



## **Board of Selectmen**

**Ware Town Hall, Meeting Room, 126 Main Street**

**Regular Meeting Notice Agenda – Tuesday, November 20, 2018 at 7:00 p.m.**

### **Meeting Opened**

**Opening Remarks, Announcements, and Agenda review by Chair**

### **Consent Agenda**

- **Retroactive Approval: One-Day Liquor License: St. Mary's Church, Saturday, November 17, 2018**
- **Special Event Permit: Holiday Flair, Friday, November 23, 2018**
- **Approval of One-Day Liquor Licenses: Workshop 13, Saturday, December 1, Sunday, December 16, and Friday, December 21, 2018**
- **Special Event Permit: Ware Tree & Wreath Stroll, Saturday, December 8 & Sunday, December 9, 2018**

### **Scheduled Appearances**

- **Chief Crevier: FT Police Officer Appointment**

### **Old Business**

### **New Business**

- **Green Communities Annual Report Signature**
- **Appointment to Ware Cultural Council: Christina J. Higney, Term to Expire November 20, 2021**
- **Recommendations: Plowing and Sanding Unfinished Subdivision Roads – Winter 2018-2019**
- **Host Community Agreement:**
  - **Retail: Herbal Pathways, LLC**
  - **Retail: Curaleaf Massachusetts, Inc.**
  - **Retail: NewCann Group, LLC**
  - **Cultivation & Manufacturing: Stoddard**
- **Purchase and Sale, South Street School**

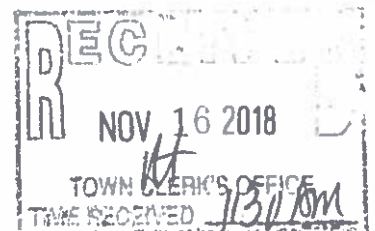
### **Comments and Concerns of Citizens**

### **Town Manager Report**

### **Adjournment**

**Executive Session: MGL Chapter 30A, Section 21(a) #2 Negotiations, #3 Litigation**

*The next Board of Selectmen meeting will be held on Tuesday, December 4, 2018 at 7:00 p.m.*





APPLICATION FOR SPECIAL SERVICE OF  
ALCOHOLIC BEVERAGES  
MGL CHAPTER 138, SECTION 14  
TOWN OF WARE

Name: St. Marys Church Application Date: 11-13-18  
Contact Phone: 413-967-5913 Email: gmorgl@comcast.net  
Effective Date(s) of License: Nov. 17, 2018 SATURDAY  
Hours of Service (In conformity with MGL): 5pm - 10pm  
Event (describe activities): Dinner Dance  
Anticipated Attendance: 115  
Sponsoring Organization: St. Mary's Social Committee  
For Profit: Beer & Wine (only) Non Profit: All Alcoholic X Beer & Wine       
Address (include Street & Number): 60 South Street  
Names of All Servers (bartenders) for this event: Joe & Craig Ciejan  
Estimated Number of Attendees 110  
Crowd Control Manager     

I have received, and agree to abide by, all regulations of the Board of Selectmen. Furthermore, pursuant to MGL Chapter 52C, Section 49A, I hereby  
Certify under penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and all state taxes required under law

Signature of Applicant: Rev. Fr. Jeffrey Ballou  
Social Security # or Federal I.D.#: 04-2208520

Fire Inspection

Date: 2-5-18

Building Inspection

Date: 2-5-18

Date Received: 11/13/2018

Insurance Certificate: EFFECTIVE  
TO 7/1/2019

Application Fee: \$5000

Action Taken: Approved Denied

Date: 11-14-18

Police Chief Review and Action

Shawn Crevier

Shawn Crevier, Police Chief

Ck#

## TOWN OF WARE

### SPECIAL EVENT PERMIT APPLICATION

(To be posted or made available at event)

Return to: Board of Selectmen, Town of Ware, 126 Main Street, Ware, MA 01082

Application packet must be received no later than 30 days prior to the event.

Event Name: Holiday Flair Event Producer: Town of Ware and Ware Rotary Club

#### Primary Contact Information:

Primary Contact Name: Kathleen Deschamps Fax: \_\_\_\_\_

Non-Profit Organization / Event: Yes \_\_\_\_\_ No \_\_\_\_\_

Day Phone: 413-519-9815 Cell Phone: \_\_\_\_\_

E-mail: Kate3754@aol.com Website \_\_\_\_\_

#### Event Information:

Event Address / Location: Main St.

Starting Date: 11/23/18 Time: 5:30 P M Ending Date: 11/23/18 Time: 7:30 P M

Total attendance expected: \_\_\_\_\_ Rain plan: \_\_\_\_\_

List any streets to be closed for special event: Main Street

Summary of Event - Please describe the special features of the event within the box below.

Santa parade and lighting of Christmas decorations

**RELEASE/HOLD HARMLESS AGREEMENT (REQUIRED FOR USE OF TOWN PROPERTY ONLY):**

I, \_\_\_\_\_, a representative from \_\_\_\_\_, does hereby acknowledge that in the course of its use of property owned by the Town of Ware, namely \_\_\_\_\_ located at \_\_\_\_\_, Ware, Massachusetts, for the purpose described above, and more particularly by virtue of the presence of its agents, servants, employees and invitees, (hereinafter collectively referred to as \_\_\_\_\_), in any manner whatsoever shall operate at its own risk on said property of the Town of Ware.

For and in consideration of the use of \_\_\_\_\_, \_\_\_\_\_ does for itself and on behalf of its agents, servants, employees and invitees, hereby, jointly and severally, remise, release and forever discharge the Town, its agents, servants and employees (hereinafter collectively referred to as the "Town"), of and from all debts, demands, actions, and any and all claims or demands whatsoever of any kind for damages or injuries to property or person, which may arise by virtue of \_\_\_\_\_ use of \_\_\_\_\_.  
\_\_\_\_\_ further agrees to defend and indemnify and hold harmless the Town from and against any claims of any nature whatsoever and the cost and expense, including, but not limited to, attorney fees and legal costs arising out of any claim in connection with its use of \_\_\_\_\_.  
Said indemnification shall not include claims arising from intentional malfeasance by the agents or employees of the Town of Ware.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, on behalf of \_\_\_\_\_ by \_\_\_\_\_ its \_\_\_\_\_.

X

Signature of the agent duly authorized by the Special Event Permit applicant to bind it

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

*v/ Town Committee*

**\*\*This application packet (the checklist and the permit application) must be brought in person to each department for sign-offs - Parks & Recreation MUST be approved first. Once all sign-offs have been received, this application packet must be returned to the Town Manager's Office for final approval by the Board of Selectmen.\*\***

**Review & Submission for Sign-Offs Provided By Departments**

Please note - Departments may provide additional comments below their sign-off

✓ Parks & Recreation

*[Signature]*

Date: *11/5/18*

Health Department

Date: \_\_\_\_\_

Department of Public Works

Date: \_\_\_\_\_

Building Inspections

Date: \_\_\_\_\_

✓ Fire Department

*[Signature]*

Date: *11-05-2018*

✓ Police Department

*[Signature]*

Date: *11-06-18*

# of Officers (if applicable) \_\_\_\_\_



APPLICATION FOR SPECIAL SERVICE OF  
ALCOHOLIC BEVERAGES  
MGL CHAPTER 138, SECTION 14  
TOWN OF WARE

Name: Workshop13 Application Date: 11/15/18

Contact Phone: 413-277-6072 Email: info@workshop13.org

Effective Date(s) of License: 12/1/2018 SATURDAY

Hours of Service (In conformity with MGL): 6:30 pm - 10:30 pm

Event (describe activities): Freedom from Tyranny Concert

Anticipated Attendance: 90

Sponsoring Organization: \_\_\_\_\_

For Profit: Beer & Wine (only) Non Profit: All Alcoholic \_\_\_\_\_ Beer & Wine X

Address (include Street & Number): 13 Church St. Ware, MA

Names of All Servers (bartenders) for this event Pat Goudrea, Lisa DiMarzio

Estimated Number of Attendees 90

Crowd Control Manager Roc Goudreau

I have received, and agree to abide by, all regulations of the Board of Selectmen. Furthermore, pursuant to MGL Chapter 52C, Section 49A, I hereby Certify under penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and all state taxes required under law.

Signature of Applicant: \_\_\_\_\_

Social Security # or Federal I.D.#: \_\_\_\_\_

Fire Inspection EFFECTIVE TO

Date: 12/31/2018

Building Inspection EFFECTIVE TO

Date: 12/31/2018

Date Received: 11/15/2018

Insurance Certificate: EFFECTIVE TO  
7/9/2019

Application Fee: \$30

Action Taken: Approved Denied

Date: 11-15-18

Police Chief Review and Action

Shawn Crevier

Shawn Crevier, Police Chief

2018-28



APPLICATION FOR SPECIAL SERVICE OF  
ALCOHOLIC BEVERAGES  
MGL CHAPTER 138, SECTION 14  
TOWN OF WARE

Name: Workshop13 Application Date: 11/15/18

Contact Phone: 413-277-6072 Email: info@workshop13.org

Effective Date(s) of License: 12/16/2018 SUNDAY

Hours of Service (In conformity with MGL): 1:30- 4:30

Event (describe activities): Ware Community Band- Jazz Holiday

Anticipated Attendance: 75

Sponsoring Organization: \_\_\_\_\_

For Profit:    Beer & Wine (only) Non Profit: All Alcoholic    Beer & Wine   X  

Address (include Street & Number): 13 Church St. Ware, MA

Names of All Servers (bartenders) for this event, Lisa DiMarzio

Estimated Number of Attendees 75

Crowd Control Manager Roc Goudreau

I have received, and agree to abide by, all regulations of the Board of Selectmen. Furthermore, pursuant to MGL Chapter 52C, Section 49A, I hereby Certify under penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and all state taxes required under law.

Signature of Applicant: \_\_\_\_\_

Social Security # or Federal I.D.#: \_\_\_\_\_

Fire Inspection EFFECTIVE TO

Date: 12/31/2018

Building Inspection EFFECTIVE TO

Date: 12/31/2018

Date Received: 11/15/2018

Insurance Certificate: EFFECTIVE TO  
7/9/2019

Application Fee: \$30

Action Taken: X Approved    Denied

Date: 11-15-18

Police Chief Review and Action

Shawn Crevier

Shawn Crevier, Police Chief

2018-29



APPLICATION FOR SPECIAL SERVICE OF  
ALCOHOLIC BEVERAGES  
MGL CHAPTER 138, SECTION 14  
TOWN OF WARE

Name: Workshop13 Application Date: 11/15/18

Contact Phone: 413-277-6072 Email: info@workshop13.org

Effective Date(s) of License: 12/21/2018 FRIDAY

Hours of Service (In conformity with MGL): 6:30-10:30 pm

Event (describe activities): Open Mic

Anticipated Attendance: 90

Sponsoring Organization: \_\_\_\_\_

For Profit: Beer & Wine (only) Non Profit: All Alcoholic \_\_\_\_\_ Beer & Wine X

Address (include Street & Number): 13 Church St. Ware, MA

Names of All Servers (bartenders) for this event, Lisa DiMarzio Pat Goudreau

Estimated Number of Attendees 90

Crowd Control Manager Roc Goudreau

I have received, and agree to abide by, all regulations of the Board of Selectmen. Furthermore, pursuant to MGL Chapter 52C, Section 49A, I hereby Certify under penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and all state taxes required under law.

Signature of Applicant: \_\_\_\_\_

Social Security # or Federal I.D.#: \_\_\_\_\_

Fire Inspection EFFECTIVE TO  
Date: 12/31/2018

Building Inspection EFFECTIVE TO  
Date: 12/31/2018

Date Received: 11/15/2018

Insurance Certificate: EFFECTIVE TO  
7/9/2019

Application Fee: \$30

Action Taken: X Approved Denied Date: 11-15-18

Police Chief Review and Action

Shawn Crevier

Shawn Crevier, Police Chief

TOWN OF WARE

SPECIAL EVENT PERMIT APPLICATION

(To be posted or made available at event)

Return to: Board of Selectmen, Town of Ware, 126 Main Street, Ware, MA 01082

APPLICATION PACKET MUST BE RECEIVED NO LATER THAN 30 DAYS PRIOR TO THE EVENT.

Event Name: Ware Trees + Wreath Stall Event Producer: Proprietors of Ware Center Meeting House

Primary Contact Information:

Primary Contact Name: Carol Zins Fax: \_\_\_\_\_

Non-Profit Organization / Event: Yes ☒ No ☐

Day Phone: 413 967-8304 Cell Phone: \_\_\_\_\_

E-mail: CZins1@gmail.com Website: warecentermeetinghouse.org

Event Information:

Event Address / Location: Ware Town Hall Great Room

Starting Date: 12/8/18 Time: 10: A M Ending Date: 12/9/18 Time: 3: P M

Total attendance expected: 300 Rainplan: \_\_\_\_\_

List any streets to be closed for special event: Would like space in front of Town Hall to have cones

Summary of Event - Please describe the special features of the event within the box below.

Donated Trees + Wreaths are raffled to raise money for Meeting House. Homemade breads are sold, live performers and kids crafts and Karaoke with Miss Jane. All indoors at the Great Room.

- We will renew our Raffle permit with Town Clerk. Would like to use town hall parking area each day



**RELEASE/HOLD HARMLESS AGREEMENT (REQUIRED FOR USE OF TOWN PROPERTY ONLY):**

I, Carol Zins, a representative from Proprietors of The Ware Center MA, does hereby acknowledge that in the course of its use of property owned by the Town of Ware, namely Town Hall Great Room located at 26 Main St, Ware, Massachusetts, for the purpose described above, and more particularly by virtue of the presence of its agents, servants, employees and invitees, (hereinafter collectively referred to as Proprietors), in any manner whatsoever shall operate at its own risk on said property of the Town of Ware.

For and in consideration of the use of Town Hall Great Rm, Proprietors does for itself and on behalf of its agents, servants, employees and invitees, hereby, jointly and severally, remise, release and forever discharge the Town, its agents, servants and employees (hereinafter collectively referred to as the "Town"), of and from all debts, demands, actions, and any and all claims or demands whatsoever of any kind for damages or injuries to property or person, which may arise by virtue of Proprietors use of Town Hall. Proprietors further agrees to defend and indemnify and hold harmless the Town from and against any claims of any nature whatsoever and the cost and expense, including, but not limited to, attorney fees and legal costs arising out of any claim in connection with its use of Town Hall. Said indemnification shall not include claims arising from intentional malfeasance by the agents or employees of the Town of Ware.

Signed this 11 day of November, 2018, on behalf of Proprietors by Carol Zins, its representative.  
X Carol Zins Date 11, 11, 18  
Signature of the agent duly authorized by the Special Event Permit applicant to bind it.

\*\*\*\*\*  
**\*\* This application packet (the checklist and the permit application) will be reviewed by each department for sign-offs. Once all sign-offs have been received, this application packet will be placed on an upcoming agenda for final approval by the Board of Selectmen. \*\***

**Review & Submission for Sign -Offs Provided By Departments**  
Please note -- Departments may provide additional comments below their sign-off

**Parks & Recreation** Betty Baul Date: 11/14/2018

**Health Department** Betty Baul Date: 11/14/18  
"permit-exempted bake sale" - Donated baked goods for the benefit of the friends of the Ware Center Men

**Department of Public Works** Allyson St. Page - Sand Date: 11/14/2018  
LET US KNOW A COUPLE OF DAYS AHEAD OF TIME SO WE CAN BRING THE COWS

**Fire Department** Shawn Date: 11/15/2018  
No fresh cut or live trees or wreaths Allowed  
Inside of building

**Police Department** Shawn CB Date: 11-14-18  
# of Officers (if applicable) 0



# TOWN OF WARE POLICE DEPARTMENT

22 NORTH STREET, WARE, MASSACHUSETTS 01082-1004  
TEL: (413) 967-3571 FAX: (413) 967-9606



SHAWN C. CREVIER  
CHIEF OF POLICE

TO: Mary Midura  
FROM: Chief Shawn C. Crevier  
RE: Full-Time Police Officer Appointment/November 20<sup>th</sup> agenda  
DATE: November 9, 2018

I am recommending that the Board appoints Corey Rogowski to the vacant full-time position here at the Ware Police Department. Mr. Rogowski has been a part-time officer for the Ware Police Department since July, 2015. He has a Bachelor's degree in Criminal Justice, which he obtained from Becker College. Mr. Rogowski also attended and completed majority of the E-911 training which is needed for employees of the Ware Police Department.

Respectfully,

A handwritten signature in cursive script, appearing to read "Chief Shawn C. Crevier".

Chief Shawn C. Crevier  
Ware Police Department



*Power of culture*

WARE CULTURAL COUNCIL, P.O. Box 1432, Ware, MA 01082  
[wareculturalcouncil@yahoo.com](mailto:wareculturalcouncil@yahoo.com)

October 26, 2018

Board of Selectmen  
Town of Ware  
126 Main Street  
Ware, MA 01082

Dear Board of Selectmen:

I am writing in support of the nomination of Tina Higney to the Ware Cultural Council. Tina is a longtime resident of Ware and a former Ware Public School teacher and we would be very pleased to have her serve as a member of our council for a three-year appointment beginning **November 1, 2018 through October 31, 2021.**

Ms. Higney has expressed interest in serving our community and we are eager to have her appointed as quickly as possible. She will be an asset to our council and an active contributing member.

Thank you for your consideration and support of this nomination.

Sincerely,

A handwritten signature in blue ink, reading 'Aileen O'Regan'.

Aileen O'Regan  
Co-Chair

33 Dugan Road  
Ware, MA. 01082  
October 23, 2018

Board of Selectmen  
Town of Ware  
126 Main St.  
Ware, MA. 01082

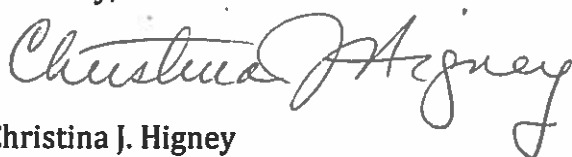
To Whom It May Concern:

I am interested in becoming a member of the Ware Cultural Council. I have been recruited by Mary Healey, member of the council and have discussed the issues and responsibilities of membership with her. Please consider me a serious applicant.

I am a lifelong resident of Ware, taught at Ware High School for my entire career and have served for many years as a Board member of the Library Association. I am an active supporter of the arts in our community and I would be an active contributing member of the council if appointed.

Thank you for considering my application.

Sincerely,

A handwritten signature in dark ink, reading "Christina J. Higney". The signature is fluid and cursive, with the first name "Christina" and last name "Higney" clearly legible.

Christina J. Higney



## TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, MA 01082  
t. 413.967.9648 ext. 186

### MEMORANDUM

To: Board of Selectmen  
Stuart Beckley, Town Manager

From: Rick Starodoj, Chairman, Planning Board  
Gilbert St. George-Sorel, Director, DPW  
Rubén Flores-Marzán, Director, P&CD

Date: November 9, 2018

Subject: Recommendations on Plowing and Sanding Unfinished Subdivision Roads –  
Winter 2018/19

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On Friday, September 21, 2018, Josh Kusnierz, Joe Knight, Gilbert St. George-Sorel, Chuck Niedzwiecki, and Anna Marques, visited the known unfinished subdivisions which the Town has plowed in past winters. On October 3, the Planning Board discussed recommendations. This memo serves as our recommendations regarding these roads as well as other privately-owned roads that have since come to light:

Road Name	Unfinished Subdivision
Belair Drive	Belair Estates
Coldbrook Drive	Pennybrook Estates
High Meadow Lane	
King George Drive	King George Drive
Lee Road	
Walter Drive	Edgewood Estates
Wildflower Drive Briar Circle	Isabella Ridge
Williston Drive	Williston Heights

#### **BELAIR DRIVE** (Belair Estates):

- Similar to previous years' reports, it appears that no repairs have been made to this road for some time
- The base coat has further deteriorated and catch basins are clogged
- The DPW has not sanded this road since 2014. That year, several times the sander had to make at least two since the road had yet to be plowed after a snowfall which resulted in a higher cost than is incurred on a standard road for both plowing and sanding

- Based on the very poor condition of this road and experiences with winter sanding, we recommend that Belair Drive NOT be plowed or sanded this winter, unless sufficient repairs are made to the satisfaction of the DPW Director.
- A letter discussing this was sent to the owner of this subdivision by certified mail, and no response has been received to date

COLDBROOK DRIVE (Pennybrook Estates):

- The road is in good condition
- We recommend that Coldbrook Drive be plowed and sanded by the Town this winter.

HIGH MEADOW LANE

- The road serves as someone's driveway and has not been plowed in the past
- We recommend that High Meadow Lane NOT be plowed and sanded by the Town this winter.

KING GEORGE DRIVE:

- The DPW has plowed this private road in the past
- Per the Planning Board's discussion with Mrs. Robidoux on November 7, 2018, she intends to move forward with road acceptance
- We recommend that King George Drive be plowed and sanded this winter.

LEE ROAD

- The DPW has plowed this private road in the past
- Recently, there have been two easements placed on Lee Road for the purposes of plowing, drainage and general road maintenance
- We recommend that Lee Road be plowed and sanded this winter.

WALTER DRIVE (Edgewood Estates):

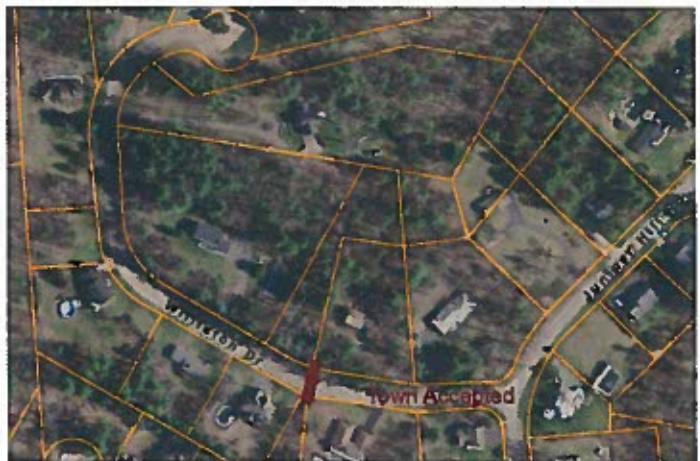
- The basecoat continues to deteriorate and brush needs to be trimmed back in some areas.
- We did not see any eminent problems for either the Town or the owner if the Town plowed and sanded this winter
- We recommend that Walter Drive be plowed and sanded by the Town this winter

WILDFLOWER DRIVE & BRIAR CIRCLE (Isabella Ridge):

- There are ongoing icing issues and frost heaves that have now raised the pavement along the side of the road near the drop inlet modified by Belco Construction.
- The roadway is in overall good condition but there are areas of brush that need to be cleared.
- Since Belco Construction has modified the site to address the drainage problems experienced in past winters, and based upon past experience, we recommend that UPON THE REMOVAL OF OVERGROWN BRUSH, the Town plow and sand Wildflower Drive and Briar Circle this winter, with two important caveats:
  - If the water continues to run onto the road and create ice problems at any time, then Town plowing and sanding (and ice removal) shall stop immediately, the owner so notified, and all snow and ice removal shall become the responsibility of the owner of the private roads. The Town shall not be held liable for any problems associated with snow or ice removal in this subdivision should this occur
  - The Town accepts no responsibility nor liability with regard to the modified drainage structure located by 12 Wildflower Drive
- Additionally, since the road right-of-way is not owned by Belco Construction we continue to seek contact with Hampden/Berkshire Bank to:
  - inquire as to the status of the Homeowner's Association
  - inform the owner (Hampden Bank/Berkshire Bank) that if there are any icing problems this year on the road, it will become their responsibility as the owner of the road to handle snow and ice removal operations

#### WILLISTON DRIVE

- Only the eastern section of Williston Drive has been accepted by the Town (see photo)
- The DPW has historically plowed and sanded the entire length of this road so that the trucks could turn around easily
- Overall, no major concerns
- We recommend that the privately-owned portion of Williston Drive be plowed and sanded this winter



#### HILLSIDE TERRACE:

- The Planning Board became aware this year that this road is not town-owned
- The DPW has historically plowed and sanded this road
- Although there are areas of concern that will need to be addressed in the near future, we recommend that Hillside Terrace be plowed and sanded by the Town this winter

### SUMMARY

Based upon the above, we recommend to the Board of Selectmen to take action on expending Town funds to plow Walter Drive, Wildflower Drive and Briar Circle, Coldbrook Drive, King George Drive, Lee Road, Williston Drive, and Hillside Terrace during the 2018/19 winter (FY2019), with the caveats for Wildflower Drive and Briar Circle as noted above.

We also recommend that the Board take action to explicitly not perform any snow removal, sanding, salting, or any other actions to manage precipitation or poor driving conditions on Belair Drive and High Meadow Lane until those roadways are repaired to the satisfaction of the DPW and the Planning Board.

Furthermore, we recommend that the appropriate Town departments work together to create an official list of town-owned roads for various departments to reference. An official list will allow the Planning Board, P&CD staff and DPW to more efficiently review these matters in the future.

### SUGGESTED MOTION(S):

- Move to approve the expenditure of Town funds and to direct the DPW to manage sanding and snow and ice removal on the private section of Walter Drive and on the private roads Coldbrook Drive, King George Drive, Hillside Terrace, Lee Road and Williston Drive during the winter of 2018/19; and
- That UPON THE REMOVAL OF OVERGROWN BRUSH to approve the expenditure of Town funds and to direct the DPW to manage sanding and snow and ice removal on the private roads within the Isabella Ridge subdivision (Wildflower Drive and Briar Circle) during the winter of 2018/19, provided that in the event that icing on the roadway occurs, the DPW is directed to stop snow and ice removal operations at which point the owner of the private road shall be fully responsible for all snow and ice removal operations; and furthermore that the Town accepts no responsibility or liability with regard to the modified drainage structure at 12 Wildflower Drive; and
- to direct the DPW to NOT perform any sanding, snow, or ice removal operations on Belair Drive and High Meadow Lane during the winter of 2018/19 unless sufficient repairs are made to the satisfaction of the DPW Director



## HOST COMMUNITY AGREEMENT

Dated November \_\_, 2018

The parties to this agreement are:

**The Town of Ware, Massachusetts**, by and through its Board of Selectmen, having a principal office at Town Hall, 126 Main Street, Ware, Massachusetts 01082 (hereinafter "Municipality"); and

**Herbal Pathways LLC**, a Massachusetts limited liability company having a principal office at 10 West Street, Allenstown, NH 03275 (hereinafter "Retailer").

*Whereas*, Retailer proposes to operate a registered marijuana retail facility at 14 West Street, Ware, in accordance with General Laws, Chapter 94G, 935 CMR 500, and Section 4.8.8 of the Ware zoning bylaws, and Section 15-4 of the Ware general bylaws; and

*Whereas*, the town supports the Retailer's intention to so operate; and

*Whereas*, the Municipality expects to experience adverse impact arising from the Retailer's operations including, without being limited to, the increased use of municipal services; the increased use of municipal infrastructure; the need for additional municipal infrastructure, employees and equipment; increased traffic and costs related to mitigating other impacts to the town and its residents; and

*Whereas*, the parties wish hereby to set forth the conditions for locating and operating the establishment in Ware, including stipulations of responsibility between the Municipality and the Retailer pursuant to Section 3 of Chapter 94G of the General Laws;

*Now, therefore*, in consideration of mutual covenants, the parties stipulate and agree as follows:

1. In mitigation of the aforesaid adverse impact to the Municipality arising from Retailer's operations, Retailer shall pay to Municipality, quarterly over five (5) years, a sum equivalent to three percent (3%) of Retailer's gross sales from marijuana and marijuana products during the previous quarter, on or before the 15<sup>th</sup> day following the close of each quarter. The first payment shall be due thirty days from the end of the calendar quarter in which sales commence, and quarterly thereafter.
2. Stipulation of responsibilities:
  - (1) The Retailer shall:
    - (i) Within sixty (60) days from the close of its fiscal year, submit a report to the Municipality certifying the gross revenue for the preceding fiscal year, to be prepared by a Certified Public Accountant and in accordance with generally accepted accounting principles.

- (ii) Maintain its premises in a neat and tidy condition and conduct its operations in a businesslike and professional manner, with due regard for the interests of this community.
- (iii) Maintain its marijuana establishment license in good standing with the Cannabis Control Commission and comply with all applicable CCC regulations;
- (iv) Cooperate with all municipal departments, boards, committees, and commissions to ensure that the Retailer's operations are compliant with all local bylaws, rules, regulations and policies;
- (v) Comply with any and all conditions lawfully imposed by local authorities;
- (vi) Make reasonable efforts to first hire local vendors and workers, and otherwise to engage the establishment in the local economic mainstream;
- (vii) Punctiliously take measures to prevent the diversion of marijuana to minors, including but not limited to the awarding of bonuses to employees who catch minors attempting to purchase marijuana using false IDs;
- (viii) If requested by the Town, assist the Town with, participate in, or contribute to community educational programs on public health and drug abuse prevention, and prevention programs that address youth marijuana use;
- (ix) Support an elder-oriented marijuana education program to be held at the Senior Center to address applicable health benefits and concerns of the largest growing demographic benefitting from cannabis, namely, adults 40-70;
- (x) Subsidize the salary of each full-time employee to devote one (1) day per month to community service aimed at mitigating the actual or potential negative impact on the Town and abutting neighborhood.
- (xi) Upon the execution of this agreement, compensate the Municipality its legal costs for review of this agreement in the amount of \$1,000.

(2) The Municipality shall:

- (i) Provide an appropriate forum whereby the views of citizens about the Retailer's operations can be aired and Retailer have the opportunity to address complaints or suggestions that arise concerning Retailer's operations.
- (ii) Accommodate the installation and use of state of the art security and fire protection/alert systems connected to the police and/or fire department;

- (iii) Recognize Retailer as having all the rights, duties and responsibilities of, and deserving of equal treatment with, other business establishments in town;
  - (iv) If reasonably requested by Retailer, provide a letter in the nature of an estoppel certificate, stating that the municipality is aware of no outstanding violations of local law or insufficiently addressed complaints;
  - (v) If contacted by the CCC, promptly provide any information requested concerning Retailer, including confirmation that its site is in a proper zoning district, notwithstanding that a special permit may be required;
  - (vi) Upon the request of the Retailer in connection with the renewal of its license, provide the Retailer with an accounting of the financial benefits accruing to the Town of Ware under this agreement, as required by 935 CMR 500.103(4)(d), and such other cost-benefit information as the Retailer may reasonably request.
3. The Municipality may use all payments made hereunder for any purpose in its sole discretion.
4. This agreement is non-assignable. In the event that Retailer ceases doing business as a marijuana establishment in Ware, its successor, if any, shall be required to negotiate and sign a new Host Community Agreement with the Municipality.
5. So long as this agreement is in effect, the real and personal property owned by the Retailer shall be treated as taxable by the Town in accordance with the Town's applicable real and personal property and state automobile tax laws and regulations and shall not be exempt therefrom.
6. Other:
- (a) Notices. Any and all notices, or other communications required or permitted under this agreement shall be in writing and delivered postage prepaid mail, return receipt requested; by and; by overnight delivery service; or by other reputable delivery services, to the parties at the addresses set forth on the first page of this agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the USPS or, if sent by private overnight or other delivery service, when deposited with such delivery service.
  - (b) Severability. If any term or condition of this agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining terms and conditions of this agreement shall not be deemed affected thereby unless one or both of the parties would be substantially or materially prejudiced.

- (c) Choice of Law. This agreement shall be governed by, construed, and enforced in accordance with the laws of The Commonwealth of Massachusetts.
- (d) Accounting. The Retailer shall maintain its books, financial records, and other compilation of data pertaining to the requirements of this agreement in accordance with generally accepted accounting principles and all applicable guidelines of the CCC. All records shall be kept for a period of at least seven (7) years.
- (e) Integration. This agreement, including all documents incorporated therein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This agreement supersedes all prior agreements, negotiation and representations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

SIGNED this day and year respectively written below.

Municipality  
Town of Ware, Massachusetts

Retailer  
Herbal Pathways LLC

By: \_\_\_\_\_  
Stuart Beckley, Town Manager

By: \_\_\_\_\_  
Ken Crowley, Manager

November \_\_\_\_, 2018

November \_\_\_\_, 2018

\_\_\_\_\_  
Alan G. Whitney, Vice Chairman, Board of Selectmen

November \_\_\_\_, 2018



Town of Ware Board of Selectmen  
John E. Carrol, Chairman  
Stuart Beckley, Town Manager  
126 Main Street  
Ware, MA 01082

November 15, 2018

Dear Board of Selectmen,

Please accept this letter and attached Draft Host Community Agreement ("HCA") as the Curaleaf Massachusetts, Inc. ("Curaleaf") intent to enter into an HCA with the Town of Ware and to site a Retail Marijuana Establishment. We respectfully request to be placed on the next Board of Selectmen meeting agenda. We have property interest in a retail location at 124 West Street that is compliant with the Town of Ware Zoning By-law.

Curaleaf is a leading medical and wellness cannabis brand in the United States, with more than 20 dispensaries and 10 cultivation sites in operation across 10 states. Here in Massachusetts we currently operate Medical Marijuana Dispensaries in Hanover and Oxford with a third to follow in Provincetown. We also operate a state-of-the art cannabis cultivation and product manufacturing facility in Webster.

While we are applying for an adult-use marijuana license in the Town of Ware, Curaleaf is an educationally focused company which promotes the medical efficacy and wellness benefits of cannabis. We offer a diverse line of products that cater to medical and non-medical consumers outside of the traditional cannabis "flower." We manufacture a large product line of oils, tinctures and edibles targeted to each type of consumer.

Curaleaf has a proven track record of giving back to the communities in which they locate. Above and beyond the 3% Community Impact Fee, our HCA outlines community benefits that include the hiring of local employees and contractors, financial and community service donations to local non-profit, community-based organizations and our commitment to public safety and facility security.

Curaleaf is committed to be a good neighbor in the Town of Ware and we look forward to working with the Town's leadership as we proceed forward with siting our retail facility here.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrik Jonsson".

Patrik Jonsson, President  
Curaleaf Massachusetts, Inc.  
pjonsson@curaleaf.com

## COMMUNITY BENEFIT AGREEMENT

THIS AGREEMENT is entered into this 15<sup>th</sup> day of November 2018 by and between a Curaleaf Massachusetts Inc., a Massachusetts registered marijuana dispensary with a principal office of 2001 Washington St., Unit B, Hanover, MA 02339 ("Curaleaf MA") and the Town of Ware, a Massachusetts municipal corporation with a principal address of 126 Main Street, Ware MA 01082 ("the Town").

WHEREAS, Curaleaf MA wishes to become a Marijuana Retailer in the Town in accordance with regulations issued by the Commonwealth of Massachusetts' Cannabis Control Commission (CCC); and

WHEREAS, Curaleaf MA intends to provide certain benefits to the Town in the event that it is licensed to operate an Adult-Use Retail (brick & mortar) establishment and receives all local approvals;

NOW THEREFOR, in consideration of the provisions of this Agreement, Curaleaf MA and the Town agree as follows:

### A. Term

This Agreement shall take effect on the date set forth above and shall continue in effect for 5 years.

### B. Community Impact Fee

1. Curaleaf MA shall pay to the Town annually a sum equal to 3.0% of the total gross annual sales of the Ware marijuana retail establishment. Curaleaf will make a \$50,000 initial payment (payable within 10 (ten) days of store opening) that will be subtracted from the first year's annual payment.
2. All subsequent payments shall be made annually at the end of each 12 months of operation and shall continue for a period of 5 years. The maximum duration in accordance with G.L c.94G, §3 of the Massachusetts state law.
3. The Town shall use the above referenced payments in its sole discretion, but shall make a good faith effort to allocate said payments for traffic mitigation measures in connection with the operation of the Marijuana Retail establishment, community wellness programs, and other efforts and initiatives for the support of patient health.

### C. Annual Charitable/Non-Profit Contributions

Curaleaf MA, in addition to any funds specified herein, shall annually contribute to public local charities/non-profit organizations in the Town (example include Angels Answer Inc.) an amount no less than \$15,000, said charities/non-profit organizations to be determined by the Town in their reasonable discretion. The first payment will be made after the issuance of final licensure from the CCC and each anniversary thereafter.

**D. Community Support**

Curaleaf MA agrees to provide no less than fifty (50) hours annually of community service activities including but not limited to: Town-sponsored educational programs on public health and drug abuse prevention, senior assistance, community cleanup, and veteran's assistance.

Curaleaf MA shall annually certify to the Town at the time of its Annual Payments the number of hours and nature of the community service rendered by its employees/management within the community.

**E. Local Vendors and Employment**

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Curaleaf MA will make every effort in a legal and non-discriminatory manner to give priority to local businesses, suppliers, contractors, builders and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the Marijuana Establishment when such contractors and suppliers are properly qualified and price competitive and shall use good faith efforts to hire Town residents.

**F. Security**

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

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

To the extent requested by the Town's Police Department, Curaleaf MA shall work with the Town's Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Facility.

**G. No Joint Venture**

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

H. Agreement

1. This Agreement shall be binding upon and shall inure to the benefit of the parties and their permitted successors and assignees.
2. The obligations of Curaleaf MA and the Town recited herein are specifically contingent upon Curaleaf MA becoming a Marijuana Retailer and obtaining a "Retail (brick and mortar)" license type per the 2018 Adult-Use of Marijuana Program regulations, for operation of a retail establishment in the Town and Curaleaf MA's receipt of all necessary local approvals to locate, occupy, and operate a retail location for adult-use in the Town.

TOWN OF WARE

CURALEAF MASSACHUSETTS, INC.

By: \_\_\_\_\_  
Stuart Beckley, Town Manager

By:  \_\_\_\_\_  
Patrik Jonsson, President

\_\_\_\_\_  
Alan G. Whitney, Vice Chairman, Board of Selectmen

November \_\_\_\_, 2018



October 30, 2018

Ruben Flores-Marzan, AICP  
Director of Planning and Community Development  
Judi Mosso, MPA  
Assistant to the Director  
**Town of Ware**  
126 Main Street  
Ware, MA 01082-1360

**Proposal for Retail Establishment Host Community Agreement**

Dear Ruben,

Thank you for meeting with me last Friday to discuss Ware's marijuana concerns and economic objectives. Below are written responses to the issues we discussed. Please feel free to share this letter with the town's selectmen. Team profiles are included at the end of this proposal. We look forward to securing a Host Community Agreement for a marijuana retail store in Ware.

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**Supporting Ware Economic Development for a Robust Local Cannabis Community**

Business Training Workshops hosted by the town for residents interested in launching a craft business. Advisor Professor Beth Goldstein has worked with MassMEP<sup>1</sup> and the Workforce Development Fund<sup>2</sup>. Considering Ware's median household income of \$36,875 versus the state median of \$75,297, the Cannabis Control Commission ("CCC") might be willing to consider

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<sup>1</sup> MassMEP is the expert resource for manufacturing growth in Massachusetts – [www.massmep.org](http://www.massmep.org)

<sup>2</sup> The Workforce Training Fund Program helps address business productivity and competitiveness by providing resources to Massachusetts businesses to fund training for current and newly hired employees. See <https://www.mass.gov/service-details/workforce-training-fund-programs-wtftp>

directing training funds to support efforts hosted by Ware for the Hampshire county region. Marketing Edge, Beth's business, is a qualified CCC Social Equity Program training vendor.

Co-located Cannabis Incubator. Subject to your final vision, available real estate, and local interest, we are interested in exploring a retail location large enough to co-house our store with a small edible and topical products manufacturing incubator. Local entrepreneurs joining the incubator could start a business for a far lower cost and could share production equipment until they are ready to advance to their own space. A robust retail store could serve as a ready test market for new products. Professor Goldstein has worked with a variety of incubators (see her profile) and has been training entrepreneurs for over 20 years, including MassMEP manufacturers and business owners working at CommonWealth Kitchen<sup>3</sup>. Co-locating other businesses will have security implications but we have interventions in mind to properly address the risks. Judy Leary also has extensive experience working with and coaching entrepreneurs to support their business goals.

These initiatives will help serve your primary economic goal of developing a robust local cannabis industry to create employment and economic activity (like what Mayor Alex Morse is achieving in Holyoke). Your zoning initiative to create craft cultivation opportunities in under-utilized barns and farm properties should provide plant-based feedstock for a local cannabis-infused manufacturing sector focused on edibles, ointments, lotions, tinctures, or salves. Some of these businesses will ultimately grow and expand into vacant retail and commercial space in town. A burgeoning local craft product market will help you transform Ware into a regional visitor destination with guests who will frequent the craft cannabis shops while enjoying the beauty and history of the Quabbin area.

## **General Services to Support the Town**

### **Local Hiring, Vendor Preference, Workforce Training**

The 4.3% unemployment rate for Ware compares to 3.5% for Massachusetts as a whole. We will provide employment preference to Ware residents and offer purchasing preference to local vendors including local manufacturers who are not incubator members.

At your request, we will assist the town to host a marijuana career fair to explain the opportunities in the field, how to get trained, and what we, as an employer are seeking. We envision a panel discussion with select industry experts and speakers.

### **Local Ownership**

Our business plan anticipates recruiting a local partner to enhance a strong community connection. We are highly supportive of the Social Equity component of the adult-use law and therefore seek to add a local social equity candidate to our team.

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<sup>3</sup> CommonWealth Kitchen is a nonprofit kitchen incubating more than 50 community-based businesses

### **Criminal Record Expungement**

Low wages and lack of opportunity often contribute to crime and drug use. The Massachusetts adult-use marijuana law includes a provision to help individuals expunge certain criminal records. This feature of the law is intended to help impacted persons access mainstream society by removing an obstacle that can hinder meaningful employment.

We plan to develop a workshop to assist qualified candidates to secure expungement. Once expungement is secured, we will introduce these individuals to MassHire to help them obtain available education and skills training and find employment opportunities. Advisor David Coffey's background as a former prosecutor and defense attorney will be invaluable for this service. This is a service we are developing for another community and would be pleased to offer in Ware.

### **Social Services to Support the Town**

#### **Opioid Prevention/Intervention Services**

We have a strong interest in opioid prevention. My business partner's son died of a needless overdose several years ago. A star high school athlete who played baseball for UMass, he was sucked into a vortex from which he could not escape, despite trying. We believe certain strategies<sup>4</sup> can assist individuals who are interested in coming clean of opioids and would be interested in working cooperatively with the police, fire, and health department on this endeavor.

#### **Youth Use Prevention and Education Services**

If requested by the town, we will assist you with and participate in, community educational programs on public health, drug abuse prevention (including youth use prevention programs).

#### **Senior Education Services**

We will work with the town and your Senior Center to support marijuana education programs for seniors and others interested in learning about the health and medical benefits of cannabis. This will include information on a variety of ailments including glaucoma, Parkinson's, Multiple Sclerosis, Crohn's, Hepatitis C, ALS, cancer, and other diseases.

As compared to medical marijuana dispensaries, adult-use recreational marijuana retailers may not sell edible marijuana products with potency levels exceeding five milligrams of active tetrahydrocannabinol (THC) per single serving of an edible marijuana product, and not more than 20 servings or 100 milligrams of active THC in total. Beyond that limitation (which medical

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<sup>4</sup> Research supports that marijuana can help break opioid addiction. Some studies show that marijuana use increases opioid use and while other studies show marijuana use reduces opioid dependency. We spoke with a presenter on addiction at the HUBWeek in Boston (October 2018) who opined that the studies have not focused enough on the subjects; people seeking to get high may smoke a joint and then move to use heroin while people seeking to break their addiction will use marijuana when triggering events happen to reduce the urge to get high to an avoidable level.

intended users can overcome by combining servings when necessary to achieve higher dosage), there is no limiting product difference between what is allowable to be sold in a (medical) Registered Marijuana Dispensary (RMD) and an adult-use marijuana retail store.

### **Volunteer Community Services**

We will provide volunteer community services to the town aimed at mitigating the actual or potentially negative impact of marijuana sales on the town and neighborhood abutting the registered marijuana retail facility at a rate equal to eight (8) hours of service for every 176 hours worked (e.g. one day per month for each full-time equivalent position).

### **Collaboration for the Benefit of Ware Residents**

As many of the opioid, youth, and senior services are of social benefit to the town, we suggest working collaboratively with Mses. Sinclair of B'leaf Wellness Centre LLC to design these programs. We believe collaboration on social services will best serve the community's needs.

### **Approach to Economic Empowerment and Diversity**

The Massachusetts Cannabis Control Commission requires applicants to describe their approach to economic empowerment and diversity. Our vision for economic empowerment evolves around incubation of craft product manufacturers. The industry will be competitive and selling the highest quality products will create a competitive advantage. By partnering with the town and local aspiring entrepreneurs we plan to identify top products and help bring them to market. That means developing contacts, an ecosystem, and providing incubation support when necessary – all components of economic empowerment.

As to diversity, our team is committed to employing a diverse workforce with a healthy mix of gender, racial and ethnic backgrounds. The Massachusetts regulations and law are clear that this industry must create opportunities for the marginalized and disenfranchised members of our community to participate. This aligns with our commitment to employ a diverse team, support the local community, and create jobs that are viable<sup>5</sup>.

### **Other Factors and Considerations**

#### **Compliance with Town ByLaws**

We have reviewed the town's bylaws and see no obstacles nor concerns with respect to compliance. Overall, we intend to employ a high degree of security features and compliance software and are confident that we will meet or exceed the standards set forth by those bylaws.

While discussed in greater detail in our security plan (which we do not intend to make part of the public record, for understandable reasons), we will incorporate high-end identification card

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<sup>5</sup> Viable meaning livable wages and affordable benefits

readers with facial recognition software. This will be tied our POS point of sale system to prevent access to the store from persons under the age of 21. This will also allow us to confirm the intended buyer is in fact the person whose ID has been presented.

### **Environmental Standards**

All our participants believe in being good environmental stewards. We are very focused on recycling and keeping trash out of landfills. We plan to offer an incentive for returning our THC packaging. These are typically plastic packages sealed at the top with a zip-lock seal below the permanent seal. Our pricing and inventory tracking labels may include RFID tags. Those tags do not lend themselves to recycling and therefore, rather than see the packages either end up in landfills or contaminate the recycling stream, we will offer a meaningful return credit or discount on the next purchase to encourage customers to return these materials.

### **Collaboration and Compliance with Local Law Enforcement**

Without disclosing sensitive aspects of our security plan, the following discussion is intended as an overview for town officials of how the store operation will interface and work with Chief Crevier and his staff. We approach security through scenario planning and then work backwards to integrate technology, training, process, and procedure to eliminate, minimize, or manage risk. This includes restricting unauthorized access to the store by persons under the age of 21, preventing pilferage and leaking of THC inventory into the local market or the hands of minors, reducing the likelihood of theft or break-ins, and providing tools for law enforcement in the event of an adverse incident.

We met with Chief Crevier to understand his concerns and discussed our approach to security as well as several scenarios. The store and its perimeter will employ high resolution digital cameras. The cameras include video and audio as well as motion detection. For example, if, motion is detected on a certain camera (rear store entry) during off-hours, the camera causes a pop-up screen to appear at the remote monitoring station. The monitoring firm can speak directly to the potential intruder before they try to enter and warn them to leave the property. That single feature reduces adverse incidents by a high percentage. We will provide (if requested by the Chief) a high-resolution monitor at the police station with an icon that will allow local law enforcement to view all facility cameras with the click of a mouse (otherwise the software can be viewed on an existing monitor). Other technologies will immediately alert local police to certain incidents and provide important necessary incident data – including a live stream video. As another illustration, a 20-year old attempting to gain access using an older sibling's ID will be identified as a false read by the facial recognition camera. Verified false reads can trigger an automatic data transmission to the local police department if desired by Chief Crevier.

Our security plan is highly influenced by the work of the late Ned Merrick<sup>6</sup>, a retired police chief, former president of both the Massachusetts Chiefs of Police Association and the Massachusetts Patrolman's Association with 40 years of law enforcement experience. Ned's efforts were assisted by a retired 20+ year State Police Drug task force member and a retired prosecutor.

### **Real Estate Site Selection**

We have not yet selected a site for the store and final selection will be subject to the factors discussed in this proposal (e.g. establishing an incubator). Further, other towns are following a process of selecting the best operator for their town, negotiating the business terms of the Host Community Agreement, allowing the applicant to secure preliminary approval from the Cannabis Control Commission, and then moving to site selection and special permits prior to final CCC approval. Overall, the process is complex and influenced by a variety of factors including the adult-use cultivation market getting up and running and producing its first harvest. Securing real estate that will sit idle for many months is not productive and, as the Selectmen heard from Ezra Parzybok, B'leaf Wellness Centre's consultant at the October 16th meeting, it is unlikely that the B'leaf store will open before 2020. We echo Mr. Parzybok's timing assessment.

### **Plan for Opening a Store with Estimated Timeline**

1. **Secure local Host Community Agreement approval:** Our goal is to secure final approval of the Host Community Agreement at the November 20, 2018, Selectmen's meeting. We will also seek final approval of our security plan from Chief Crevier prior to that meeting. That will allow us to file our application with the Cannabis Control Commission within three business days (Thanksgiving is Thursday, November 22<sup>nd</sup>).
2. **Secure Provisional License Approval from Cannabis Control Commission:** As of October 16, 2018, 168 completed applications have been submitted to the CCC (up from 140 on September 20). The process is moving slowly with only six final licenses issued and 47 provisional licenses approved (up from 19 on August 23<sup>rd</sup>). Behind these approvals are 155 completed applications that are awaiting review and processing. As of August 23<sup>rd</sup>, the most recent data we can find, 2,431 total applications had been submitted, 129 were withdrawn, 248 were pending, and 2,035 were incomplete. The CCC is overwhelmed with applications and many are incomplete. As local approval is paramount, we have chosen to wait for local approval to submit for the provisional license as we suspect a complete package will move through the system most efficiently. We expect the application process to take several months and do not anticipate an answer from the Commission prior to Spring 2019. The CCC will likely be moving to new headquarters and adding up to 50 new staff. As that process unfolds we expect the turnaround to improve dramatically. Furthermore, the CCC will absorb the MA

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<sup>6</sup> Edward Michael Merrick, Jr. ("Ned") retired Plainville Chief of Police passed away on Friday, January 5, 2018 at his home in Plainville, MA after a lengthy illness at the age of 72. Ned was fond of saying he was the only person who has been both President of the Chiefs and the Indians (Patrolman's Assn) and always provided excellent guidance on how to work with law enforcement.

Department of Public Health medical marijuana staff as of January 1, 2019. That staff is experienced with application review and should help improve turnaround and processing times.

3. **Finalizing a Location:** By the time a provisional license is issued, we expect to have determined location issues with the town (e.g. the incubator) and expect to secure a location within 45 days (target date of June 30, 2019) and file the special use permit with the CCC as soon thereafter as possible.

4. **Build-out:** We expect store build-out to be a 120-day process and intend to time this to occur approximately 60 days prior to when the first commercial cultivation crop becomes available to the market. The store should open between late Fall 2019 and Spring 2020.

### **Summary of the Current Team**

We have assembled an outstanding team with very relevant experience. Their professional biographical summaries are included below.

1. **Strategy and Vision:** David Rabinovitz. I have 30+ years of business experience with a focus on finance and strategy. I have an undergraduate degree from Northeastern University with a concentration in entrepreneurship, finance, and management and an MBA from Babson College. I have ghost-written several white papers on marijuana, local market analysis, and state regulations for numerous states since 2011. In 2013, I assisted a team to develop their business plan for a Massachusetts Registered Marijuana Dispensary. As a confessed "data geek," I read several daily industry newsletters including: *Marijuana Business Daily*, *Cannabis Financial Times*, *New Cannabis Ventures*, *The Boston Globe's* weekly *This Week in Weed*, and a Google news feed on marijuana in Massachusetts. I am a long-standing (20+ year) volunteer for the Pan Mass Challenge and developed the PMC's pass-it-along program where excess PMC supplies are used to support several smaller charitable events. I am also responsible for assuring that any excess food is donated to the proper cause, whether a food kitchen or food pantry and am known as the go-to guy for excess items such that nothing ends up in a landfill, from 1,000 excess sleeping cots to water hoses to old electronics. For our marijuana venture, my role is to develop our strategy and operational vision, so we can ensure the business goals will balance the needs of the consumer, the local market, state regulations, and federal restrictions.

2. **Strategic Advisor and Trainer:** Beth Goldstein teaches entrepreneurship and marketing at Babson College and UMass Amherst. She is a Visiting Faculty member at the esteemed Tecnológico de Monterrey in Mexico and teaches internationally for Babson. Beth is an advisor and coach for Babson's business incubator program and ran Boston University's Business Competition and entrepreneurship events for 10+ years. She is an expert in small business acceleration, entrepreneurship and start-ups, with a strong focus on supporting manufacturers, working with MassMEP and the Workforce Development Fund. With many years spent helping small and disadvantaged companies grow their businesses, Beth's firm, Marketing Edge, was recently selected by the Massachusetts Cannabis Control Commission as a qualified provider

offering business training for aspiring entrepreneurs in the Massachusetts Cannabis Social Equity Program. In addition to educating entrepreneurs, Beth is currently pursuing her doctorate in education from Johns Hopkins University and finalizing her third book on entrepreneurial marketing with Sage Publishing.

3. **Technology and Operations:** Judy Leary and her brother assumed the reigns of a family business in 2006 and built it into one of the leading identity theft protection and data breach management firms in the U.S., serving individuals, enterprise clients, and various federal agencies. Her firm was recently acquired, and our timing was fortunate. Judy is a people-person and operations expert, having built a national business managing various outsource providers including a local technology development team and a Midwest call center operation. Judy is a Board member of the local Better Business Bureau and dedicates a great deal of her time volunteering for causes she is passionate about; for the past 4 years she has been a youth mentor for the Mazie Foundation, volunteers with the Alzheimer's Association, and is active with Sunshine Golden Retriever Rescue.

4. **Security, Retail, Municipal Relations:** David Coffey is a former attorney and retired prosecutor for Suffolk County. Prior to retiring from law, he served as a defense attorney. David is presently active in town management as a member of the Town of Natick Finance Committee. While he was a prosecutor he managed the federally-funded Safe Neighborhood Initiative in East Boston and Grove Hall. Prior to his law career David was the Director of Security for the bustling Quincy Market retail center in Boston. David has a license from the Massachusetts Department of Public Health for pain management. His spouse manages a multi-site retail operation in Boston for a local real estate developer. David understands security, retail, law, and how all these areas intersect with responsible municipal management.

5. **Member, Advisor, Friend & Sounding Board:** Dr. Edward Kaiser is a retired Air Force Captain and dentist. Over his 50+ year career he has grown two successful dental practices (and ran them both for many years), invested in numerous businesses, enjoyed marijuana recreationally, has held a DEA drug license for 45+ years and is familiar with rules, standards, and methods for inventorying, controlling, securing, and record-keeping for narcotics and controlled substances, owned two small airlines, is a licensed pilot, and is a land-owner in Ware. Dr. Kaiser is active with the Norfolk chapter of the Lions Clubs International and in his younger years performed community service work, working with prisoners in the Norfolk County Prison, Norfolk, MA.

I will be attending Marijuana Business Daily's flagship event, MJBizCon, in Las Vegas from November 14 to 16, 2018. This is their preeminent conference and the largest cannabis conference in the world, attended by 20,000+ cannabis professionals and 1,000+ exhibitors. We expect to survey products, fixtures, and the latest in compliance tools to be ready for a store opening as early as summer 2019, should the CCC issue final approval in time and cultivators have product available for sale. We are cognizant that it took medical marijuana cultivators up to two years to become operational.



Ruben Flores-Marzan, AICP  
Town of Ware

October 30, 2018

Ruben, I hope we have fully addressed the issues you raised in our meeting. If any other questions arise or additional information is needed, please do not hesitate to let me know. I can be reached at either (617) 281-0710 or [drabinovitz@gmail.com](mailto:drabinovitz@gmail.com). We are very excited about this opportunity, especially considering your vision for cannabis in Ware.

Thank you,

A handwritten signature in black ink, appearing to read "David Rabinovitz". The signature is stylized with a large, looped "D" and a cursive "Rabinovitz".

David Rabinovitz

# HOST COMMUNITY AGREEMENT

(the "Agreement")

Effective November 20, 2018

The parties to this Agreement are:

**The Town of Ware, Massachusetts** (the "Town" or the "Municipality"), by and through its Board of Selectmen, having a principal office at Town Hall, 126 Main Street, Ware, Massachusetts 01082 (hereinafter "Municipality"); and

**NewCann Group, LLC**, a Massachusetts limited liability company having a principal office at 17 King Philip Trail, Norfolk, Massachusetts 02056-1405 (hereinafter "Retailer").

*Whereas*, Retailer proposes to operate a registered marijuana retail facility within the Town in accordance with General Laws, Chapter 94G, 935 CMR 500, and Section 4.8.8 of the Town's zoning bylaws, and Section 15-4 of the Town's general bylaws; and

*Whereas*, the Town supports the Retailer's intention to so operate; and

*Whereas*, final location of the registered marijuana retail facility is subject to approval by the Town (which approval shall be made in writing by the Director of the Planning and Community Development Department, and appended to this Agreement together with a copy of the Special Use Permit); and

*Whereas*, the Municipality expects to experience adverse impact arising from the Retailer's operations due to the nature of Retailer's affiliation with marijuana and marijuana products, including, without being limited to, the increased use of municipal services; the increased use of municipal infrastructure; the need for additional municipal infrastructure, employees and equipment; increased traffic and costs related to mitigating other impacts to the Town and its residents; and

*Whereas*, the parties wish hereby to set forth the conditions for locating and operating the establishment in the Town, including stipulations of responsibility between the Municipality and the Retailer pursuant to Section 3 of Chapter 94G of the General Laws;

*Now, therefore*, in consideration of mutual covenants, the parties stipulate and agree as follows:

1. In mitigation of the aforesaid adverse impact to the Municipality arising from Retailer's operations, Retailer shall pay to Municipality, quarterly over five (5) years, a sum equivalent to three percent (3%) of Retailer's gross sales from marijuana and marijuana products during the previous quarter, on or before the 15<sup>th</sup> day following the close of each quarter. The first payment shall be due thirty days from the end of the calendar quarter in which sales commence, and quarterly thereafter.

2. Stipulation of responsibilities:

- (1) The Retailer shall:

- (i) Within sixty (60) days from the close of its fiscal year, submit a report to the Municipality certifying the gross revenue for the preceding fiscal year, to be prepared

by a Certified Public Accountant and in accordance with generally accepted accounting principles.

- (ii) Maintain its premises in a neat and tidy condition and conduct its operations in a businesslike and professional manner, with due regard for the interests of this community.
- (iii) Maintain its marijuana establishment license in good standing with the Cannabis Control Commission (“CCC”) and comply with all applicable CCC regulations;
- (iv) Cooperate with all Town municipal departments, boards, committees, and commissions to ensure that the Retailer’s operations are compliant with all local bylaws, rules, regulations and policies;
- (v) Comply with any and all conditions lawfully imposed by local authorities;
- (vi) To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, Retailer shall make reasonable efforts in a legal and non-discriminatory manner to give priority to qualified local businesses and vendors in the provision of goods and services called for in the operation of the registered marijuana retail facility, to hire local workers, and otherwise to engage the registered marijuana retail facility in the local economic mainstream;
- (vii) Punctiliously take measures to prevent the diversion of marijuana to minors;
- (viii) Provide incentives to employees who catch minors attempting to purchase marijuana using false IDs;
- (ix) If requested by the Town, assist the Town with, participate in, or contribute to community educational programs on public health and drug abuse prevention, and prevention programs that address youth marijuana use;
- (x) Support an elder-oriented marijuana education program to be held at the Senior Center to address applicable health benefits and concerns of the largest growing demographic benefitting from cannabis, namely, adults 40-70;
- (xi) Provide volunteer community services to the Town aimed at mitigating the actual or potential negative impact of marijuana sales on the Town and neighborhood abutting the registered marijuana retail facility at a rate equal to eight (8) hours of service for every 176 hours worked (e.g. one day per month for each full-time equivalent position);
- (xii) Upon the execution of this Agreement, compensate the Municipality its legal costs for review of this CHA in an amount not to exceed \$1,000.

(2) The Municipality shall:

- (i) Provide an appropriate forum whereby citizens' concerns and questions can be aired, and Retailer can address complaints or suggestions that arise concerning Retailer's operations;
- (ii) Accommodate the installation and use of state-of-the-art security and fire protection/alert systems connected to the police and/or fire department;
- (iii) Recognize Retailer as having all the rights, duties and responsibilities of, and deserving of equal treatment with, other business establishments in Town;
- (iv) If reasonably requested by Retailer, provide a letter in the nature of an estoppel certificate, stating that the municipality is aware of no outstanding violations of local law or insufficiently addressed complaints;
- (v) In connection with Retailer's submission of this Agreement to the CCC, provide a cover letter (1) acknowledging that the Host Community Agreement has been duly executed and accepted by all parties, has been approved and ratified by the local governing board (Board of Selectmen), and is in full force and effect with the Town; (2) if Retailer has selected a final location, confirming that a special use permit has been issued for the Retailer's facility and that the facility location complies with all local zoning and is further than 500 feet from any public or private school providing education in kindergarten or any of grades one through 12 as in accordance with 935 CMR 500.110(3), as measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Retailer will be located\*; (3) that the Retailer's business plan is in conformity with all applicable local bylaws and that the Town and Retailer have met and reviewed the bylaws together, with the Town being sufficiently confident the Retailer is aware and understands the bylaws and has agreed to abide by the same in letter and in spirit; (4) that the Town's police Chief has met with the Retailer, reviewed the Retailer's security plan and finds it acceptable to the Town; (5) that the Town's Director of Public Health has met with Retailer and is satisfied that Retailer's business plan will serve the Town's needs for health concerns; (7) that the Town is satisfied with Retailer's plans for workforce training, local hiring, local sourcing of product and overall, with Retailer's positive impact plan for the Town;  
  
\* If a final location has not been selected, a similar letter to the CCC will be issued when a location is selected, and a special use permit is issued.
- (vi) If contacted by the CCC, promptly provide any information requested concerning Retailer, including confirmation that its site is in a proper zoning district, notwithstanding that a special permit may be required;

- (vii) Upon the request of the Retailer in connection with the renewal of its license, or any annual reporting by Retailer to the CCC or otherwise, provide the Retailer with an accounting of the financial benefits accruing to the Town under this Agreement, as required by 935 CMR 500.103(4)(d), and such other cost-benefit information as the Retailer may reasonably request; and
  - (viii) The Municipality understands and acknowledges that, as required by M.G.L. c. 94G, § 3(d), Retailer's payments to the Municipality shall be reasonably related to the costs imposed upon the Municipality by Retailer's operation of a registered marijuana retail facility within the Municipality. Upon the request of the Retailer, Municipality shall provide Retailer with an accounting of the incremental financial cost to the Municipality of hosting the Retailer, and such other cost information as the Retailer or any other regulatory authority of Retailer may reasonably request of Retailer.
- 3. The Municipality may use all payments made hereunder for any purpose in conformity with the law in its sole discretion.
- 4. This Agreement is non-assignable. In the event that Retailer ceases doing business as a marijuana establishment in the Town, its successor, if any, shall be required to negotiate and sign a new Host Community Agreement with the Municipality.
- 5. So long as this Agreement is in effect, the real and personal property owned by the Retailer shall be treated as taxable by the Town in accordance with the Town's applicable real and personal property and state automobile tax laws and regulations and shall not be exempt therefrom.
- 6. Other:
  - (a) Notices. Any and all notices, or other communications required or permitted under this Agreement shall be in writing and delivered postage prepaid mail, return receipt requested; by and; by overnight delivery service; or by other reputable delivery services, to the parties at the addresses set forth on the first page of this Agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the USPS or, if sent by private overnight or other delivery service, when deposited with such delivery service.
  - (b) Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both of the parties would be substantially or materially prejudiced.
  - (c) Choice of Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of The Commonwealth of Massachusetts.

- (d) Accounting. The Retailer shall maintain its books, financial records, and other compilation of data pertaining to the requirements of this Agreement in accordance with generally accepted accounting principles and all applicable guidelines of the CCC. All records shall be kept for a period of at least seven (7) years.
- (e) Integration. This Agreement, including all documents incorporated therein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral and it shall not be modified or amended except by a written document executed by the parties hereto.

SIGNED this day and year respectively written below and effective as of the date first written above.

Municipality  
Town of Ware, Massachusetts

Retailer  
NewCann Group, LLC

By: \_\_\_\_\_  
Stuart Beckley, Town Manager

November \_\_\_\_, 2018

By: \_\_\_\_\_  
Edward B. Kaiser, Manager

November \_\_\_\_, 2018

\_\_\_\_\_  
Alan G. Whitney, Vice Chairman, Board of Selectmen

November \_\_\_\_, 2018

## **HOST COMMUNITY AGREEMENT**

Dated November \_\_, 2018

The parties to this agreement are:

**The Town of Ware, Massachusetts**, by and through its Board of Selectmen, having a principal office at Town Hall, 126 Main St, Ware, Massachusetts 01082 (hereinafter "Municipality"); and

**Primo Co, LLC**, a Massachusetts limited liability company having a principal office at 44 E Main St, Ware, MA 01082 (hereinafter "manufacturer").

Whereas, Manufacturer proposes to operate a registered cannabis manufacturing facility at 44 E Main St, Ware, MA 01082, in accordance with General Laws, Chapter 94G, 935 CMR 500, and Section 4.8.8 of the Ware zoning bylaws, and section 15-4 of the Ware general bylaws; and

Whereas, the town supports the manufacturer's intention to so operate; and

Whereas, the Municipality expects to experience adverse impact arising from the manufacturer's operations including, without being limited to, the increased use of municipal services; the increased use of municipal infrastructure; the need for additional municipal infrastructure, employees and equipment; increased traffic and costs related to mitigating other impacts to the town and its residents; and

Whereas, the parties wish hereby to set forth the conditions for locating and operating the establishment in Ware, including stipulations of responsibility between the Municipality and the manufacturer pursuant to Section 3 of Chapter 94g of the General Laws;

Now, therefore, in consideration of mutual covenants, the parties stipulate and agree as follows:

1. In mitigation of the aforesaid adverse impact to the Municipality from the manufacturer's operations, manufacturer shall pay to Municipality, quarterly over five (5) years, a sum equivalent to three percent (3%) of Manufacturer's gross sales from marijuana and marijuana products during the previous quarter, on or before the 15<sup>th</sup> day following the close of each quarter. The first payment shall be due thirty days from the end of the calendar quarter in which sales commence, and quarterly thereafter.
2. Stipulation of responsibilities:
  - 1.) The Manufacturer shall:
    - (i) Within sixty (60) days from the close of its fiscal year, submit a report to the Municipality certifying the gross revenue for the preceding fiscal year, to be

prepared by a Certified Public Accountant and in accordance with generally accepted account principles.

- (ii) Maintain its premises in a neat and tidy condition and conduct its operations in a businesslike and professional manner, with due regard for the interests of this community.
- (iii) Maintain its marijuana establishment license in good standing with the Cannabis Control Commission and comply with all applicable CCC regulations;
- (iv) Cooperate with all municipal departments, boards, committees, and commissions to ensure that the Manufacturer's operations are compliant with all the local bylaws, rules, regulations, and policies;
- (v) Comply with any and all conditions lawfully imposed by local authorities;
- (vi) Make reasonable efforts to hire local vendors and workers, and otherwise to engage the establishment in the local economic mainstream;

3. The Municipality shall:

- (i) Provide an appropriate forum whereby the views of citizens about the Manufacturer's operations can be aired and the Manufacturer have the opportunity to address complaints or suggestions that arise concerning Manufacturer's operations.
- (ii) Accommodate the installation and use of state of the art security and fire protection/alert systems connected to the police and/or fire department;
- (iii) Recognize Manufacturer as having all the rights, duties, and responsibilities of, and deserving of equal treatment with, other business establishments in town;
- (iv) If reasonably requested by Manufacturer, provide a letter in the nature of an estoppel certificate, stating that the municipality is aware of no outstanding violations of local law or insufficiently addressed complaints;
- (v) If contacted by the Cannabis Control Commission, promptly provide any information requested concerning Manufacturer, including confirmation that its site is in a proper zoning district, notwithstanding that a special permit may be required;
- (vi) Upon the request of the Manufacturer in connection with the renewal of its license, provide the Manufacturer with an accounting of the financial benefit accruing to the City of Ware under this agreement, as required by 935 CMR



500.103(4)(d), and such other cost-benefit information as the Manufacturer may reasonably request.

4. The Municipality may use all payments made hereunder for any purpose in its sole discretion.
5. This agreement is non-assignable. In the event that the Manufacturer ceases doing business as a marijuana establishment in Ware, its successor, if any, shall be required to negotiate and sign a new Host Community Agreement with the Municipality.
6. So long as this agreement is in effect, the real and personal property owned by the Manufacturer shall be treated as taxable by the Town in accordance with the Town's applicable real and personal property and state automobile tax laws and regulations and shall not be exempt therefrom.
7. Other:
  - (a) Notices. Any and all notices, or other communications required or permitted under this agreement shall be in writing and delivered postage prepaid mail, return receipt requested, by and; by overnight delivery service; or by other reputable delivery services, to the parties at the addresses set forth on the first page of this agreement or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the USPS or, if sent by private overnight or other delivery service, when deposited with such delivery service.
  - (b) Severability. If any term or condition of this agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining terms and conditions of this agreement shall not be deemed affected thereby unless one or both of the parties would be substantially or materially prejudiced.
  - (c) Choice of Law. This agreement shall be governed by, constructed, and enforced in accordance with the laws of the Commonwealth of Massachusetts.
  - (d) Accounting. This Manufacturer shall maintain its books, financial records, and other compilation of data pertaining to the requirements of this agreement in accordance with generally accepted accounting principles and all applicable guidelines of the Cannabis Control Commission. All records shall be kept for a period of at least seven (7) years.
  - (e) Integration. This agreement, including all documents incorporated therein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This agreement supersedes all prior agreements,

negotiation and representations, either written or oral and it shall not be modified or amended by a written document executed by the parties hereto.

Signed this day and year respectively written below.

Municipality  
Town of Ware, Massachusetts

Manufacturer  
Primo Co, LLC

By: \_\_\_\_\_  
Stuart Beckley, Town Manager

By: \_\_\_\_\_  
Andrew Stoddard, Manager

November \_\_, 2018

November \_\_, 2018

By: \_\_\_\_\_  
Alan G. Whitney, Vice Chairman, Board of Selectmen

November \_\_, 2018

## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of November, 2018, (the "Effective Date") by and between Town of Ware, 126 Main Street, Ware, Massachusetts, (the "SELLER") and WARE SENIOR LIVING, LLC, a Massachusetts for profit limited liability company with a principal place of business at 193 College Highway, Southampton, Massachusetts (the "BUYER")

1. Agreement to Purchase and Sell and Definition of Property. Subject to the terms and conditions set forth in this Agreement the SELLER hereby agrees to sell, assign, transfer and convey to the BUYER, and the BUYER hereby agrees to purchase from the SELLER a certain parcel of land (the "Parcel") with the building thereon known as 73 South Street, Ware, Ma, Assessors Parcel 57-0-37, Deed References Vol.606 Pages 73-74, Vol 546 Page 39, Vol 213 Page 297, and as shown on Exhibit A attached hereto, and as described in Exhibit B attached hereto.

2. Purchase Price. The purchase price for the Parcel and all other rights and interests transferred hereunder shall be ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) (the "Purchase Price") and shall be paid by the BUYER to the SELLER as follows:

2.1 The sum of One Thousand and 00/100 Dollars (\$1,000.00) upon the execution of this Agreement (the "Deposit"), which shall be held in escrow pending the Closing (defined below) by the SELLER'S Attorney, David Wojcik, (the "Escrow Agent") in a non-interest bearing account.

2.1.A As approved by the Ware Board of Selectmen on July 24, 2018, \$4,000.00 shall be credited to the purchase price to reimburse the BUYER for the environmental testing and report paid by the BUYER.

2.2 The balance of the Purchase Price shall be paid at the election of the SELLER by certified check, bank check, attorney trustee check or wire transfer of funds at the Closing.

3. Title and Deed. The SELLER shall convey the Parcel to the BUYER, by Quitclaim deed (the "Deed"), conveying a good and clear record and marketable title thereto, free and clear of all liens and monetary encumbrances, except for provisions of existing building and zoning laws, real estate taxes (if applicable) for the then current fiscal/tax year as are not due and payable on the date of delivery of the Deed and easements and restrictions of record. The Deed shall contain a right of reverter for the SELLER'S benefit containing the language set forth in Section 3.1 below:

3.1. Subject to the condition subsequent that if the grantee, or its successors or assigns, does not make significant construction progress on the premises before October 31, 2020, the grantor may, upon payment of \$100,000 (plus the reasonable documented costs of removing the school building, should grantee have undertaken to remove such building), exercise its right to enter upon the premises and revert title back to the grantor. "Significant Construction Progress" shall mean the demolition of the presently existing building and the installation of new foundations upon the premises.

3.2 An executed release of reverter shall be held in escrow by the Seller's Attorney.

3.3 The reverter release language is subject to reasonable revision requests by the Buyer's bank's Attorney.

4. Possession. The SELLER shall deliver the Parcel at Closing, free of any occupants, but otherwise in "as is" and "where is" condition as set forth in Section 5.4 of this Agreement. Any personal property remaining on or in the Parcel at the time of Closing shall become the property of BUYER.

5. BUYER'S Due Diligence Analyses, Investigations and Inspections. The BUYER'S obligations under this Agreement, including its obligation to purchase the

Parcel, are conditioned on the BUYER completing to its satisfaction, within forty-five (45) days after the Effective Date or five (5) days before the scheduled Closing, whichever is sooner (the "Due Diligence Period") its due diligence analyses with respect to the transaction, and its investigations and inspections of the Parcel (collectively, the "Due Diligence"), which shall include but not be limited to the following:

5.1 Title. The BUYER shall have a title examination relative to the Parcel performed at its sole expense.

The BUYER shall, prior to the expiration of the Due Diligence Period, notify the SELLER in writing, of the results of any such examination of title, and in such written notice (the "Title Report") identify any defects in title, encumbrances or other matters which would render the title unacceptable to the Buyer (Objections). In the event the SELLER is, after exercising commercially reasonable efforts, unable to remove an Objection and the parties are unable, through good faith negotiations, to reach a mutually acceptable resolution by credit, reduction in purchase price or holdback, then, at the BUYER's election, (i) this Agreement shall terminate and the Deposit shall be refunded to the BUYER, neither party having any further obligations to or rights against the other under this Agreement, or (ii) the BUYER may elect to complete the Closing and accept such title to the Parcel as the SELLER may convey. At the SELLER'S election, the SELLER may use all or a portion of the Purchase Price to facilitate the removal of such Objection.

5.2 Physical and Environmental Inspections, Zoning, Etc. The Due Diligence may include all the matters determined by the BUYER to be relevant to its areas of inquiry.

BUYER shall indicate to the SELLER in writing whether the result of such Due Diligence is satisfactory to the BUYER in its sole but reasonable discretion. In the event that the BUYER indicates in said notice to the SELLER that such investigations were not satisfactory to the BUYER and the BUYER elects not to proceed with the Closing, then the Escrow Agent shall return to the BUYER the Deposit and this Agreement shall terminate, with neither party having any further rights against or obligations to the other.

- 5.3 Municipal and Other Approvals. BUYER's obligations herein are contingent upon the BUYER's opinion, based on its Due Diligence, that BUYER will obtain all necessary approvals and such other licenses, and permits, as may be necessary to construct and operate a facility to engage in the Intended Use (Assisted Living Facility) beyond appeal and satisfactory to Buyer, (collectively, the "Approvals").
- 5.4 "As Is". Notwithstanding the BUYER'S right to conduct the Due Diligence, the SELLER is selling the Parcel to the BUYER in "as is" and "where is" condition and "with all faults" as of the date of this Agreement and of the Closing. The SELLER shall have no obligation to remedy any Due Diligence concern identified by the BUYER. BUYER agrees to accept the Parcel in the condition and state in which the Parcel is in as of the Effective Date without any representation or warranty, express or implied in fact or by law, by SELLER and without any recourse whatsoever against SELLER as to the title thereto, and as to the nature, condition or usability of the Parcel, and as to the use or uses to which the Parcel or any part thereof have been and may be put. SELLER is not required to furnish any services or facilities or to make any repairs or alterations in or to the Parcel.
- 5.5 In order to exercise its rights under this Section 5 not to proceed with its purchase of the Parcel, BUYER must notify SELLER prior to the expiration of the Due Diligence Period. Otherwise, BUYER's obligations under this Agreement shall remain in full force and effect.
- 5.6 In the event BUYER exercises its right under this Section 5 not to purchase the Parcel, or in the event that SELLER exercises its right of reverter under Section 3 of this Agreement, all environmental Due Diligence materials prepared by third parties, including but not limited to reports and studies, shall become the property of SELLER.

6. Closing. The Deed of the Parcel shall be executed and delivered by the SELLER, the rights and interests contemplated hereunder shall be transferred and assigned by the SELLER, and exclusive possession of the Parcel shall be given by the SELLER to the BUYER, and the BUYER shall tender the balance of the Purchase Price to the SELLER on or before November 30, 2018, (the "Closing Date" or "Closing") at

the Hampshire Registry of Deeds, Northampton, MA. The exact date and time of the Closing shall be as established by the mutual agreement of the BUYER and the SELLER.

7. Broker. The SELLER and BUYER both represent and acknowledge that neither has dealt with a real estate broker, salesperson or other person or entity entitled to a sales commission. Each party agrees to indemnify and hold the other harmless from and against any such claim for a sales commission.

8. Proration; etc. Ordinary real estate taxes (if applicable), assessed against the Parcel shall be prorated as of the date of the Closing. Any special assessments, betterment charges or other municipal fees and assessments charged or assessed against the Parcel shall be paid by the SELLER. If, in the course of Due Diligence, there are prorations to be made, best efforts shall be made to adjust as of the date of the Closing. If final adjustments are not fully or accurately available or determinable at Closing, such apportionment will be made at Closing based on the best information available at such time and readjusted within thirty (30) days of the Closing or as soon thereafter as all necessary information becomes available. This provision shall survive the Closing. The BUYER shall pay to record the Plan. SELLER shall be responsible for any transfer taxes to the extent such taxes are not exempted from the property transfer by G.L. c. 64D, §1 or other applicable law.

9. Warranties and Representations by the SELLER and the BUYER.

9.1 The SELLER warrants and represents to the BUYER as follows:

9.1.1 The SELLER has no knowledge of any underground storage tanks located on or under the Parcel. The SELLER has no knowledge of any environmental monitoring wells located on or under the Parcel other than the well installed on July 30, 2018. SELLER's "knowledge" is not based on independent verification.

9.1.2 The SELLER's taxpayer identification number is: 046-001-335.

The warranties and representations made herein shall be confirmed at the time of closing and shall survive the delivery of the deed.

9.2 The BUYER warrants and represents to the SELLER as follows:

9.2.1 The BUYER is a limited liability company, validly formed and existing and in good standing under the laws of the Commonwealth of Massachusetts, having full power, authority and legal right to enter into and perform this Agreement.

9.2.2 The execution, delivery and performance of this Agreement has been duly authorized by all necessary legal action, constitutes the valid and legally binding obligation of the BUYER, enforceable against the BUYER in accordance with its terms.

9.2.3 The BUYER's taxpayer identification number is: 82-3271706.

9.2.4 The Buyer represents that all units will be market rate.

The warranties and representations made herein shall be confirmed at the time of closing and shall survive the delivery of the deed.

10. Access. The SELLER hereby grants the BUYER, its agents and independent contractors, access to the Parcel to undertake such activities as may be necessary for the BUYER to effect its rights under this Agreement. The BUYER shall indemnify, defend and hold harmless the SELLER and its members, officers, agents and employees from and against any loss, expense, cost, penalty, assessment, claim or damage of any kind or nature arising out of or relating to the BUYER'S or its employees', agents' or contractors' activities at the Parcel. The foregoing indemnification obligation shall survive the Closing or termination of this Agreement.



10.1 Insurance. BUYER's permission, including its agents, servants, employees and/or subcontractors, to access the Parcel is conditioned upon BUYER first providing (on behalf of its agents, servants, employees and/or subcontractors accessing the Parcel), to SELLER certificates of insurance in the following amounts:

(a) Commercial general liability insurance in an amount no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, naming the SELLER, its officers, boards and employees as an additional insured, with an insurer with an A.M. Best Rating of "A" and licensed to write such insurance in Massachusetts. BUYER shall use commercially reasonable efforts to select an insurance carrier that is covered by the Massachusetts insurer insolvency fund.

(b) On behalf of those agents, servants, employees and/or subcontractors performing Environmental Due Diligence, Pollution Liability Insurance covering sudden and accidental pollution losses arising out of BUYER's activities to inspect or access the Parcel, with Bodily Injury and Property Damage limits of no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate. This requirement may be satisfied by endorsement to the General Liability policy.

11. Items to be Delivered at Closing by SELLER. At the Closing, the SELLER shall execute and deliver to the BUYER, at the SELLER's sole cost and expense, each of the following items:

11.1 Evidence reasonably satisfactory to the BUYER of the authority of the person executing this Agreement, the Deed and other closing documents contemplated hereunder or referred to in this Section

11.2 The Deed duly executed, conveying good and clear record and marketable title to the Parcel in fee simple absolute to the BUYER, free of all encumbrances except for the Permitted Encumbrances.

11.3 An affidavit indicating the absence of mechanics' liens, tenants and parties in possession of the Parcel and an affidavit verifying the non-existence of mechanics' liens and materialmen's liens relating to the

Parcel and the non-existence of parties in possession, leasehold, rental, occupancy or use rights to the Parcel.

11.4 Documents required by the Internal Revenue Service confirming the nonforeign status of the SELLER and pertaining to the sale and conveyance of real estate.

11.5 A settlement or closing statement, with disbursement authorization, reflecting the payment of the Purchase Price and the disbursement or allocation of applicable charges and prorations related thereto. A draft of such settlement statement or closing statement shall be mutually agreed upon by the BUYER and the SELLER Two (2) business days prior to Closing.

12. Default. If the SELLER shall default in its obligations hereunder prior to the Closing, then the BUYER may, at its election, either (a) receive back the Deposit and terminate this Agreement, with neither party having any further rights against or obligations to the other or (b) enforce its rights and remedies at law and in equity, which shall include the right and remedy of specific performance. If the BUYER shall default in its obligations hereunder prior to the Closing, then the SELLER shall retain the Deposit as liquidated damages, as its sole and exclusive right and remedy at law and equity. The parties agree that the Deposit is a reasonable measure of liquidated damages as the actual damages are difficult or impossible to ascertain.

13. Merger. All representations, statements and agreements heretofore made between the parties are merged in this Agreement, which alone fully and completely expresses their respective obligations, and this Agreement is entered into by each party after opportunity for investigation, neither party relying on any statements or representations not embodied in this Agreement, made by the other or on its behalf.

14. Applicable Law. The parties agree this Agreement shall be interpreted and enforced according to the laws of the Commonwealth of Massachusetts.

15. Assignability. The parties may not assign any of their rights or the duties hereunder without the express written consent of the other, which consent shall not be unreasonably withheld, conditioned or delayed.

16. Persons Bound. This Agreement shall be binding upon the parties and their respective legal representatives, successors and assignees.

17. Counsel. Each party represents to the other that prior to entering to this Agreement it has had the opportunity to consult with independent legal counsel in connection with this Agreement and the transaction contemplated hereby.

18. Notices. All notices shall be sent to the parties at the following respective addresses, or such other addresses as each party shall have provided the other, either by (i) registered mail, return receipt requested, or (ii) by recognized overnight delivery service, or (iii) by email with delivery receipt. Delivery shall be deemed effective three (3) business days following deposit in the United States mail, certified and with proper postage prepaid, one (1) business day after being sent by a nationally recognized overnight delivery service, or in the case of email, at the time of issuance of the delivery receipt, if sent to the following:

SELLER: Town of Ware, MA  
C/O) Stuart Beckley Town Manager  
126 Main Street  
Ware, MA 01082  
Phone: 413-967-9648 x 100  
Email: sbeckley@townofware.com

With copy to: David A. Wojcik  
Christopher, Hays, Wojcik & Mavricos, LLP  
446 Main Street, 8<sup>th</sup> Floor  
Worcester, MA 01608  
Phone: 508-792-2800 x 227  
Fax: 508-792-6224  
Email: dwojcik@chwmlaw.com

BUYER: Ware Senior Living LLC  
162 College Highway  
PO Box 363  
Southampton, Massachusetts 01073  
Phone: 413-559-8882  
Email: fjmielke@me.com

With copy to: Frederick J. Mielke, Jr.  
162 College Highway  
PO Box 363  
Southampton, Ma 01073  
Phone: 413-559-8882  
Email: fjmielke@me.com

19. Effective Date. The term "Effective Date" shall mean the date set forth in the initial paragraph of this Agreement.

20. Counterparts. To facilitate execution, this Agreement may be executed simultaneously in two or more counterparts, each one of which shall be deemed an original, but all of which shall constitute one and the same instrument. A counterpart may be delivered via facsimile or email and the facsimile or email received will be deemed to be an original.

24. Amendment. This Agreement shall not be amended, changed, waived, terminated or modified in any respect or particular unless the same shall be in writing and signed by or on behalf of the party to be charged therewith.

25. Statutory Provisions. BUYER acknowledges and agrees that SELLER is a municipality, and that this Agreement shall include all contractual provisions required to be included in agreements for the disposition of real property by a municipality, including but not limited to those set forth in this Paragraph 25. Such other statutorily required provisions shall be deemed to be included herein, and the Parties agree to amend this Agreement as necessary to comply with all laws relating to the disposition of real property by a municipality.

25.1 BUYER will execute and deliver to SELLER upon execution of this Agreement a Certification of Tax Compliance in the form

attached hereto.

25.2 BUYER will execute and deliver to SELLER upon execution of this Agreement a Disclosure of Beneficial Interests in the form attached hereto.

25.3 BUYER certifies that it is in compliance with the Uniform Procurement Act and all laws related to public bidding.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed as of the Effective Date.

[Signatures Appear on the Following Pages.]

**SELLER:**

Town of Ware, MA

By:

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Name: John E. Carroll

Its: Chairman, Board of Selectmen

Dated: \_\_\_\_\_

**BUYER:**

WARE SENIOR LIVING, LLC

By:

---

Name: Frederick J. Mielke, Jr.

Its: Manager

Dated: \_\_\_\_\_

CERTIFICATION OF TAX COMPLIANCE

Pursuant to G.L. c. 62C, §49A, Buyer hereby certifies under penalty of perjury that it has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

\_\_\_\_\_  
Buyer: Ware Senior Living, LLC

\_\_\_\_\_  
Date

**DISCLOSURE OF BENEFICIAL INTERESTS**

Pursuant to G.L. c. 7C, §38, Buyer hereby certifies under penalty of perjury that the following persons will have a direct or indirect beneficial interest in the property located at 73 South Street, Ware, Massachusetts:

Name

Address


\_\_\_\_\_  
Seller: Ware Senior Living, LLC

\_\_\_\_\_  
Date