yard setback not less than 20 feet each side.
- Rear yard setback not less than 40 feet.
- Driveway setback not less than 10 feet, unless driveways are shared for access by 2 or more lots in which case there are

no driveway setback requirements.

- If a commercial lot is adjacent to a residential lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.

(3) setbacks for residential care facilities and duplex and multiplex dwellings:

- Front yard setback not less than 50 feet.
- Side yard setback not less than 30 feet each side.
- Rear yard setback not less than 50 feet.
- Driveway setback not less than 5 feet.
- If a residential care facility, duplex or multiplex dwelling is adjacent to a commercial lot, there shall be a 25 foot buffer of undisturbed or replanted vegetation. The Developer shall provide for additional plantings, as approved by the Planning Board, within the 25 foot undisturbed buffer where existing conditions do not provide adequate screening between the properties.
- Any building that is constructed for the sole purpose of and used exclusively in connection with the development of multiplex dwellings and located on the same lot as the multiplex dwellings, such as a community center or rental office, shall be subject to the setback requirements of this section; provided, however, that the rear setback for such building shall be not less than 25 feet.

(4) A setback of not less than 100 feet shall be maintained along the entire length of the property boundary that borders the Interstate 295 highway. The setback shall be measured from the edge of the I-295 right of way and shall remain at all times undisturbed. The Town shall periodically survey this setback to ensure that it has been maintained. In the event that this area is disturbed for any reason, the Developer shall be required to prepare and submit a landscape plan to be approved by the Town Council and shall be required to complete plantings in accordance with the approved plan within a timeframe designated by the Town Council.

Additional plantings consisting of evergreen trees shall be field located with Town staff. Plantings shall be at least five feet (5') tall when planted. Plantings shall be required within the portion of the setback that runs along the Cumberland Foreside Village Apartments, as shown on **Exhibit A** to provide a visual buffer of the multiplex dwelling units constructed on that lot.

B) The minimum frontage on the street providing access to each residential lot shall be 50 feet and for each commercial lot shall be 150 feet for lots with frontage on Route 1 and 100 feet for interior lots.

C) The length of Skyview Drive, the dead-end road serving the commercial and residential portion(s) of the Project, shall be not more than 3,000 feet, and the road right-of-way be established at 50 feet in width, with a paved width of at least 24 feet (base shall be 30 feet wide), a five foot paved sidewalk for Skyview Drive, a four foot esplanade and an enclosed drainage system if the road is public. All other roads, except for driveways and alleyways, within the interior commercial lots in the project shall be constructed with a paved width of at least 24 feet, ~~and do not~~ shall require an enclosed drainage system, curbing and a five foot paved sidewalk, and be constructed in accordance with the geometric design standards for commercial subdivisions found in Chapter 250 of the Cumberland Code as amended, unless the roads are private and for residential use, in which case the roads may be constructed as set forth in Exhibit G of this Contract Zone Amendment.

D) The height restriction on all nonresidential structures and multiplex dwellings shall be 50 feet and the height restriction on all detached (single family) and duplex dwellings shall be 40 feet.

E) There shall be no other variances from the Cumberland Zoning Ordinance granted to any lot owner beyond those expressly set forth herein, unless the Town and Developer agree by written and duly authorized amendment to this Agreement.

F) This Agreement shall be subject to the Town's Impact Fee Ordinance to the extent applicable. Impact Fees shall be calculated based on the gross floor area of the total structure for each multiplex dwelling structure constructed under Section II(B) of this Agreement. The gross floor area of the multiplex dwelling structure shall be reduced by the gross floor area of any dwelling unit within that structure that is designated to be occupied by a tenant that is 55 years of age or older.

G) Any commercial development or multiplex dwelling development shall be subject to the Route One Design Standards.

H) The Route 1 buffer shown on the Plan shall be 35 feet from the Route 1 right of way 25 feet of the Route 1 buffer shall be undisturbed vegetation and the remaining 10 feet shall be used for a common walkway/path. The common walkway/path shall be constructed within the Route 1 right of way beginning at Sky View Drive and ending at the

northerly lot line of Lot 5, subject to approval by the Town, or within 25 feet of the Route 1 right of way beginning at Sky View Drive and ending at Lot 11-C of the Town of Cumberland's Tax Map R01, shown as the "Seafax" Lot on **Exhibit D**. The common walkway/path shall be completed prior to the occupancy of any residential dwellings constructed pursuant to Section II(B). No additional buffer shall be required along Route 1 for Lot 9 as shown on **Exhibit A**, provided that the front setback for the property as set forth in Section III(A) is met and that the setback area includes undisturbed vegetation to the greatest extent practicable and additional plantings as necessary to create a sufficient vegetated buffer within the setback.

I) Notwithstanding anything in Section III(A) above to the contrary, the building setback from Route 1 shall be 65 feet from the Route 1 right of way, except that the building setback from Route 1 on Lot 9 only shall be 25 feet from the Route 1 right of way.

J) The minimum lot size for commercial lots shall be 60,000 square feet.

K) The use of bituminous or concrete curb throughout the road network and on site plans shall be allowed at the developer's option.

L) The parking requirements of Section 315-57 of the Cumberland Code shall apply to development under this Agreement; provided, however, that the minimum number of parking spaces required for multiplex dwellings under Section II(B) shall be two (2) spaces per dwelling unit. A landscaped berm shall be installed on the exterior perimeter of each parking area designated for the multiplex dwelling structures developed under Section II(B). Such berms shall be designed and constructed to provide screening from vehicle headlights within the parking area facing outward in both easterly and westerly directions.

M) Notwithstanding anything in the Town's Zoning Ordinance to the contrary, residential care facilities shall be subject to the following requirements:

(1) Minimum lot size of two acres;

(2) Site coverage. The facility, as measured by the area of the building footprint of all structures, shall not cover more than 30% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens;

(3) Open Space. At least 20% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas-with a vegetative cover, and gardens. Open space shall not include areas covered by structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements; and

(4) Height. The maximum building height shall not exceed 50 feet.

N) A fifteen foot trail easement shall be located within Lot 8 as conceptually shown on Exhibit A with the exact easement location to be determined at the time of subdivision approval. The trail/path/walk shall be constructed by Heritage Village Development Group, LLC or it's assigns.-

O) All development on Lots 7 and 8 shall comply with the lighting requirements set forth in the International Dark Sky Association (IDA) 2011 Model Lighting Ordinance

Subject to the following, the Cumberland Planning Board shall have review authority under the applicable provisions of the Cumberland Subdivision, Site Plan and Zoning Ordinances to impose conditions of approval pursuant to said Ordinances relating to the development and construction of the Project.

IV. Miscellaneous Provisions:

A) Offsite Improvements: The Developer shall be responsible for the design, engineering and construction of all offsite improvements as may be required for residential development. Offsite improvements for Commercial uses shall be negotiated.

B) Survival Clause: The terms and conditions of this Agreement shall run with the land and be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of the parties hereto except as specifically set forth herein. A true copy of this Agreement shall be recorded in the Cumberland County Registry of Deeds.

C) Arbitration Clause: In the event of any dispute between the parties hereto arising out of the Town's approval of (or failure to approve) eligible and qualified purchasers, such dispute shall be submitted to arbitration pursuant to the rules and regulations of the American Arbitration Association, or such other similar arbitration tribunal as the parties may select. The decision of such arbitration panel shall be final, binding and conclusive as to all issues arbitrated therein. Any and all other disputes, claims, counterclaims, and other matters in question between the parties hereto arising out of or relating to this Agreement shall be decided by a Maine court of competent jurisdiction.

D) Further Assurances: In order to effectively and properly implement this Agreement, the parties agree to negotiate in good faith the terms and conditions of such further instruments and agreements as may be reasonably necessary from time to time to give effect to this Agreement.

E) Maine Agreement: This contract is a Maine agreement, entered into in the State of Maine and shall be governed by and enforced in accordance with the laws of the State of Maine.

F) Binding Covenants: The above-stated restrictions, provisions, and

conditions are an essential part of this contract and shall run with the subject premises, shall bind the Developer, its successors and assigns with respect to the Project or any part thereof or any interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit of and be enforceable by, the Town, by and through its duly authorized representatives. However, if all site work related to the infrastructure on the subdivision plan is not substantially completed within five (5) years from the date of this Amended and Restated Agreement, then the Town Council shall review the status of the project and shall determine whether to initiate a rezoning of the property to the current zoning classification as it exists at the time of the rezoning determination.

G) Severability: In the event any one or more clauses of this Agreement shall be held to be void or unenforceable for any reason by any court of competent jurisdiction, such clause or clauses shall be deemed to be severable and of no force or effect in such jurisdiction, and the remainder of this Agreement shall be deemed to be valid and in full force and effect, and the terms of this Agreement shall be equitably adjusted if possible so as to compensate the appropriate party for any consideration lost because of the elimination of such clause or clauses.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed as of the day and year first above written.

WITNESS:

TOWN OF CUMBERLAND

By: Name:
William R. Shane
Town Manager

HERITAGE VILLAGE DEVELOPMENT
GROUP LLC

Name: _____

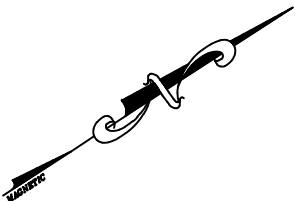
By: _____
Peter D. Kennedy
Sole Member and Manager

State of Maine
County of Cumberland, ss.
2019

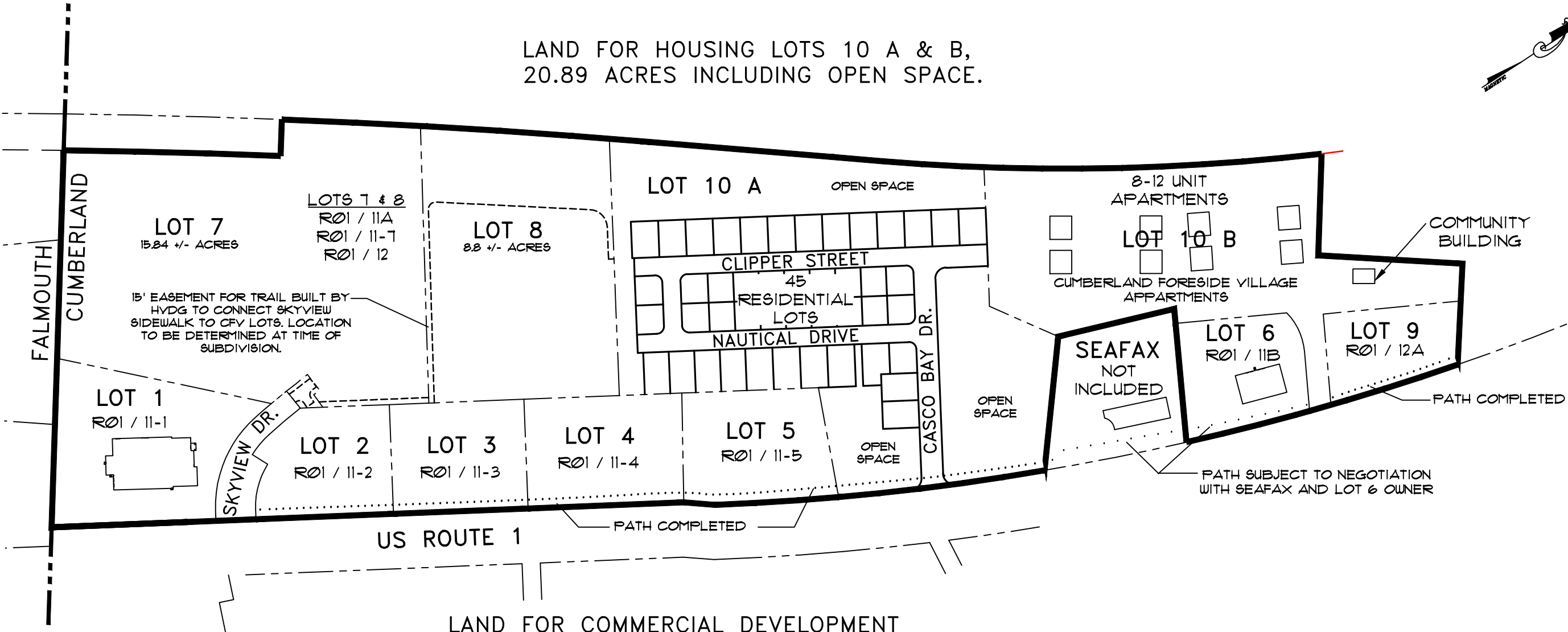
Then personally appeared the above-named William R. Shane in his capacity as Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Town of Cumberland.

Before me,

Notary Public
Print Name: _____
Commission Expires: _____

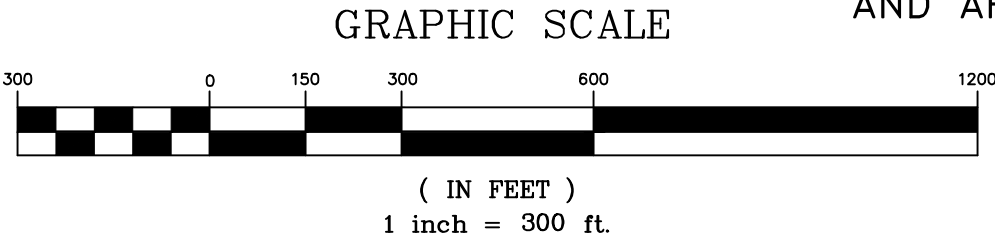


LAND FOR HOUSING LOTS 10 A & B,
20.89 ACRES INCLUDING OPEN SPACE.



LAND FOR COMMERCIAL DEVELOPMENT
44.95 ± ACRES (LOTS 1-6 & 9)
LOT 7 AND 8 TOTAL 24.64 ACRES
AND ARE FOR RESIDENTIAL AND/OR
COMMERCIAL USES.

ENTIRE CONTRACT ZONE INCLUDES LOTS 1-9: 74.87 ACRES.
CONTRACT ZONE DOES NOT INCLUDE THE "SEAFAX" LOT: 2.99
ACRES



6	4/18/19	ADJUST LOT 7/LOT 8 LINE LOCATION
5	2/5/19	CHANGE SKYVIEW; REV. NOTES, ADD TRAIL EASEMENT
4	2/19/16	REVISED LOT USES
3	1/28/16	ADDED TAX MAP & LOTS, CLARIFY ADDITIONAL AREA
2	1/25/16	DIVIDED LOT 9 FROM LOT 8
1	1/22/16	ADDED AREA TO CONTRACT ZONE

CONTRACT ZONE ILLUSTRATIVE PLAN
THIS IS NOT A SUBDIVISION PLAN

EXHIBIT A – CONTRACT ZONE 5TH AMENDMENT

MOHR & SEREDIN
Landscape Architects, Inc.
18 Pleasant Street, Portland, Maine 04101
ph: 1.207.871.0003 fax: 1.207.871.1419

HERITAGE VILLAGE DEVELOPMENT GROUP, LLC
CUMBERLAND FORESIDE VILLAGE
US ROUTE ONE, CUMBERLAND

SCALE: AS SHOWN DATE: MAR. 27, 2018 CHECK BY: SBMPROJECT: 111-NC

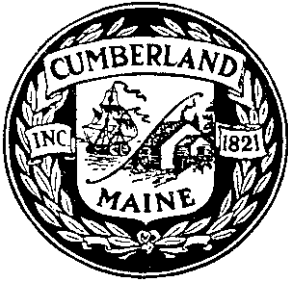




ITEM

19-061

To authorize the Town Manager to execute a 4-year lease agreement
with First Data Leasing Company for a point of sale system for
Val Halla golf operations



M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205 FAX: 829-2224

To: Town Council
From: William R. Shane, Town Manager
Date: April 18, 2019
Re: 4 year lease for Point of Sale system

The Point of Sale system for our payment processing, inventory, and credit cards is handled through a Clover brand system. The leasing company for the equipment is first Data Leasing Company.

The Town Attorney is completing the contractual review of the commitment and upon her approval I am seeking your authorization to enter into this agreement. The Vendor has met with Brian and Nick over the winter months and both are in agreement this system is the best fit for our operations at Val Halla.

I do not have the authority to bind the Town to any agreements longer than one year. Your authorization is required to move forward with this contract pending the positive review of the Town Attorney.

MERCHANT PROCESSING APPLICATION AND AGREEMENT



Sales Office _____ Print Sales Rep Name _____ Sales ID # _____
 Merchant Number _____ Sales Rep. Signature _____ Phone # _____

Page 1 of 6

I. BUSINESS INFORMATION

Client's Business Name (<i>Doing Business As</i>):			Client's Corporate/Legal Name (<i>Use Also For Headquarter's Information</i>):		
Business Address:			Billing Address (<i>If Different Than Location Address</i>):		
City:	State:	Zip:	City:	State:	Zip:
Location Phone #:		Location Fax #:		Contact Name:	
Business E-mail Address:			Contact Fax # / E-mail Address:		
Business Website Address:			Contact Phone #:		
Date Business Started:			Send Retrieval Requests to: <input type="checkbox"/> Business Location <input type="checkbox"/> Corp/Legal Location Send Merchant Monthly Statement to: <input type="checkbox"/> Business Location <input type="checkbox"/> Corp/Legal Location		
Customer Service Phone #:		Customer Service E-mail Address:		Statement Delivery Method:	
				(choose one) <input type="checkbox"/> Print and Mail <input type="checkbox"/> Online via AccessOne	
<input type="checkbox"/> INDIVIDUAL/SOLE PROPRIETORSHIP: State in which Certificate of Assumed Name Filed: _____ State: _____		<input type="checkbox"/> TAX EXEMPT ORGANIZATION (501C) State: _____		<input type="checkbox"/> GOVERNMENT (Federal, State, Local)	
<input type="checkbox"/> CORPORATION – CHAPTER S, C State: _____		<input type="checkbox"/> INTERNATIONAL ORGANIZATION Location Filed: _____		<input type="checkbox"/> LIMITED LIABILITY COMPANY State Filed: _____	
<input type="checkbox"/> MEDICAL OR LEGAL CORPORATION State: _____		<input type="checkbox"/> ASSOCIATION/ESTATE/TRUST State Filed: _____		<input type="checkbox"/> PARTNERSHIP State Filed: _____	
Name (<i>as it appears on your income tax return</i>)			FEDERAL TAX ID # (<i>as it appears on your income tax return</i>)		<input type="checkbox"/> I certify that I am a foreign entity/nonresident alien. (<i>If checked, please attach IRS Form W-8.</i>)

NOTE: Failure to provide accurate information may result in a withholding of merchant funding per IRS regulations. (See Part IV, Section A.4 of your Program Guide for further information.)

*SIC/MCC: _____ Final Auth. Indicator: ☐ 0 (Pre Auth.) ☐ 1 (Final Auth.) IATA/ARC: _____ (MCC 4722 Only)

Note: *If your business is classified as High Risk and assigned (or is later assigned based upon your business activity) any of the following Merchant Category Codes (MCC): 5966, 5967 and 7841¹, then registration is required with Visa and/or MasterCard within 30 days from when your account becomes active. An Annual Registration Fee of \$500 may apply for Visa and/or MasterCard (total registration fees could be \$1,000.00). Failure to register could result in fines in excess of \$10,000.00 for violating Visa and/or MasterCard regulations².

¹Registration for MCC 7841 is only required for non-face-to-face adult content.

²Information herein, including applicable MCCs, is subject to change.

Detailed Explanation of Type of Merchandise, Products or Services Sold:

2. ADDITIONAL CREDIT / SITE SURVEY INFORMATION - ALL MERCHANTS

<p>1. Zone: <input type="checkbox"/> Business District <input type="checkbox"/> Industrial <input type="checkbox"/> Residential</p> <p>2. Location: <input type="checkbox"/> Mall <input type="checkbox"/> Office <input type="checkbox"/> Home <input type="checkbox"/> Shopping Area <input type="checkbox"/> Apartment <input type="checkbox"/> Isolated <input type="checkbox"/> Door-to-Door <input type="checkbox"/> Flea Market <input type="checkbox"/> Other</p> <p>3. How many employees: _____</p> <p>4. How many registers/Terminals: _____</p> <p>5. Is proper license visible? <input type="checkbox"/> Yes <input type="checkbox"/> No, explain: _____</p> <p>6. Where is the merchant name displayed at the site? <input type="checkbox"/> Window <input type="checkbox"/> Door <input type="checkbox"/> Store Front</p> <p>7. Merchant Occupies: <input type="checkbox"/> Ground Floor <input type="checkbox"/> Other: _____</p> <p>8. # of Floors/Levels: <input type="checkbox"/> 1 <input type="checkbox"/> 2-4 <input type="checkbox"/> 5-10 <input type="checkbox"/> 11+</p> <p>9. Remaining Floor(s) Occupied by: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Combination <input type="checkbox"/> None</p> <p>10. Approximate Square Footage: <input type="checkbox"/> 0-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501-2,000 <input type="checkbox"/> 2,001 plus</p> <p>11. Are customers required to leave a deposit? <input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, % of deposit required: _____%</p> <p>12. Return Policy: <input type="checkbox"/> Full Refund <input type="checkbox"/> Exchange Only <input type="checkbox"/> None</p>	<p>13. Do you have a refund policy for MC/Visa/Discover® Network-PayPal/American Express OptBlue® Sales? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, check one: <input type="checkbox"/> Exchange <input type="checkbox"/> MC/Visa/Discover Network-PayPal/ <input type="checkbox"/> Store Credit American Express OptBlue® Credit If MC/V/Discover Network-PayPal/American Express OptBlue® Credit, within how many days do you submit credit transactions? <input type="checkbox"/> 0-3 <input type="checkbox"/> 4-7 <input type="checkbox"/> 8-14 <input type="checkbox"/> Over 14</p> <p>14. Advertising Method (<i>Attach at least one</i>): <input type="checkbox"/> Catalog <input type="checkbox"/> Brochure <input type="checkbox"/> Direct Mail <input type="checkbox"/> TV/Radio <input type="checkbox"/> Internet <input type="checkbox"/> Phone <input type="checkbox"/> Newspaper/Journals <input type="checkbox"/> Other <i>Marketing Materials required for Mail Order, B to B, Internet over \$1 Million in annual volume. Attach Web Page for Internet Merchant.</i></p> <p>15. Previous Processor: _____</p> <p>16. Check Reason For Leaving: <input type="checkbox"/> Rate <input type="checkbox"/> Service <input type="checkbox"/> Terminated <input type="checkbox"/> Other: _____</p> <p style="text-align: center;">Mail/Telephone Order/Business to Business/Internet Information <i>(All Questions must be Answered)</i></p> <p>1. What is the time frame from transaction to delivery? (% of orders delivered in): 0-7 days _____% + 8-14 days _____% + 15-30 days _____% + over 30 days _____% = 100%</p> <p>2. MC/Visa/Discover Network-PayPal/American Express OptBlue® sales are deposited (<i>check one</i>): <input type="checkbox"/> Date of order <input type="checkbox"/> Date of delivery <input type="checkbox"/> Other (<i>specify</i>): _____</p> <p>3. Does any of your cardholder billing involve automatic renewals or recurring transactions (<i>i.e., cardholder authorizes initial sale only</i>)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
--	--

Merchant Initials: _____

3. OWNERS / PARTNERS / OFFICERS															
Provide the following information for each individual who owns, directly or indirectly, 25% or more of the equity interest of your business.															
OWNER / PARTNER / OFFICER 1															
Name: <i>(First, MI, Last)</i>				% Ownership:		Title:									
Home Address: <i>(No P.O. Box)</i>						City:		State:		Zip:		Country:			
Telephone #:			Social Security #:			D.O.B.:		DL #:			State:				
OWNER / PARTNER / OFFICER 2						OWNER / PARTNER / OFFICER 3									
Name: <i>(First, MI, Last)</i>				% Ownership:		Name: <i>(First, MI, Last)</i>				% Ownership:					
Title:		Telephone #:				Title:		Telephone #:							
Home Address: <i>(No P.O. Box)</i>						Home Address: <i>(No P.O. Box)</i>									
City:		State:		Zip:		Country:		City:		State:		Zip:		Country:	
D.O.B.:			Social Security #:			D.O.B.:			Social Security #:						
OWNER / PARTNER / OFFICER 4						OWNER / PARTNER / OFFICER 5									
Name: <i>(First, MI, Last)</i>				% Ownership:		Name: <i>(First, MI, Last)</i>				% Ownership:					
Title:		Telephone #:				Title:		Telephone #:							
Home Address: <i>(No P.O. Box)</i>						Home Address: <i>(No P.O. Box)</i>									
City:		State:		Zip:		Country:		City:		State:		Zip:		Country:	
D.O.B.:			Social Security #:			D.O.B.:			Social Security #:						
4. SETTLEMENT INFORMATION															
Deposit Bank:															
Transit/ABA #:						Deposit Account #:									
ACH Detail Flag: <input type="checkbox"/> Individual <input type="checkbox"/> Combined <input type="checkbox"/> Separate <i>(defaults to Combined if option not selected)</i>															
5. TRANSACTION INFORMATION															
FINANCIAL DATA										WHERE IS SALE TRANSACTED? <i>(Must = 100%)</i>					
Gross YEARLY Sales Volume (Cash + Credit + Debit + Check)		\$ _____		Avg. MC/Visa/Discover Network - PayPal Ticket <i>(Estimate If Never Processed in Past)</i>		\$ _____				Store Front/Swiped _____%					
Average YEARLY MC/Visa Volume		\$ _____		Avg. American Express OptBlue® Ticket <i>(Estimate If Never Processed in Past)</i>		\$ _____				Internet _____%					
Average YEARLY Discover Network - PayPal Volume		\$ _____		Highest Ticket Amount		\$ _____				Mail Order _____%					
Average YEARLY American Express OptBlue® Volume		\$ _____								Telephone Order _____%					
Seasonal? <input type="checkbox"/> No <input type="checkbox"/> Yes High Volume Months Open: _____										Total _____ 100%					
6. GRID INFORMATION - INTERNAL USE ONLY															
AUTHORIZATION GRID ID#: _____				USER DEFINED GRID ID#: _____				MFC GRID ID: _____ <i>8-pos. Alpha/Numeric</i>							
MC TIERED GRID ID <i>8-pos. Alpha/Numeric</i>		VISA TIERED GRID ID <i>8-pos. Alpha/Numeric</i>		DISCOVER NETWORK - PayPal TIERED GRID ID <i>8-pos. Alpha/Numeric</i>		AMERICAN EXPRESS OptBlue® TIERED GRID ID <i>8-pos. Alpha/Numeric</i>									
MC CREDIT MPG ID <i>8-pos. Alpha/Numeric</i>		VISA CREDIT MPG ID <i>8-pos. Alpha/Numeric</i>		DISCOVER NETWORK - PayPal CREDIT MPG ID <i>8-pos. Alpha/Numeric</i>		AMERICAN EXPRESS OptBlue® CREDIT MPG ID <i>8-pos. Alpha/Numeric</i>									
MC DEBIT MPG ID <i>8-pos. Alpha/Numeric</i>		VISA DEBIT MPG ID <i>8-pos. Alpha/Numeric</i>		DISCOVER NETWORK DEBIT MPG ID <i>8-pos. Alpha/Numeric</i>											
7. SERVICE FEE SCHEDULE															
Accept all MasterCard, Visa, Discover Network and American Express OptBlue® Transactions <i>(presumed, unless any selections below are checked)</i>															
MasterCard			Visa			Discover Network			American Express OptBlue®						
<input type="checkbox"/> MC Credit Transactions			<input type="checkbox"/> Visa Credit Transactions			<input type="checkbox"/> Discover Network Credit Transactions			<input type="checkbox"/> American Express Credit Transactions						
<input type="checkbox"/> MC Non-PIN Debit Trans.			<input type="checkbox"/> Visa Non-PIN Debit Trans.			<input type="checkbox"/> Discover Network Non-PIN Debit Trans.									
						Discover Network - PayPal									
<input type="checkbox"/> Discount Collected <input type="checkbox"/> Daily <input type="checkbox"/> Monthly						<input type="checkbox"/> Discover Network - PayPal Credit Transactions									

Merchant Initials: _____

7. SERVICE FEE SCHEDULE (cont'd)											
Tiered											
Discount Fees (Based on Gross Sales Volume)											
	Discount	MPG TXN Fee		Discount	MPG TXN Fee		Discount	MPG TXN Fee		Discount	MPG TXN Fee
MC Qual Credit	%	\$	Visa Qual Credit	%	\$	Discover Network-PayPal Qual Credit	%	\$	American Express OptBlue® Qual Credit	%	\$
MC Mid-Qual Credit	%	\$	Visa Mid-Qual Credit	%	\$	Discover Network-PayPal Mid-Qual Credit	%	\$	American Express OptBlue® Mid-Qual Credit	%	\$
MC Non-Qual Credit	%	\$	Visa Non-Qual Credit	%	\$	Discover Network-PayPal Non-Qual Credit	%	\$	American Express OptBlue® Non-Qual Credit	%	\$
MC Worldcard Qual	%	\$	Visa Rewards 1	%	\$						
MC Worldcard Mid-Qual	%	\$	Visa Rewards 2	%	\$						
MC Worldcard Non-Qual	%	\$									
MC Qual Debit	%	\$	Visa Qual Debit	%	\$	Discover Network Qual Debit	%	\$			
MC Mid-Qual Debit	%	\$	Visa Mid-Qual Debit	%	\$	Discover Network Mid-Qual Debit	%	\$			
MC Non-Qual Debit	%	\$	Visa Non-Qual Debit	%	\$	Discover Network Non-Qual Debit	%	\$			
MC Regulated Debit Discount	%	\$	Visa Regulated Debit Discount	%	\$	Discover Network Regulated Debit Disc't	%	\$			
ERR											
	Discount	Non-Qual Fees		Discount	Non-Qual Fees		Discount	Non-Qual Fees		Discount	Non-Qual Fees
MC Qual Credit	%	%	Visa Qual Credit	%	%	Discover Network-PayPal Qual Credit	%	%	American Express OptBlue® Qual Credit	%	%
MC Qual Debit	%	%	Visa Qual Debit	%	%	Discover Network Qual Debit	%	%			
Pass Through Interchange											
<input type="checkbox"/> Net Only - Includes Dues and Assessments <input type="checkbox"/> Gross Only - Includes Dues and Assessments											
	Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)		Discount (Based on Gross Sales Vol.)
MC Qual Credit	%	Visa Qual Credit	%	Discover Network-PayPal Qual Credit	%	American Express OptBlue® Qual Credit	%				
MC Qual Debit	%	Visa Qual Debit	%	Discover Network Qual Debit	%	American Express OptBlue® has Program Pricing and not Interchange and are subject to change.					
Other Item Rate											
MC Credit	\$	Visa Credit	\$	Discover Network-PayPal Credit	\$	American Express OptBlue® Credit	\$				
MC Debit	\$	Visa Debit	\$	Discover Network Debit	\$						
Other Volume %											
MC Credit	%	Visa Credit	%	Discover Network-PayPal Credit	%	American Express OptBlue® Credit	%				
MC Debit	%	Visa Debit	%	Discover Network Debit	%						
PIN Debit											
<input type="checkbox"/> Pass Through Debit Network Fees Other Item Rate \$ _____ (per item) Other Volume Percent _____ % (per item)											
Fleet											
WEX: Other Item Rate \$ _____ (per item) Voyager: Qual _____ % Other Item Rate \$ _____ (per item)											
TeleCheck											
<input type="checkbox"/> In-Person Warranty <input type="checkbox"/> Mail Order Warranty <input type="checkbox"/> Single Hold Check Warranty <input type="checkbox"/> Multiple Hold Check Warranty <input type="checkbox"/> In-Person Paper Warranty <input type="checkbox"/> C.O.D. Warranty											
SE # _____ Inquiry Rate _____ % Per TXN Fee \$ _____ Stmt/Processing Fee \$ <u>5.00</u> Dec. Risk Surcharge <u>.10</u> %											
Monthly Minimum Fee \$ _____ (Per Location) Customer Requested Operator Call (CROC) \$ <u>2.50</u> Unauthorized Return Fee \$ <u>5.00</u>											
Miscellaneous Fees											
<input type="checkbox"/> Dues and Assessments		V/MC Chargeback Fee (Per Item) \$ _____		V/MC Retrieval Fee (12B Letter) (Per Item) \$ _____		Return Trans. Fee (Per Item) \$ _____					
Sales Transaction Fee (Per Item) \$ _____		Batch Fee (Per Item) \$ _____		Early Termination Fee (One Time Fee) \$ _____		eIDS Access Fee (Flat Rate) \$ _____					
EBT – Food Stamps (Per Item) \$ _____ #: _____		EBT – Cash Benefits (Per Item) \$ _____		Other: _____ \$ _____							
Minimum Monthly Fee \$ _____		Monthly Statement Fee (Acct on File) \$ _____		ACH Reject Fee (Per Item) \$ _____		Pass Visa Trans Integrity Fee <input type="checkbox"/> Yes <input type="checkbox"/> No					
MC License Fee (Per Sales Item) \$ _____		(Sales Volume) _____ %		(Flat Rate) \$ _____		<input type="checkbox"/> Monthly <input type="checkbox"/> Annually in December					
Visa Proc Fee (Per Item) \$ _____		MC Proc Fee (Per Item) \$ _____		Visa BIN Fee (Per Item) \$ _____		MC ICA Fee (Per Item) \$ _____					
Pass Visa Fixed Acquirer Network Fee (FANF) <input type="checkbox"/> Yes <input type="checkbox"/> No		Visa FANF Card Present Surcharge (Flat Rate) \$ _____		Visa FANF Card Not Present Surcharge (Flat Rate) \$ _____							
Pass Visa Acquirer Processing Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Visa Misuse of Auth Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Visa Zero Floor Limit Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Visa Int'l Acquirer Fee <input type="checkbox"/> Yes <input type="checkbox"/> No					
Pass MC Acquirer Support Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass MC Cross Border Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Discover Data Usage Charge <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Visa Acq ISA Fee <input type="checkbox"/> Yes <input type="checkbox"/> No					
Pass Discover Int'l Processing Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass Discover Int'l Service Fee <input type="checkbox"/> Yes <input type="checkbox"/> No		Pass MC Nat'l Acquirer Brand Usage (NABU) Fee <input type="checkbox"/> Yes <input type="checkbox"/> No							

Merchant Initials: _____

7. SERVICE FEE SCHEDULE (cont'd)					
Authorization & Capture Transaction Fees			First Data Payeezy SM Gateway Services		
MC/Visa Auth & Capture Fee:	\$ _____	(per item)	<input type="checkbox"/> Payeezy Gateway Participation Payeezy Gateway Effective Date: _____		
Discover Network PayPal Auth & Capture Fee:	\$ _____	(per item)	Payeezy Gateway One Time Setup Fee \$ _____ (one time)		
American Express OptBlue [®] Auth & Capture Fee:	\$ _____	(per item)	Payeezy Gateway Monthly Fee \$ _____ (monthly)		
American Express Pass Through (existing) SE #:	_____		Payeezy Gateway Auth Fee \$ _____ (per item)		
Voice Authorization	\$ _____	(per item)	Payeezy Gateway AVS Fee \$ _____ (per item)		
Electronic AVS Fee	\$ _____	(per item)	Payeezy PayPal Auth Fee \$ _____ (per item)		
Voice AVS Fee	\$ _____	(per item)	Payeezy PayPal Sale Fee \$ _____ (per item)		
ARU Fee	\$ _____	(per item)	Payeezy PayPal Return Fee \$ _____ (per item)		
First Data Payeezy SM Gateway Services Telecheck					
Payeezy Gateway TeleCheck Auth Fee	\$ _____	(per item)	Payeezy Gateway TeleCheck Deposit Fee	\$ _____	(per item)
			Payeezy Gateway TeleCheck Adjustment Fee	\$ _____	(per item)
User Defined Grid Fees			TIN/TFN & Regulatory Product Fees		
Wireless Monthly Service Fee	\$ _____	AccessOne Fee	\$ _____	Reg. Product Fee	(Monthly) \$ _____
Customer Service Fee	\$ _____	Debit Access Fee	\$ _____	TIN/TFN Invalid	(Monthly) \$ _____
Supplies: _____	\$ _____	Other: _____	\$ _____	Website Usage	(Per Item) \$ _____
Merchant Fee Control Grid Fees					
Annual Fee	\$ _____	Other: _____ \$ _____		Other: _____ \$ _____	
Month _____		<input type="checkbox"/> Per item <input type="checkbox"/> Monthly <input type="checkbox"/> Annually Month _____		<input type="checkbox"/> Per item <input type="checkbox"/> Monthly <input type="checkbox"/> Annually Month _____	
Pass Visa Account Verification Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Account Verification Fee Surcharge (Per Item) \$ _____			
Pass VISA BIN/ICA Fee (Note: this fee can only be used for Shared Systems Only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	VISA BIN/ICA Fee Surcharge (Per Item) \$ _____			
Pass Visa Staged Digital Wallet Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Staged Digital Wallet Fee Surcharge (Per Item) \$ _____			
Pass Visa B2B Virtual Payments Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa B2B Virtual Payments Fee Surcharge (Sales Volume) _____ %			
Pass Visa File Transmission Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa File Transmission Transaction Fee Surcharge (Per Item) \$ _____			
Pass Visa Acquirer Credit Voucher Data Processing Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Acquirer Credit Voucher Data Processing Fee Surcharge (Per Item) \$ _____			
Pass Visa AFD Non Participation Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa AFD Non Participation Fee Surcharge (Per Item) \$ _____			
Pass Discover Card Account Verification Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Card Account Verification Fee Surcharge (Per Item) \$ _____			
Pass Discover Network Auth Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Network Auth Fee Surcharge (Flat Rate) \$ _____ or (Per Item) \$ _____			
Discover Dispute Fee	(Per Item) \$ _____	Discover Retrieval Fee (Per Item) \$ _____			
Pass PayPal Participation Authorization Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	PayPal Participation Authorization Fee Surcharge (Sales Volume) _____ %			
Pass American Express OptBlue [®] Access Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No				
Pass American Express OptBlue [®] Network Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express OptBlue [®] Network Fee Surcharge (Sales Volume) _____ %			
American Express Dispute Fee	(Per Item) \$ _____	American Express Retrieval Fee (Per Item) \$ _____			
Pass MasterCard Processing Integrity Fee Pre Auth	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Fee Pre Auth Surcharge (Per Item) \$ _____			
Pass MasterCard Processing Integrity Fee Undefined Auth	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Fee Undefined Auth Surcharge (Per Item) \$ _____			
Pass MasterCard Processing Integrity Fee Final Auth %	<input type="checkbox"/> Yes <input type="checkbox"/> No	Pass MasterCard Processing Integrity Fee Final Auth Minimum Per Item <input type="checkbox"/> Yes <input type="checkbox"/> No			
Pass MasterCard Processing Integrity Invalid Acquirer Authorization ICA Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Invalid Acquirer Authorization ICA Fee Surcharge (Per Item) \$ _____			
Pass MasterCard Processing Integrity Message Format Error Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Message Format Error Fee Surcharge (Per Item) \$ _____			
Pass MasterCard Processing Integrity Image Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Processing Integrity Image Fee Surcharge (Per Item) \$ _____			
Pass MasterCard BIN/ICA Fee (Note: this fee can only be used for Shared Systems Only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard BIN/ICA Fee Surcharge (Per Item) \$ _____			
Pass MasterCard Account Status Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Account Status Fee Surcharge (Per Item) \$ _____			
Pass MasterCard Kilobyte Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Kilobyte Fee Surcharge (Flat Rate) \$ _____ or (Per Item) \$ _____			
Pass MasterCard CVC2 Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard CVC2 Fee Surcharge (Flat Rate) \$ _____ or (Per Item) \$ _____			
Pass MasterCard ICA AVS Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard ICA AVS Fee Surcharge (Per Item) \$ _____			
Pass MasterCard Digital Enablement Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Digital Enablement Fee Surcharge (Sales Volume) _____ %			
Pass MasterCard Business to Business US	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Business to Business US Surcharge (Sales Volume) _____ %			
Pass MasterCard SecureCode Transaction Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard SecureCode Transaction Fee Surcharge (Flat Rate) \$ _____			

Merchant Initials: _____

7. SERVICE FEE SCHEDULE (cont'd)			
Merchant Fee Control Grid Fees (cont'd)			
Pass MasterCard Location Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Location Fee Surcharge	(Flat Rate) \$ _____
Pass Retrieval Received Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Retrieval Received Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Chargeback Received Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Chargeback Received Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Retrieval Outgoing Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Retrieval Outgoing Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Chargeback Outgoing Fax/Mail Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Chargeback Outgoing Fax/Mail Fee Surcharge	(Per Item) \$ _____
Pass Visa Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass Discover Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass American Express Accept/No Accept Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express Accept/No Accept Fee Surcharge	(Per Item) \$ _____
Pass Visa Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Visa Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass MasterCard Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	MasterCard Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass Discover Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Discover Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass American Express Late Response to Dispute Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	American Express Late Response to Dispute Fee Surcharge	(Per Item) \$ _____
Pass STAR Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	STAR Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass STAR Access Dispute Fee	(Per Item) \$ _____	Pass STAR Access Retrieval Fee	(Per Item) \$ _____
Pass Pulse Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Pulse Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass Jeanie Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Jeanie Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass NYCE Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	NYCE Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass Accel Debit Network Annual Fee	<input type="checkbox"/> Yes <input type="checkbox"/> No	Accel Debit Network Annual Fee Surcharge	(Flat Rate) \$ _____
Pass NACHA Unauthorized Entry Fee	(Per Item) \$ <u>4.50</u>	NACHA Unauthorized Entry Fee Surcharge	(Per Item) \$ _____
Commercial Card Interchange Service <input type="checkbox"/> Yes <input type="checkbox"/> No With the Commercial Card Interchange Service, when transactions do not include any tax information we will compute the sales tax based on the applicable rate at your location to allow you to obtain the best interchange. When we compute the sales tax on your behalf, we will retain 50% of the interchange savings. If a transaction is fully or partially exempt, you should enter the tax amount (even if that amount is \$0.00) as CCIS applies your local tax rate to the full amount of transactions when the prompt is bypassed.			
TransArmor Data Protection Fee	(Flat Rate) \$ _____	TransArmor Terminal Fee	(Flat Rate) \$ _____
Pass PCI Non Compliance Fee (Monthly)	(Flat Rate) \$ _____	PCI Rapid Comply	(Flat Rate) \$ _____
Clover Security Plus Fee	(Flat Rate) \$ _____	Clover Security for Clover Fee	(Flat Rate) \$ _____
Clover Security Non Clover Fee	(Flat Rate) \$ _____	Clover Service Fee Monthly (per station)	(Flat Rate) \$ _____
Clover Security Plus w/o TransArmor Data Protection	(Flat Rate) \$ _____	Clover Insights Fee (per MID)	(Flat Rate) \$ _____
Wireless Monthly Service Fee	(Per Item) \$ _____	Wireless Activation Fee	(Flat Rate) \$ _____
Clover Go Monthly Fee (per MID)	(Flat Rate) \$ _____		
DCC Chargeback Fee	Per Chargeback \$ _____	DCC Retrieval Fee	Per Retrieval \$ _____
		DCC Transaction Fee	Per Settlement \$ _____
8. EQUIPMENT/THIRD PARTY INFORMATION			
Network (Front End): <input type="checkbox"/> Omaha <input type="checkbox"/> North <input type="checkbox"/> Nashville <input type="checkbox"/> Bypass			
Do you use any third party to store, process or transmit cardholder data? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, identify the Third Party Processor used: <input type="checkbox"/> 00 None <input type="checkbox"/> 01 Yahoo <input type="checkbox"/> 02 Authorize.net <input type="checkbox"/> 03 Cybersource <input type="checkbox"/> 04 Verifone <input type="checkbox"/> 05 Merchant Link <input type="checkbox"/> 06 Shift 4 <input type="checkbox"/> 08 FIS <input type="checkbox"/> 09 Six Payment Services Corp <input type="checkbox"/> 10 Verisign <input type="checkbox"/> 99 Other (please specify) _____			
INTERNET GATEWAY: <input type="checkbox"/> First Data Global Gateway <input type="checkbox"/> Other: _____			
Wireless Network: _____			
PC/Internet Software _____	Quantity _____	<input type="checkbox"/> New	<input type="checkbox"/> Rent <input type="checkbox"/> Lease <input type="checkbox"/> Existing
Terminal Model _____	Quantity _____	<input type="checkbox"/> New	<input type="checkbox"/> Rent <input type="checkbox"/> Lease <input type="checkbox"/> Existing
Printer Model _____	Quantity _____	<input type="checkbox"/> New	<input type="checkbox"/> Rent <input type="checkbox"/> Lease <input type="checkbox"/> Existing
PIN Pad _____	Quantity _____	<input type="checkbox"/> New	<input type="checkbox"/> Rent <input type="checkbox"/> Lease <input type="checkbox"/> Existing

Merchant Initials: _____

8. EQUIPMENT/THIRD PARTY INFORMATION (cont'd)				
LEASE COMPANY: (04) First Data Global Leasing		Annual Tax Handling Fee:		
Lease Term: _____ Mos.		<input type="checkbox"/> AL, AR, CA, CT, GA, IN, KY, LA, MS, MO, NE, NV, NM, NC, OK, OR, RI, SC, TN, TX, VT, VA, WA, WV, WI, WY <u>30.20</u>		<input type="checkbox"/> All other States <u>10.20</u>
Total Monthly Lease Charge: \$ _____		Total Cost To Lease (without tax): \$ _____		
<small>(w/o taxes, late fees, or other charges that may apply – See Lease Agreement in Program Guide for details. This is a <u>non-cancelable</u> lease for the full term indicated.)</small>				
Option to purchase: If you wish to buyout the equipment, please contact 1-877-257-2094 to obtain the cost.				
Address _____		City _____	State _____	Zip _____ Attention: _____
9. SIGNATURE(S)				
<p>Client certifies that all information set forth in this completed Merchant Processing Application is true and correct and that Client has received a copy of the Program Guide and Confirmation Page, which is part of this Merchant Processing Application (consisting of Sections 1-9), and by this reference incorporated herein. Client acknowledges and agrees that we, our Affiliates and our third party subcontractors and/or agents may use automatic telephone dialing systems to contact Client at the telephone number(s) Client has provided in this Merchant Processing Application and/or may leave a detailed voice message in the event that Client is unable to be reached, even if the number provided is a cellular or wireless number or if Client has previously registered on a Do Not Call list or requested not to be contacted Client for solicitation purposes. Client hereby consents to receiving commercial electronic mail messages from us, our Affiliates and our third party subcontractors and/or agents from time to time. Client further agrees that Client will not accept more than 20% of its card transactions via mail, telephone or Internet order. However, if your Application is approved based upon contrary information stated in Section 5, Transaction Information section above, you are authorized to accept transactions in accordance with the percentages indicated in that section. This signature page also serves as a signature page to the Equipment Lease Agreement, and the TeleCheck Solutions Agreement appearing in the Third Party Section of the Program Guide, if selected, the undersigned Client being the “Lessee” for purposes of such Equipment Lease Agreement and/or “You” and “Your” for the purposes of the TeleCheck Solutions Agreement.</p> <p>By signing below, each of the undersigned authorizes us, our Affiliates and our third party subcontractors and/or agents to verify the information contained in this Application and to request and obtain from any consumer reporting agency and other sources, including bank references, personal and business consumer reports and other information and to disclose such information amongst each other for any purpose permitted by law. If the Application is approved, each of the undersigned also authorizes us, our Affiliates and our third party subcontractors and/or agents to obtain subsequent consumer reports and other information from other sources, including bank references, in connection with the review, maintenance, updating, renewal or extension of the Agreement or for any other purpose permitted by law and disclose such information amongst each other. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us, our Affiliates and our third party subcontractors and/or agents. Each of the undersigned authorizes us, our Affiliates and our third party subcontractors and/or agents to provide amongst each other the information contained in this Merchant Processing Application and Agreement and any information received subsequent thereto from all references, including banks and consumer reporting agencies for any purpose permitted by law. It is our policy to obtain certain information in order to verify your identity while processing your account application.</p> <p>As part of our approval, processing services, continuing fraud prevention and account review processes, the undersigned consents to the use of information gathered online or that you submit to us, and/or automated electronic computer security screening, by us or our third party vendors.</p> <p>Client authorizes FDMS and Bank and their affiliates to debit Client's designated bank account via Automated Clearing House (ACH) for costs associated with equipment hardware, software and shipping.</p> <p>You further acknowledge and agree that you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. as may be amended from time to time, or processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control (OFAC).</p> <p>Client certifies, under penalties of perjury, that the federal taxpayer identification number and corresponding filing name provided herein are correct.</p> <p>Client agrees to all the terms of this Merchant Processing Application and Agreement. This Merchant Processing Application and Agreement shall not take effect until Client has been approved and this Agreement has been accepted by FDMS and Bank.</p> <p>Client's Business Principal/Officer:</p>				
Signature X _____ Title _____		(Servicers): For First Data Merchant Services LLC and Wells Fargo Bank, N.A., (a member of Visa USA, Inc. and MasterCard International, Inc.) X Signature _____		
Print Name of Signer _____ Date _____				
Signature X _____ Title _____				
Print Name of Signer _____ Date _____				
Signature X _____ Title _____				
Print Name of Signer _____ Date _____				
TELECHECK ACH AUTHORIZATION				
ACH Debit and Credit Authorization: Client authorizes its Financial Institution to pay and charge to its account the amount(s) due TeleCheck under this TeleCheck Agreement and to accept all credits and debits made to its account by TeleCheck via electronic funds transfer in connection with TeleCheck's services under this TeleCheck Agreement. This authorization shall remain in effect until (30) thirty days after revoked in writing.				
Signature X _____		Print Name/Title: _____		Date _____
Authorized Signature on TeleCheck Account for ACH				
Personal Guarantee: In exchange for First Data Merchant Services LLC, Wells Fargo Bank, N.A., (a member of Visa USA, Inc. and MasterCard International, Inc.), and TeleCheck Services, Inc. (the Guaranteed Parties) acceptance of, as applicable, the Agreement, and/or the Equipment Lease Agreement and/or the TeleCheck/TRS Solutions Agreement, the undersigned unconditionally and irrevocably guarantees the full payment and performance of Client's obligations under the foregoing agreements, as applicable, as they now exist or as modified from time to time, whether before or after termination or expiration of such agreements and whether or not the undersigned has received notice of any amendment of such agreements. The undersigned waives notice of default by Client and agrees to indemnify the Guaranteed Parties for any and all amounts due from Client under the foregoing agreements. The Guaranteed Parties shall not be required to first proceed against Client to enforce any remedy before proceeding against the undersigned. This is a continuing personal guaranty and shall not be discharged or affected for any reason. The undersigned understands that this is a Personal Guaranty of payment and not of collection and that the Guaranteed Parties are relying upon this Personal Guaranty in entering into the foregoing agreements, as applicable.				
Personal Guarantee Signature X _____		Print Name: _____		Date _____
Personal Guarantee Signature X _____		Print Name: _____		Date _____



First Data Global Leasing
4000 Coral Ridge Drive
Coral Springs, FL 33065
1-(877) 257-2094

EQUIPMENT LEASE AGREEMENT

Merchant ID _____

Sales Rep. Name _____

Sales ID _____

MERCHANT INFORMATION

Corporate Business Name				DBA Name	
Business Address	City	County	State	Zip Code	Business Phone Number
Type of Business	Years in Business		Tax ID#:		
Billing Address (if different than above)		City	State	Zip Code	
Bank Name	Routing Number	Account Number	(Provide copy of Void Check)		

Business Type
☐ CORPORATION
☐ PARTNERSHIP
☐ PROPRIETORSHIP
☐ NON-PROFIT

EQUIPMENT SUPPLIER

DESCRIPTION OF LEASED EQUIPMENT

First Data Merchant Services Corp.
1307 Walt Whitman Road
Melville, New York 11747

Equipment Type	Quantity	Unit price without tax
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

SCHEDULE OF PAYMENTS

Payable at Lease Signing (amounts include tax)

☐ Advance Payments \$ _____
☐ Security Deposit \$ _____
☐ _____ \$ _____
TOTAL \$ _____

☒ Equipment Service Program

Lease Term: _____ (in months)

Monthly Lease Charge: \$ _____
(total unit price without tax)

PLUS additional monthly charges: \$ _____

Total Monthly Charges:* \$ _____

**All charges subject to applicable tax*

LEASE ACCEPTANCE

Undersigned agrees to all terms and conditions contained in this Equipment Lease Agreement. Lessee authorizes First Data Merchant Services Corp. or its agents, to request and obtain from a consumer reporting agency personal and business consumer reports. If the Application is approved, each of the undersigned authorizes us to obtain subsequent consumer reports in connection with the maintenance, updating, renewal or extension of the Agreement. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us.

THIS IS A NON-CANCELABLE LEASE FOR THE FULL TERM INDICATED HEREIN.

X

Lessee Signature

Title

Print Name

Date

PERSONAL GUARANTY

Undersigned unconditionally guarantees performance of this Equipment Lease Agreement by Lessee and payment of all sums due hereunder in the event of default, hereby waiving any modification, amendment or extension and notice thereof, and further agrees to the terms of this Equipment Lease Agreement insofar as they apply to the undersigned as guarantor.

X

, An Individual

Personal Guarantor's Signature (No Title Allowed)

Print Name

Home Phone Number

Date

Home Address

City

State

Zip Code

DOB

Social Security #

DO NOT WRITE IN THIS SPACE

Lessor Acceptance:

X

Name (please print or type)

Title

Signature

Date

This Equipment Lease Agreement ("Agreement") is being entered into by and between First Data Merchant Services Corporation and the Lessee identified in the signature panel of this Agreement. In this Agreement, the words "we", "our" and "us" refer to First Data Merchant Services Corporation and its successors and assigns and the words "you" and "your" refer to Lessee and its permitted successors and assigns.

Lessee hereby authorizes us or our designees, successors or assigns (hereinafter "Lessor") to withdraw any amounts including any and all sales taxes now due or hereinafter imposed, owed by Lessee in conjunction with this Equipment Lease Agreement by initiating debit entries to Lessee's account at the bank named above (hereinafter "Bank"), or such other bank as the Lessee may from time to time use. In the event of default of Lessee's obligation hereunder, Lessee authorizes debit of its account for the full amount due under this Agreement. Further, Lessee authorizes Bank to accept and to charge any debit entries initiated by Lessor to Lessee's account. In the event that Lessor withdraws funds erroneously from Lessee's account, Lessee authorizes Lessor to credit Lessee's account for an amount not to exceed the original amount of the debit. This authorization is to remain in full force and effect until Lessor and Bank have received written notice from Lessee of its termination in such time and in such manner as to afford Lessor and Bank a reasonable opportunity to act.

1. **Equipment.** We agree to lease to you and you agree to lease from us the equipment identified on the cover page of this Agreement or such other comparable equipment we provide you (the "Equipment"), according to the terms and conditions of this Agreement. We are providing the Equipment to you "as is" and make no representations or warranties of any kind as to the suitability of the Equipment for any particular purpose.

2. **Effective Date, Term and Interim Rent.**

(a) This Lease Agreement becomes effective on the earlier of the date we deliver any piece of Equipment to you (the "Delivery Date") or acceptance by us. This Lease Agreement remains in effect until all of your obligations and all of our obligations under it have been satisfied. We will deliver the Equipment to the site designated by you.

(b) The term of this Lease Agreement begins on a date designated by us after receipt of all required documentation and acceptance by us (the "Commencement Date"), and continues for the number of months indicated on the Equipment Lease Agreement. THIS IS A NON-CANCELABLE LEASE FOR THE TERM INDICATED.

(c) You agree to pay an Interim Lease Payment in the amount of one-thirtieth (1/30th) of the monthly lease charge for each day from and including the Delivery Date until the date preceding the Commencement Date.

(d) YOU ACKNOWLEDGE THAT THE EQUIPMENT AND/OR SOFTWARE YOU LEASE UNDER THIS LEASE AGREEMENT MAY NOT BE COMPATIBLE WITH ANOTHER PROCESSOR'S SYSTEMS AND THAT WE DO NOT HAVE ANY OBLIGATION TO MAKE SUCH SOFTWARE AND/OR EQUIPMENT COMPATIBLE IN THE EVENT THAT YOU ELECT TO USE ANOTHER SERVICE PROVIDER. UPON TERMINATION OF YOUR MERCHANT PROCESSING AGREEMENT, YOU ACKNOWLEDGE THAT YOU MAY NOT BE ABLE TO USE THE EQUIPMENT AND/OR SOFTWARE LEASED UNDER THIS LEASE AGREEMENT WITH SAID SERVICE PROVIDER.

3. **Site Preparation.** You will prepare the installation site(s) for the Equipment, including but not limited to the power supply circuits and phone lines, in conformance with the manufacturer's and our specifications and will make the site(s) available to us by the confirmed shipping date.

4. **Payment of Amounts Due.**

(a) The monthly lease charge is due and payable on the same day of each successive month thereafter of the lease period for each piece of lease equipment, except that the first payment of the monthly lease charge for each piece of Equipment is due and payable upon acceptance of the Equipment by you. You agree to pay all assessed costs for delivery and installation of Equipment.

(b) In addition to the monthly lease charge, you shall pay, or reimburse us for, amounts equal to any taxes or assessments on or arising out of this Agreement or the Equipment, and related supplies or any services, use or activities hereunder, including without limitation, state and local sales, use, property, privilege and excise tax, exclusive, however, of taxes based on our net income. Reimbursement of property tax calculation is based on an average tax rate.

(c) Your lease payments will be due despite dissatisfaction with the Equipment for any reason.

(d) Whenever any payment is not made by you in full when due, you shall pay us as a late charge, an amount equal to ten percent of the amount due but no less than \$5.00 for each month during which it remains unpaid (prorated for any partial month), but in no event more than the maximum amount permitted by law. You shall also pay to us an administrative charge of \$10.00 for any debit we attempt to make against your bank account that is rejected, but in no event more than the maximum amount permitted by law.

(e) In the event your account is placed into collections for past due lease amounts, you agree that we can recover a collection expense charge of \$50 for each aggregate payment requiring a collection effort, but in no event more than the maximum amount permitted by law.

5. **Use and Return of Equipment; Insurance.**

(a) You shall cause the Equipment to be operated by competent and qualified personnel in accordance with any operating instructions furnished by us or the manufacturer. You shall maintain the Equipment in good operating condition and protect it from deterioration, normal wear and tear excepted.

(b) You shall not permit any physical alteration or modification of the Equipment, or change the installation site of the Equipment, without our prior written consent.

(c) You shall not create, incur, assume or allow to exist any consensually or judicially imposed liens or encumbrances on, or part with possession of, or sublease the Equipment without our prior written consent.

(d) You shall comply with all governmental laws, rules and regulations relating to the use of the Equipment. You are also responsible for obtaining all permits required to operate the Equipment at your facility.

(e) We or our representatives may, at any time, enter your premises for purposes of inspecting, examining or repairing the Equipment.

(f) The Equipment shall remain our personal property and shall not under any circumstances be considered to be a fixture affixed to your real estate. You shall permit us to affix suitable labels or stencils to the Equipment evidencing our ownership.

(g) You shall keep the Equipment adequately insured against loss by fire, theft, and all other hazards and you shall provide proof of insurance. **The loss, destruction, theft or damage of or to the Equipment shall not relieve you from your obligation to pay the full purchase price or total monthly lease charges hereunder.**

(h) You may choose not to insure the Equipment and participate in the Equipment Service Program. The Equipment Service Program provides a replacement of the Equipment for as long as you participate in the Program during the Lease Term. The Equipment Service Program includes (i) free comparable replacement terminal (new or refurbished) in the event of a defect or malfunction (terminal defects or malfunctions caused by acts of God are not covered by this Program), (ii) free shipping and handling on both the replacement terminal and return of defective terminal, (iii) free overnight shipping and handling on replacement terminal if requested by 3:00 pm ET (Monday - Thursday). If you don't return your damaged equipment, you will be charged the full purchase price of the replacement equipment sent to you. The monthly fee of \$4.95 for the optional Equipment Service Program is a per terminal fee. You can choose to insure the Equipment and terminate your participation in the program at any time by calling our Customer Service department.

6. **Title to Equipment.** We at all times retain title to the Equipment unless we agree otherwise in writing. You agree to execute and deliver to us any statement or instrument that we may request to confirm or evidence our ownership of the Equipment, and you irrevocably appoint us as your attorney-in-fact to execute and file the same in your name and on your behalf. If a court determines that the leasing transaction contemplated by this Agreement does not constitute a financing and is not a lease of the Equipment, then we shall be deemed to have a first lien security interest on the Equipment as of the date of this Agreement, and you will execute such documentation as we may request to evidence such security interest.

7. **Return or Purchase of Equipment at End of Lease Period.** Upon the completion of your lease term or any extension thereof, you will have the option to (a) return the Equipment to us; (b) purchase the Equipment from us for its then fair market value, calculated as a percentage of the aggregate lease payments in accordance with the following: If the term of this Lease is forty-eight (48) months or more, the buyout option as a percentage of the aggregate lease payments shall be ten percent (10%). If the term of this lease is thirty-six (36) to forty-seven (47) months, the buyout option as a percentage of the aggregate lease payments shall be fifteen percent (15%). If the term of this lease is twenty-four (24) to thirty-five (35) months, the buyout option as a percentage of the aggregate lease payments shall be twenty percent (20%); or (c) after the final lease payment has been received by FDGL, the Agreement will revert to a month by

month rental at the existing monthly lease payment. If Client does not want to continue to rent the Equipment, then Client will be obligated to provide FDGL with 30 day written notice to terminate and return the equipment to FDGL. If we terminate the lease pursuant to Section 11(b) due to a default by you, then you shall immediately return the Equipment to us no later than the tenth business day after termination, or remit to us the fair market value of the Equipment as determined in good faith by us. We may collect any amounts due to us under this Section 7 by debiting your bank account, and to the extent we are unable to obtain full satisfaction in this manner, you agree to pay the amounts owed to us promptly upon our request.

8. **Software License.** We retain all ownership and copyright interest in and to all computer software, related documentation, technology, know-how and processes embodied in or provided in connection with the Equipment other than those owned or licensed by the manufacturer of the Equipment (collectively "Software"), and you shall have only a nonexclusive license to use the Software in your operation of the Equipment.

9. **Limitation on Liability.** We are not liable for any loss, damage or expense of any kind or nature caused directly or indirectly by the Equipment, including any damage or injury to persons or property caused by the Equipment. We are not liable for the use or maintenance of the Equipment, its failure to operate, any repairs or service to it, or by any interruption of service or loss of use of the Equipment or resulting loss of business. Our liability arising out of or in any way connected with this Agreement shall not exceed the aggregate lease amount paid to us for the particular Equipment involved. In no event shall we be liable for any indirect, incidental, special or consequential damages. The remedies available to you under this Agreement are your sole and exclusive remedies.

10. **Warranties.**

(a) All warranties express or implied, made to you or any other person are hereby disclaimed including without limitation, any warranties regarding quality, suitability, merchantability, fitness for a particular use, quiet enjoyment, or infringement.

(b) You warrant that you will only use the Equipment for commercial purposes and will not use the Equipment for any household or personal purposes.

11. **Indemnification.** You shall indemnify and hold us harmless from and against any and all losses, liabilities, damages and expenses, (including attorneys' fees) resulting from (a) the operation, use, condition, liens against, or return of the Equipment or (b) any breach by you of any of your obligations hereunder, except to the extent any losses, liabilities, damages or expenses result from our gross negligence or willful misconduct.

12. **Default; Remedies.**

(a) If any debit of your bank account initiated by us is rejected when due, or if you otherwise fail to pay us any amounts due hereunder when due, or if you default in any material respect in the performance or observance of any obligation or provision of this Agreement or any agreement with any of our affiliates, alliances or joint ventures, any such event shall be a default hereunder. Without limiting the foregoing, any default by you under a Merchant Processing Agreement ("MPA") with us or with an Alliance or joint venture to which we are a party will be treated as a default under this agreement. Such a default would include a default resulting from early termination of the MPA, if applicable.

(b) Upon the occurrence of any default, we may at our option, effective immediately without notice, either (i) terminate this lease and our future obligations under this Agreement, repossess the Equipment and proceed in any lawful manner against you for collection of all charges that have accrued and are due and payable, or (ii) accelerate and declare immediately due and payable all monthly lease charges for the remainder of the applicable lease period together with the fair market value of the Equipment (as determined by us), not as a penalty but as liquidated damages for our loss of the bargain. Upon any such termination for default, we may proceed in any lawful manner to obtain satisfaction of the amounts owed to us and, if applicable, our recovery of the Equipment, including entering onto your premises to recover the Equipment. In any case, you shall also be responsible for our costs of collection, court costs and reasonable attorneys' fees, as well as applicable shipping, repair and refurbishing costs of recovered Equipment. You agree that we shall be entitled to recover any amounts due to us under this Agreement by charging your bank account or any other funds of yours that come into our possession or control, or within the possession or control of our affiliates, alliances or joint ventures, or by setting off amounts that you owe to us against any amounts we may owe to you, in any case without notifying you prior to doing so. Without limiting the foregoing, you agree that we are entitled to recover amounts owed to us under this Agreement by obtaining directly from an alliance or joint venture to which we are a party and with which you have entered into an MPA any funds held or available as security for payment under the terms of the MPA, including funds available under the "Reserve Account; Security Interests" section of the MPA, if applicable.

13. **Assignment.** You may not assign or transfer this Agreement, by operation of law or otherwise, without our prior written consent. For purposes of this Agreement, any transfer of voting control of you or your parent shall be considered an assignment or transfer hereof. We may assign or transfer this Agreement and our rights and obligations hereunder, in whole or in part, to any third party without the necessity of obtaining your consent. This Agreement will be assigned to First Data Merchant Services Corporation shortly after execution.

14. **Lease Guaranty.** No guarantor shall have any right of subrogation to any of our rights in the Equipment or this Lease or against you, and any such right of subrogation is hereby waived and released. All indebtedness that exists now or arises after the execution of this Agreement between you and any guarantor is hereby subordinated to all of your present and future obligations, and those of your guarantor, to us, and no payment shall be made or accepted on such indebtedness due to you from a guarantor until the obligations due to us are paid and satisfied in full.

15. **Governing Law; Miscellaneous.** This Agreement shall be governed by and will be construed in accordance with the laws of the State of New York (without applying its conflicts of laws principles). If any part of this Agreement is not enforceable, the remaining provisions will remain valid and enforceable.

16. **Dispute Resolution and Arbitration.** If the parties disagree as to any matter governed by this Agreement, the parties shall promptly consult with one another in an effort to resolve the disagreement. If such effort is unsuccessful, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, except that equitable relief may also be sought in any court of competent jurisdiction.

17. **Notices.** All notices must be in writing, if to you at your address appearing on the cover page of this Agreement and if to us at 4000 Coral Ridge Drive, Coral Springs, Florida, 33065. Attn: Lease Department, and shall be deemed to have been given (i) if sent by mail or courier, upon the earlier of five (5) days after mailing or when actually received or, in the case of courier, when delivered, and (ii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received, if to you at the address appearing on the cover page of this Agreement or by any electronic means, including but not limited to the email address you have provided on the cover page of the Agreement. Notices sent to the Merchant's last known address, as indicated in our records, shall constitute effective notice to the Merchant under this Agreement. Customer Service toll free number 1-877-257-2094.

18. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties with respect to its subject matter, supersedes any previous agreements and understandings and can be changed only by a written agreement signed by all parties. This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement.