

Town of Barnstable
Town Council
James H. Crocker Jr. Hearing Room
367 Main Street, 2nd floor,
Hyannis, MA 02601
Office 508.862.4738 • Fax 508.862.4770
E-mail: council@town.barnstable.ma.us

TOWN COUNCIL MEETING AGENDA

May 04, 2023

7:00 pm

Councillors:

Matthew Levesque
President
Precinct 10

Jennifer Cullum
Vice President
Precinct 13

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Betty Ludtke
Precinct 3

Nikolas Atsalis
Precinct 4

Paul Cusack
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grassetti
Precinct 7

Jeffrey Mendes
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Paula Schnepf
Precinct 12

Administrator:
Cynthia A. Lovell
Cynthia.Lovell@town.barnstable.ma.us

The May 04, 2023 Meeting of the Barnstable Town Council shall be conducted in person at 367 Main Street 2nd Floor James H. Crocker Jr. Hearing Room, Hyannis, MA. The public may attend in person or participate remotely in Public Comment or during a Public Hearing via the Zoom link listed below.

1. The meeting will be televised live via Comcast Channel 18 or may be accessed via the Channel 18 live stream on the Town of Barnstable's website:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Written Comments may be submitted to:

https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

3. Remote Participation: The public may participate in Public Comment or Public Hearings by utilizing the Zoom video link or telephone number and access meeting code:

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON PUBLIC SESSION MINUTES

8. COMMUNICATIONS - from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

9. ORDERS OF THE DAY

A. Old Business

B. New Business

10. ADJOURNMENT

NEXT REGULAR MEETING: May 18, 2023

| ITEM NO. | INDEX TITLE | PAGE |
|-----------|--|------|
| A. | OLD BUSINESS | |
| 2023-111 | Appropriation and Loan Order in the amount of \$400,000 for the purpose of funding the Cobb Astro Park Exterior Insulation Finish System (EIFS) Replacement Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-112 | Appropriation and Loan Order in the amount of \$1,000,000 for the purpose of funding the Campus-Wide Door and Window Replacement Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-113 | Appropriation Order the amount of \$350,000 for the purpose of funding the Campus-Wide Paving and Sidewalk Repair Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (Majority Vote Full Council) | |
| 2023-114 | Appropriation and Loan Order in the amount of \$500,000 for the purpose of funding the Barnstable High School Culinary Arts Kitchen Improvements Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-115 | Appropriation Order in the amount of \$250,000 for the purpose of funding the Campus-Wide Mechanical Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (Majority Vote Full Council) | |
| 2023-116 | Appropriation Order in the amount of \$250,000 for the purpose of funding the Knight Hall Chiller Replacement Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (Majority Vote Full Council) | |
| 2023-117 | Appropriation Order in the amount of \$1,000,000 for the purpose of funding the Barnstable High School Phase II Softball Field Upgrade Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (Majority Vote Full Council) | |
| 2023-118 | Appropriation and Transfer Order in the amount of \$750,000 for the purpose of funding the West Villages Elementary Carpet Removal Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-119 | Appropriation and Loan Order in the amount of \$1,015,864 for the purpose of funding the HVAC upgrades to the Airport Terminal and Tower Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-120 | Appropriation and Loan Order in the amount of \$525,000 for the purpose of funding the Master Plan Updates Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-121 | Appropriation and Loan Order in the amount of \$689,000 for the purpose of funding the Security Camera Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |
| 2023-122 | Appropriation and Loan Order in the amount of \$383,000 for the purpose of funding the replacement of Snow Removal Equipment Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan (Public Hearing) (Roll Call) (2/3 Vote Full Council) | |

- 2023-123 Appropriation and Loan Order in the amount of **\$1,120,580** for the purpose of funding the Snow Removal Equipment Storage Facility Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan **(Public Hearing) (Roll Call) (2/3 Vote Full Council)**
- 2023-124 Appropriation and Loan Order in the amount of **\$505,000** for the purpose of funding the Electric Aircraft Support Vehicle and Charging Station Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan **(Public Hearing) (Roll Call) (2/3 Vote Full Council)**
- 2023-125 Appropriation and Loan Order in the amount of **\$355,000** for the purpose of funding the Jet A Fuel Storage Tank Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan **(Public Hearing) (Roll Call) (2/3 Vote Full Council)**
- 2023-126 Appointments to a Board/Committee/Commission: **Mid Cape Cultural Council:** Barbara Hersey, as a regular member, to a term expiring 06/2025; **Shellfish Committee:** Paul Hendricks Jr., as a professional fisheries trained member, to a term expiring 06/2024; **Youth Commission:** Sophia Machnik, as a student member, to a term expiring 06/2024; Daniel Gomes, as a student member, to a term expiring 06/2024 **(May be acted upon) (Majority Vote)**
- 2023-180 Authorization to convey 8.1 +/- acres of the property located at 140 Old Oyster Road, in the village of Cotuit, MA, to the Cotuit Fire District for nominal consideration of one dollar and no cents (\$1.00) and approval and authorization of a Conservation Restriction on the remaining 5.4 +/- acres of said property to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and water protection purposes **(May be acted upon) (Majority Vote)**

B. NEW BUSINESS

- 2023-127 Appropriation Order in the amount of **\$90,000** for the purpose of funding a Floating Treatment Wetland Pilot Study for Long Pond Marstons Mills **(Refer to Public Hearing 05/18/2023)**
- 2023-181 Transfer Order in the amount of **\$59,320** from the Marine and Environmental Affairs and Administrative Services Departments Fiscal Year 2023 Personnel Budgets to the Fiscal Year 2023 Marine and Environmental Affairs Fiscal Year 2023 Operating Capital Budget for the purpose of funding the acquisition of a Harbormaster vehicle **(May be acted upon) (Roll Call Majority Vote)**
- 2023-182 Transfer Order in the Amount of **\$428,700** from the Fiscal Year 2023 Department of Public Works General Fund Personnel Budgets to the Fiscal Year 2023 Department of Public Works General Fund Operating Expenditure and Operating Capital Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials **(May be acted upon) (Roll Call Majority Vote)**
- 2023-183 Transfer Order in the amount of **\$51,000** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Administrative Services Department Operating Expense Budget and Operating Capital Budget for the purpose of funding Diversity, Equity and Inclusion training and diagnostics and purchasing furniture in the Tax Collections Office **(May be acted upon) (Roll Call Majority Vote)**
- 2023-184 Transfer Order in the amount of **\$22,000** from the Planning and Development Department Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Planning and Development Operating Expense Budget for the purpose of funding the replacement of buoys in Aselton Park **(May be acted upon) (Roll Call Majority Vote)**
- 2023-185 Transfer Order in the amount of **\$76,607** from the Barnstable Police Department Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Police Department Operating Expense Budget for the purpose of funding training expenses and expenses associated with officer wellness **(May be acted upon) (Roll Call Majority Vote)**

- 2023-186** Transfer Order in the Amount of **\$91,825** from the Fiscal Year 2023 Community Services Department Personnel Budgets to the Fiscal Year 2023 Community Services Operating Expenditure Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials **(May be acted upon) (Roll Call Majority Vote)**
- 2023-187** Appropriation Order in the amount of **\$86,758** for the purpose of funding the acquisition of equipment to assist with the implementation of The Greening The Gateway Cities Program and authorization to expend a Fiscal Year 2024-2026 Executive Office of Energy and Environmental Affairs Greening The Gateway Cities Program Grant in the amount of **\$1,800,000 (Refer to Public Hearing 05/18/2023)**

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it so votes, the Council may go into executive session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-111

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-111 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$400,000 FOR THE PURPOSE OF FUNDING THE COBB ASTRO PARK EXTERIOR INSULATION FINISH SYSTEM (EIFS) REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$400,000** be appropriated for the purpose of funding the Cobb Astro Park Exterior Insulation Finish System (EIFS) Replacement project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$400,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-112

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-112 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE DOOR AND WINDOW REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$1,000,000** be appropriated for the purpose of funding the Campus-wide Door and Window Replacement project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,000,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-113

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-113 APPROPRIATION ORDER THE AMOUNT OF \$350,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE PAVING AND SIDEWALK REPAIR PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$350,000** be appropriated for the purpose of funding the Campus-wide Paving and Sidewalk Repair Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to fund this appropriation that **\$350,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-114

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-114 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$500,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL CULINARY ARTS KITCHEN IMPROVEMENTS PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$500,000** be appropriated for the purpose of funding the Barnstable High School Culinary Arts Kitchen Improvements project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$500,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-115
INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-115 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE CAMPUS-WIDE MECHANICAL UPGRADES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$250,000** be appropriated for the purpose of funding the Campus-wide Mechanical Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to fund this appropriation that **\$250,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION |
|-------------------|--|
| <u>04/06/2023</u> | <u>Refer to Public Hearing 04/27/2023</u> |
| <u>04/27/2023</u> | <u>Open and Continued Public Hearing to 05/04/2023</u> |

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-116

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-116 APPROPRIATION ORDER IN THE AMOUNT OF \$250,000 FOR THE PURPOSE OF FUNDING THE KNIGHT HALL CHILLER REPLACEMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$250,000** be appropriated for the purpose of funding the Knight Hall Chiller Replacement Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$250,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION |
|-------------------|--|
| <u>04/06/2023</u> | <u>Refer to Public Hearing 04/27/2023</u> |
| <u>04/27/2023</u> | <u>Open and Continued Public Hearing to 05/04/2023</u> |

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (Majority Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-117
INTRO: 04/06/2023, 04/27/2023, 05/05/2023

2023-117 APPROPRIATION ORDER IN THE AMOUNT OF \$1,000,000 FOR THE PURPOSE OF FUNDING THE BARNSTABLE HIGH SCHOOL PHASE II SOFTBALL FIELD UPGRADE PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$1,000,000** be appropriated for the purpose of funding the Barnstable High School Phase II Softball Field Upgrade Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$1,000,000** be provided from the General Fund Reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION |
|-------------------|--|
| <u>04/06/2023</u> | <u>Refer to Public Hearing 04/27/2023</u> |
| <u>04/27/2023</u> | <u>Open and Continued Public Hearing to 05/04/2023</u> |

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-118

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-118 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$750,000 FOR THE PURPOSE OF FUNDING THE WEST VILLAGES ELEMENTARY CARPET REMOVAL PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$750,000** be appropriated for the purpose of funding the West Villages Elementary Carpet Removal project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$441,549** be transferred from the remaining available balance in Town Council order 2019-101, and that **\$239,605** be transferred from the remaining available balance in Town Council order 2019-102, and that **\$68,846** be provided from the General Fund reserves; and that the Barnstable School Committee is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-119

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-119 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,015,864 FOR THE PURPOSE OF FUNDING THE HVAC UPGRADES TO THE AIRPORT TERMINAL AND TOWER PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$1,015,864** be appropriated for the purpose of funding the HVAC Upgrades to the Airport Terminal and Tower Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$50,793** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$965,071** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-120

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-120 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$525,000 FOR THE PURPOSE OF FUNDING THE MASTER PLAN UPDATES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$525,000** be appropriated for the purpose of funding the Master Plan Updates Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$26,250** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$498,750** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefore; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-121

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-121 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$689,000 FOR THE PURPOSE OF FUNDING THE SECURITY CAMERA UPGRADES PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$689,000** be appropriated for the purpose of funding the Security Camera Upgrades Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$34,450** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$654,550** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-122

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-122 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$383,000 FOR THE PURPOSE OF FUNDING THE REPLACEMENT OF SNOW REMOVAL EQUIPMENT PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$383,000** be appropriated for the purpose of funding the Replacement of Snow Removal Equipment Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$19,150** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$363,850** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-123

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-123 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$1,120,580 FOR THE PURPOSE OF FUNDING THE SNOW REMOVAL EQUIPMENT STORAGE FACILITY PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$1,120,580** be appropriated for the purpose of funding the Snow Removal Equipment Storage Facility Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$1,120,580** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-124

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-124 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$505,000 FOR THE PURPOSE OF FUNDING THE ELECTRIC AIRCRAFT SUPPORT VEHICLE AND CHARGING STATION PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 - FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$505,000** be appropriated for the purpose of funding the Electric Aircraft Support Vehicle and charging Station Project as outlined in the Fiscal Year 2024 - Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$25,250** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$479,750** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call) (2/3 Vote Full Council)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-125

INTRO: 04/06/2023, 04/27/2023, 05/04/2023

2023-125 APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$355,000 FOR THE PURPOSE OF FUNDING THE JET A FUEL STORAGE TANK PROJECT AS OUTLINED IN THE FISCAL YEAR 2024 – FISCAL YEAR 2028 CAPITAL IMPROVEMENT PLAN

ORDERED: That the amount of **\$355,000** be appropriated for the purpose of funding the Jet A Fuel Storage Tank Project as outlined in the Fiscal Year 2024 – Fiscal Year 2028 Capital Improvement Plan, including the payment of costs incidental or related thereto; and that to meet this appropriation, that **\$71,000** be provided from the Airport Enterprise Fund surplus, and that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow **\$284,000** under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Airport Commission is authorized to contract for and expend the appropriation made available for these purposes and to accept any gifts or grants in relation thereto.

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION

04/06/2023 Refer to Public Hearing 04/27/2023

04/27/2023 Open and Continued Public Hearing to 05/04/2023

- Read Item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-126
INTRO: 04/27/2023, 05/04/2023

2023-126 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Mid Cape Cultural Council:** Barbara Hersey, as a regular member, to a term expiring 06/2025; **Shellfish Committee:** Paul Hendricks Jr., as a professional fisheries trained member, to a term expiring 06/2024; **Youth Commission:** Sophia Machnik, as a student member, to a term expiring 06/2024; Daniel Gomes, as a student member, to a term expiring 06/2024

SPONSORS: Appointments Committee Members: Councilor Paula Schnepf, Chair; Councilor Tracy Shaughnessy; Councilor Jeffrey Mendes; Councilor Nikolas Atsalis; and Councilor Gordon Starr

| DATE | ACTION TAKEN |
|-------------------|---|
| <u>04/27/2023</u> | <u>First Reading, Referred to Second Reading 05/04/2023</u> |

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

A. OLD BUSINESS (May be acted upon) (Majority Vote)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-180
INTRO: 04/27/23, 05/04/2023

2023-180 AUTHORIZATION TO CONVEY 8.1 +/- ACRES OF THE PROPERTY LOCATED AT 140 OLD OYSTER ROAD, IN THE VILLAGE OF COTUIT, MA, TO THE COTUIT FIRE DISTRICT FOR NOMINAL CONSIDERATION OF ONE DOLLAR AND NO CENTS (\$1.00) AND APPROVAL AND AUTHORIZATION OF A CONSERVATION RESTRICTION ON THE REMAINING 5.4 +/- ACRES OF SAID PROPERTY TO BE HELD BY THE COTUIT FIRE DISTRICT FOR CONSERVATION, RECREATION, AQUIFER RECHARGE AREA AND WATER PROTECTION PURPOSES

WHEREAS, the 13.5 acre parcel located at 140 Old Oyster Road in the Village of Cotuit in the Town of Barnstable, as shown on Town of Barnstable Assessor's Map 021, Parcel 008, is under the charge, custody and control of the Town Manager; and

WHEREAS, on April 10, 2023, the Town sought and received endorsement of the Town Planning Board that approval under the Subdivision Control Law was not required to divide said 13.5 acre parcel into two lots of 8.1 +/- acres and 5.4 +/- acres, referred to hereinafter as Lot A and Parcel B, respectively, as shown on a plan of land entitled, "Approval Not Required Plan of Land at 140 Old Oyster Road in Barnstable (Cotuit) MA (Barnstable County) prepared for: Town of Barnstable Department of Public Works, prepared by: JC Engineering, Inc., 2854 Cranberry Highway, East Wareham, MA 02538, Scale 1" = 60' October 14, 2022" (the "ANR Plan") attached hereto; and

WHEREAS, on April 11, 2023, the Town Manager declared that Lot A was no longer required for the public purposes of the Town and was surplus to the Town's needs and so informed the Town Council; and

WHEREAS, the Cotuit Fire District seeks to acquire Lot A due to its location within a wellhead protection area and directly up gradient from one of the Fire District's primary drinking water wells; and

WHEREAS, the Town Manager seeks authorization to convey Lot A by deed to the Cotuit Fire District for the nominal consideration of One Dollar and No Cents (\$1.00); and

WHEREAS, the Town Manager seeks Town Council approval of a Conservation Restriction to be placed on Parcel B to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and watershed protection purposes;

NOW, THEREFORE, BE IT ORDERED:

1. That the Town Council does hereby declare available for disposition and approve and authorize the conveyance by deed of Lot A, 8.1 +/- acres as shown on the ANR Plan, including the building thereon, as is, where is, without warranty or any further obligation incumbent upon the Town, to the Cotuit Fire District for the nominal consideration of One Dollar and No Cents

(\$1.00); and further authorizes the Town Manager to execute, receive, deliver and record any written instrument necessary to effectuate such conveyance; and

2. Subject to the conveyance authorized by Paragraph 1 hereof, and pursuant to the provisions of M.G.L. c. 184, sections 31-33, the Conservation Restriction statute, the Town Council does hereby approve and authorize the Town Council President to sign on behalf of the Town Council a Conservation Restriction on Parcel B, 5.4 +/- acres as shown on the ANR Plan, said Restriction to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and watershed protection purposes. Said Restriction is subject to approval of the Massachusetts Secretary of Energy and Environmental Affairs, and shall be substantially in the form attached hereto. It is further ordered that the Town Manager is authorized to execute, receive, deliver and record any written instruments necessary to effectuate the purposes set forth herein.

SPONSOR:Councilor Jessica Rapp Grasseti, Precinct 7; Mark S. Ells, Town Manager

| DATE | ACTION |
|-------|--------|
| _____ | _____ |
| _____ | _____ |

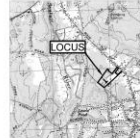
- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

FOR REGISTRY USE ONLY



BARNSTABLE PLANNING BOARD
 APPROVAL UNDER SUBDIVISION CONTROL LAR NOT REQUIRED
 ENDORSED DATE _____

NO DETERMINATION AS TO COMPLIANCE WITH THE ZONING ORDINANCE REQUIREMENTS HAS BEEN MADE OR INTENDED BY THE ABOVE ENCLOSURE.



LOCUS PLAN

- SCALE: 1" = 200'
- LOCUS IS SHOWN AS PARCELS B ON BARNSTABLE ASSESSORS MAP 21
 - EXISTING RECORDS:
 - TOWN OF BARNSTABLE (LCH)
 - PLANS BOOK 102 PAGE 108
 - PLANS BOOK 102 PAGE 108
 - PLANS BOOK 102 PAGE 108
 - PLAN REFERENCES:
 - PLANS BOOK 102 PAGE 108
 - PLANS BOOK 102 PAGE 108
 - PLANS BOOK 102 PAGE 108
 - PLANS BOOK 102 PAGE 108
 - THIS SITE HAS NO SETBACKS
 - ENTIRE SITE IS LOCATED WITHIN THE RESOURCE PROTECTION OVERLAY DISTRICT
 - ENTIRE SITE IS LOCATED WITHIN THE AQUICFER PROTECTION OVERLAY DISTRICT
 - ENTIRE SITE IS LOCATED WITHIN THE COTTAGE TREE DISTRICT
 - BARNSTABLE ASSESSORS MAP 21 LOT 8 SHALL BE DIVIDED INTO LOT A & PARCELS B PARCELS B IS NOT CONSIDERED A BUILDING LOT
 - THE HORIZONTAL DATUM IS BASED ON THE BARNSTABLE TOWN AND STATE PLANS
 - ALL ELEVATIONS AND IN SET POINTS REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988

- ZONING DISTRICT: R-1
 MINIMUM REQUIREMENTS & SETBACKS:
 MIN. LOT AREA: 10,000 S.F.
 MIN. FRONT YARD: 10'
 MIN. SIDE YARD: 5'
 MIN. REAR YARD: 5'
 MIN. FLOOR HEIGHT: 8'
 MIN. CEILING HEIGHT: 8'

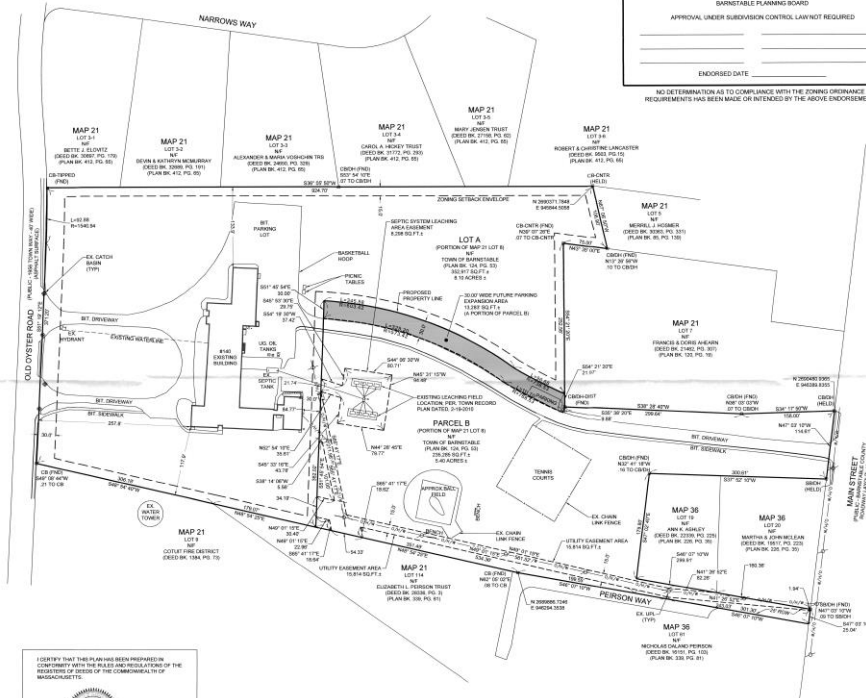
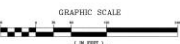
APPROVAL NOT REQUIRED
PLAN OF LAND
 140 OLD OYSTER ROAD
 BARNSTABLE (COTTAGE), MA
 (BARNSTABLE COUNTY)

PREPARED FOR:
 TOWN OF BARNSTABLE
 DEPARTMENT OF PUBLIC WORKS

PREPARED BY:
 JC ENGINEERING, INC.
 2854 CRANBERRY HIGHWAY
 EAST WARRENHAM, MA 02538

SCALE: 1" = 60' OCTOBER 14, 2022

- LEGEND**
- IND - FOUND
 - MAP - NON-COMMERCE
 - US - UNDERGROUND
 - CR () - CONCRETE FOUND
 - BR () - BRICK FOUND
 - ST - STONE FOUND
 - FILE OF STONES
 - DR - DRILL HOLE
 - TRMSP - CAPTOP BEAR
 - UPL - UTILITY POLE



*COTUIT SCHOOL LAND CONSERVATION RESTRICTION
BARNSTABLE, MA*

Grantor: TOWN OF BARNSTABLE

Grantee: Cotuit Fire District

Property Address: 140 Old Oyster Road, Cotuit, MA

Grantor's Title: Book 923 Page 150 in Barnstable County Registry of Deeds

CONSERVATION RESTRICTION

TOWN OF BARNSTABLE, a Massachusetts municipal corporation with a principal place of business at Town Hall, 367 Main Street, Hyannis, Barnstable County, Massachusetts, 02601-3907, acting by and through its Town Council, an attested copy of whose vote is attached hereto as Exhibit C, its successors and assigns holding any interest in the Premises as hereinafter defined, ("Grantor"), for nominal consideration paid by the **COTUIT FIRE DISTRICT**, a Massachusetts municipal corporation duly-organized pursuant to Chapter 328 of the Acts of 1926, with a principal place of business at 64 High Street, Cotuit, Massachusetts 02635, acting by and through its Prudential Committee, ("District/Grantee"), pursuant to authority granted by vote of the District on Article ___ of the Cotuit Fire District Annual Meeting held on May 31, 2023, an attested copy of which vote is attached hereto as Exhibit D,

GRANTS WITH QUITCLAIM COVENANTS to the COTUIT FIRE DISTRICT and to its successors and permitted assigns, with quitclaim covenants, a Conservation Restriction, pursuant to Sections, 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, to be held and exercised in perpetuity as provided in Section I. Purposes herein exclusively for conservation, recreation, aquifer recharge area and watershed protection purposes, including under Mass. Const. Amend. Art. 97, the following described perpetual **CONSERVATION RESTRICTION** ("Restriction"), on a parcel of unregistered land totaling approximately ____ [5.5±] acres, located at 140 Old Oyster Road in the Village of Cotuit, Town of Barnstable, County of Barnstable, Commonwealth of Massachusetts, said parcel being described in Exhibit A and shown on Exhibit B both of which are attached hereto, said parcel hereinafter referred to as the "Premises." The Grantor and Grantee, their successors and assigns, are bound by and subject to the terms and conditions of this Restriction.

The conveyance of this Restriction is made pursuant to the vote of the Barnstable Town Council, at a duly called meeting held on _____ 2023, on Agenda Item 2023-_____, to authorize the Town to grant this Restriction on the Premises in compliance with the provisions set forth herein. A copy of the Town Council Order is attached hereto as Exhibit C.

The District acquires this Restriction subject to the approval of the Department of Environmental Protection ("DEP") pursuant to Massachusetts General Laws Chapter 40, Section 41 of the District's monitoring and enforcement powers as provided in section M owing to the fact that the Premises is located within the Zone II to Well Station #3 of the District. The Town and the District also acquire this Restriction subject to the approval of the Secretary of Energy and Environmental Affairs ("EEA") pursuant to Massachusetts General Laws Chapter 184, Section 32 over the entire premises.

DEP approval is required before the Premises located within the DEP-approved Zone II can be transferred to a different ownership or control, or before the Premises located within the Zone II can be changed to a different use.

I. PURPOSE: This Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws. The purpose of this Restriction is to assure that, while allowing public access for passive and active recreational use and enjoyment of the open space and natural resources

and permitting the other uses described in Paragraph B herein, and to the extent permitted by applicable law, the Premises will be preserved for conservation, aquifer, recharge area and watershed protection purposes, and be maintained in perpetuity, substantially in a scenic and open condition and to prevent any use of the Premises that would materially impair or interfere with the conservation values and aquifer recharge area and watershed protection values thereof. This Restriction will yield a significant public benefit because the Premises' protection will advance the following policies and objectives.

- A. The Drinking Water Program of the Massachusetts Department of Environmental Protection ("DEP") approves Zone II areas of contribution, wellhead protection areas determined by Hydro-geologic modeling that are important for protecting the recharge area around aquifer, recharge area and groundwater resources.
- B. In 1999, the Cape Cod Commission completed its Priority Land Acquisition Assessment Project (PLAAP) for the Massachusetts Department of Environmental Protection under a Section 604(b) grant. The PLAAP in effect serves as the water assets plan for the Cotuit Fire District, and, in fact, probably is more specific than a typical community assets plan. This PLAAP report refined a Capewide inventory conducted by the U.S. Geological Survey in 1994 that had identified only five percent of the Cape's land mass as potentially suitable for future wellfield creation.
- C. In July 1991 the Barnstable Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996, 2002 and 2009, which provided, *inter alia* (references are to the 2009 Plan):
 - Wildlife and Plant Habitat Goal to "prevent loss or degradation of critical wildlife and plant habitat...and to maintain existing populations and species diversity" (WPH1); stating that "renewed commitment to protect the most ecologically sensitive undeveloped lands through land acquisition and other permanent conservation measures is also warranted;"
 - Open Space and Recreation Goal to "preserve and enhance the availability of open space that provides wildlife habitat...and protects the region's natural resources and character" (OS1) with a recommended Town Action of working with "local land conservation organizations to identify, acquire by fee simple or conservation restriction, and manage open space to meet projected community needs.
- D. In 2000, the Town of Barnstable voted to establish a Resource Protection Overlay District to reduce nitrogen loading to groundwater, surface water and coastal embayments to prevent deterioration of water quality, destruction of bottom habitat, loss of fin fish and shell fish habitat, and other adverse environmental and economic impacts; and,
- E. The Town of Barnstable adopted wellhead protection regulations, mapping the entire Town as falling under one of three Groundwater Protection Overlay Districts, shown on the Town's Official Zoning Map: the Aquifer Protection (AP) District is the entire town because it is part of the Cape Cod Sole Source Aquifer; the Groundwater Protection (GP) District is similar to the State's Zone II, but future proven well sites were also included so the area of protection is larger than the Zone II; and the Wellhead Protection (WP) District, which is within the five-year time of travel, and is a subset within the GP District.
- F. In 2008, the Town of Barnstable established a Saltwater Estuary Protection Overlay District to mitigate the adverse impact to saltwater, nitrogen-impaired estuaries from the subsurface discharge of sewage effluent; and this Conservation Restriction meets the following requirements:
- G. Consistency with Clearly Delineated Town of Barnstable Conservation Policy. Protection

of the Premises will further the Town of Barnstable's documented goals regarding conservation land. The Town outlined its conservation goals in its *Open Space and Recreational Plan* (1984, amended 1987, 1998, 2005, 2010, 2018), identifying goals, policies, and actions to guide conservation efforts, among them the goal of preserving "quality open spaces throughout the Town which protect and enhance its visual heritage." Additional objectives include (*references are to the 2018 Plan*):

1) "Preservation of open space for protection of drinking water resources, and for protection of other natural, historic and scenic resources is a community-wide priority; and 2) Protection of open space should continue to be an integral component of the Town's efforts." (p. 6)
To achieve this vision, the Plan sets several goals for the town including: 1) "To protect and maintain the maximum amount of open space to enhance environmental protection, recreational opportunities and community character, and 2) "Plan, coordinate and execute open space protection measures that complement community efforts to protect water supply, protect fresh and marine surface waters, [and] preserve historic, scenic and cultural resources..." (pp. 10-11).

Additionally, the Barnstable Town Council's Strategic Plan adopted on November 19, 2020 identified the goal to conserve and protect significant natural and historic resources for visual quality, outdoor recreation, public access, wildlife habitat, and cultural history.

Moreover, in 1981, the Town of Barnstable adopted a Conservation Restriction Program consisting of policies and guidelines, in particular an *Open Space Policy*, approved by the Board of Selectmen, Assessors, and Conservation Commission, which encourages the use of conservation restrictions in perpetuity to protect natural resources in accordance with the purposes of the *Open Space and Recreation Plan*, and which further specified that purposes of a conservation restriction could include the following:

- preserve scenic view;
- protect groundwater quality for drinking purposes;
- preserve open space;
- to protect a trail;
- preserve important natural habitats of fish, wildlife or plants; and,
- limit or prevent construction on land of natural resource value.

H. Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of "conservation purposes" as defined in 26 CFR 1.170A-14(d) (1), because its conservation would: protect the land for outdoor recreation by the general public; preserve an existing public water supply; reserve the land for education regarding the natural world; protect wildlife habitats; and it would contribute to the preservation of open space because it is proximate to several other parcels already conserved.

I. Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, soil and water resource quality, watershed, and scenic values (collectively "conservation values") of great importance to the Grantee and the people of Barnstable and the Commonwealth of Massachusetts.

WHEREAS, preservation of the Premises satisfies each of these enumerated objectives because the Premises:

- 1) consists of approximately 5 acres of cultivated playing fields and fringing woodland;
- 2) lies wholly within a DEP Zone II Area of Contribution to Cotuit Fire District Well #3;
- 3) was rated as a priority tract for acquisition or protection through the PLAAP work;
- 4) completely is within a Significant Natural Resources Area for wellhead protection and as potential aquifer, recharge area and watershed area, and is completely within a Resource Protection Area of the Land Use Vision Map for the Town of Barnstable;
- 5) is completely within the Town of Barnstable Resource Protection Overlay District;
- 6) is partially within the Town of Barnstable Groundwater Protection and Wellhead Protection Overlay Districts;
- 7) is completely within the Town of Barnstable Saltwater Estuary Protection District;
- 8) abuts and connects with an existing greenbelt of open space owned by the Grantor and Grantee;
- 9) will continue to provide passive and active public recreation opportunities to complement the nearby active recreation at Lowell Park;
- 10) will protect the quality of the nearby marine Cotuit Bay Estuary;
- 11) will preserve the scenic character of the area off historic Main Street;
- 12) will be open to the public for conservation and recreation purposes; and,
- 13) is a substantial contributing element to the overall scenic and historic character of the area by being maintained predominantly in an open condition; and,

WHEREAS, accordingly, the Premises possess significant open, natural, and scenic values (collectively, "conservation values") of great importance to Grantees and the people of Barnstable and the Commonwealth of Massachusetts; and,

WHEREAS, the Town of Barnstable has in recent years come under increasing pressure for development, and such development can destroy or otherwise severely impact the open character, natural resources, and scenic beauty of the area; and,

WHEREAS, District consists of a body corporate that is qualified to hold restrictions in perpetuity; and,

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions contained herein, Grantor and Grantee voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the community's open space, aquifer, recharge area and watershed protection goals and objectives.

The terms of this Restriction are as follows:

II. PROHIBITED ACTIVITIES: In order to carry out the purposes set forth in Article I above, the Grantor covenants for itself and its legal representatives, mortgagees, successors and assigns that the Premises will at all times be held, used and conveyed subject to and not in violation of this Restriction. The Grantor shall refrain from and will not permit any activity which shall be inconsistent with the aforesated purposes of this Restriction or which materially impairs water quality, soil conservation, wildlife conservation, scenic landscape protection or which is otherwise wasteful of the natural resources of the Premises.

Subject to the exceptions set forth in Article III below, prohibited activities shall include, but shall not be limited to, the following:

- A. Construction or placing of any building, residential dwelling, mobile home, swimming pool, billboard, or other advertising display, landing strip or pad, roadway, asphalt or concrete pavement, antenna, utility pole, tower, wind turbine, solar array, aboveground or underground storage tank, dog park or any other temporary or permanent structure or facility on, under or above the Premises.

- B. Placing, storing or dumping of equipment, mobile home, trailer, automotive vehicle or parts, soil, rock, sand, stumps, slash, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, radioactive waste, or hazardous waste or other substance or material whatsoever.
- C. Mining, excavation, dredging or removal of any loam, peat, gravel, soil, sand, rock or other mineral substance, or natural deposit from the Premises or otherwise making topographical changes to the Premises.
- D. Pollution, alteration, depletion, diversion, channelization, damming, draining, or extraction of surface water, natural water courses, marshes, potential or certified vernal pools, subsurface water, or any other water bodies.
- E. Removal, destruction or cutting of trees, grasses, shrubs or other natural vegetation, including cutting for firewood or commercial harvesting and lumbering activities.
- F. Introduction of species of animals or plants that are not native to Barnstable County, as defined by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, by Bruce A. Sorrie and Paul Somers, published by the Massachusetts Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program (1999) or as amended or contained in a similar professionally acceptable publication available in the future.
- G. Use of motorized or power-driven recreational vehicles of any kind, including without limitation snowmobiles, motorbikes or all-terrain vehicles off of established roadways.
- H. Camping, hunting, owing to state safety setbacks, or trapping unless for a proven nuisance to wildlife.
- I. Conveyance of a part or portion of the Premises alone or division or subdivision of the Premises or use or assignment of the dimensions, area or acreage of the Premises for purposes of subdivision or development of unrestricted land whether or not such land is owned by the Grantor, its successors and assigns. (Conveyance of the Premises in its entirety shall be permitted.)
- J. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or wildlife habitat.
- K. The excavation of landscape features on the Premises with the intent of collecting or otherwise removing archaeological artifacts (prehistoric and/or historic) except by formal approval of the Massachusetts Historic Commission (MHC) through submission, with the concurrence of the Grantee, of a project notification form (PNF) in accordance with Section 27C of Chapter 9 of the Massachusetts General Laws, and associated regulations, as amended.
- L. Subdivision or conveyance of a part or portion of the Premises, it being intended to keep the Premises in single ownership.
- M. No portion of the Premises may be used towards any building, septic system or other development requirements on any other parcel outside the Premises.
- N. Any commercial, residential, industrial or other municipal uses.

- O. Any other use of the Premises or activity which is inconsistent with the purpose of this Restriction or which would materially impair its conservation values, or which is prohibited by federal, state or local law or regulation.

III. PERMITTED ACTIVITIES AND RESERVED RIGHTS: The Grantor reserves the right to conduct or permit the following activities on the Premises, but only if such uses and activities do not materially impair the conservation values and are not inconsistent with the purposes of this Restriction:

- A. Use, maintenance, expansion and replacement in situ of the existing passive and active recreational facilities on the Premises, including two (2) fenced and surfaced tennis/pickleball courts; youth baseball field with backstop, dugouts, storage sheds and benches; and playing field, including unpaved parking areas along their periphery which may be expanded to support the recreational activities with the permission of the Grantee ;
- B. With Grantee's written approval, delivered by vote of the Prudential Committee of the Cotuit Fire District, not to be unreasonably withheld, the installation, use and maintenance of new open-air recreational facilities, including playground, fitness course and tot lot, basketball court, and the like, and new or redesigned walking trails in the forest.
- C. Measures, such as the installation of fencing and signage, taken in order to prevent unauthorized vehicle entry and dumping, vandalism or other acts destructive to the Premises.
- D. With the prior approval of the Grantee, measures taken in order to protect landform stability (i.e., to maintain a naturally occurring feature on the land's surface, e.g., bank or hill from erosion.)
- E. The use of the Premises for passive recreational activities such as hiking, snowshoeing, cross-country skiing, nature study or research, and other like activities, including access by motorized wheelchairs or other disabled assistance devices.
- F. The maintenance, upgrade, rebuilding and use of the existing paved way, and trails on the Premises substantially in their present location and condition, and with the prior approval of the Grantee, the relocation, or construction of new trails, provided that all applicable federal, state, regional and local approvals are obtained in advance, and that any relocated trails or new trails are no wider than eight (8) feet. Both parties retain the right to relocate the existing paved ways to accommodate future development uses of adjacent parcel. The Grantee reserves the right to improve any paved ways to allow fire trucks to pass safely.
- G. The maintenance of turf without the use of chemical fertilizers, herbicides and pesticides consistent with the town of Barnstable's Recreation turf policy, as updated from time to time, and with the approval of the grantee for this location.
- H. The erection and maintenance of signs identifying ownership of the Premises, the property boundaries, the Premises' status as a conservation/recreation reservation, the restrictions on the use of the Premises, the identity or location of trails, areas of interest, natural features or other characteristics of the Premises, or for providing other like information.
- I. Minimal cutting or removal of trees, shrubs and other vegetation and planting of native trees, shrubs and other vegetation to maintain or improve the conservation and recreation values protected by this Restriction; to prevent threat of injury or damage to persons or property; to prevent or mitigate pest infestation, blight or disease; to control, manage or eradicate non-native

or invasive species not native to the field or forest; or to improve or protect wildlife habitat.

- J. Selective trimming and pruning of trees and brush necessary to preserve access to the existing power lines and power poles, for as long as the poles are installed and in use, on the premises, is allowed as would be trimming around existing recreational fields, fences, tennis courts and parking areas. This is allowed only to the extent necessary to preserve these improvements and activities.
- K. The use of motorized vehicles (1) by the Grantor as reasonably necessary to carry out activities permitted under this Restriction, (2) for access by Grantee for purposes set forth in Article VI, below, and (3) for access by police, fire, emergency, public works, or other governmental personnel carrying out their official duties. The use of motorized vehicles for the purposes described herein shall be limited to the existing trails or those trails that may be approved and installed pursuant to Article III.D. Notwithstanding the foregoing, the use of motorized vehicles for recreational purposes, such as dirt bikes, all-terrain vehicles, off-highway vehicles, and the like, is not permitted except on existing or relocated ways.
- L. Archaeological investigations consisting of site inspections and subsurface excavations subject to and in accordance with an Archaeological Field Investigation Permit issued by the State Archaeologist under G.L. c. 9, §26A, and associated regulations, and Grantee's written approval in accordance with Article IV, below.
- M. In accordance with a state-approved wastewater management plan, the right to construct, maintain and use one (1) sewage treatment pump station and associated utilities, but not to treat or discharge any effluent on-site.
- N. Such other non-prohibited activities or uses of the Premises may be permitted with the prior approval of the Grantee provided that the Grantee has made a finding, such finding to be documented in writing and kept on file at the office of the Grantee, that such activities are consistent with the Reserved Rights, do not impair the conservation values and purposes of this Conservation Restriction, and, where feasible, result in a net gain in conservation value of the Premises.

Notwithstanding the foregoing permitted activities, any proposed modifications to the landscape, including but not limited to the creation of trails, management of vegetation and wetland resources, and installation of signage and educational kiosks, shall not be undertaken if they disturb, remove, damage or destroy archaeological resources or artifacts on the Premises.

The exercise of any right or obligation reserved by the Grantor under this Article III shall be in compliance with all applicable federal, state and local law. The inclusion of any reserved right in this Article III requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position on whether such permit should be issued.

IV. NOTICE AND APPROVAL:

- A. Whenever notice to or approval by Grantee is required under the provisions of this Restriction, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's

approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Restriction.

- B. Failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute approval by the Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after sixty (60) days in the notice, provided the requested activity is not expressly prohibited hereunder and the activity will not materially impair the purposes of this Restriction. This Article IV.B shall not apply to Article III. I. or Article III.J, in which cases failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute denial by the Grantee of the request as submitted.

In the event the activity proposed is necessary to address an emergency situation, either to avert environmental degradation, ecological damage or risk to public health and safety, Grantee shall respond forthwith.

V. LEGAL REMEDIES OF THE GRANTEE; WAIVER:

- A. The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings including obtaining injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of, it being agreed that the Grantee may have no adequate remedy at law, and shall be in addition to and not in limitation of any other rights and remedies available to the Grantee for the enforcement of this Restriction.
- B. Notwithstanding the foregoing, Grantee agrees to provide written notice to Grantor of any violation of this Restriction and to cooperate for a reasonable period of time, not to exceed sixty (60) days, to allow Grantor to remedy the violation, prior to resorting to legal or equitable means in resolving issues concerning alleged violations provided Grantor has ceased objectionable actions and is making a good faith effort to remedy the violation and Grantee reasonably determines there is no ongoing diminution of the conservation values of the Restriction.
- C. The Grantor and its successors and assigns shall each be liable under this section for any such violations of this Restriction as may exist during their respective periods of ownership of the Premises. Any new owner may be held responsible for any continuing violations existing during his or her period of ownership.
- D. By acceptance of this Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or their agents.
- E. If Grantee prevails in any action to enforce the terms of this Restriction, the Grantor or Grantor's heirs, successors and assigns, as the case may be, shall reimburse the Grantee for all reasonable costs and expenses, including reasonable attorney's fees, incurred in enforcing this Restriction or in taking reasonable measures to remedy or abate any violation thereof. If Grantor prevails in any action brought by Grantee to enforce the terms of this Restriction, the Grantee or its heirs, successors and assigns, as the case may be, shall, to the extent allowed by law, reimburse the Grantor for all reasonable costs and expenses, including attorney's fees, incurred in defending such action to enforce this Restriction, provided the Grantee's action is deemed by the court or by other competent authority to be unreasonable or arbitrary and capricious.

- F. Enforcement of the terms of this Restriction shall be at the discretion of the Grantee. Any election or forbearance by the Grantee as to manner and timing of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights

VI. GRANTEE'S RIGHT OF ACCESS; INSPECTION:

The Restriction hereby conveyed does not grant to the Grantee any right to enter upon the Premises except at reasonable times and in a reasonable manner for the following purposes:

- A. To perform a survey of boundary lines;
- B. To inspect the Premises to determine compliance within provisions of this Restriction;
- C. To enter the Premises with or without the presence of an employee or employees of the Grantor for the purpose of taking any and all actions with respect to the Premises, at Grantor's cost, as may be necessary or appropriate to remedy or abate or enforce any violation hereof provided that Grantee first give Grantor notice of the violation, and upon failure of the Grantor to cure the violation within sixty (60) days of receiving said notice, Grantee then gives Grantor further written notice of its intention to enter the Premises to take such actions at least fifteen (15) days following the date of such further written notice. The requirements for providing notice to the Grantor prior to entering the Premises shall not apply in emergency situations where delayed action may result in irreparable harm to the Premises.
- D. The Restriction hereby conveyed includes the grant of the right to the general public to enter upon the Premises, and to use the Premises and the trails thereon for the purposes set forth in Article III above.
- E. The Grantee may, with written approval from the Grantor, access the property to perform the following activities:
 - a. The pruning and trimming of trees or removal of fallen trees or branches that hinder or threaten the power lines or poles currently in place, so long as any damage caused by equipment to the playing fields or surrounding area is repaired back to the pre entry standards.
 - b. The maintenance, repair, expansion, removal or replacement of the existing septic leach field located on the premises
 - c. The replacement, relocation or removal of power lines and power poles.

VII. ACTS BEYOND GRANTOR'S CONTROL: Nothing contained in this Restriction shall be construed to entitle the Grantee to bring any action against the Grantor for any injury or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm, natural erosion or from any prudent action taken by the Grantor under emergency conditions to abate, prevent, or mitigate significant injury to or alteration of the Premises resulting from such natural causes. The parties to this Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it desirable that the Premises be restored, the parties will cooperate in attempting to restore the Premises, if feasible.

VIII. DURATION, BINDING EFFECT, RELEASE AND RECORDATION: The burdens of this Restriction shall run with the Premises IN PERPETUITY, and shall be enforceable against the

Grantor and the Grantor's successors and assigns holding any interest in the Premises. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Restriction. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instrument upon reasonable request.

IX. ASSIGNMENT: The benefits of this Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, their successors and assigns, except when all of the following conditions are met:

- A. The assignee is a "qualified organization" as defined in Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, including, without limitation, a government entity;
- B. The assignee is required to hold this Restriction and enforce its terms for conservation purposes;
- C. The assignee is not an owner of the fee in the Premises;
- D. The assignment complies with the provisions required by Article 97 of the amendments to the Constitution of the Commonwealth of Massachusetts, if applicable;
- E. The Grantee shall notify the Grantor in writing at least thirty (30) days before assigning this Restriction and the Grantor shall have thirty (30) days from the date of such notice to approve the assignment in writing, which approval shall not be unreasonably withheld. Failure of the Grantor to respond to the notice of assignment within thirty (30) days shall be deemed approval thereof.
- F. No such assignment of the right to enforce the Restriction shall diminish the rights or benefits held by the Grantee or its successors pursuant to this Restriction, and the Grantee shall retain the equivalent right to enforce this Restriction.

X. ESTOPPEL CERTIFICATES: Upon request by the Grantor, the Grantee shall, within twenty (20) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Restriction, and which otherwise evidences the status of this Restriction as may be requested by the Grantor.

XI. SUBSEQUENT TRANSFERS: The Grantor agrees to incorporate the terms of this Restriction, in full or by reference, in any deed or other legal instrument by which Grantor conveys or transfers any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. The Grantor further agrees to notify the Grantee in writing at least thirty (30) days before conveying or transferring the Premises, or any part thereof or interest therein, including a leasehold interest. Any transfer shall comply with Article 97 of the amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

XII. TERMINATION OF RIGHTS AND OBLIGATIONS: Notwithstanding anything to the contrary contained herein, the rights and obligations under this Restriction of any party holding an interest in the Premises, terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Restriction, shall survive the transfer.

XIII. AMENDMENT: If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, the Grantor and the Grantee may by mutual consent amend this Restriction provided that no amendment shall be allowed that will affect the qualification of this

Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General laws of Massachusetts. Any amendments to this Restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation values. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Barnstable County Registry of Deeds.

XIV. EXTINGUISHMENT:

- A.** If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Article XV.B, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.
- B.** Proceeds. Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is equal to five percent (5%) of the fair market value of the unrestricted Premises. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds resulting from an extinguishment or other release of this Restriction will be distributed only after complying with the terms of any gift, grant, or other funding requirements, including any requirements of the CPA, if applicable.
- C.** Grantor/Grantee Cooperation Regarding Public Action. Whenever all or part of the Premises or any interest therein is taken by public authority other than Grantor under power of eminent domain or other act of other public authority, then the Grantor and Grantee shall cooperate in recovering full value or all direct and consequential damages resulting from such action.

All related expenses incurred by the Grantor and Grantee under this section shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Article XV.B., after complying with the terms of any law, gift, grant, or funding requirements, including any requirements of the CPA. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

XV. NONMERGER: Grantee agrees that it will not take title to any part of the Premises without having first assigned this Restriction, pursuant to Article X, to a non-fee holder to ensure that merger does not occur and that this Restriction continues to be enforceable by a non-fee owner.

XVI. SEVERABILITY: If any court of competent jurisdiction shall hold that any section or provision of this Restriction is unenforceable, the remainder of this Restriction shall not be affected.

XVII. MISCELLANEOUS PROVISIONS:

- A. Controlling Law: The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
- B. Liberal Construction: Any general rule of construction to the contrary notwithstanding, this Restriction shall be liberally construed in favor of the grant to affect the purposes of this Restriction and the policies and purposes of Sections 31- 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
- C. Entire Agreement: This instrument sets forth the entire agreement of the parties with respect To the Restriction and supercedes all prior discussions, negotiations, understandings, or agreements related to the Restriction, all of which are merged herein.
- D. Joint Obligation: The obligations imposed by this Restriction upon the parties that together comprise the "Grantor" and "Grantee" shall be joint and several.
- E. Pre-existing Public Rights. Approval of this Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- F. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor:Town of Barnstable, c/o Town Manager
367 Main Street, Hyannis MA 02601

To Grantee:Cotuit Fire District, Prudential Committee
PO Box 1475
Cotuit, MA 02635

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties

- G. Subordination: The Grantor shall record at the Barnstable County Registry of Deeds simultaneously with this Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, reference assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the

Premises.

H. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction of interpretation.

XIII. EFFECTIVE DATE: This Restriction shall be recorded in a timely manner. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Restriction is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Massachusetts General Law, Chapter 184, Section 32 have been affixed hereto.

Attached hereto and incorporated herein are the following:

Signatures:

Grantor and Approvals – Town of Barnstable: Town of Barnstable Town Council & Town Manager

Grantee Acceptance – Cotuit Fire District, Board of Water Commissioners

Approval: Secretary of Energy and Environmental Affairs

Exhibits:

- A. Description of the Premises
- B. Reduced Copy of Recorded Plan of the Premises
- C. Town Council Order
- D. Cotuit Fire District Vote

APPROVAL OF THE GRANT

**TOWN OF BARNSTABLE
TOWN COUNCIL**

At a public meeting duly held on _____ 2023, the Town Council of the Town of Barnstable, Massachusetts, voted to approve and grant the foregoing Conservation Restriction to the Cotuit Fire District, pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws and hereby grants the foregoing Conservation Restriction.

TOWN COUNCIL PRESIDENT:

Matthew Levesque

Barnstable, ss COMMONWEALTH OF MASSACHUSETTS

On the _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the President of the Town Council of the Town of Barnstable; that he is duly authorized to act on behalf the Town Council; and he acknowledged the foregoing instrument to be the free act and deed of Town of Barnstable Town Council.

Notary Public
My Commission Expires:

APPROVAL OF TOWN MANAGER

I, Mark S. Ells, as Town Manager of the Town of Barnstable, Massachusetts, hereby approve the foregoing Conservation Restriction to Cotuit Fire District, pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF BARNSTABLE
TOWN MANAGER:

Mark S. Ells _____

Barnstable, ss

On the _____ day of _____, 2023, before me, the undersigned notary public, personally appeared Mark S. Ells, the person whose name is signed on the document and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, and who being by me duly sworn did say that he is the Town Manager of the Town of Barnstable; that he is duly authorized to act on behalf the Town of Barnstable and he acknowledged the foregoing instrument to be his free act and deed.

Notary Public
My Commission Expires

ACCEPTANCE OF GRANT by COTUIT FIRE DISTRICT

At a public meeting duly held on _____, 2023, the Board of Water Commissioners of the Cotuit Fire District, acting pursuant to the authority granted under Article ____ of the Annual District Meeting held on May 31, 2023, voted to accept the above Conservation Restriction from the Town of Barnstable.

COTUIT FIRE DISTRICT
By: Prudential Committee

Print Name

Print Name

Print Name

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this ____ day of _____, 2023, before me, the undersigned Notary Public, personally appeared _____, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Cotuit Fire District.

Notary Public
My commission expires:

APPROVAL BY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

The undersigned, Commissioner, Massachusetts Department of Environmental Protection of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Cotuit Fire District, acting by and through its Water Commissioners, has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 2023 _____

Commissioner

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss:

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared _____ and proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Commissioner of MassDEP.

Notary Public
My Commission Expires:

APPROVAL BY
SECRETARY OF EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Cotuit Fire District, acting by and through its Water Commissioners, has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date:, 2023

, Secretary

Executive Office of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this ___ day of ___, 2023, personally appeared the above-named _____, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that s/he signed it voluntarily for its stated purpose as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts.

Notary Public
My commission expires:

CONSERVATION RESTRICTION
on land owned by
TOWN OF BARNSTABLE
in Cotuit (Barnstable), Massachusetts

EXHIBIT A

Description of the Premises

The Premises is shown on a plan entitled “_____” *(to be inserted)*

A reduced copy of the CR Plan is attached hereto as Exhibit B.

Street Address: 140 Old Oyster Road, Cotuit, MA.

For Grantor’s title, see Deed recorded in the Barnstable County Registry of Deeds in Book _____ Page _____.

EXHIBIT B

Sketch Plan of Premises (*needs land survey*)
5.5 acres under Conservation Restriction

Cotuit Elementary School, 140 Old Oyster Road, Cotuit, Map 021 Parcel 008



EXHIBIT C

Town Council Order

(to be inserted)

EXHIBIT D

Attested Copy of Cotuit Fire District Meeting Vote

(to be inserted)

BARNSTABLE TOWN COUNCIL

ITEM# 2023-180
INTRO: 04/27/23

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: David Anthony, Director of Asset Management, Town of Barnstable
DATE: April 27, 2023
SUBJECT: Authorization to convey 8.1 +/- acres of the property located at 140 Old Oyster Road, in the village of Cotuit, MA, to the Cotuit Fire District for nominal consideration of one dollar and no cents (\$1.00) and approval and authorization of a Conservation Restriction on the remaining 5.4 +/- acres of said property to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and water protection purposes

BACKGROUND: The Town of Barnstable is seeking to manage its vacant, underperforming or excess properties through different methods. The proposed disposition of 8.1 +/- acres of the property located at 140 Old Oyster Road in the Village of Cotuit transfers an important piece of land central to the village of Cotuit to the neighboring Cotuit Fire District for drinking water preservation. The Town will retain 5.4 +/- acres of the property for general active recreational use by the public, but will agree to a Conservation Restriction to be held by the Cotuit Fire District for conservation, recreation, aquifer recharge area and watershed protection purposes. The Town Council's approval of this proposed plan achieves a number of objectives. These include the disposition of the underperforming asset of the vacant school building, the retention of an adjoining smaller but critical piece of recreation land under Town control, and assistance in the protection of drinking water for one of the seven villages of the Town.

The Barnstable Public School system opened the new Cotuit Elementary School in 1956 at 140 Old Oyster Road in Cotuit. This school encompassed over 15,000 square feet and sat upon 13.5 acres of land that was acquired through land donations and purchases by the Town of Barnstable in the early 1950s.

In 2019, the school department declared the building surplus to its needs, citing the lower school population and high cost of potential renovation, and turned it back over to Town control. A full renovation plan for the building was developed in 2020 which resulted in an estimated cost of over \$4,000,000 to bring the school back up to a standard of use that was acceptable with building codes and public facilities.

The Cotuit Fire District Water Division indicated that they desired to acquire the land and would be willing to take on the liability of the closed school building with the property. The elementary school site lies within a well-defined wellhead protection area and is directly up gradient from one of the Cotuit Water Department's primary drinking water withdrawal wells.

At the Cotuit Fire District annual district meeting held on May 25 and May 26, 2021, the voters authorized the acquisition/ownership of the building and grounds.

ANALYSIS: After working with a subcommittee of the Cotuit Water District for nearly 24 months, a plan to divide the 13.5 acre parcel into two lots was presented to the Planning Board on April 10, 2023. The Town received endorsement by the Planning Board to divide said 13.5 acre parcel into two lots of 8.1 +/- acres and 5.4 +/- acres. The 8.1 acre parcel was declared surplus by the Town Manager, and staff is now seeking Town Council approval to convey the 8.1 acre parcel to the Cotuit Fire District as well as approval of the Conservation Restriction to be placed on the remaining 5.4 acre parcel that will remain with the Town. The consideration monetarily is nominal, but the Cotuit Fire District agrees to take on the liability for the existing school, in its current condition, with the land. The Cotuit Fire District desires to acquire this land to control land up gradient of its well but it also recognizes that as technology improves and the understanding of water contamination increases, the prospect of necessary treatment of the drinking water requires the control of land near the well to potentially treat the drinking water.

The Conservation Restriction to be placed on the remaining piece of 5.4 acres of Town land was negotiated to allow for current and future public Town recreational activities while managing the turf and water runoff. The underground fuel storage tank associated with the school building is to be removed by the Town prior to final conveyance of the property.

FISCAL IMPACT: A market appraisal of the 8.1 acres of land is underway, with an expected completion date of May 2, 2023. The Marstons Mills Elementary school built in the same era and of approximately the same size, had a low bid of \$700,000 for demolition and a soft cost and contingency budget of \$250,000. By transferring the property to the Cotuit Fire District, the cost of demolition and removal of the school building built in the 1950s is also transferred to the Cotuit Fire District.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the conveyance of this property and the approval of the Conservation Restriction.

STAFF ASSISTANCE: David Anthony, Director of Asset Management, Town of Barnstable; Karen L. Nober, Town Attorney; Charles McLaughlin, Senior Counsel; Kate Connolly, Assistant Town Attorney; Andrew Clyburn, Assistant Town Manager; Elizabeth Jenkins, Director of Planning

B. NEW BUSINESS (Refer to Public Hearing 05/18/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-127
INTRO: 05/04/2023**

2023-127 APPROPRIATION ORDER IN THE AMOUNT OF \$90,000 FOR THE PURPOSE OF FUNDING A FLOATING TREATMENT WETLAND PILOT STUDY FOR LONG POND MARSTONS MILLS

ORDERED: That the amount of **\$90,000** be appropriated for the purposes of funding a floating treatment wetland pilot study for Long Pond Marstons Mills, including the payment of costs incidental or related thereto; and that to meet such appropriation that **\$90,000** be provided from the General Fund Reserves, and that the Town Manager is authorized to contract for and expend the appropriation made available for these purposes.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-127
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: May 04, 2023
SUBJECT: Appropriation Order in the amount of **\$90,000** for the purpose of funding a Floating Treatment Wetland Pilot Study for Long Pond Marstons Mills

BACKGROUND: In response to frequent cyanobacteria blooms in Long Pond Marstons Mills, the Department of Public Works (DPW) retained the Coastal Systems Program at UMass Dartmouth School for Marine Science and Technology (SMAST) to conduct a diagnostic assessment of Long Pond and develop a management plan to address water quality issues. SMAST has completed the diagnostic assessment and developed a final management plan for the pond.

ANALYSIS: Ultimately SMAST has determined that most effective long term solution to manage the pond and improve water quality is wastewater management for those properties with septic systems contributing phosphorus load to the pond (those within 300 feet up-gradient of the pond). These properties are currently identified to receive municipal sewer in Phase 3 of the Town's Comprehensive Wastewater Management Plan (CWMP). Significantly expediting sewer expansion to this location was deemed not practical due to the distance from existing sewer infrastructure.

In the interim (prior to sewer expansion), it is recommended that floating treatment wetlands be piloted on a small scale and studied for at least two growing seasons to assess phosphorus removal rates of the floating treatment wetland. This information will be used to prepare a technical memorandum detailing the phosphorus removal of the floating treatment wetland for the purposes of determining if floating treatment wetlands are a viable option for addressing the excess phosphorus within the pond. This pilot study is not expected to eliminate the potential for cyanobacteria blooms to occur in Long Pond MM, due to the proposed small scale of the project not resulting in enough phosphorus removal to mitigate the phosphorus load coming from the watershed.

FINANCIAL IMPACT: Funding for this project will be provided from the General Fund Reserves with an existing balance of \$24,975,542. There is \$25,999 remaining funds from the appropriation for the Long Pond Management Plan (Town Council Order 2021-109) that will be closed and returned to the General Fund reserves.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this appropriation order.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-181
INTRO: 05/04/2023**

2023-181 TRANSFER ORDER IN THE AMOUNT OF \$59,320 FROM THE MARINE AND ENVIRONMENTAL AFFAIRS AND ADMINISTRATIVE SERVICES DEPARTMENTS FISCAL YEAR 2023 PERSONNEL BUDGETS TO THE FISCAL YEAR 2023 MARINE AND ENVIRONMENTAL AFFAIRS FISCAL YEAR 2023 OPERATING CAPITAL BUDGET FOR THE PURPOSE OF FUNDING THE ACQUISITION OF A HARBORMASTER VEHICLE

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$40,000** from the Fiscal Year 2023 Marine and Environmental Affairs Department General Fund Personnel Budget and **\$19,320** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Marine and Environmental Affairs Department General Fund Operating Capital Budget for the purpose of funding the acquisition of a Harbormaster vehicle.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- Read Item
- Rational
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-181
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Derek Lawson, Director, Marine & Environmental Affairs
DATE: May 04, 2023
SUBJECT: Transfer Order in the amount of **\$59,320** from the Marine and Environmental Affairs and Administrative Services Departments Fiscal Year 2023 Personnel Budgets to the Fiscal Year 2023 Marine and Environmental Affairs Fiscal Year 2023 Operating Capital Budget for the purpose of funding the acquisition of a Harbormaster vehicle

BACKGROUND: Currently the Harbormaster Division has four (4) full time staff member positions and three (3) general fund vehicles. Therefore, the Division does not have enough vehicles for the number of staff. This request is to fund the purchase a vehicle (2500 Silverado HD) to equip the Harbormaster Division with efficient means of transportation to perform Harbormaster duties. This funding includes outfitting vehicles with the necessary equipment to perform duties such as, winch, lights, radios, back rack and hauler hitch. This vehicle is used for public safety and hauls vessels up to 27 feet over 10,000 lbs. which requires a higher classification trailer hitch (class 5) and tow capacity.

ANALYSIS: The Harbormaster Division oversees marine public safety and law enforcement aspects within the Town of Barnstable. Often, land side response by vehicle is necessary to provide public services. Operations include: enforcement of state/local laws, town bylaws and regulations, towing and hauling vessels/trailers, placing and hauling aids to navigation, response to emergency and non-emergency calls for service, removal of mooring gear and hazards to navigation.

FISCAL IMPACT: Unspent salary budgets at the end of the fiscal year close out to the General Fund reserves. Using a portion of these savings as a result of vacancies will avoid a future purchase that would otherwise have to be addressed in a future budget request.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: Derek Lawson, Director, Marine & Environmental Affairs

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-182
INTRO: 05/04/2023**

2023-182 TRANSFER ORDER IN THE AMOUNT OF \$428,700 FROM FISCAL YEAR 2023 DEPARTMENT OF PUBLIC WORKS GENERAL FUND PERSONNEL BUDGETS TO FISCAL YEAR 2023 DEPARTMENT OF PUBLIC WORKS OPERATING EXPENSE AND OPERATING CAPITAL BUDGETS FOR THE PURPOSE OF FUNDING OUTSIDE PROFESSIONAL SERVICES, EQUIPMENT, SUPPLIES AND MATERIALS

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$428,700** from the Fiscal Year 2023 Department of Public Works General Fund Personnel Budget to the Fiscal Year 2023 Department of Public Works General Fund Operating Expense and Operating Capital Budgets for the purpose of funding outside professional services, equipment, supplies and materials.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-182
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Daniel W. Santos, P.E., Director of Public Works
DATE: May 04, 2023
SUBJECT: Transfer Order in the Amount of **\$428,700** from the Fiscal Year 2023 Department of Public Works General Fund Personnel Budgets to the Fiscal Year 2023 Department of Public Works General Fund Operating Expenditure and Operating Capital Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials

BACKGROUND: The Department of Public Works General Fund Operations are projected to produce over \$800,000 in salary budget savings due to numerous vacancies throughout Fiscal Year 2023. As a result, this presents an opportunity to utilize some of these funds to procure outside professional assistance, equipment, supplies and materials that were not included in the original Fiscal Year 2023 Budget.

ANALYSIS: The transfer requested will provide funding for the following initiatives:

| Planned Use of Funding | Operating Expense | Operating Capital |
|--|--------------------------|--------------------------|
| Hydrologic Evaluation of Snow's Creek Culvert Design | \$25,000 | |
| Maraspin Creek Culvert Assessment | \$35,000 | |
| Forensic Evaluation of Maher Well Field Contamination | \$13,200 | |
| Flashing Stop Signs on Pine St at Strawberry Hill | \$4,000 | |
| Contract painting of stop bars and crosswalks | \$35,000 | |
| Contract thermoplastic of arrows, and School road markings | \$35,000 | |
| Contract long line painting of yellow and white lines | \$100,000 | |
| Walk behind Flail brush mower | \$7,000 | |
| Hardwood floor refinishing for WB Community Building | \$9,000 | |
| New boiler, fan coils & condensers for Old Selectman's Building | \$5,500 | |
| Overlay panel & software upgrade for elevator at Barnstable Adult Community Center | \$6,000 | |
| Flashing Beacon on South St at Town Hall and Armory Crossing | | \$20,000 |
| Opticom replacement | | \$24,000 |
| Flail mower for Kubota tractor | | \$20,000 |
| New boiler, fan coils & condensers for WB Community Building | | \$19,000 |
| Upgrades to fire alarm system at Barnstable Police Department | | \$10,000 |
| Old Colony Rd. & South St./Barnstable Rd & Winter St. Opticom replacement | | \$16,000 |
| Articulating Boom Lift purchase – used | | \$45,000 |
| Grand Total | \$274,700 | \$154,000 |

Individual items that cost \$10,000 or more that result in the purchase of a depreciable asset are part of operating capital.

FISCAL IMPACT: Typically, any unspent salary funds at the end of the Fiscal Year will become part of the General Fund Reserve. These funds have already been appropriated as part of the Fiscal Year 2023 Operating Budget and the vacancy savings present an opportunity to address several opportunities that would otherwise have to be addressed in a future budget requests.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: Daniel W. Santos, P.E., Director of Public Works

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-183
INTRO: 05/04/2023**

2023-183 TRANSFER ORDER IN THE TOTAL AMOUNT OF \$51,000 FROM THE FISCAL YEAR 2023 ADMINISTRATIVE SERVICES DEPARTMENT PERSONNEL BUDGET TO THE FISCAL YEAR 2023 ADMINISTRATIVE SERVICES DEPARTMENT OPERATING EXPENSE BUDGET AND OPERATING CAPITAL BUDGET FOR THE PURPOSE OF FUNDING DIVERSITY, EQUITY AND INCLUSION TRAINING AND DIAGNOSTICS AND PURCHASING FURNITURE IN THE TAX COLLECTIONS OFFICE

ORDERED: That the Town Council does hereby authorizes the Town Manager to Transfer **\$51,000** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Administrative Services Department Operating Expense Budget and Operating Capital Budget for the purpose of funding Diversity, Equity and Inclusion training and diagnostics and purchasing new office furniture and fixtures in the Tax Collections office.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-183
INTRO: 05/04/2023

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: William E. Cole, Director, Human Resources
DATE: May 04, 2023
SUBJECT: Transfer Order in the amount of **\$51,000** from the Fiscal Year 2023 Administrative Services Department Personnel Budget to the Fiscal Year 2023 Administrative Services Department Operating Expense Budget and Operating Capital Budget for the purpose of funding Diversity, Equity and Inclusion training and diagnostics and purchasing furniture in the Tax Collections Office

BACKGROUND: The Administrative Services Department is projected to have salary budget savings of approximately \$110,000 due to numerous vacancies throughout Fiscal Year 2023. As a result, this presents an opportunity to utilize some of these funds to procure outside professional assistance to conduct DEI training and diagnostics and to properly equip the Tax Collections office, so that it can accommodate the Treasury staff which is vacating the School Administration Building.

ANALYSIS: The Town of Barnstable is seeking solutions to better position itself to recruit and retain staff of color, so that they can reflect and better respond to the progressively diversifying school system and greater community. The proposed DEI training will be a learning experience that is customized to the Town of Barnstable's unique context and both broadens and deepens employee understanding and practice. The Town plans on contracting with experts in the DEI field to facilitate DEI training for department managers and other identified critical personnel. The Town anticipates entering into an agreement for these services in June 2023 and the services will likely be provided over several months that will align with the 2023-2024 fiscal calendar.

The overall objective for this series of trainings is to develop and enhance the understanding of DEI by the leadership and staff of the Town of Barnstable. With that understanding we can build a more equitable organization that reflects the growing diversity of the Town and recognizes and supports the key stakeholders in the community. The training is estimated to cost \$21,000.

The Treasury office consisting of six (6) staff will be vacating the School Administration Building (SAB) and moving into the space currently occupied by the Tax Collections staff. The existing furniture used by the Treasury staff in the SAB will remain on the 3rd floor in the SAB. In order to accommodate the consolidation of the staff in Town Hall new furniture will be required that can accommodate the additional staff going into this space. The new furniture is estimated to cost \$30,000.

FISCAL IMPACT: Typically, any unspent salary funds at the end of the fiscal year will become part of the General Fund Reserve. These funds have already been appropriated as part of the Fiscal Year 2023 operating budget and the vacancy savings present an opportunity to provide this training which will coincide with the hiring of the Town's first DEI Director which has been included in the proposed Fiscal Year 2024 Operating Budget. It will also address an office modification that would otherwise be included in a future budget request.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: William E. Cole, Director of Human Resources, Mark A. Milne, C.P.A., Director of Finance

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-184
INTRO: 05/04/2023**

2023-184 TRANSFER ORDER IN THE AMOUNT OF \$22,000 FROM THE PLANNING AND DEVELOPMENT DEPARTMENT FISCAL YEAR 2023 PERSONNEL BUDGET TO THE FISCAL YEAR 2023 PLANNING AND DEVELOPMENT OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING THE REPLACEMENT OF BUOYS IN ASELTON PARK

ORDERED: That the Town Council does hereby authorize the Town Manager to Transfer \$22,000 from the Fiscal Year 2023 Planning and Development Personnel Budget to the Fiscal Year 2023 Planning and Development Operating Expense Budget for the purpose of replacing the public art buoys in Aselton Park.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-184
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: April 26, 2023
SUBJECT: Transfer Order in the amount of **\$22,000** from the Planning and Development Department Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Planning and Development Operating Expense Budget for the purpose of funding the replacement of buoys in Aselton Park

BACKGROUND: This iconic installation went up in 2006 and the buoys clearly show their wear. This funding would allow for the replacement of the buoys and metal poles. Their replacement also provides an opportunity to communicate changes in the water quality status originally reflected in the design.

ANALYSIS: The Planning & Development has experienced turnover in Fiscal Year 2023 resulting in salary savings from vacancies. This is estimated to be around \$80,000. A portion of these savings could be utilized to replace the buoys.

FISCAL IMPACT: Unspent salary budgets at the end of the fiscal year close out to the General Fund reserves. Using a portion of these savings as a result of vacancies will avoid a future purchase that would otherwise have to be addressed in a future budget request.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: Elizabeth Jenkins, Director of Planning & Development, Melissa Chartrand, Arts & Culture Coordinator

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-185
INTRO: 05/04/2023**

2023-185 TRANSFER ORDER IN THE AMOUNT OF \$76,607 FROM THE BARNSTABLE POLICE DEPARTMENT FISCAL YEAR 2023 PERSONNEL BUDGET TO THE FISCAL YEAR 2023 POLICE DEPARTMENT OPERATING EXPENSE BUDGET FOR THE PURPOSE OF FUNDING TRAINING EXPENSES AND EXPENSES ASSOCIATED WITH OFFICER WELLNESS

ORDERED: That the Town Council does hereby authorize the Town Manager to transfer **\$76,607** from the Fiscal Year 2023 Police Department General Fund Personnel Budget to the Fiscal Year 2023 Police Department General Fund Operating Expense Budget for the purpose of funding expenses related to required training and the officer wellness programs.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-185
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Matthew K. Sonnabend, Chief of Police
DATE: May 04, 2023
SUBJECT: Transfer Order in the amount of **\$76,607** from the Barnstable Police Department Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Police Department Operating Expense Budget for the purpose of funding training expenses and expenses associated with officer wellness

BACKGROUND: The department has seen a large amount of unanticipated expenses totaling \$90,935, which have caused a shortfall in the ability to pay for planned expenses this fiscal year. For instance, the One-on-One Employee Assistance Program meetings, which are a key component of our officer wellness program are scheduled to run in Late April through June will cost \$20,000. The department also recently learned that the state is requiring additional firearms qualifications totaling 4 hours of training time to be completed by June 30, 2023. This requirement will cost an additional \$18,000 in ammunition for Fiscal Year 2023 and an estimated \$39,000 in overtime. The expenses associated with this requirement were not anticipated and the department does not currently have the necessary funds remaining in the Fiscal Year 2023 operating expense budget to fund the ammunition. There is money in the Fiscal Year 2023 Personnel Budget to fund the additional training overtime due to the number of sworn vacancies at this time.

Due to the vacancies in our Fiscal Year 2023 Personnel Budget, we are also able to fund expenses at this time in anticipation of next year's training requirements for Fiscal Year 2024 by transferring monies from the Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Operating Expense Budget, as follows and pay for these at this time:

| | |
|---|-----------------|
| Taser Cartridges | \$ 9,400 |
| ZETX Recertification | \$ 2,400 |
| LEFTA | \$ 8,807 |
| Ammo for newly mandated firearms training requirements (Fiscal Year 2024) | <u>\$18,000</u> |
| Total | \$38,607 |

ANALYSIS: This request for a transfer of funds from the Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Operating Expense Budget is comprised of three parts: 1) \$18,000 to fund ammunition needed to meet additional firearms qualifications that must be completed by June 30, 2023; 2) Due to a shortfall in the Department's Fiscal Year 2023 Operating Budget caused by unanticipated expenses funding is still needed for the one-on-one EAP meetings that is an important component of officer wellness in the amount of \$20,000; and 3) Training Supplies that will be funded in Fiscal Year 2023 for Fiscal Year 2024 training requirements totaling \$38,607. In total, the transfer request from the Fiscal Year 2023 Personnel Budget to the Fiscal Year 2023 Operating Expense Budget is \$76,607.

FISCAL IMPACT: Unspent salary budgets at the end of the fiscal year close out to the General Fund Reserves. Using a portion of these savings as a result of vacancies will allow the Police Department to address important officer training and wellness programs.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this Fiscal Year 2023 Budget Transfer.

STAFF ASSISTANCE: Matthew K. Sonnabend, Chief of Police, Anne E. Spillane, Finance & Support Services Director, Barnstable Police Dept.

B. NEW BUSINESS (May be acted upon) (Roll Call Majority Vote)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-186
INTRO: 05/04/2023**

2023-186 TRANSFER ORDER IN THE TOTAL AMOUNT OF \$91,825 FROM FISCAL YEAR 2023 PERSONNEL BUDGETS TO FISCAL YEAR 2023 OPERATING EXPENSE BUDGETS IN THE COMMUNITY SERVICES DEPARTMENT FOR THE PURPOSE OF FUNDING OUTSIDE PROFESSIONAL SERVICES, EQUIPMENT, SUPPLIES AND MATERIALS

ORDERED: That the Town Council hereby authorizes a Fiscal Year 2023 budget transfer for the Community Services Department in the total amount of **\$91,825** from the Fiscal Year 2023 Community Services Department personnel budgets in the amounts set forth below to the Fiscal Year 2023 Community Services Department operating expense budgets for the purpose of funding outside professional services, equipment, supplies and materials.

| | Transfer From Fiscal Year 2023 Personnel Budget: | | | |
|--|--|----------------------|----------------------|----------|
| Transfer to: | Community Services General Fund | HYCC Enterprise Fund | Golf Enterprise Fund | Total |
| Community Services General Fund Operating Expenses | \$30,225 | | | \$30,225 |
| Community Services HYCC Enterprise Fund Operating Expenses | | \$11,000 | | \$11,000 |
| Community Services Golf Enterprise Fund Operating Expenses | | | \$50,600 | \$50,600 |
| Totals | \$30,225 | \$11,000 | \$50,600 | \$91,825 |

SPONSOR: Mark S. Ells, Town Manager

DATE ACTION TAKEN

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-186
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
DATE: May 04, 2023
SUBJECT: Transfer Order in the Amount of \$91,825 from the Fiscal Year 2023 Community Services Department Personnel Budgets to the Fiscal Year 2023 Community Services Operating Expenditure Budgets for the Purpose of Funding Outside Professional Services, Equipment, Supplies and Materials

BACKGROUND: The Community Services Department General Fund, HYCC Enterprise Fund and Golf Enterprise Fund are all projected to have salary budget savings due to numerous vacancies throughout Fiscal Year 2023. The General Fund operations are projected to generate about \$100,000 in savings, the Golf Enterprise Fund \$80,000 in salary savings and the HYCC Enterprise Fund over \$50,000. As a result, this presents an opportunity to utilize some of these funds to procure outside professional assistance, equipment, supplies and materials that were not included in the original Fiscal Year 2023 budget.

ANALYSIS: The transfer requested will provide funding for the following initiatives:

| | |
|--|-----------------|
| Portable Scorer's Table for Recreation programs | \$6,025 |
| New Credit Card Machines for Recreation programs | \$3,200 |
| Aquatic Equipment/Supplies | <u>\$21,000</u> |
| Total General Fund Operations | <u>\$30,225</u> |
| | |
| HYCC Enterprise Fund Website Upgrade | <u>\$11,000</u> |
| | |
| Ball Washer at Olde Barnstable Fairgrounds | \$4,000 |
| Toro parts for golf equipment | \$4,500 |
| Solar aerator for pond at Hyannis Golf Course | \$1,800 |
| Organic lime application at both golf courses | \$29,300 |
| Oceanglass organic kelp at both golf courses | <u>\$11,000</u> |
| Total Golf Enterprise Fund | <u>\$50,600</u> |
| | |
| Grand Total | <u>\$91,825</u> |

FISCAL IMPACT: Typically, any unspent salary funds at the end of the fiscal year will become part of the fund reserve in the fund that generates the salary savings. These funds have already been appropriated as part of the Fiscal Year 2023 Operating Budget and the vacancy savings present an opportunity to address several opportunities that would otherwise have to be addressed in a future budget request.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approving the requested transfer.

STAFF ASSISTANCE: Christopher Gonnella, Interim Director of Community Services Department

B. NEW BUSINESS (Refer to Public Hearing 05/18/2023)

BARNSTABLE TOWN COUNCIL

**ITEM# 2023-187
INTRO: 05/04/2023**

2023-187 APPROPRIATION ORDER IN THE AMOUNT OF \$86,758 FOR THE PURPOSE OF FUNDING THE ACQUISITION OF EQUIPMENT TO ASSIST WITH THE IMPLEMENTATION OF THE GREENING THE GATEWAY CITIES PROGRAM AND AUTHORIZATION TO EXPEND A FISCAL YEAR 2024-2026 EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS GREENING THE GATEWAY CITIES PROGRAM GRANT IN THE AMOUNT OF \$1,800,000

RESOLVED: That the amount of **\$86,758** be appropriated for the purpose of funding the acquisition of equipment to assist with the implementation of the grant awarded under the Greening the Gateway Cities Program, and to fund this appropriation that **\$86,758** be provided from the General Fund Reserves, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and a grant in the amount of **\$1,800,000** from the Executive Office of Energy and Environmental Affairs Greening the Gateway Cities Program for the purpose of planting 2,400 trees within an established planting zone.

SPONSOR: Mark S. Ells, Town Manager

| DATE | ACTION TAKEN |
|-------|--------------|
| _____ | _____ |
| _____ | _____ |

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2023-186
INTRO: 05/04/2023

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth S. Jenkins, Director of Planning & Development
DATE: May 04, 2023
SUBJECT: Appropriation Order in the amount of **\$86,758** for the purpose of funding the acquisition of equipment to assist with the implementation of The Greening the Gateway Cities Program and authorization to expend a Fiscal Year 2024-2026 Executive Office of Energy and Environmental Affairs Greening the Gateway Cities Program Grant in the amount of **\$1,800,000**

SUMMARY: The Town of Barnstable has been awarded a **\$1,800,000** grant from the Commonwealth of Massachusetts' Greening the Gateway Cities Program. The Greening the Gateway Cities Program is a partnership between the Executive Office of Energy and Environmental Affairs (EOEEA), the Department of Conservation and Recreation (DCR) Urban & Community Forestry Program, the Department of Energy Resources (DOER), the US Forest Service, and the Department of Housing and Community Development (DHCD) with an objective of covering 5% of the defined Planting Zone in new tree canopy over the project duration of three years or six planting seasons. Concentrated within Environmental Justice neighborhoods, the Program targets areas that have lower tree canopy, older housing stock, higher wind speeds, and larger rent population.

In collaboration with the Department of Conservation and Recreation (DCR), the Town's Planting Zone was established within Environmental Justice neighborhoods located in Hyannis based on factors including, but not limited to, density, existing tree canopy, and impervious surface. A map of the established Planting Zone is attached. The Planting Zone is composed of 966 acres predominately located north and northwest of downtown Hyannis between Falmouth Road (Route 28) and Iyannough Road to the north, Old Strawberry Hill Road to the west, West Main Street and Stevens Street to the south and Ridgewood Avenue to the east. The Planting Zone also includes the western half of Sea Street.

Grant funds will be used to improve the Planting Zone with a total of 2,400 trees of which 80%, or 1,920 trees, will be planted on private properties and 20%, or 480 trees, will be planted on public properties. The project will commence Fall 2023. Significant outreach will occur in advance of the Fall to inform the community of this opportunity and to encourage residents to sign up for trees to be planted at their property. Trees will be free to all residents who live within the Planting Zone subject to submittal of the Town's Access and Watering Agreement.

Through this project, and by increasing tree canopy within the Planting Zone, the community will realize benefits including beautification of our neighborhoods, schools and other public places, improved air quality, noise reduction, increased wildlife habitat, and increased shade which will reduce urban heat island effect as well as maximize homeowner energy savings.

FISCAL IMPACT: No funding match is required for this grant award; however, the grant cannot be used for acquiring a vehicle that will be needed to carry out the program. This vehicle will be added to the Public Works Department fleet and will be equipped with the necessary axillary equipment needed for this program and other purposes such as snow removal in the planting offseason. Funding will be provided from the General Fund reserves which have a current balance of \$24,975,542.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this appropriation and grant acceptance.

STAFF ASSISTANCE: Kate Maldonado, Assistant Director of Planning & Development; Andy Bernier, Tree Warden, Department of Public Works; Alice Marcus Krieg, Grants Coordinator, Planning & Development

Greening the Gateway Cities Program South Region - Barnstable

-  Proposed Planting Zone - 966 Acres
-  EJ Boundary
-  Housing Authority Parcels
-  K-12 Schools
-  City Hall

