



TOWN OF EDGARTOWN



SELECT BOARD

70 MAIN ST, EDGARTOWN, MA 02539

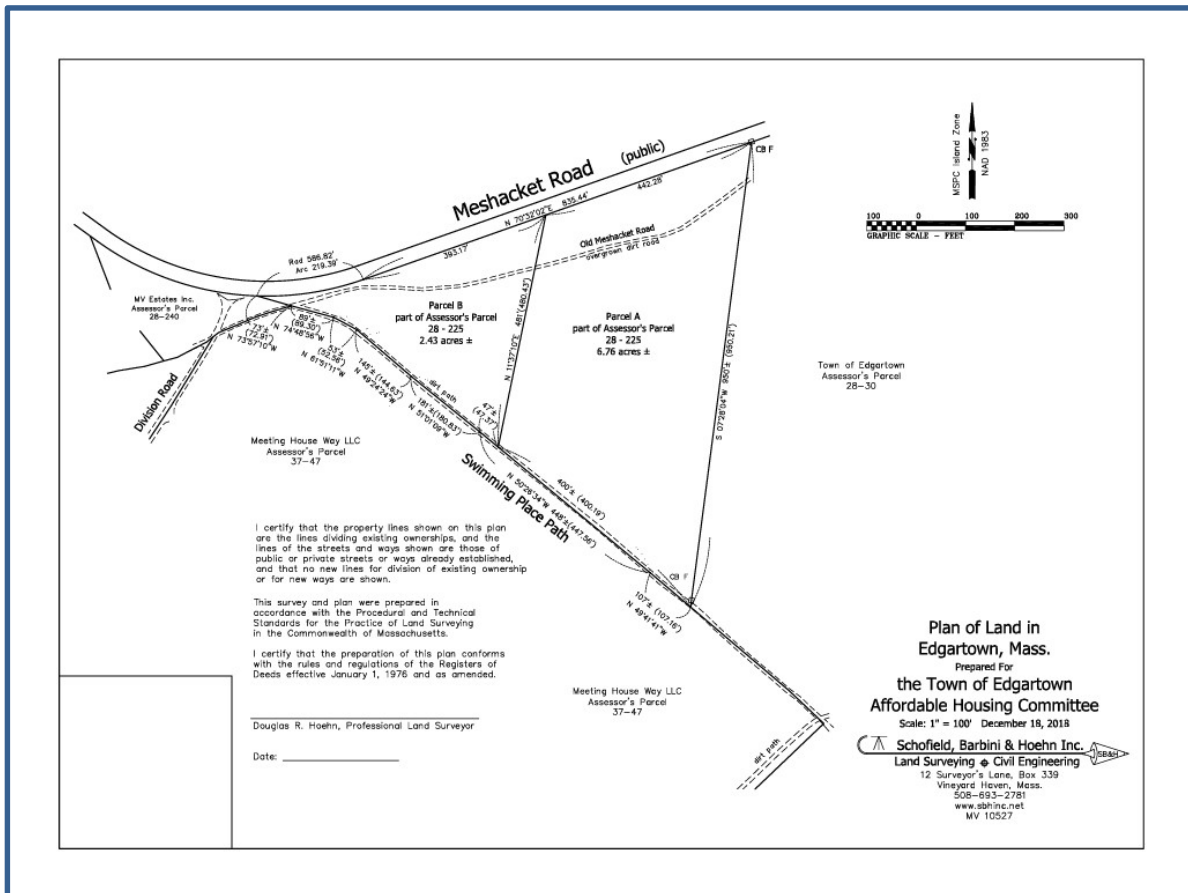
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REQUEST FOR PROPOSALS

For the Development of Affordable and Community Rental and Homeownership Housing on Town Owned Land
Meshacket Road

Proposals Due by 12 p.m. on October 22, 2021



REQUEST FOR PROPOSALS

**For the Development of Affordable and Community Rental and Homeownership
Housing on Town Owned Land
Meshacket Road
Edgartown, MA**



LEGAL ADVERTISEMENT/INVITATION TO BID

The Town of Edgartown, through its Select Board, is seeking proposals for the development of up to 40 units, including up to 36 rentals and four ownership units of affordable and community housing on a 6.76-acre parcel of town-owned land (the "Property") located at 38 Meshacket Road. The Property is located in a residentially zoned area, which is largely undeveloped. The Town will convey development rights to the developer through a Land Development Agreement (LDA) together with a 99-year ground lease. It is expected that the developer or a subsidiary will retain ownership of the rental housing, and will sell the ownership units once constructed. All of the units will be income and resale restricted in accordance with the ground lease that the Town will hold on the land.

We are issuing a Request for Proposals (RFP). The purpose of this RFP is to select a developer/owner with experience in constructing, owning and managing affordable and community rental and ownership housing, who will meet the Town's goals. This solicitation is being conducted in accordance with the provisions of the Uniform Procurement Act, Massachusetts General Laws Chapter 30B. The provisions of MGL Chapter 30B are incorporated here by reference.

Proposal packages may be obtained electronically by emailing Jennifer Smyth at the Town of Edgartown Procurement Office, jsmyth@edgartown-ma.us. Arrangements can be made to pick up a copy in person from the Procurement Office by calling (508) 627-6185.

Applicants must submit one original, one electronic copy, and 9 copies of their application on or before 12 noon on October 22, 2021 to: The Meshacket Developer Selection Committee. Proposals may be hand delivered and left in the Dropbox outside the front door of Town Hall at 70 Main Street, mailed via USPS to Edgartown Procurement Office, PO Box 5158, Edgartown, MA 02539, or sent via UPS or FedEx to

Edgartown Procurement Office, 70 Main Street, Edgartown, MA 02539. Please note that overnight and 2-day services do not guarantee timely delivery on Martha's Vineyard.

Proposals must be submitted in a sealed envelope, clearly marked "Meshacket Road Affordable Housing Proposal Ref # AHC-19-30." Faxed submissions will not be accepted. Submitted proposals must include all required documents, completed and signed per the instructions and attached forms included in this bid package.

Bids will be opened and recorded on October 22, 2021. No proposals submitted after this time will be accepted.

The Town of Edgartown reserves the right to reject any or all proposals, to waive minor informalities or technical deficiencies, or to allow the proposer to correct them, modify or amend, with the consent of the applicant, any proposal prior to acceptance, to extend any deadline set forth in this Request for Proposals, or to cancel this Request for Proposals, in whole or in part, if it is in the best interest of the Town to do so.

The Town of Edgartown makes no representations or warranties, express or implied, as to the accuracy and/or completeness of the information provided in the RFP. This RFP, including all attachments and supplements, is made subject to errors, omissions, prior sale, lease or financing; withdrawal with prior notice; and changes to, additions to and different interpretations of laws and regulations.

On August 18, 2021 at 2 p.m. an optional site walk will be held at 38 Meshacket Road. An optional pre-bid conference for any interested prospective bidders will be held on August 19 at 9:30 a.m. on Zoom. Proposers who plan to attend either or both of these must RSVP for the site walk and/or the Zoom conference by contacting Jennifer Smyth at jsmyth@edgartown-ma.us. A Zoom number for the conference and instructions for the site walk will be sent to those who send an RSVP by August 11, 2021 at 5 p.m.. Proposers are encouraged to submit any questions to this email address prior to the site walk and pre bid conference. Written responses to all questions received within 48 hours of the pre bid conference will be provided and circulated to all those who have requested copies of the RFP.

Proposals Due by 12 p.m. on October 22, 2021

REQUEST FOR PROPOSALS # AHC-19-30



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TOWN OF EDGARTOWN, MASSACHUSETTS REQUEST FOR PROPOSALS # AHC-19-30

I. INTRODUCTION

The Town of Edgartown, through its Select Board, is seeking proposals for the development and management of up to 36 rental and 4 ownership units, all to be affordable or community housing, as defined herein¹, on a 6.76-acre parcel of land (the "Property") located on Meshacket Road.

The Property is located in a residentially zoned area, which is largely undeveloped. The Town intends to enter into a land disposition agreement and ground lease with the developer, incorporating a 99-year ground lease with permanent affordability and income restrictions. All of the rental units will be required to be restricted to people whose incomes are below 100% of the Dukes County areawide median income. All of the homeownership units will be restricted to people whose incomes are at or below 140% of the Dukes County areawide median income. See **Attachment A** for a sample Land Development Agreement and **Attachment B** for a model Ground Lease.

The purpose of this Request for Proposals (RFP) is to select a developer/owner with experience in constructing, owning and managing affordable and community housing, in conformance with the Town's affordable housing goals and the requirements identified herein. The developer will be responsible for all aspects of building, financing, and managing the project for the length of the ground lease.

The Town of Edgartown has reserved approximately \$800,000 of Community Preservation Act (CPA) and other funds for this project to be used for road, site work and other due diligence requirements. The Town may be able to increase the funding for this project, but the Proposer is expected to seek other funds to the extent possible, including funding available through the Massachusetts Department of Housing and Community development (DHCD). CPA funds must be used to benefit households who earn below 100% of the Areawide Median Income for Dukes County.

A preliminary conceptual site design for this property was prepared by Sherman and Associates and can be requested from the Town of Edgartown procurement office.

¹ Affordable housing is defined herein as housing affordable to people whose incomes are at 80% of Dukes County areawide median income or below. Community housing is housing affordable to people whose incomes are at 81-140% of areawide median income. Given the high costs of housing on Martha's Vineyard, these are both seen as critical community needs.

Additional design guidelines and goals for the project are found in Section VI of this RFP.

A Selection Committee, made of seven volunteers, will evaluate proposals and recommend to the Select Board a developer for this project. The Selection Committee will consist of members of the Affordable Housing Committee, the Select Board, the Planning Board, and at-large members from the public.

II. DESCRIPTION OF THE PROPERTY

The Property is a 6.76-acre parcel owned by the Town of Edgartown, assigned by the voters under Article 19 of the Annual Town Meeting held on April 10, 2012 to be used for Affordable Housing (**Attachment C**).

It is located at 38 Meshacket Road, and is a portion of Assessor's Map 28, Lot 225, being Parcel A as shown on a plan of land prepared for the Edgartown Affordable Housing Committee (**Attachment D**). The Property was acquired by the Town through a tax taking in the early 1980s. For the Town's title, see Tax Taking dated June 22, 1982, recorded in the Dukes County Registry of Deeds (the Registry) in Book 393, Page 374, and Final Judgment in Tax Lien Case dated March 1, 1994, recorded in the Registry in Book 630, Page 781.

The parcel is trapezoidal in shape with the northern, western and southern sides measuring between approximately 400 and 480 feet, and eastern side measuring approximately 950 feet. The northern boundary of the parcel is Meshacket Road. The Property is abutted on the east by a 23.0-acre lot owned by the Town of Edgartown Water Department, and on the southwest by a privately owned 54.8-acre parcel. Further to the west is the community of Island Grove, a development consisting of ½ acre lots with single-family homes, with some garages and guesthouses. To the northwest, across Meshacket Road, is an 11.7-acre parcel owned by the Town of Edgartown that formerly served as the Town landfill. This parcel is monitored by the Edgartown Board of Health. Monthly methane gas reports, as well as quarterly water reports, are available upon request, but no health or safety risks have been shown since monitoring began after the landfill was capped.

The southwest boundary of the Property is a Special Way known as Swimming Place Path. Special Ways are designated by the Town of Edgartown to protect historic and cultural cart paths and walkways as a conservation resource to promote non-motorized

means of transportation, as defined in Edgartown Zoning Bylaw 5.2.B. There is also a walking path, known as Old Meshacket Road, crossing the Property near the northern edge, parallel to Meshacket Road. Public access to both paths must be preserved, and they may not be used for vehicular traffic.

Access to the Property will be via Meshacket Road. Additional traffic from this development is not anticipated to cause any significant congestion along Meshacket Road. A traffic count of the Meshacket/Cleavelandtown Road area from 2014 is attached to this RFP **(Attachment E)**.

The vacant land is generally level oak woodland and has no known recent history of development. The entire property has been designated as Priority Habitat by the Massachusetts Natural Heritage Endangered Species Program (NHESP). As a result of pre-filing consultations with NHESP, we have assumed that an irregularly shaped area measuring approximately three acres in the southeastern corner of the Property cannot be developed. Developers will need to further consult with NHESP. It is possible that the size of this restricted area could be reduced in consultation with NHESP **(see Attachment F for preliminary information)**.

An archeological and historical inventory of the area was completed **(Attachment G)**.

Town water is available to the site. A 10-inch diameter cast iron water main presently runs along Meshacket Road. The Town Wastewater Department has a 4-inch diameter force main along Meshacket Road with adequate capacity to handle this development as envisioned. A letter from the Wastewater Commission dated April 5, 2017, and updated on 18th of February, 2021, explains that the system has reserved 70 bedrooms for this development **(Attachment H)**. The successful proposer can request additional bedrooms, however there is no guarantee that those will be granted.

All construction of water and wastewater infrastructure must be in conformance with the requirements of the Water and Wastewater Departments.

Utility poles carry electrical and telephone service along Meshacket Road, from which service can be extended through the Property. There are no gas lines on the Island. If gas utilities are contemplated, propane would have to be utilized.

The Town has not conducted a 21E environmental review. The property will be conveyed "as is". Applicants should undertake their own review and analysis of environmental and physical conditions. The Town bears no responsibility for hazardous waste, oil, hazardous materials or substances on, in or under the property.

The project site is approximately two miles from the closest major local supermarket, and under two miles to town services, including the post office, town hall, library and elementary school. There are currently no sidewalks or bus stop at the site but there is a bus stop within walking distance, at Morning Glory Farm.

III. THE COMMUNITY AND ITS HOUSING NEEDS

Edgartown is one of six towns on the Island of Martha's Vineyard. It was historically home to whaling captains and fishermen. With its historic structures and its beaches, the Town's economy is now strongly dependent on seasonal tourism. The Island is connected to Cape Cod by year-round and seasonal ferry service, and there is regular air service to Boston and New York, with increases in service during the summer.

According to U.S. census data, the total year-round population of Martha's Vineyard was 14,987 in 2000, and 17,312 in 2019. The year-round population of Edgartown was 4,320 in 2019. The seasonal population of the Island as a whole is about 85,000, including 3000-5000 seasonal workers who support the summer tourist season. The median age levels have increased as have the percentages of population 65 and over. Close to 20% of Edgartown's 2019 population is 65 or over, suggesting a demand for housing for seniors. However, average household size on the Vineyard increased from 2.22 to 2.52 persons between 2010 and 2019, suggesting that family housing is also a need (Note: Data found in this section is from the most recent Martha's Vineyard Housing Needs Assessment,

<https://www.mvcommission.org/sites/default/files/docs/MV%20Housing%20Needs%20Assessment%202020%20Update%201-20-21.pdf>).

In 2019, Edgartown had 5,168 housing units of which 3,565 were seasonal units. Housing growth on the Island between 2010 and 2019 was largely in the seasonal housing stock. Edgartown has one third of the Island's 10,681 seasonal units. The year-round occupied housing stock on the Island decreased by 8.2%, while the seasonal stock units increased by 15.4% from 2010 to in 2019. Edgartown's total units decreased from 5,220 to 5,168 during this time period.

Ninety-one percent of the Island's housing stock is in single family detached home. Five percent is in structures of 2 to 4 units; and only two percent is in structures of 5 or more.

Edgartown has 73 units in its subsidized housing inventory, 68 of which are rentals (3.72% of the town's total housing).

In 2020, median household income for a family of one in Dukes County (Martha's Vineyard and Gosnald) was \$73,400 and for a family of four was \$104,800 (see <https://dcrha.files.wordpress.com/2020/07/2020-ami-income-chart.pdf>).

Edgartown's median income was \$78,902, up from \$67,625 in 2010. More than a quarter of all Vineyard households earn less than \$35,000. The numbers and percentages of

people living in poverty on the Island have been increasing. In Edgartown the poverty rate overall was 3.5% in 2019 but was 9% for people over 65.

In 2019, the Island's weekly wage was only 70% of the Statewide average, and the median home price was more than double the state average. People employed in the service industries and with low and moderate incomes have found it increasingly difficult to live on the Island.

In 2020 and 2021, housing prices dramatically increased as people from off of the Island have bought properties in increased numbers. The median home price for a single-family home on Martha's Vineyard was \$1.1 million in Nov 2020. This translates into an affordability gap of \$781,500.

A 2017 HUD report documented that 41% of all households in Dukes County had housing cost burdens (meaning that they were paying greater than 30% of their income for housing); 21% were paying more than half of their income for housing costs. The same report noted that 41% of Dukes County households had incomes at or below 80% of areawide median income, and of these, 68% had housing cost burdens.

The impact of this housing crisis is far reaching, affecting all aspects of the Town and the Island as a whole. Long-term employment vacancies in the local schools and hospital are attributed to a lack of affordable housing. The Town of Edgartown is particularly concerned about providing affordable housing for the community's workforce and for its elders.

IV. LAND USE AND ZONING REGULATIONS

Acquisition of all necessary permits and approvals are the responsibility of, and at the sole expense of, the selected developer.

Local Regulations

The Property is located in the R-20 Zoning District of Edgartown, governed by the Edgartown Zoning Bylaw Article 2.2, where one single-family house and one guesthouse per ½ acre is permitted by right. Building height is limited to 32 feet above mean natural grade. In this district, increased density for multi-unit housing structures is allowed by special permit in some cases, as described in Article 10.3.E (See <https://www.edgartown-ma.us/Home/ShowDocument?id=12660>).

It is anticipated that a Comprehensive Permit (40B) will be required for this Project. A Department of Environmental Protection (DEP) Sewer Extension Permit will be required to connect to the force main on Meshacket Road.

Regional Regulations

The project will require review and approval by the Martha's Vineyard Commission as a Development of Regional Impact (DRI) (See <https://www.mvcommission.org/dris/>.)

As noted above, the Edgartown Affordable Housing Committee has had pre-filing consultations with NHESP regarding the Priority Habitat. A filing with NHESP will be required to ensure compliance with the Massachusetts Endangered Species Act (MESA). As a result of these consultations, it is anticipated that a filing with MEPA will not be required, but could be if other items are triggered from the Environmental Notification Form checklist. Any additional filing above MESA, or required by MEPA, will be at the sole expense of the developer.

V. LAND DEVELOPMENT AGREEMENT AND GROUND LEASE TERMS

The successful proposer shall be required to enter into a Land Development Agreement and a Ground Lease for the Property with the Town which shall include, but not be limited to the following provisions:

1. The Town will lease the site to the developer for a term of 99 years, with an option to renew.
2. The ground lease will provide terms to ensure that the rental housing remains affordable to people below 100% of median income and that the ownership housing remains affordable to people at or below 140% of median income for the term of the lease.
3. Plans and specifications for the construction of the units will be subject to the Lessor's approval, if desired by Lessor, and provided such right of approval complies with all applicable governing laws, rules and regulations.

4. The Town of Edgartown will have a Right of First Refusal, which it may assign, to purchase all structures, improvements, additions, building and facilities on the Property.
5. The Lessee must certify tax compliance annually (M.G.L. c. 62C, sec. 49A).
6. The Town will receive an initial lease payment of \$5,000 to cover all costs incidental to the leasing of this site, including the cost of negotiating the lease agreement, and all legal fees related to it.
7. The Town will receive further annual payments of \$1,000 to support affordable housing efforts in the Town of Edgartown.
8. The proposer or proposer's agent shall have the right, at a time and date approved by and coordinated with the Affordable Housing office (affordable@edgartown-ma.us) to enter the Property at the proposer's own risk for the purpose of survey, inspections or tests, including subsurface tests, the proposer agreeing to restore the Property, if disturbed by such survey, inspections or tests, as close as reasonably possible to the condition prior to such entry. The proposer shall indemnify and hold the Town harmless for all liability arising out of such entry. The proposer shall include in its proposal a certification that the proposer is fully satisfied with such inspections and tests or that the proposer has waived its right to conduct such inspections and tests.

VI. KEY TOWN GOALS AND GUIDELINES FOR PROPOSALS



The Town's overriding goals for this project and the attached requirements are:

1. **Permanently affordable rental housing is available to Martha's Vineyard residents who have difficulty finding adequate, year-round housing**--100% of the rental units must be affordable to households below 100% of the areawide median income for Dukes County.
2. **Permanently affordable ownership units are available to Martha's Vineyard residents**--100% of the four ownership units must be affordable to households at or below 140% of the areawide median income.
3. **Maximize local preference** as allowable by law.

4. **A well-designed, well-built, and well-managed group of housing units, compatible with community characteristics, is developed on Town-owned land--** Proposals should make significant use of sustainable green design principles in both the building and the long-term management of the Property. Developers are encouraged to review the Martha's Vineyard Island Plan to acquaint themselves with the specific sustainability challenges facing the Island community.

Design Guidelines

The Town of Edgartown believes that the site design and building design must be attractive and considered an asset to the community. The Town seeks proposals that include strong design components. The selected proposal will incorporate as many of the following design features into the development plan as is feasible:

Site Design

1. The southern portion of the Property has been staked and bound after being designated a Priority Habitat by the Massachusetts Natural Heritage Endangered Species Program. Accordingly, development must take place in the northern portion of the Property outside of the designated area. The design should minimize any impact and interaction with the critical habitat.
2. The site design should maximize the preservation of open space, and should have outdoor recreation areas designed for multiple ages, including a playground, areas for passive recreation, and paths that connect to trails abutting the Property.
3. Primary vehicle and pedestrian access to the site will be directly from Meshacket Road. The site design should preserve the natural views from Meshacket Road to the greatest extent possible. Specifically, a green buffer zone should be provided between the developed portion of the Property and Meshacket Road. The existing walking path crossing the Property near Meshacket Road (known as "Old Meshacket Road") should be included in this buffer zone.
4. The site design should preserve natural views from the Special Way known as Swimming Place Path and the walking path known as Old Meshacket Road to the greatest extent possible.
5. There should be a thoughtful traffic flow.
6. Utilities should be underground.
7. Minimal impact exterior lighting should be used.
8. There should be screened central trash and recycling.

9. There should be adequate storage facilities for residents, including bicycle storage.
10. There should be a designated snow area.
11. Adequate parking areas including visitor parking should be provided.
12. A bus shelter should be provided at a convenient location on the site to support school bus, public transport, and private shuttle services if available.
13. The proposed project site plan should show the conservation and protection of the Priority Habitat, Meshacket Road walking path, and Special Way with the legally required zoning setbacks and requirements for the Property.

Building Design

1. Architecture, building materials, and landscaping should be in character with the Town of Edgartown.
2. Cape style design and open floor plan units are preferred.
3. The rental housing can be in the form of townhouses, garden apartments, semi-detached homes, or a mixture of the above.
4. The four ownership units should be divided between two structures (i.e. duplexes).
5. Elevator buildings are not recommended given potential maintenance issues.
6. There should be a mix of one-, two-, and three-bedroom units. At least 10% of the units must be three-bedroom units as required by Chapter 40b and state funding.
7. Adequate laundry facilities, trash handling and storage for the residential units should be provided, including laundry facilities in each unit.
8. Green design and energy efficiency should be maximized to the extent feasible.
9. All first floor units should be designed to allow for universal access, and visitability standards, and to be age friendly (AARP standards), with 5% of the units being fully ADA compliant and accessible.
10. All units should have durable sustainable interior finishes that are low maintenance.
11. Separate electrical meters should be provided for each unit.
12. Private outdoor space should be provided for each unit, with entry or exit decks recommended.

Note: A preliminary site design, which was used to share the project concept with the public, and to solicit comments and support, is available by contacting the Town of Edgartown procurement office. This site design should be considered to be conceptual only. Respondents are encouraged to suggest changes and enhancements to optimize the balanced objectives of the development.

VII. PROPOSAL REQUIREMENTS

The Selection Committee shall reject proposals which do not meet the following **minimum requirements:**

1. The proposal must be received by the Town's Procurement Office on or before October 22, 2021, and must include or address all items specified below.
2. The proposal must include a letter of interest signed by an agent of the company who has authority to bind the company to a firm proposal.
3. The proposal must be from an established partnership, company, firm or individual who normally furnish such services as the principal business for which the firm is formed, or has a minimum of five (5) years of experience in housing development, design and operations. A description of the business or the partner companies should include a list all principals and partners, at least five clients and include a complete list of projects for the past three (3) years for the business as a whole if one company or for each of the partner companies, if this is a partnership or multi-party proposal. Furthermore, the Proposer should evidence their experience with affordable and community rental and ownership housing development, design and property management as well as demonstrate an understanding of Massachusetts laws, regulations and policies associated with developing and operating affordable housing.
4. The proposal must include a narrative description of the proposed development.
5. The proposal must provide a list of names of personnel who will be assigned to represent the business and who will be the principals and key personnel, including resumes with their experience and qualifications, titles, contact information and an organizational structure of the development team, including a plan for effective communication between the Town and the development team.
6. The proposal must include a company profile for the organization that will be providing property management services to the property. Proposed property

management staff must have demonstrated experience and excellence in managing affordable housing. The management plan must include provisions for administrative and maintenance services for the residents during normal business hours, as well as a plan for prompt access to services outside normal business hours.

7. The proposer is responsible for attaining and holding in good standing all relevant licenses and certificates associated with the completion of the property development and operation under the ground lease, if any. Evidence of these requirements is to be made part of the proposal. If a permit is not currently held or the application process is pending, the proposer should indicate such. The Town reserves the sole right to decide if the contract may be awarded to the contractor despite the failure to produce the actual permits or copies thereof. Licenses and permits must be held in force throughout the term of the lease.
8. The proposer must sign and include in the proposal package all required forms:
 - Certificate of Non-Collusion
 - Tax Compliance Certification
 - Disclosure of Beneficial Interests in Real Property Transactions

The proposal must include the following **project information**:

1. Financial proforma including a development sources and uses budget and a 20-year operating proforma,
2. Letters of interest from lenders and funding sources with contact information,
3. Preliminary site plan and drawings with proposed buildings by type and size, dwelling unit distribution by floor, size, number of bedroom/ baths and handicap accessibility designation, number of parking spaces, parking ratio proposed, setbacks, easements, and building heights,
4. Preliminary construction cost estimate with trade item breakdown,
5. Preliminary identification of permitting and regulatory relief to be sought under a Comprehensive Permit,
6. Projected schedule for assembly of regulatory relief, construction and permanent financing, development of the site, rent up/sales, and full occupancy,
7. Preliminary management plan,
8. Fair housing statement in compliance with DHCD guidelines, and

9. Description of green building design and energy efficiency.

The proposal must include the following **developer information**:

1. Description of development team, including key consultants, property manager, architect, contractor and attorney, detailing previous experience of members of team and letters of reference; and identifying the process for selecting any members not yet identified.
2. Letters of Reference or Good Standing from a Lending institution, documenting ability to carry the debt associated with this Project.
3. Description of other real estate property owned.
4. List of projects in development, their status, and expected completion date.
5. Information regarding any legal or administrative actions, past, pending or threatened that could relate to the conduct of the applicant's business.
6. List of affordable and other properties managed by Property Management Agent, with unit count, overview of financing, and location.

VIII. PROPOSAL EVALUATION AND CONTRACT

Each proposal will be reviewed by the seven-person Selection Committee, consisting of members of the Affordable Housing Committee, the Select Board, the Planning Board, and at-large members from the public.

Proposals will be opened and reviewed by the Selection Committee at the date and time on which they are due, unless extended, or if there is no quorum or the meeting does not occur, at a publicly advertised meeting of the Selection Committee in the Edgartown Town Hall, 70 Main St., 1st floor, Edgartown Massachusetts. All information contained in the proposals, unless precluded by G. L. c. 93H and the regulations at 201 CMR 17.00 et seq, or by other applicable law, will be made public.

The proposals that meet all of the minimum requirements as outlined above, and are determined to be both responsive (those that offer all of the services requested in the RFP and contain all of the required information and forms properly completed) and responsible (those with the capability, integrity and reliability to perform under the

contract) will be further reviewed using the Comparative Evaluation Criteria outlined below.

Selection Criteria

1. *Consistency with the Town of Edgartown's Affordable Housing Goals and Guidelines:* The Town wishes to attain the highest possible consistency with the Town's Affordable Housing Goals and Guidelines (Section VI).
 - **Most Advantageous** – Proposals that demonstrate complete consistency with the fewest conditions attached thereto.
 - **Less Advantageous** – Proposals with conditions potentially limiting their consistency with the Town's affordable housing goals and guidelines.

2. *Developer qualifications:* The Town wishes to lease the property to a developer with experience in the development of affordable and community housing projects of similar size.
 - **Most Advantageous** – Track record of developing affordable and community rental and homeownership projects of a similar size.
 - **Less Advantageous** – Limited experience developing affordable and community rental and homeownership housing of a similar size.

 - **Most Advantageous** – References that attest to significant experience developing affordable and community rental and ownership projects of a similar size.
 - **Less Advantageous** – References that attest to some experience developing affordable and community housing projects.

 - *Bonus:* **Most Advantageous** – A proposal that demonstrates creativity in how the developer plans to approach this project.

3. *Management qualifications:* The Town wishes to lease the property to a developer with experience in the management of affordable and community rental and ownership housing and a feasible plan for managing this property.
 - **Most Advantageous** - Experience in the management of affordable and community rental and homeownership housing and the presentation of a draft feasible management plan.

- **Less Advantageous** - A lack of experience in the management of affordable and community rental and homeownership housing and/or the lack of a draft feasible management plan.
 - **Most Advantageous** - Experience in ensuring high quality property maintenance of affordable and community rental and homeownership housing over time.
 - **Less Advantageous** - A lack of experience in ensuring high quality property maintenance of affordable and community rental and homeownership housing over time.
4. *Financial strength:* The Town wishes to lease the property to a developer with strong financial resources.
- **Most Advantageous** - A demonstrated history of developing financially stable projects with long-term health.
 - **Less Advantageous** - A development history containing projects with troubled or less stable long-term financial health.
 - **Most Advantageous** – References that document the Developer’s current financial strength and creditworthiness.
 - **Less Advantageous** – No documentation indicating Developer’s current financial strength and creditworthiness.
5. *Access to and competitiveness for a range of financing sources:* The Town wishes to lease the property to a developer who has the ability to bring a range of public and private financing resources to the project.
- **Most Advantageous** - A development proposal that documents access to funds or firm commitments from a range of funding sources.
 - **Advantageous** - A development proposal that documents a financially feasible project including competitiveness for funding resources identified.
 - **Less Advantageous** - A proposal that documents limited access to financial resources, limited commitment or limited competitiveness for a range of funding sources.
6. *Unit affordability:* The Town wishes to lease the property to a developer who provides affordable housing and community housing opportunities as defined herein.

- **Most Advantageous** - A development proposal that provides at least 50% of the rental housing units affordable at or below 80% of area median income.
- **Less Advantageous** - A development proposal that does not provide at least 50% of the housing units affordable at or below 80% of area median income.
- **Most Advantageous** - A development proposal that provides at least 50% of the homeownership units will be affordable below 100% of area median income.
- **Less Advantageous** - A development proposal that does not provide at least 50% of the homeownership units affordable below 100% of area median income.

7. *Site Plan*: The Town wishes to lease the property to a developer who has demonstrated experience and is proposing a site design that is sensitive to the surrounding area, the topology of the property, and the existing vegetation and that maximizes consistency with the site design guidelines elaborated in Section VI of this proposal.

- **Most Advantageous** - A demonstrated expertise and experience in sensitivity to the surrounding environment including the existing vegetation in like communities or sites.
- **Less Advantageous** - A failure to demonstrate sensitivity to the surrounding environment including the existing vegetation in like communities or sites.
- **Most Advantageous** - A demonstrated commitment to this particular site and a documented plan of integration with the local environment, consistent with the site guidelines elaborated herein.
- **Less Advantageous** - A lack of commitment to the surrounding environment and a lack of consistency with the site design guidelines.

8. *Sustainable and attractive building design*: The Town wishes to lease the property to a developer with experience in providing attractive buildings and sustainable building design ("green" building) and a demonstrated sensitivity to the building guidelines contained herein.

- **Most Advantageous** - A demonstrated expertise and experience in sustainable building design (e.g. LEED certified silver or net zero or similar ratings).

- **Less Advantageous** - A lack of expertise and experience in sustainable building design.
- **Most Advantageous** - A demonstrated commitment to the building design guidelines elaborated in Section VI of this proposal.
- **Less Advantageous** - A lack of commitment to pursuing the building design guidelines elaborated in Section VI of this proposal.

9. *Ability to Proceed:* The Town wishes to have the development permitted, the construction completed, and the units occupied as soon as possible.

- **Most Advantageous** - Proposals demonstrating a compelling timeline, including assembling finances, permitting, and proceeding to construction within 24 months from permitting (pending funding commitment limitations).
- **Less Advantageous** - As the timeline increases, the proposals will be considered less advantageous.

The Land Development Agreement will be awarded to the most advantageous Proposer, as determined by the Select Board, following a review and recommendation from the Selection Committee.

During the selection process, the Town reserves the right for any reason deemed appropriate by the Town: (1) to extend the deadline for submission of Proposals or any other deadline in this RFP, (2) to request supplementary information, (3) to waive minor informalities or technical deficiencies or to allow the proposer to correct them, (4) to modify or amend with the consent of the applicant any proposal prior to acceptance, (5) to request "best and final" offers; (6) to conduct interviews with all of the Proposers meeting threshold requirements, (7) to reject any or all proposals, in whole or in part, (8) to terminate or amend this RFP, and/or to issue a new RFP if in its sole judgment the best interests of the Town would be served in doing so, all in the Town's sole discretion. The Town will reject any and all proposals when required to do so by applicable law, and the Town's obligations under this RFP are contingent on compliance with all applicable law.

Additional information may be requested including but not limited to meetings with officers of the Proposing firms that meet threshold, current place of business site visits and a review of documents.

Award of Contract

The Selected Proposer will be announced at a Select Board meeting, on a date to be determined, using the process and criteria described above, provided that the Town reserves the right to extend this deadline in its sole discretion.

The winning Proposer shall come to an agreement with the Town on a Land Development Agreement that is based on the model provided herein within forty-five (45) days of the Select Board announcing the winning Proposer at the applicable Select Board meeting, along with any documents reasonably requested by the Town to show the authority of the person executing the Agreement on behalf of the winning Proposer and the existence and good standing of the winning Proposer if the winning Proposer is a corporation, limited liability company or other entity.

If the winning Proposer does not execute and deliver to the Town the Land Disposition Agreement, and all such documents reasonably requested by the Town within said forty five (45) day period, the Town can terminate this RFP, issue a new RFP, or, select the next most advantageous proposal, in which event the next most advantageous proposer shall sign the Lease Agreement as provided above and within forty-five (45) days of receiving notice from the Town, all in the Town's sole discretion.

Disclaimer/Reservation of Rights

The Town makes no representations or warranties, express or implied, as to the accuracy and/or completeness of the information provided in this RFP. The Leased Area will be disposed of to the Selected Proposer "AS-IS", "WHERE IS" and with "ALL DEFECTS" without any representation, warranty or covenant of any kind whatsoever, and the successful Proposer shall agree to accept the Leased Area in such condition without recourse to the Town of any kind or for any reason whatsoever.

The Town reserves the right to extend the deadline for submission of Proposals or any other deadline in this RFP, to request supplementary information, to waive minor informalities or technical deficiencies or to allow the proposer to correct them, to modify or amend with the consent of the applicant any proposal prior to acceptance, to conduct interviews with any or all of the Proposers submitting proposals, to reject any or all proposals, in whole or in part, to terminate or amend this RFP, and/or to issue a new RFP if in its sole judgment the best interests of the Town would be served in doing so, all in the Town's sole discretion. The Town will reject any and all proposals when required to do so by applicable law, and the Town's obligations under this RFP are contingent on compliance with all applicable law.

All costs incurred by proposers in preparing a proposal, responding to this RFP, obtaining approvals, and executing or reviewing the Lease, shall be borne by each proposer, and the Town shall have no liability for any such costs.

IX. FORMS TO BE SUBMITTED



CERTIFICATE OF NON-COLLUSION

Pursuant to the requirements of M.G.L. c.30B, §10, the undersigned certifies under penalties of perjury that this bid, or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee club, or other organization, entity, or group or individuals.

(Signature of individual)

Name of Business

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c.62C, §49A and requirements of the Town, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.*

**Signature of Individual (Mandatory)

***Contractor's Social Security Number (Voluntary) or Federal Identification Number

Print Name: _____ Date: _____

OR

Company Name
(Corporation, Partnership, LLC, etc.)

By: _____
**Corporate Officer (Mandatory)

Print Name: _____

Date: _____

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted until the Town receives a signed copy of this Certification.

*** Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

DISCLOSURE OF BENEFICIAL INTERESTS IN REAL PROPERTY TRANSACTIONS

DISCLOSURE STATEMENT FOR TRANSACTION WITH A PUBLIC AGENCY
CONCERNING REAL PROPERTY

M.G.L. c. 7C, s. 38

INSTRUCTION SHEET

NOTE: The Town of Edgartown shall have no responsibility for ensuring that the Disclosure Statement has been properly completed as required by law. Acceptance by the Town of a Disclosure Statement for filing does not constitute the Town's approval of this Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7C, s. 38 which is reprinted in Section 8 of this Disclosure Statement.

Section (1): Identify the real property, including its street address, and city or town. If there is no street address, then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

Section (2): Identify the type of transaction to which this Disclosure Statement pertains --such as a sale, purchase, lease, etc.

Section (3): Insert the exact legal name of the Public Agency participating in this Transaction with the Disclosing Party. The Public Agency may be a Department of the Commonwealth of Massachusetts, or some other public entity. Please do not abbreviate.

Section (4): Insert the exact legal name of the Disclosing Party. Indicate whether the Disclosing Party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the Disclosing Party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

Section (5): Indicate the role of the Disclosing Party in the transaction by checking one of the blanks. If the Disclosing Party's role in the transaction is not covered by one of the listed roles, then describe the role in words.

Section (6): List the names and addresses of **every** legal entity and **every** natural person that has or will have a **direct or indirect** beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in Section 8 of this Disclosure Statement. If the Disclosing Party is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the Disclosing Party is a non-profit with no individual persons having any beneficial interest, then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into Section 6.

Section (7): Write "none" in the blank if none of the persons mentioned in Section 6 is employed by Town . Otherwise list any parties disclosed in Section 6 that are employees of the Town.

Section (8): The individual signing this statement on behalf of the Disclosing Party acknowledges that he/she has read the included provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts.

Section (9): Make sure that this Disclosure Statement is signed by the correct person. If the Disclosing Party is a corporation, please make sure that this Disclosure Statement is signed by a duly authorized officer of the corporation as required by the statute reprinted in Section 8 of this Disclosure Statement.

This completed and signed Disclosure Statement should be mailed or otherwise delivered to:

Deputy Commissioner for Real Estate

Division of Capital Asset Management and Maintenance

One Ashburton Place, 15th Floor, Boston, MA 02108
The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

- (1) REAL PROPERTY:

- (2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT:

- (3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:

- (4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY (IF NOT AN INDIVIDUAL):

- (5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ Lessor/Landlord	_____ Lessee/Tenant
_____ Seller/Grantor	_____ Buyer/Grantee
_____ Other (Please describe): _____	

- (6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions

specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

- (7) None of the above- named persons is an employee of the Town or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert “none” if none):
- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee’s interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arm’s length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics

commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

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

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


PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY DATE (MM / DD / YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGN

Note: Submit this form as part of your proposal package. The completed form for the selected developer, once selected, will need to go to DCAM.

X. ATTACHMENTS TO THIS REQUEST FOR PROPOSALS

- 
- A. Draft Land Development Agreement
 - B. Model Ground Lease
 - C. Town Meeting Warrant 4/10/12
 - D. Site Map
 - E. Traffic Count
 - F. Environmental Review of the Meshacket Site for Wildlife Habitat and State Rare Species
 - G. PAL Archaeological Reconnaissance Survey Town of Edgartown
 - H. Letter from Waste Water Commission

A. LAND DEVELOPMENT AGREEMENT

THIS LAND DEVELOPMENT AGREEMENT (this "Agreement") is entered into as of this _____ day of _____, 2021 by and between the Select Board of the Town of Edgartown a municipal corporation within the county of Dukes County, with a mailing address of P.O. Box 5158, Edgartown, Massachusetts 02539 (the "Town"), and _____, having a principal place of business at _____ and a mailing address of _____ ("Developer").

Recitals

WHEREAS, the Town is the owner of a parcel of land containing approximately 6.76 acres, located at 38 Meshacket Road, being a portion of Edgartown Assessor's Parcel 28-225, as more particularly shown as "Parcel A" on a plan entitled "Plan of Land in Edgartown, Mass. Prepared For the Town of Edgartown Affordable Housing Committee, Scale 1" = 100' December 18, 2018 Schofield, Barbini & Hoehn Inc." (the "Plan"), attached hereto as Exhibit A and made part hereof, together with any improvements presently thereon (the "Property"). For the Town's title, see Tax Taking dated June 22, 1982, recorded in the Dukes County Registry of Deeds (the "Registry") in Book 393, Page 374, and Final Judgment in Tax Lien Case dated March 1, 1994, recorded in the Registry in Book 630, Page 781.

WHEREAS, by the vote under Article 19 of Annual Town Meeting held on April 10, 2012, the Town authorized the Select Board to dispose of the Property for affordable housing purposes on such terms and conditions as the Select Board deems appropriate;

WHEREAS, on July 28, 2021, the Town issued a Request for Proposals (the "RFP"), which is incorporated herein, soliciting proposals for the development, construction and operation of not more than 40 units, including up to 36 rentals and four ownership units of affordable and community housing affordable rental housing units on the Property;

WHEREAS, the Developer submitted a proposal on _____, 2021 in response to the RFP (the "Proposal"), which is incorporated herein, proposing to construct _____ (____) dwelling units on said Property (as defined below, the "Improvements"), as more particularly described in the RFP and the Proposal, and operate an affordable housing rental development thereon (collectively, the "Project");

WHEREAS, the Town has awarded the Project to the Developer;

WHEREAS, the Town and the Developer intend to enter into a ninety-nine (99) year ground lease substantially on the same terms as those set forth in the lease attached hereto as Exhibit B and incorporated herein (the "Ground Lease"), pursuant to which the Developer will construct the Improvements and operate the Project;

WHEREAS, the obligations of the Town and the Developer to enter into the Ground Lease are contingent, among other things, on the Developer obtaining the permits and approvals necessary for the construction and operation of the Project and on financing in amounts sufficient in the Town's and Developer's reasonable judgment to construct the Improvements; and

WHEREAS, the parties wish to enter into this Agreement to memorialize the terms and conditions under which the Town and the Developer will enter into the Ground Lease.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration each to the other paid, receipt of which is hereby acknowledged, the parties hereby agree as follows:

I. LEASE CONTINGENCIES

1.1 Lease of the Property. The Town shall, within thirty (30) days from the date on which the Lease Contingencies (defined below) are satisfied (the "Lease Commencement Date"), lease the Property, together with all

appurtenant easements, rights, restrictions, privileges, licenses covenants, and other matters that benefit or burden the Property (collectively, the “Premises”), to the Developer for the purpose of developing and operating the Project on terms substantially similar to the terms and conditions set forth in the Ground Lease attached hereto as Exhibit B and incorporated herein, which shall include terms governing the construction and development of the Project on the Property and shall be a “triple-net” lease under which the Developer shall be solely responsible for the Premises and the Project, including, without limitation, any and all insurance, operating and maintenance costs, and applicable taxes, among other costs and expenses (the “Ground Lease”).

1.2 Condition of Property. The Premises will be delivered to the Developer, and the Developer, subject to the provisions of Section 2.1, hereby agrees to accept the Premises in their then “AS-IS” condition, without any representation or warranty of any kind or nature, express or implied, in fact or by law, on the part of the Town and without recourse to the Town. The Town shall have no obligation to do any work on or make any improvements to or with respect to the Premises or the condition thereof. The Developer acknowledges that the Town has no responsibility for, and hereby releases and holds harmless the Town from any and all damages, loss, costs, expenses (including any and all attorneys’ fees, and expenses of the Town), claims, suits, demands or judgments of any nature whatsoever, related to any hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, G. L. c. 21E, the Massachusetts Hazardous Waste Management Act, G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as “Hazardous Waste”). The provisions of this Section shall survive the expiration and/or termination of this Agreement.

1.3 Use of the Premises. The Developer will use the Premises for the sole purpose of constructing up to 40 units, including up to 36 rentals and four ownership units of affordable and community housing. The four ownership units should be divided between two structures (i.e. duplexes). There should be a mix of one-, two-, and three-bedroom rental and ownership units, subject to minor modification during the permit process. At least 10% of the units must be three- bedroom units as required by Chapter 40b and state funding.

1.4 Lease Contingencies. The Town and the Developer shall enter into the Ground Lease on the Lease Commencement Date, which is to occur within thirty (30) days from the date on which all of the following conditions have been satisfied (collectively, the “Lease Contingencies”):

- (a) *Permits and Approvals:* The Developer shall have received final permits and approvals for construction of the Improvements and the operation of the Project, any and all appeal periods shall have expired;
- (b) *Approved Plans and Specifications:* The Town shall have approved the Developer’s plans and specifications for the Improvements to be constructed on the Property and any other improvements made on or to the Premises, showing conceptual plans of the units, the landscaping, and the other improvements to be constructed on the Premises and substantially in conformity with the RFP and the Proposal (the “Improvement Plans”), which approval shall not be unreasonably delayed, conditioned or withheld. The Town and the Developer agree to cooperate reasonably and in good faith with each other to resolve any objections that either may have. The provisions of this Section are intended to refer to the approval of the Edgartown Select Board and do not constitute the approval of or substitute any permits or approvals required from any federal, state and/or local regulatory bodies or approvals required under any applicable laws, rules, regulations, and bylaws, including the Town of Edgartown Zoning Bylaws;
- (c) *Project Financing Closing:* The Developer shall have received firm Project financing commitments from institutional lenders and/or public or quasi-public entities, showing that sufficient funds have been committed, in the Town’s and the Developer’s reasonable judgment, to construct the Improvements and to operate and maintain the Project (the “Project Funds”), and Developer shall close on such financing and receive the Project Funds on or prior to the Lease Commencement Date. The Developer shall provide the Town with a guaranty at loan closing, given by a guarantor reasonably acceptable to the Town, guaranteeing the Developer’s obligation to construct the Project on the terms set forth in the Ground Lease;

- (d) *Affordable Housing Restriction.* On the Lease Commencement Date, the Developer will record a restriction on the Property ensuring that 100% of the rental units must be affordable to households below 100% of the areawide median income for Dukes County, and 100% of the four ownership units must be affordable to households at or below 140% of the areawide median income for Dukes County, for the term of the Ground Lease, which restriction shall be on terms satisfactory to the Developer and the Town and approved by the Massachusetts Department of Housing and Community Development (“DHCD”) under G.L. c. 184, § 31, including all the units in the Town’s Subsidized Housing Inventory (“SHI”), which may be in the form of a Regulatory Agreement acceptable to and entered into by and among the Developer, the Town, and DHCD, and/or a separate restriction granted by the Developer to the Town, at the Town’s sole discretion (either or both, the “Restriction”). The Restriction shall be recorded with the Registry at the Developer’s sole cost and prior to any mortgages, liens or other encumbrances recorded against the Property (unless each mortgage or lien holder shall have executed a subordination agreement, acceptable to the Town, expressly subordinating its mortgage or other lien to the Restriction). Alternatively, or in addition to the foregoing, the Town may, at its discretion, incorporate the terms of the Restriction in the Ground Lease; and
- (e) *Title Matters.* The Property shall be free from recorded monetary liens and from title defects or encumbrances of record that would materially interfere with the use of the Premises for the development and operation of the Project.

1.5 Lease Contingency Period. The Developer shall use commercially diligent and good faith efforts to obtain the necessary permits and approvals and financing to construct, operate and maintain the Improvements, to conduct its property inspections under Section 2.1, to review the title to the Property, and to satisfy the other Lease Contingencies within ____ (___) months from the date on which this Agreement (the “Initial Diligence Period”), which period may be extended by the Town in writing only if the Town reasonably determines that the Developer has used such efforts to satisfy the Lease Contingencies, with such extension to be no more than an additional six (6) months from the expiration of the Initial Due Diligence Period (the “Extended Diligence Period”, and, together with the Initial Diligence Period, the “Diligence Period”). The Developer shall inform the Town in writing at least every four (4) months during the Diligence Period, or at such sooner or later intervals as the Town may reasonably request, on the efforts made by the Developer to satisfy the Lease Contingencies and provide such other information as the Town may reasonably request to document such efforts. Time shall be of the essence hereof.

1.6 Failure to Satisfy Preconditions. Notwithstanding anything in the RFP or this Agreement to the contrary, in the event that the Lease Contingencies are not satisfied within the Initial Diligence Period, or, if extended by the Town, the Extended Diligence Period, either party may terminate this Agreement by providing the other with at least thirty (30) days prior written notice, provided, however, that if all the Lease Contingencies are satisfied within said thirty (30) day period, this Agreement may not be terminated by either party. In the event of termination, this Agreement shall be null and void and without recourse to the parties, except for those provisions that are stated herein to survive said termination.

1.7 Title to Property. The Town shall retain the fee to the Property, and shall execute a notice of lease for recording at the Registry.

1.8 Assignability. The Developer shall have no right to assign or transfer its rights hereunder and/or under the Ground Lease of the Property without the Town’s prior written consent, which shall not be unreasonably withheld if: (a) the assignee is a limited liability company created solely for the purpose of receiving tax credits (with the general partner thereof being owned and controlled by the Developer) or any other entity owned and controlled by the Developer, (b) the Developer sends written notice to the Town at least thirty (30) days prior to any such transfer, notifying the Town of the transferee’s name and evidence of the control that the Developer exercises over such transferee, and obtains the Town’s written consent, (c) any such transferee or assignee enters into an Assumption Agreement, expressly agreeing to perform all of the Developer’s obligations hereunder and under the Lease; and (d) the Developer shall guarantee the transferee’s performance of such obligations, and shall be jointly and severally liable with the transferee until the Project has been completed. Notwithstanding the foregoing, the Developer shall have the right to assign this Agreement and the Ground Lease to DHCD or any institutional lender

providing financing for the Project in connection with a leasehold mortgage or security interest securing a loan necessary to complete development of the Project, subject to the terms of this Agreement.

II. PROPERTY INSPECTIONS

2.1 Access. The Developer and its agents, employees, representatives, consultants, contractors and invitees (with the Developer and others acting by, through or under the Developer, the “Developer Parties”) shall have the right to enter upon the Property from time to time, upon at least two (2) business days prior notice to the Town, for the purpose of conducting its due diligence and such inspections as the Developer deems appropriate, including, without limitation, surveys; wetlands inspections and flagging and visits by the Developer’s wetlands consultants for these purposes or other wetlands inspection; geotechnical investigations of the Premises; and, if recommended pursuant to a Phase 1 assessment, soil sampling of the Premises by Developer’s environmental consultants, whether for Hazardous Waste or other purposes. The Developer may remove trees or shrubs from the Premises only if reasonably necessary to provide access for test pits and other investigations only in accordance with a plan approved by the Building Commissioner at least seven (7) calendar days prior to such removal, which approval shall not to be unreasonably withheld. The Developer acknowledges and agrees that the Town makes no representation or warranty as to the condition of the Property, and the Developer releases and holds the Town harmless against any claim by the Developer or any of the other Developer Parties for harm to them or their property arising from said entry. The Developer shall promptly restore the Property to substantially its condition prior to said entry and repair any damage caused to the Property. The Developer’s obligation to repair and restore the Property shall survive the termination of this Agreement.

2.2 Hazardous Materials. In the event that the Developer finds Hazardous Waste in reportable quantities on the Property and the cost of remediating the same in compliance with G.L. c. 21E to a Release Action Outcome is estimated by an engineer acceptable to both parties to exceed \$100,000.00, and informs the Town of the same in writing (the “Environmental Notice”), and if the Town, in its sole and absolute discretion, gives notice to the Developer of its intention to remediate such contamination within sixty (60) days of receiving the Environmental Notice and thereafter remediates such hazardous condition within a reasonable period of time, but not to exceed the Diligence Period in any event (as such Diligence Period may be extended in accordance with Section 2.1), in full compliance with applicable law, with the Town paying all of the costs of remediation, the Developer shall fulfill its obligations under this Agreement. Nothing herein shall require or obligate the Town to remediate any contamination on the Property. If the Town elects not to remediate the same, the Developer may terminate this Agreement by giving the Town thirty (30) days prior notice thereof, whereupon this Agreement shall be null and void and without recourse to the parties, except for those provisions that are stated herein to survive said termination. In the event that the Developer finds Hazardous Waste in reportable quantities on the Property and (i) the cost of remediating the same in compliance with G.L. c. 21E to a Release Action Outcome is estimated by an engineer acceptable to both parties is less than or equal to \$100,000.00, or (ii) the Developer does not provide the Environmental Notice to the Town, or (iii) the Developer elects not to terminate this Agreement as provided for above, then the Developer shall remediate such Hazardous Waste in compliance with all applicable laws, rules and regulations.

2.3 Indemnification. The Developer shall defend, indemnify and hold harmless the Town and those acting by or through the Town from any and all liabilities, damages, loss, costs, expenses (including reasonable attorneys’ fees), causes of action, suits, claims, demands or judgments (any, “Claims”) arising out of or related to this Agreement, the rights granted under Section 2.1, the act or omission of any of the Developer Parties, for any material change in the Developer’s representations and/or warranties, for the Developer’s failure to comply with the terms of this Agreement or any applicable laws, rules, regulations and/or bylaws, and/or for any Hazardous Materials (defined below) that are brought upon, stored, located, released, discharged, possessed, managed, processed, or otherwise handled on or present on the Property, by the Developer and/or any of the other Developer Parties and/or for failing to comply with any environmental laws, rules, regulations and/or bylaws (the latter, the “Developer Hazardous Activities”), except if caused directly by the gross negligence of the Town. The Developer shall be solely responsible for assuming and paying any and all liabilities, damages, loss, costs expenses, causes of action, suits, claims, demands or judgments (including, without limitation reasonable attorneys’ fees and experts’ fees and expenses, clean-up costs, waste disposal costs and other costs, expenses, penalties and fines within the meaning of any law, regulation, code or bylaw relating to Hazardous Materials) that arise or are related to the Developer Hazardous Activities. This indemnity and hold harmless agreement shall include indemnity against all

costs, expenses, and liabilities incurred in or in connection with any such Claims brought thereon, and the defense thereof. The foregoing obligations shall survive the expiration or termination of this Agreement.

2.4 Insurance. The Developer shall obtain and maintain through the term of this Agreement comprehensive general liability insurance, including coverage for bodily injury, wrongful death and property damage, in the minimum amount set forth herein to support the obligations of the Developer under the terms and conditions of this Agreement to indemnify, defend and hold harmless the Town: General Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate; Bodily Injury Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate, and umbrella insurance in the amount of \$5,000,000.00, which shall name the Town as an additional insured. The Developer shall provide the Town with a copy of such insurance policy prior to entering the Property and at such times as the Town may request, showing compliance with the foregoing provisions. The insurance coverage required hereunder shall be issued by insurance companies licensed by the Massachusetts Division of Insurance to do business in the Commonwealth of Massachusetts and having a Best's rating of A or better.

III. DEFAULT, TERMINATION

3.1 Events of Default. It shall be an event of default under this Agreement if, after the Town has given the Developer sixty (60) days prior notice thereof, the Developer fails to proceed diligently to obtain the necessary permits and approvals, obtain financing, and/or satisfy the other Lease Contingencies that are the responsibility of the Developer, or the Developer fails to comply with any of the other material terms of this Agreement. The Town shall have the right to terminate this Agreement and pursue any and all available rights and remedies, and, if such termination is due to Developer's failure to use good faith and commercially diligent efforts to satisfy the Lease Contingencies, the Town shall have the right to recover any costs and expenses (including reasonable attorneys' fees) incurred by the Town under this Agreement.

3.2 Termination. In the event that this Agreement is terminated, the Developer shall promptly repair any damage caused to the Property by the Developer or its agents, employees, contractors or representatives and restore the Property to its condition prior to the Developer's entry.

IV. GENERAL PROVISIONS

4.1 Cooperation. The Town agrees to use reasonable efforts to assist the Developer, at the Developer's sole cost and expense, in obtaining any and all permits, approvals and other authorizations required by any governmental authorities with respect to the Project and in satisfying other Lease Contingencies that are the responsibility of the Developer, but the Developer acknowledges that the Town has no control over and cannot guarantee that permits required from municipal boards or officers within their statutory or regulatory authority will be granted or fees will be waived.

4.2 Development of the Property. Subject to delivery of the Ground Lease of the Premises, and all other terms and conditions herein, the Developer agrees for itself and its successors and permitted assigns and at its sole cost and expense to develop the Project on the Property and substantially complete the same within _____ (____) months from the Lease Commencement Date, as evidenced by final Certificates of Occupancy for all _____ (____) units.

4.3 Costs of Enforcement. The Developer agrees to reimburse the Town for any and all costs and expenses, including reasonable attorneys' fees and court fees, incurred by the Town in enforcing this Agreement.

4.4 Representations and Warranties. The Developer represents that the following representations and warranties are true and accurate as of this date and shall continue as such through the date on which the Ground Lease is signed by the Developer and the Town:

- (a) The Developer is a duly organized and existing _____ in good standing under the laws of the Commonwealth of Massachusetts and has the power and authority to enter into and perform its obligations under this Agreement, and every other agreement or instrument entered into or to be entered into by it pursuant to this Agreement.

- (b) The Developer has the power, authority, and legal right to enter into and perform this Agreement, and each other document entered into or to be entered into by it pursuant to this Agreement, and the execution, delivery and performance hereof and thereof:
 - (i) have been duly authorized;
 - (ii) have the requisite approval of all governmental bodies;
 - (iii) will not violate any judgment, order, law or regulation applicable to Developer or any provisions of the Developer's organizational documents; and
- (iv) do not conflict with, constitute a default under, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.
- (c) Developer represents that, to the best of its knowledge, there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition of the Developer, or the ability of the Developer to perform its obligations under this Agreement, or under any other documents entered into by the Developer pursuant to this Agreement.
- (d) The Developer has made or will make its independent investigation and inquiry into all matters relevant to its entering into and performing its obligations under the Agreement without reliance on any statement or representation of the Town except as expressly set forth herein.

4.5 Waiver. The failure on the part of the Developer or the Town, as the case may be, to complain in any one or more cases of any action or non-action on the part of the other party, or to insist in any one or more cases upon the performance of any of the provisions, covenants, agreements or conditions of this Agreement or to exercise any option contained herewith, no matter how long the same may continue, shall never be deemed or construed to be a waiver by such party of any of its rights hereunder, or a relinquishment for the future of any such provision, covenant, agreement, condition or option. Further it is covenanted and agreed that no waiver at any time of any of the provisions hereof by the Developer or the Town shall be construed as a waiver of any of the other provisions hereof, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

4.6 Limitation on Damages. Notwithstanding anything in this Agreement to the contrary, neither party shall be liable to the other for any consequential, incidental, or punitive damages.

4.7 No Partnership. Nothing contained under this Agreement shall be construed to create a partnership or joint venture between the Town and the Developer or to make the Town an associate in any way of the Developer in the conduct of the Developer's business, nor shall the Town be liable for any debts incurred by the Developer in the conduct of the Developer's business.

4.8 Attorneys' Fees. In any litigation between the parties arising out of this Agreement, or in connection with any other actions taken or notices delivered in relation to a default by any party to this Agreement, the non-prevailing party shall pay to the prevailing party the prevailing party's reasonable attorneys' fees and costs incurred in connection with the enforcement of the terms of this Agreement.

4.9 Brokers. Each warrants and represents to the other that it has had no dealings or negotiations with any broker or agent in connection with this Agreement. Each agrees to pay, and shall hold the other harmless and indemnified from and against any and all costs, expenses (including without limitation counsel fees) or liability for any compensation, commissions and charges claimed by any broker or agent resulting from any such dealings by the indemnifying party with respect to this Agreement or the negotiation therefor.

4.10 Town's Cost. The Developer shall reimburse the Town for its reasonable attorneys' fees and out-

of-pocket expenses incurred in connection with any request by the Developer for the Town's consent hereunder.

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

4.12 Term of Agreement. This Agreement, if not earlier terminated pursuant to Section 2.1 or other sections of this Agreement, shall expire once the parties have entered into the Ground Lease and the Developer and the Town have satisfied all of their other obligations under this Agreement.

4.13 Severability. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remaining terms, covenants, conditions and provisions shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

4.14 Dates. If the end of any time period herein, or if any specified date, falls on a weekend or national or state holiday, then the end of such time period, or such date, as the case may be, shall be extended to the next business day thereafter. Any period provided herein for action by the Developer shall end at 4:00 P.M. on the last day of such period, unless this Agreement provides that performance is due by a different time on that day.

4.15 Governing Law. This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts.

Exhibits:

Exhibit A: Plan of Land

Exhibit B: Ground Lease

[Signature Page Follows]

Executed as a document under seal on this ____ day of _____, 2021.

TOWN OF EDGARTOWN,
By Its Select Board

DEVELOPER:

Name:

By: _____

Title:

B. GROUND LEASE

Between

And

The Town of Edgartown

Dated as of _____

GROUND LEASE

This Ground Lease (this "**Lease**") is entered into as of this _____ day of _____, 2021, by and between the **Town of Edgartown** (the "**Town**"), a body politic and corporate of the Commonwealth of Massachusetts, having an address of P.O. Box 5158, Edgartown, Massachusetts 02539, and _____ ("**Tenant**"), a Massachusetts corporation/limited liability company, having an address of _____.

BACKGROUND

WHEREAS, the Town is the owner of a parcel of land containing approximately 6.76 acres, located at 38 Meshacket Road, being a portion of Edgartown Assessor's Parcel 28-225, as more particularly shown as "Parcel A" on a plan entitled "Plan of Land in Edgartown, Mass. Prepared For the Town of Edgartown Affordable Housing Committee, Scale 1" = 100' December 18, 2018 Schofield, Barbini & Hoehn Inc." (the "Plan"), attached hereto as Exhibit A and made part hereof, together with any improvements presently thereon (the "Property"). For the Town's title, see Tax Taking dated June 22, 1982, recorded in the Dukes County Registry of Deeds (the "Registry") in Book 393, Page 374, and Final Judgment in Tax Lien Case dated March 1, 1994, recorded in the Registry in Book 630, Page 781;

WHEREAS, on July 28, 2021, the Town issued a Request for Proposals (the "**RFP**"), incorporated herein by reference and a copy of which is on file with the Edgartown Town Clerk, soliciting proposals for the development, construction and operation of not more than forty (40) housing units on the Land (the "**Property**");

WHEREAS, _____ (the "**Developer**") submitted a proposal in response to the RFP (the "**Proposal**"), incorporated herein by reference and a copy of which is on file with the Town Clerk, proposing to develop, construct, operate, and maintain on the Property _____ (____) residential dwellings and to rent or sell the dwellings to low, moderate, and middle income households (the "**Project**");

WHEREAS, the Town accepted the Proposal;

WHEREAS, the Town and the Developer entered into a Land Development Agreement dated _____, 2021 (the "**LDA**"), incorporated herein by reference and a copy of which is on file with the Town Clerk, that stated the conditions that must be satisfied before the Town would lease the Property and set forth the basic terms regarding the development of the Property;

WHEREAS, the Developer is required under the LDA to obtain permits and financing necessary to undertake the Project;

WHEREAS, the Developer has formed the Tenant for the purpose of entering into this Lease with the Town, all as provided in the LDA;

WHEREAS, pursuant to the LDA, the Developer obtained a Comprehensive Permit from the Edgartown Zoning Board of Appeals _____ (as amended from time to time as permitted herein, the "**Comprehensive Permit**"), pursuant to which Tenant will construct the Project, all as set forth in the Comprehensive Permit;

WHEREAS, Tenant has obtained a construction loan for the Project from _____ (the "**Construction Loan**"), which Construction Loan is presently secured by a first priority leasehold mortgage on the Premises (defined in Section 1.1) (the "**Construction Mortgage**");

WHEREAS, Tenant has obtained a commitment for a permanent loan of \$ _____ (the "**Permanent Loan**") for the Project from _____ ("**Permanent Lender**"), which Permanent Loan shall be secured by a first priority leasehold mortgage on the Premises (the "**Senior Permanent Mortgage**"), and has entered into a Regulatory Agreement with the Department of Housing and Community Development ("**DHCD**") and the Town, recorded with the Registry in Book _____, Page _____ (the "**Regulatory Agreement**");

WHEREAS, the Tenant has obtained commitments for subordinate loans from various lenders which loans shall be secured by a leasehold mortgage on the Premises junior to the Senior Permanent Mortgage pursuant to the terms of a master subordination agreement to be recorded with said Deeds, therewith;

WHEREAS, the Town and Tenant wish to enter into this Lease to set forth the terms and conditions under which Tenant will develop, construct and operate the Project substantially in accordance with the RFP, the Proposal, the LDA, the Restriction (defined in Section 8.6), and this Lease (collectively, the “**Project Documents**”).

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration each to the other paid, receipt of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1 - PREMISES

1.1 Lease of Premises. The Town, for and in consideration of the covenants and agreements hereinafter contained on the part of Tenant to be paid, kept and performed, hereby leases and demises to Tenant, and Tenant hereby leases from the Town, for the Term (defined in Section 2.1), upon the terms and conditions set forth herein, the following described premises (collectively, the “**Leased Premises**”):

The Property and any and all improvements thereon, together with any and all easements, rights, privileges, licenses, covenants and other matters that benefit or burden the Property or the use or occupancy of or access to the Property, whether or not of record, subject to the terms of this Lease.

1.2 Premises. The Leased Premises and any and all improvements constructed or placed on the Leased Premises from the date of this Lease (the “**Improvements**”) are referred to, collectively, as the “**Premises.**”

1.3 Condition of the Premises. Tenant acknowledges that it has leased the Premises after a full and complete examination thereof and finds the Premises satisfactory for its intended use and, notwithstanding the foregoing, accepts the Premises in its “AS IS” condition, in the condition and state the Premises are in as of the Commencement Date (as defined herein), without any representation or warranty, express or implied, by the Town except for those representations, covenants and agreements stated expressly in this Lease, if any. Landlord is not required to, and shall not, furnish any services or facilities or to make any repairs or alterations in or to the Premises, unless otherwise required by a government authority and except as otherwise required in this Ground Lease.

1.3 Town’s Access Rights. The Town shall have the right, upon reasonable prior notice to Tenant, consisting of not less than 48 hours’ notice (except in the event of an emergency, in which case notice shall be given as soon as reasonably practicable), to enter the Premises from time to time and at any time during the Term of this Lease.

1.6 Quiet Enjoyment. The Town covenants and agrees with Tenant that, so long as no Event of Default (defined in Section 14.1) has occurred under this Lease, the Tenant shall and may, at all times during the term of this Lease, peaceably and quietly have, hold and enjoy the Premises and all rights, appurtenances and privileges belonging or in any way appertaining thereto without hindrance or molestation, provided that the Town and its authorized agents may enter upon and examine the Premises as provided herein.

ARTICLE 2 - TERM

2.1 Term. The Premises are hereby leased unto Tenant and its successors and assigns for a term of ninety-nine (99) years (the “**Term**”), commencing on _____ (the “**Commencement Date**”) and ending on _____ (unless earlier terminated in accordance with the provisions hereof, the “**Termination Date**”).

ARTICLE 3 - TENANT’S IMPROVEMENTS

3.1 Initial Improvements. (a) Tenant shall construct _____ () residential units on the Premises and any and all other improvements shown on and described in the plans and specifications attached to the

Comprehensive Permit (collectively, the “**Initial Improvements**”), which are incorporated herein by reference and a copy of which are on file with the Town Clerk (the “**Design Plans**”), with such construction commencing within sixty (60) days of the Commencement Date (as the same may be extended in accordance with Section 3.1(b), the “**Construction Start Date**”). The construction of the Initial Improvements shall comply with the Comprehensive Permit, as the same may be amended from time to time, except that in no event shall the number of affordable units be reduced, and, further, no other material changes shall be made to any other provision of the Comprehensive Permit that relates to this Lease unless the Tenant submits an application to the Edgartown Zoning Board of Appeals for a modification of the Comprehensive Permit (any or all of the foregoing, a “**Material Modification**”). Tenant shall construct the Initial Improvements using commercially diligent efforts in material accordance with the Final Plans (defined in Section 3.3) and in accordance with the Schedule of Performance set forth below. For purposes of this Lease, construction of the Initial Improvements shall be deemed to have “**commenced**” upon the commencement of actual physical work (including, without limitation, site work) on the Premises pursuant to a full, unconditional building permit for the construction of the Initial Improvements, and “**Final Completion**” of the Initial Improvements will be deemed to have occurred upon the issuance of the final permanent certificate of occupancy for the Initial Improvements (the “**Final Completion Date**”). The Initial Improvements shall reach Final Completion within two (2) years of the Construction Start Date (the “**Schedule of Performance**”).

(b) Notwithstanding the foregoing, if the commencement of the Initial Improvements is prevented or delayed beyond the Construction Start Date or the construction is interrupted after its commencement because of strikes, lockouts, labor troubles, inability to procure materials, power failures, riots, insurrection, war, appeals or litigation relating to any required permits or licenses necessary to construct and use the Initial Improvements for the Permitted Uses (defined in Section 8.1), or other causes beyond Tenant’s reasonable control (provided, however, that lack of funds shall not be deemed such a cause) (collectively, “**Force Majeure**”), then the commencement of the Initial Improvements and/or the completion of the Initial Improvements shall be reasonably extended for the period of the delay.

3.3 Approval and Delivery of Final Plans. Before Tenant applies for a building permit, Tenant shall provide the Town with a copy of the final construction drawings for the Initial Improvements for review and approval, which shall not be withheld if said drawings are substantially similar to the Design Plans (the final revised construction drawings so submitted to the Town are hereinafter referred to as the “**Final Plans**”). The issuance of a building permit or permits shall be deemed to constitute the approval of said Final Plans.

3.4 Required Permits. Tenant shall obtain any and all permits, approvals and licenses from governmental authorities required for construction and use of the Initial Improvements (“**Required Permits**”), and for any other alterations, removals, installations, additions, changes, replacements or improvements now or hereafter made to the Premises (collectively with the Initial Improvements, “**Tenant Work**”), and shall, upon written request, provide the Town with a copy of each. Tenant may occupy all or part of the Premises under temporary or conditional certificates of occupancy, but shall not be relieved from the obligation of obtaining permanent certificates of occupancy for the Initial Improvements or other similar licenses or permits required to permit the Premises to be used and occupied for the Permitted Uses.

The Town agrees to reasonably cooperate with Tenant in executing any and all applications and other documents which may be necessary at any time to obtain or maintain any Required Permits, all at Tenant’s sole cost, but Tenant acknowledges that the Town has no control over and cannot guarantee that permits required from municipal boards or officers within its statutory or regulatory authority will be granted or fees waived.

3.5 Ownership. At all times during the Term of this Lease, the Improvements and any equipment thereon shall be owned by Tenant, and Tenant alone shall be entitled to tax attributes of ownership, including, without limitation, the right to claim depreciation or cost recovery deductions. Upon the expiration or earlier termination of this Lease, Tenant shall have the right, but not the obligation, to remove the Improvements from the Premises. If Tenant elects not to remove the Improvements, and subject to the rights of the Permitted Mortgagees (defined in Section 13.2) and the rights of tenants in possession of residential units under leases with the Tenant or its agent(s), upon the expiration or earlier termination of this Lease, title to the Improvements shall immediately vest in the Town and shall be surrendered at that time in accordance with Section 15.1 below.

3.6 Manner of Construction; Cost of Initial Improvements. Tenant shall construct all Tenant Work in a good and workmanlike manner, in compliance with all Legal Requirements and good engineering and construction practices. The Initial Improvements shall be constructed in material compliance with the Final Plans and in strict compliance with the Required Permits. Tenant shall take all reasonably necessary measures to (i) minimize dust, noise and construction traffic, (ii) minimize any damage, disruption or inconvenience caused by Tenant Work, and (iii) make adequate provision for the safety and convenience of all persons affected thereby and to properly police same. Tenant shall pay (or cause to be paid) all costs and expenses associated with any Tenant Work and shall defend, indemnify and hold the Town Parties (defined in Section 7.13) harmless from and against any and all claims, damages, losses, penalties, costs, expenses, demands, fees and/or liabilities (including without limitation reasonable legal fees) (collectively, "**Claims**") attributable to Tenant Work.

3.7 Liens. If any mechanic's, laborer's or materialman's lien shall at any time during the Term be filed against the Premises, the underlying fee, or any part thereof with respect to the performance of any labor or the furnishing of any materials to, by or for Tenant or anyone claiming under Tenant, Tenant shall, within sixty (60) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, the Town may, but shall not be obligated to, discharge or secure the same, and any amount so paid by the Town and all costs and expenses incurred by the Town in connection therewith, shall be paid by Tenant within thirty (30) days from the presentment of invoices therefor.

3.8 No Consent. Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent to payment or request of the Town, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to, or repair of the Premises or any part thereof.

ARTICLE 4 - RENT

4.1 Base Rent. Tenant shall pay the Town an initial lease payment of \$5,000 upon the execution of this Lease, to cover all costs incidental to the leasing of this site, including the cost of negotiating the lease agreement, and all legal fees related to it. Commencing on the Commencement Date and continuing thereafter throughout the Term, Tenant shall pay to the Town annual base rent ("**Base Rent**") in the amount of One Thousand and 00/100 Dollars (\$1,000.00) per year.

4.2 Additional Rent. In addition, Tenant shall pay any fee, charge or other amounts required to be paid by Tenant to the Town (or to others under Section 5 hereof) under this Lease as additional rent ("**Additional Rent**"). Base Rent and Additional Rent (collectively, "**Rent**") shall be paid without counterclaim, notice, demand, abatement or offset at the Town's address set out in Section 18.2.

4.3 Late Payments. Any payment of Rent due to the Town hereunder not paid when due shall bear interest at a rate of ten percent (10%) per annum (the "**Default Rate**") for each month or fraction thereof from the due date until paid in full at the Default Rate.

4.4 Triple Net Lease. Except as stated otherwise, Tenant acknowledges and agrees that this is an absolute triple net lease, and that all costs, expenses and obligations of any kind relating to the Premises, including without limitation all construction, alterations, maintenance, repairs, restoration, reconstruction and replacements as hereinafter provided, which may arise or become due during the Term hereof, shall be paid by Tenant at Tenant's sole cost and expense. All payments of Rent shall be absolutely net to the Town so that this Lease shall yield to the Town the Rent herein specified in each year during the Term of this Lease free of any taxes, assessments, charges, fees, impositions or deductions of any kind charged, assessed or imposed on or against the Premises, for which Tenant shall bear the sole responsibility. The Town shall not be expected or required to pay any such charge, assessment or imposition, or furnish any services to the Premises or be under any obligation or liability hereunder.

ARTICLE 5- TAXES AND UTILITIES

5.1 Impositions. Tenant shall pay or cause to be paid as Additional Rent, before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all of the following, if applicable: real estate and other taxes, assessments, special use or assessment district taxes, water and sewer charges, charges for meters, excises, levies, license and permit fees and all other governmental charges of any kind and nature which during the Term may be assessed, levied, imposed upon or become due with respect to, or become a lien on the Premises or the leasehold, and payments in lieu of such taxes, assessments, charges or fees, whether such charges are made directly to Tenant or through or in the name of the Town. All such charges shall be referred to herein as “**Impositions.**” Tenant shall have the right to contest or object to the amount or validity of any Imposition but shall not withhold payment of any Imposition while any such contest or objection is pending. Tenant, upon request of the Town, shall furnish to the Town within thirty (30) days of the date when any Imposition would become delinquent, official receipts of the appropriate taxing authority, or other evidence reasonably satisfactory to the Town, evidencing payment thereof.

5.2 Utilities. Tenant shall be responsible, at its sole cost and expense, for installing and providing utilities to serve the Premises. Tenant shall pay, or shall cause to be paid, directly to the utility provider, all charges by any public authority or public utility for water, electricity, telephone, gas, sewer and other services supplied or rendered to the Premises, and service inspections made therefor, whether called charge, rate, tax, betterment, assessment, fee or otherwise and whether such charges are made directly to Tenant or through or in the name of the Town (“**Utility Charges**”). Tenant covenants and agrees to hold the Town harmless from any costs, fees and/or charges incurred in connection herewith, and to pay on demand any and all costs incurred by the Town for utilities and similar services. The Town makes no representation or warranty that existing sources of supply, distribution points or utilities are adequate or sufficient to supply the Improvements.

5.3 Personal Property. Tenant shall pay promptly when due all taxes which may be imposed upon any and all personal property (including fixtures taxed as personal property) in, on or within the Premises directly to the assessing party.

ARTICLE 6 - REPAIRS AND MAINTENANCE

6.1 Repair and Maintenance. Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall take good care of the Premises (including all Improvements) and all privately owned roadways, sidewalks, curbs, landscaped areas, fences and entranceways adjoining the same, and shall keep the same in good, safe and clean order and condition, (except for reasonable wear and tear and damage from a Taking (defined in Section 11.1 below) or from fire or other casualty after the last repair, replacement, restoration or renewal required to be made by Tenant pursuant to its obligations hereunder), and shall make all necessary repairs thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, and foreseen and unforeseen in order to keep the Premises in the condition required hereunder throughout the Term. Without limitation, Tenant shall keep the driveways and privately-owned sidewalks shown on Exhibit B in good order and condition. Tenant shall keep the Premises free of accumulations of dirt and rubbish, and shall use all reasonable precautions to prevent waste, damage or injury to the Premises.

6.2 No Obligation of the Town. Except as otherwise expressly provided herein, the Town shall in no event be required to maintain or repair or to make any alterations, restoration, replacements, changes, additions or improvements to the Premises during the Term of this Lease.

ARTICLE 7 - INSURANCE AND INDEMNITY

7.1 Property Insurance. Tenant shall, at its sole expense, obtain and keep in force during the Term of this Lease “all-risk” property insurance coverage insurance on the Initial Improvements and other Improvements, including, but not limited to, machinery and boilers, naming Tenant as the insured, and otherwise in the customary form for property insurance coverage of buildings of similar character in the Dukes County area, naming the Town as an additional insured. The amount of such insurance shall not be less than one hundred percent (100%) of the full replacement value of the Initial Improvements and other Improvements, as determined from time to time.

7.2 Builder's Risk. During the period of any Tenant Work, Tenant shall also keep in full force and effect, at its sole cost and expense, "Builder's All Risk" insurance against loss or damage on a completed value non-reporting basis from such hazards and in such amounts as the Town may reasonably require.

7.3 Liability Insurance. Throughout the Term of this Lease, Tenant shall maintain, for the benefit of the Town and Tenant, and naming the Town as an additional insured, the following insurance: (i) general liability insurance, written on an occurrence basis, with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) for injury to or death of any one person, for injury to or death of any number of persons in one occurrence, and for damage to property, insuring against any and all liability of the Town, Tenant, and any Permitted Mortgagee (defined in Section 13.2), including, without limitation, coverage for contractual liability and broad form property damage, with respect to the Premises or arising out of the maintenance, use, or occupancy of the Premises; and (ii) excess liability (so-called umbrella) coverage having a limit of Five Million Dollars (\$5,000,000.00) written on an occurrence basis. Such liability insurance shall be primary and not contributing to any insurance available to the Town, and the Town's insurance shall be in excess thereto.

7.4 Business Personal Property Insurance. Tenant agrees that the Town shall have no responsibility or liability for any loss or damage or injury from any cause whatsoever, including theft or otherwise of fixtures, improvements, or other personal property of Tenant or tenants of residential units on the Premises. Throughout the Term, Tenant shall maintain personal property insurance insuring all equipment, trade fixtures, inventory, fixtures and personal property located on or in the Premises for perils in amounts at least equal to the full replacement cost thereof.

7.5 Insurance Carried by Contractors. During the construction of any Improvements, Tenant shall also require the construction manager and/or general contractor to maintain (i) for the benefit of Tenant and the Town, as additional insured, commercial general liability insurance, including products and completed operations coverage, against any claims for bodily injury, death and property damage occurring upon, in or about the Premises and on, in and about the adjoining sidewalks and passageways during the construction of the Initial Improvements for at least \$3,000,000 combined single limit; (ii) worker's compensation in amounts required by statute; (iii) employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000), and (iv) automobile liability insurance, including the ownership, maintenance and operation of any automotive equipment, owned, hired or nonowned, in an amount not less than One Million Dollars (\$1,000,000) combined single limit.

7.6 Insurance Coverage Increases. On the fifth (5th) anniversary of the Commencement Date, and every five (5) years thereafter, or upon the Town's reasonable request (which shall occur not more often than once every three (3) years), the limits of any of the above-mentioned insurance coverages shall be increased at the written request of the Town to amounts reasonably requested by the Town to reflect inflation or changes in the nature or degree of risks insured or to protect against judgments from time to time being awarded in Massachusetts for injury, death and property damage, but not to exceed the amounts of coverage generally maintained at the time in question for similar residential developments or properties in Massachusetts.

7.7 Insurance Carriers, Policies. All insurance provided for in this Article 7 shall be effected under valid and enforceable policies, issued by insurers of recognized responsibility licensed and doing business in Massachusetts and having a so-called Best's Rating of "A-" or better, or, if such rating is no longer issued, an equal or better rating by a successor insurance carrier rating service reasonably acceptable to the Town. Tenant shall submit duplicate originals of all the policies required to be carried hereunder on the Commencement Date and on each anniversary thereof, or at the Town's reasonable request.

7.8 Blanket Policy. Nothing in this Article 7 shall prevent Tenant from taking out insurance of the kind and in the amounts provided for under this Article 7 under a blanket insurance policy or policies covering other properties as well as the Premises, provided, however, that any such policy or policies of blanket insurance (i) shall specify therein, or in a written statement from the insurers under such policy or policies specifying, the amount of the total insurance allocated to the Premises, which amounts shall not be less than the amounts required by this Article 7, and (ii) such amounts so specified shall be sufficient to prevent any of the insureds from becoming a co-insurer within the terms of the applicable policy or policies, and provided further, however, that any such policy or policies of blanket insurance shall, as to the Premises, otherwise comply as to endorsements and coverage with the provisions of this Article 7.

7.9 Non-cancellation. Each policy or binder issued by an insurer shall contain an agreement by the insurer that such policy shall not be canceled, non-renewed or substantially modified without at least thirty (30) days' prior written notice to the Town (ten (10) days' prior written notice in the case of non-payment of premiums).

7.10 No Separate Insurance. Tenant shall not take out separate insurance concurrent in form or contributing in the event of loss with that required in this Article 7 to be furnished by, or which may reasonably be required to be furnished by, Tenant unless the Town and Tenant are included therein as insureds, with loss payable as in this Lease provided. Tenant shall immediately notify the Town of the placing of any such separate insurance and shall cause the same to be promptly delivered to the Town.

7.11 General Requirements. All policies of insurance provided for in Article 7 hereof shall name the Town and Tenant as the insureds as their respective interests may appear. Subject to Exhibit C and to the requirements of any documents evidencing, relating to or securing any financing held by a Permitted Mortgagee (as defined in Section 13.2), the loss, if any, under such policies shall be adjusted with the insurance companies by Tenant, and shall be payable to Tenant, except that all such payments shall be made to the Town during the last three (3) years of the Term of this Lease. All such policies shall provide that the loss, if any, thereunder shall be adjusted and paid as hereinabove provided. Each such policy shall, to the extent obtainable, contain a provision that no act or omission of any of the Tenant Parties (defined in Section 7.13 below) shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained. Tenant hereby waives any and all rights of recovery which it might otherwise have against the Town or the other Town Parties for any loss or damage to Tenant's property or improvements in the Premises which are either required to be insured under the terms of this Lease or which Tenant, in the absence of any such requirement, elects to insure, notwithstanding that the loss or damage may result from the negligence, willful act or default under the terms of this Lease by the Town or any of the other Tenant Parties. Tenant and its contractors, subcontractors and independent contractors and their insurers shall, to the extent permitted by their approved insurers, waive all rights of subrogation against the Town and/or the other Town Parties for losses arising from work performed by each. Any insurance or self-insurance that the Town elects to maintain shall be excess of Tenant's insurance and from other parties insurance and shall not contribute to it.

7.12 The Town's Right to Pay Premiums. Tenant shall pay all of the premiums for all the policies of insurance referred to in this Article 7, and the cost of such insurance shall be deemed to be Additional Rent under this Lease; provided, however, that such insurance premiums may be paid by Tenant directly to its insurer on or before the date such payment is due, or by a Permitted Mortgagee in accordance with the terms of the loan documents for the loan to Tenant.

7.13 Tenant's Indemnification. (a) Tenant shall defend (with counsel reasonably acceptable to the Town), indemnify and hold harmless the Town Parties (as defined below) from and against any and all Claims which may be imposed upon or incurred by or asserted against the Town Parties by reason of any of the following occurrences:

(i) any work or thing done during the Term of this Lease in, on or about the Premises or any part thereof, including during construction of the Initial Improvements and any other Tenant Work, by Tenant or any of the Tenant Parties (as defined below);

(ii) any use, non-use, possession, occupation, condition, operation, maintenance or management of the Premises or any part thereof, including any sidewalk or curb appurtenant to the Premises, during the Term of this Lease by Tenant or any of its agents, contractors, servants, employees, subtenants, occupants, guests, licensees, operators, or invitees (together with Tenant, the "**Tenant Parties**");

(iii) any negligence or willful misconduct on the part of the Tenant Parties; and

(iv) any accident, injury or damage to any person or property occurring in, on or about the Premises or any part thereof, including any privately owned roadway, sidewalk or curb appurtenant to the Premises, unless the same occurs solely as a result of the gross negligence or wrongful act of any the Town or its employees, contractors, agents, and representatives (collectively with the Town, the "**Town Parties**").

(b) The foregoing express obligation of indemnification shall not be construed to negate or abridge any other obligation of indemnification running to the Town which would exist at common law or under any other provision of this Lease, and the extent of the obligation of indemnification shall not be limited by any provision of insurance undertaken in accordance with this Article 7. This Lease is made on the express condition that the Town shall not be liable for, or suffer loss by reason of, any damage or injury to any property, fixtures, buildings or other improvements, or to any person or persons, at any time on the Premises, specifically including any damage or injury to the person or property of Tenant or any of the Tenant Parties, from whatever cause, in any way connected with the condition, use, occupational safety or occupancy of the Premises, except to the extent directly and solely caused by the gross negligence or willful misconduct of any of the Town Parties.

(c) If the Town obtains separate counsel due to reasonable concerns that its interests and that of Tenant may be adverse or that counsel provided by Tenant may have a conflict in interest or is not providing effective representation of the Town, then the reasonable expenses of such separate counsel shall be at Tenant's expense.

(d) The foregoing indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof with counsel reasonably acceptable to the Town or counsel selected by an insurance company which has accepted liability for any such claim.

7.14 Survival of Indemnities. The provisions of Section 7.13 shall survive the termination or expiration of this Lease.

ARTICLE 8 - USE OF PREMISES

8.1 Permitted Uses. The Premises and the Improvements shall be used exclusively for affordable rental housing and uses incidental thereto, as set forth more particularly in Section 9.2 and the Comprehensive Permit (collectively, the "*Permitted Uses*").

8.2 Legal Requirements. Throughout the Term of this Lease, Tenant, at its sole cost and expense, shall promptly comply with all laws, ordinances, by-laws, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, housing authorities, boards and officers, foreseen or unforeseen, ordinary as well as extraordinary, including without limitation the Comprehensive Permit, which may at the time in question be applicable to the Premises and the sidewalks and curbs adjoining the same, or to the use or manner of use of the same or to any of the Tenant Parties, as said laws, ordinances, by-laws, orders, rules, regulations and requirements of all federal, state and municipal governments, departments, housing authorities, boards and officers shall at the time in question be in force and effect (collectively, "*Legal Requirements*").

8.3 Contests. Tenant shall have the right (but not the obligation) to contest by appropriate legal proceedings diligently conducted in good faith, in the name of Tenant, without cost or expense to the Town, the validity or application of any Legal Requirement, subject to Tenant providing the Town with written notice thereof on or before the date of contesting same, and further subject to the following:

(a) If, by the terms of any such Legal Requirement, compliance therewith pending the prosecution of any such proceeding may legally be delayed without the incurrence of any lien, charge or liability of any kind against the Premises or any part thereof and without subjecting Tenant or the Town to any liability, civil or criminal, for failure so to comply therewith, Tenant may delay compliance therewith until the final determination of such proceeding; and

(b) If any lien, charge or civil liability would be incurred by reason of any such delay, Tenant nevertheless may contest as aforesaid and delay as aforesaid, provided that such delay would not subject the Town to criminal liability or fine, and provided that Tenant (i) bonds over such lien or furnishes to the Town security, reasonably satisfactory to the Town, against any loss or injury by reason of such contest or delay, and (ii) prosecutes the contest with due diligence.

8.4 Compliance with Insurance Requirements. Throughout the Term of this Lease, Tenant, at its expense, shall observe and comply with the requirements of all policies of public liability, casualty and all other policies of insurance required to be supplied by Tenant at any time in force with respect to the Premises.

8.5 Property Management. The Premises shall be managed by a property management company that has (i) a good business and character reputation in the community, and (ii) proven property management experience with affordable housing developments.

8.6 Affordable Housing Restriction. The Town and Tenant agree that the Premises shall be subject to an affordable housing restriction or Regulatory Agreement for the full Term of this Lease ensuring that one hundred (100%) of the units on the Premises are rented to low and moderate or middle income tenants, as set forth in Section 9.2, binding the Premises and enforceable by the Town for the Term of this Lease, qualifying under G.L. c. 184, §31, approved and enforceable by the Town and DHCD in the form required or recommended by DHCD for including the units in the Town's Subsidized Housing Inventory (the "**Restriction**"), which Restriction will be recorded with the Registry at Tenant's sole cost and before any leasehold mortgage (including any Permitted Mortgage), lien or other encumbrance is recorded against the Premises (unless each mortgage or lien holder executes a subordination agreement, acceptable to the Town, expressly subordinating its mortgage or other lien to the Restriction), it being recognized that in no event will a foreclosure or deed given in lieu of any lien on the Premises result in the termination of the Restriction without the Town's prior written consent, which may be withheld in its sole and absolute discretion. If DHCD requires changes to the Restriction subsequent to its recordation, the Town and Tenant agree to make such reasonable changes as are acceptable to the parties. No final certificate of occupancy shall be issued for any of the units unless and until the Restriction (or any amendment thereof) has been approved and executed by DHCD and the Town and recorded with the Registry.

8.7 Permitted Uses. Subject to Force Majeure and except during construction of the Initial Improvements and thereafter during reasonable periods of repair, remodeling and/or restoration, Tenant covenants and agrees to continuously and uninterruptedly use the Premises for the Permitted Uses.

ARTICLE 9 - RESIDENT SELECTION; COMMITMENTS

9.1 Resident Selection. Tenant shall submit to DHCD for approval of the resident selection policies for the affordable rental housing units (the resident selection policies approved by DHCD are hereinafter referred to as the "**Tenant Selection Plan**"). Tenant shall promptly adopt the Resident Selection Plan. The Town intends to obtain approval from DHCD for a local preference for Edgartown residents and/or employees of businesses of the Town, to the extent permitted by the Legal Requirements. In the event a local preference is approved by DHCD, such local preference shall be included in the Tenant Selection Plan.

9.2 Affordability Commitments. Tenant agrees that, from the Commencement Date to the Termination Date, and through any date through which Tenant remains in occupancy of the Premises, Tenant shall use the Property for and operate thereon a rental housing development that meets the requirements of this Section 9 (the "**Affordability Commitments**") based on the following schedule:

- (a) All of the rental units shall be available for rent to persons with annual household incomes below one hundred percent (100%) of the area median annual income; and
- (b) All of the ownership units shall be available for rent to persons having with annual household incomes of no more than one hundred forty percent (140%) of the area median annual income.

For the purpose of this Section 9.2, "**area median income**" shall mean the standard defined from time to time by the Department of Housing and Urban Development (or any successor thereto) as adjusted for household size, or, if defined differently in Section 42, then in accordance with the requirements, from time to time, of Section 42, and acceptable for inclusion of all the Units in the Town's Subsidized Housing Inventory.

Tenant shall ensure that all the units at the Premises are of comparable quality, and, to the greatest extent practicable, units leased to households of all different income tiers shall be dispersed evenly throughout the Premises.

9.3 Monitoring. Tenant covenants to work with DHCD or an entity acceptable to DHCD for purposes of monitoring Tenant's compliance with the Affordability Commitments and other applicable program requirements associated with the financing of the Project (the "**Monitoring Agent**"). Tenant agrees to provide the Monitoring Agent such certifications, information, and/or reports as the Town or the Monitoring Agent may reasonably require in writing in order to ensure compliance with the Affordability Commitments. Tenant shall notify the Town and the Monitoring Agent in writing if Tenant discovers non-compliance with the Restriction and any of the requirements hereof. Tenant shall keep full, complete and proper books and records of all information and data collected from all resident households to assure that each resident household satisfies the Affordability Commitments, including without limitation the names and ages of members of each tenant household, which books and records shall be available at all reasonable times to the Monitoring Agent during regular business hours, all in compliance with applicable laws.

ARTICLE 10 - DAMAGE OR DESTRUCTION

10.1 Damage or Destruction. Subject to the requirements of any documents evidencing, relating to or securing any financing held by a Permitted Mortgagee (as defined in Section 13.2), if the whole or any part of the Premises be damaged or destroyed by any cause whatsoever, whether insured or uninsured, at any time during the Term of this Lease, Tenant shall, irrespective of insurance proceeds, promptly commence to replace or repair the portion of the Premises that is damaged or destroyed, and complete such repair and/or restoration with due diligence and at its sole cost and expense, with such changes, alterations or modifications as are reasonably determined by Tenant so long as such changes, alterations or modifications do not diminish the overall utility for the Permitted Uses or constitute Material Modifications. The parties recognize that such damage or destruction may require emergency replacement or repair. Subject to the requirements of any documents evidencing or securing any financing held by a Permitted Mortgagee, Tenant shall have the right to hold, use and expend such insurance proceeds or other funds so collected for purposes of the repair, restoration or reconstruction of the Improvements, provided, however, that in the event that a casualty occurs during the last three (3) years of the Lease term, all funds shall be paid to the Town. Subject to the foregoing, Tenant will be entitled to all insurance proceeds and proceeds of any other claims against other parties in order to effect such replacement, modifications or alterations. Provided that the insurance proceeds, together with such funds of the Tenant as are demonstrably available for the purpose of paying for repair and restoration, are sufficient to complete the repair and restoration of the Improvements, the Town shall have no right to terminate this Lease or condition or delay the repair and restoration of the Improvements.

However, if the Premises are substantially damaged, and the insurance proceeds are required to be paid to any Permitted Mortgagee to repay the indebtedness secured by the Permitted-Mortgage, Tenant's obligation to rebuild the Premises shall be limited to the amount of the proceeds received by Tenant from the insurer (the "**Remaining Proceeds**"). If in such case Tenant reasonably determines that the continued operation of the Premises after such replacement and repair in substantially the same manner as conducted prior to the damage or destruction will not be economic and feasible, then Tenant may elect, by written notice given to the Town within one hundred eighty (180) days after the date of such casualty, not to repair or replace the portion of the Premises damaged (the "**Casualty Termination Notice**"), provided, however, that Tenant shall (a) at the Town's request, demolish any destroyed buildings and secure any damaged buildings, in each case to a safe condition reasonably satisfactory to the Town and in compliance with the Legal Requirements, and (b) deliver to the Town the Remaining Proceeds and assign to the Town all its right, title and interest to any other insurance proceeds as may be available. Tenant will vacate the Premises within sixty (60) days from delivery of the Casualty Termination Notice to the Town, whereupon this Lease shall terminate. Tenant's obligations under this Section 10.1 shall survive the termination of the Lease.

10.2 Allocation of Proceeds. Subject to the requirements of any documents evidencing or securing any financing held by a Permitted Mortgagee, all insurance proceeds or proceeds of any claim for any damage or destruction to the Improvements, shall, notwithstanding any allocation made by the payor, be paid and allocated in the following order of priority:

- (a) First, to pay all reasonable fees and expenses of collection, including but not limited to, reasonable attorneys' fees and experts' fees, or to reimburse the parties for fees and expenses of collection previously paid by such party;

- (b) Second, to pay any then-outstanding Impositions;
- (c) to pay for any restoration, repair or reconstruction authorized or required pursuant to the provisions of this Lease;
- (d) to pay any outstanding amounts secured by mortgages held by any Permitted-Mortgagees in their respective order of priority and to the extent required under each such mortgage, provided, however, that if the proceeds are insufficient to pay outstanding amounts owed to all Permitted Mortgagees, then the Tenant shall distribute the funds to Permitted Mortgagees in their respective order of priority and to the extent required under the applicable mortgage; and
- (e) to Tenant, from which the Tenant shall be required to pay any then-outstanding Rent pursuant to this Lease; provided, however, that in the case of proceeds of any award for a damage or destruction received at any time during the last ten (10) years of the Term, Tenant shall receive the equivalent of one-tenth of the amount remaining from such proceeds after payments pursuant to (a) through (d) above, multiplied by the number of years remaining in the Term, and the remainder of proceeds shall be paid to the Town.

In the event that the foregoing provides or is anticipated to provide compensation to any party in excess of the funds loaned or invested by such party, the Town and the Tenant shall negotiate in good faith to revise such allocation of proceeds.

Notwithstanding the foregoing, any insurance proceeds or proceeds of any claim for any damage or destruction to the Improvements shall be subject to the provisions of Exhibit C.

ARTICLE 11 - TAKING

11.1 Award. In the event that the Premises, or any part thereof, shall be taken in condemnation proceedings or by exercise of any right of eminent domain or by agreement between the Town and Tenant and those authorized to exercise such right (any such matters being herein referred as a “**Taking**”), the Town and Tenant shall have the right to participate in any Taking proceedings or agreement for the purpose of protecting their respective interests hereunder. Each party so participating shall pay its own expenses therein.

11.2 Termination. (a) If at any time during the Term of this Lease there shall be a Taking of the whole or substantially all of the Premises, this Lease shall terminate and expire on the earlier of (i) the date upon which the condemning authority takes possession of the real estate subject to the Taking; or (ii) the date title to the real estate is vested in the condemning authority. For the purpose of this Article, “**substantially all of the Premises**” shall be deemed to have been taken if the untaken part of the Premises shall be insufficient for the restoration of the Improvements such as to allow the economic and feasible operation of fifty percent (50%) or more of the units by Tenant. If substantially all of the Premises shall be taken, and Tenant elects not to terminate this Lease, any requirement by the Town to operate _____ (____) residential units shall be reduced accordingly. All proceeds of any award for any taking, whether pro tanto or final, shall, notwithstanding any allocation made by the awarding authority, be paid and allocated in accordance with the provisions of Section 10.2 (a) through (d) of this Lease, and any remainder shall be allocated between the Town and Tenant in proportion to their respective interests, determined as follows: Tenant’s interest in any Taking award will equal the net value to Tenant of the remaining Term of this Lease, the value to Tenant of the use and enjoyment of the Improvements, and Tenant’s relocation expenses insofar as relocation expenses are paid by the Taking authority (collectively, the “**Tenant’s Share**”). The Town’s interest in any taking by Condemnation will equal the value of its fee interest plus the remaining interest in the Improvements (the “**Town’s Share**”). Notwithstanding the foregoing, however, the Town shall not share in any Taking award with respect to the Improvements unless and until the unpaid balance of the Permitted Mortgages on the Premises, if any, is paid in full, all such Taking proceeds being used first to pay off and discharge such Permitted Mortgage.

(b) No such termination of this Lease under this Article 11 shall release Tenant from any obligation hereunder for Rent accrued or payable for or during any period prior to the effective date of such termination, and any prepaid rent and insurance premiums beyond the effective date of such termination shall be adjusted.

11.3 Insubstantial Taking. If a portion of the Premises is taken and Section 11.2 does not apply, then this Lease will automatically terminate on the date of the Taking only as to the portion of the Premises taken and this Lease will continue in full force and effect with respect to the remaining portion of the Premises. In such event, any

partial Taking award shall be paid first to the Permitted Mortgagees, in their order of priority, to satisfy or reduce the balance secured by Permitted Mortgages; second, to Tenant in an amount equal to the unamortized cost of any Improvements constructed by Tenant on the portion of the Premises subject to the Taking; and third, to the Town. Provided that the amount of the Taking award available for reconstruction, together with such funds of the Tenant as are demonstrably available for the purpose of paying for repair and restoration, are sufficient to complete reconstruction contemplated by the plans and specifications, the Town shall have no right to terminate this Lease or condition or delay Tenant's reconstruction of the Improvements, provided that Tenant undertakes and completes the repair/restoration using commercially diligent efforts.

11.4 Temporary Taking. If the whole or any part of the Premises shall be the subject of a temporary Taking of ninety (90) days or less, this Lease shall remain in full force, and Tenant shall be entitled to receive the entirety of any award so made for the period of the temporary Taking which is within the Term.

Notwithstanding the foregoing, any insurance proceeds or proceeds of any claim for any damage or destruction to the Improvements shall be subject to the provisions of Exhibit C.

ARTICLE 12 – HAZARDOUS MATERIALS

12.1 Environmental Laws Defined. “**Environmental Laws**” means, collectively, any federal, state, or local law, rule or regulation (whether now existing or hereafter enacted or promulgated, as they may be amended from time to time) pertaining to environmental regulations, contamination, clean-up or disclosures, and any judicial or administrative interpretation thereof, including any judicial or administrative orders or judgments, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq. (“**CERCLA**”); the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq. (“**RCRA**”); the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq. (“**SARA**”); the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq. (“**TSCA**”); the Hazardous Materials Transportation Act, 49 U.S.C. Appx. §§ 1801 et seq.; the Massachusetts Hazardous Waste Management Act, Mass.Gen.L. c. 21C §§ 1 et seq.; the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, Mass.Gen.L. c. 21E §§ 1 et seq.; the Massachusetts Toxic Use Reduction Act, Mass.Gen.L. c. 21I §§ 1 et seq.; the Underground Storage Tank Petroleum Product Cleanup Fund, Mass.Gen.L. c. 21J §§ 1 et seq.; or any other applicable federal or state statute or city or county ordinance regulating the generation, storage, containment or disposal of any Hazardous Material (defined in Section 12.4 below) or providing for the protection, preservation or enhancement of the natural environment, any rules or regulations promulgated pursuant to any of the foregoing statutes or ordinances, including but not limited to laws relating to groundwater and surface water pollution, air pollution, transportation, storage and disposal of oil and hazardous wastes, substances and materials, stormwater drainage, and underground and above ground storage tanks; and any amendments, modifications or supplements of any such statutes, ordinances, rules and regulations.

12.2 Tenant's Environmental Representations, Warranties and Covenants. Tenant hereby represents, warrants and covenants as follows:

(a) Except as may be permitted by and only in accordance with Environmental Laws, Tenant shall not allow any Hazardous Materials (defined in Section 12.4 below) to exist or be stored, located, discharged, possessed, managed, processed, or otherwise handled on the Premises, and shall strictly comply with all Environmental Laws affecting the Premises. Without limiting the generality of the foregoing, Tenant is not, and will not become, involved in operations at the Premises involving Hazardous Materials, except as expressly permitted by Legal Requirements.

(b) No activity shall be undertaken on the Premises by Tenant which would cause (i) the Premises to be considered a hazardous waste treatment, storage or disposal facility as defined under any Environmental Laws; (ii) a release or threatened release of Hazardous Materials into the Premises, any watercourse, surface or subsurface water or wetlands, or the discharge into the atmosphere of any Hazardous Materials in each case requiring a permit under any Environmental Laws and for which no such permit has been issued.

(c) Tenant shall, with all due diligence, at its own cost and expense and in accordance with Environmental Laws (and in all events in a manner reasonably satisfactory to the Town), take all actions (to the extent and at the time or from time to time) as shall be necessary or appropriate for the remediation of all releases of Hazardous Materials at or from the Premises including all removal, containment and remedial actions. Tenant shall pay or cause to be paid at no expense to the Town all clean-up, administrative, and enforcement costs of applicable government agencies or the parties protected by such Environmental Laws which may be asserted against the Premises.

(d) Tenant, upon execution of this Lease, shall furnish the Town with a copy of any Material Safety Data Sheets and any updates thereto or any list of substances listed on the so-called Massachusetts Substance List, established pursuant to Mass. Gen. Laws Chapter 111F which Tenant is required to prepare, file or maintain pursuant to said chapter for any substances used or stored on the Premises. If said Material Safety Data Sheets or lists should be changed or updated during the Term of this Lease, Tenant shall promptly furnish a copy of such updated or changed Material Safety Data Sheets or list to the Town.

12.3 Intentionally Deleted.

12.4 Hazardous Materials Defined. For purposes of this Lease, “*Hazardous Materials*” shall mean, but shall not be limited to, any oil, petroleum product and any hazardous or toxic waste or substance, any substance which because of its quantitative concentration, chemical, radioactive, flammable, explosive, infectious or other characteristics, constitutes or may reasonably be expected to constitute or contribute to a danger or hazard to public health, safety or welfare or to the environment, including without limitation any asbestos (whether or not friable) and any asbestos-containing materials, lead paint, waste oils, solvents and chlorinated oils, polychlorinated biphenyls (PCBs), toxic metals, explosives, reactive metals and compounds, pesticides, herbicides, radon gas, urea formaldehyde foam insulation and chemical, biological and radioactive wastes, or any other similar materials which are included under or regulated by any Environmental Law.

12.5 Notices. (a) Tenant shall provide the Town with copies of any notices of releases of Hazardous Materials which are given by or on behalf of Tenant to any federal, state or local agencies or authorities with respect to the Premises. Such copies shall be sent to the Town concurrently with mailing or delivery to the governmental agencies or authorities. Tenant also shall provide the Town with copies of any notices of responsibility or any other notices received by or on behalf of Tenant from any such agencies or authorities concerning any non-compliance with Environmental Laws on or about the Premises, including but not limited to notices regarding Hazardous Materials or substances located on or about the Premises. In addition, in connection with any litigation or threat of litigation affecting the Premises, Tenant shall deliver to the Town any documentation or records as the Town may reasonably request and which are in Tenant’s possession, and the Town shall deliver to Tenant any documentation or records as Tenant may reasonably request and which are in the Town’s possession and may be lawfully delivered to Tenant.

(b) Tenant or the Town shall immediately notify the other party and Permitted Mortgagees in writing should Tenant or the Town become aware of (i) any release or threatened release of Hazardous Materials or the occurrence of any other environmental problem or liability with respect to the Premises or any real property adjoining or in the vicinity of the Premises or such other property which could subject the Town, Tenant or the Premises to a Claim under any Environmental Laws or to any restriction in ownership, occupancy, transferability or use of the Premises under any Environmental Laws; (ii) any lien filed, action taken or notice given of the nature described in this Section 12; (iii) any notice given to Tenant from any occupant of the Premises or any notice from any governmental authority with respect to any release or threatened release of Hazardous Materials; or (iv) the commencement of any litigation or any information relating to any threat of litigation relating to any alleged unauthorized release of any Hazardous Materials or other environmental contamination, liability or problem with respect to or arising out of or in connection with the Premises.

12.6 Tenant’s Environmental Indemnity. Tenant hereby presently, unconditionally, irrevocably and absolutely agrees to pay, indemnify, defend with counsel acceptable to the Town and save harmless the Town Parties for, from and against any and all Claims (including, without limitation, attorneys’ and experts’ fees and expenses, clean-up costs, waste disposal costs and those costs, expenses, penalties and fines within the meaning of CERCLA), of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or

awarded against any of the Town Parties and arising from any violation or alleged violation of Environmental Laws, the discovery of or any release of Hazardous Materials on or from the Premises, any environmental problem or other environmental matter described herein relating to the Premises, or as a consequence of any of Tenant's interest in or operation of the Premises, including, without limitation, matters arising out of any breach of Tenant's covenants, representations and warranties. All warranties, representations and obligations set forth herein shall be deemed to be continuing and shall survive the expiration or termination of this Lease. In addition, the covenants and indemnities of Tenant contained herein shall survive any exercise of any remedy by the Town under the Lease. Tenant agrees that the indemnification granted herein may be enforced by any of the Town Parties, provided, however, that nothing contained herein shall prevent the Town from exercising any other rights under the Lease.

ARTICLE 13 - TRANSFER OF TENANT'S INTEREST

13.1 Assignment by Tenant. Except as provided in Section 13.2, Tenant will not assign this Lease or any interest in this Lease or sublet or permit any other person to occupy or use the Premises or any portion thereof (except for leasing the units to income qualified households) prior to the Final Completion of the Initial Improvements without the prior written consent of the Town, which consent may be withheld in the Town's sole and absolute discretion. After Final Completion of the Initial Improvements, the Town's consent shall not be unreasonably withheld, delayed or conditioned provided such assignee or transferee shall (i) have a good reputation in the community and experience operating projects similar to the Project, (ii) use the Premises for the Permitted Uses, and (iii) enter into an Assumption Agreement with the Town, expressly assuming Tenant's obligations under the Lease. Notwithstanding the foregoing, Tenant shall have the right to assign or transfer its rights under this Lease to any entity that Tenant controls, provided that (i) Tenant sends written notice to the Town at least thirty (30) days prior to any such transfer, notifying the Town of the transferee's name and evidence of the control that Tenant exercises over such transferee, and obtains the Town's written consent, not to be unreasonably withheld, (ii) any such transferee enters into an Assumption Agreement, expressly agreeing to perform all of Tenant's obligations under this Lease; and (iii) Tenant shall guarantee the transferee's performance of such obligations, and shall be jointly and severally liable with the transferee until a final certificate of occupancy has been issued for all the units.

13.2 Leasehold Mortgages. (a) Notwithstanding anything to the contrary contained in this Lease, Tenant may, upon prior written notice to the Town, from time to time, encumber, hypothecate or mortgage its interest in the Premises with one or more mortgages, assignments of leasehold interest or any other security instruments in favor of a lender or lenders as partial security for a loan or loans (a "**Permitted Mortgage**" and the holder of such Permitted-Mortgage, a "**Permitted Mortgagee**"). Each such Permitted Mortgage shall mature no later than the last day of the term of this Lease, be a leasehold mortgage only, and be expressly subject and subordinate to the terms and conditions of this Lease, including, without limitation, the Affordability Commitments. In no event will the foreclosure of any Permitted Mortgage or deed given in lieu thereof terminate or adversely affect the Affordability Commitments. It is expressly understood and agreed that Tenant has no right to mortgage or otherwise encumber the fee title to the Premises, except that Tenant may encumber the Improvements that Tenant constructs on the Premises. Tenant shall promptly deliver to the Town a true copy of the Permitted Mortgage and any assignment thereof. Tenant shall notify the Town of the address of the Permitted Mortgagee to which notices may be sent, it being understood and agreed that the Town shall have no obligation to notify a Permitted Mortgagee of any default under this Lease until and unless the then-current address of such Permitted Mortgagee shall have been provided to the Town in writing. The Town and Tenant hereby agree that there shall be no modification of this Lease that would materially and adversely affect such Permitted Mortgagee's rights hereunder without the prior consent in writing of the Permitted Mortgagee.

(b) Permitted Mortgages not Assignment. For the purpose of this Section 13, the making of a Permitted Mortgage shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any Permitted Mortgagee, as such, be deemed an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such Permitted Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of Tenant to be performed hereunder; but the purchaser at any sale of the leasehold interest created by this Lease in any proceedings for the foreclosure of any Permitted Mortgage, or the assignee or transferee of such leasehold interest under any instrument of assignment or transfer in lieu of the foreclosure of any Permitted Mortgage, shall be deemed to be an assignee or transferee (without requiring the consent of the Town pursuant to Section 13.1) and shall be deemed to have assumed the performance of all of the terms, covenants and conditions on the part of Tenant to be performed hereunder from and after the date of such

purchase and assignment, and shall execute a written instrument assuming Tenant's obligations hereunder promptly upon request by the Town.

(c) Permitted Mortgagee Cure Rights. In the event Tenant defaults in the payment of Rent or any other sum of money payable under this Lease, in obtaining and/or maintaining the insurance required hereunder, or any other default or failure curable by a payment of money (any and all of the foregoing, a "**Monetary Default**"), the Town shall not have the right to terminate this Lease unless the Town shall have given a copy of the Monetary Termination Notice (defined in Section 14.2) to Tenant and the Permitted Mortgagees, and such Permitted Mortgagees, without being under any obligation to do so, shall have failed to cure such Monetary Default within the sixty (60)-day notice period set forth in the Monetary Termination Notice (defined in Section 14.2). In the case of any default by the Tenant not curable by the payment of money hereunder (a "**Non-Monetary Default**"), the Town shall not have the right to terminate this Lease by reason of any such default unless the Town shall have given a copy of the Non-Monetary Termination Notice (defined in Section 14.2) to Tenant and the Permitted Mortgagees and such Permitted Mortgagees, without being under any obligation to do so, shall have failed to cure such Non-Monetary Default with the ninety (90) day-period set forth in Section 14.2, or, if such Non-Monetary Default cannot reasonably be cured within such ninety (90) days, within such longer period as is required to cure such default, including such period of time as may reasonably be required for Permitted Mortgagee to obtain possession of the Premises or title to the Tenant's leasehold estate created hereby, provided that the Permitted Mortgagee shall have commenced cure or appropriate measures to obtain possession of the Premises or title to the Tenant's leasehold estate created hereby within such ninety (90)-day period and thereafter continues diligently to effect such cure or obtain such possession or title. The Permitted Mortgagee shall not be required to continue such foreclosure proceedings if the default shall be cured by Tenant. Upon the expiration of any applicable cure period, the Town shall notify the Permitted Mortgagee whether or not Tenant has effectuated a cure within said cure period. The provisions of this Section 13.2(c) are conditioned on the following provisions:

(i) Acquisition of Possession. The Permitted Mortgagee shall, within forty-five (45) days after notice of such Tenant Non-Monetary Default, notify the Town of its election to proceed with due diligence promptly to acquire possession of the Premises or to foreclose the Permitted Mortgage or otherwise to obtain ownership of Tenant's interest in this Lease. Such notice from the Permitted Mortgagee shall be accompanied by an instrument in writing wherein such Permitted Mortgagee agrees that:

(A) during the period that such Permitted Mortgagee shall be in possession of the Premises and so long as it remains in possession and/or during the pendency of any such foreclosure or other proceedings and until the interest of Tenant in this Lease shall terminate or such proceeding shall be discontinued, it will pay or cause to be paid to the Town and to others all sums from time to time becoming due hereunder during such period; and

(B) if delivery of possession of the Premises shall be made to such Permitted Mortgagee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, such Permitted Mortgagee shall, promptly following such delivery of possession, perform all the covenants and agreements thereafter arising and herein contained on Tenant's part to be performed (including, but not limited to the Affordability Commitments and the payment of Rent and Additional Rent) except such covenants and agreements which cannot with the exercise of due diligence be performed by such Permitted Mortgagee (such as a default under Section 14.1(e)). Nothing in this subclause (B) shall be construed to require such Permitted Mortgagee to perform any of the Tenant's obligations hereunder accruing after such Permitted-Mortgagee ceases to be in possession.

ARTICLE 14 – DEFAULT AND TERMINATION

14.1 Events of Default. Each of the following events shall be deemed an "**Event of Default**" hereunder:

(a) if Tenant shall fail to pay, as and when due, any payment of Rent or other sums payable under this Lease or to observe any provision that is curable by a payment of money, and such failure shall continue for a period of thirty (30) days after notice from the Town to Tenant;

(b) if Tenant shall fail to comply with the provisions of Sections 8.2 or 9.2 hereof, and such failure shall continue for a period of sixty (60) days after notice from the Town to Tenant;

(c) If Tenant shall fail to maintain any insurance required to be maintained by Tenant hereunder, and such failure shall continue for a period of thirty (30) days after notice from the Town to Tenant;

(d) if Tenant shall fail to perform or comply with any other of the agreements, terms, covenants or conditions in this Lease, other than those referred to in subsections (a), (b) and (c) of this Section 14.1, for a period of sixty (60) days after notice from the Town to Tenant specifying the items in default, or in the case of a default or a contingency which cannot with due diligence be cured within such sixty (60) day period, within ninety (90) days from the date of notice from Town to Tenant; and/or

(e) if Tenant shall initiate the appointment of a receiver to take possession of all or any portion of the Premises or Tenant's leasehold estate for whatever reason, or Tenant shall make an assignment for the benefit of creditors, or Tenant shall initiate voluntary proceedings under any bankruptcy or insolvency law or law for the relief of debtors; or if there shall be initiated against Tenant any such proceedings which are not dismissed or stayed on appeal or otherwise within ninety (90) days, or if, within ninety (90) days after the expiration of any such stay, such appointment shall not be vacated or stayed on appeal.

Notwithstanding the foregoing, if there is an Event of Default under subsections 14.1(b) and (d) and such Event is caused primarily because of a Force Majeure event, then such Event of Default shall be excused only for the period of delay caused by the Force Majeure event.

14.2 Remedies. Upon an Event of Default, the Town at any time thereafter may give written notice to Tenant specifying such Event or Events of Default and stating that this Lease and the Term hereby demised shall expire and terminate on the date specified in such notice, which shall be least sixty (60) days after the giving of such notice if the Event of Default is a Monetary Default (the "**Monetary Termination Notice**"), and which shall be at least ninety (90) days for Non-Monetary Defaults (the "**Non-Monetary Termination Notice**"), subject to the rights for notice and cure for the Permitted Mortgagees as set forth in Section 13.2(c). Upon the date specified in such Monetary Termination Notice or the Non-Monetary Termination Notice, as the case may be, this Lease and the Term hereby demised and all rights of Tenant under this Lease shall expire and terminate (unless prior to the date specified for termination the Event or Events of Default shall have been cured, in which case this Lease shall remain in full force and effect), and Tenant shall remain liable as hereinafter provided. In the event that Tenant and the Permitted Mortgagees elect not to remove the Improvements, as provided in Section 15, all Improvements shall become the property of the Town without the necessity of any deed or conveyance from Tenant to the Town. Tenant agrees upon request of the Town to immediately execute and deliver to the Town any deeds, releases or other documents deemed necessary by the Town to evidence the vesting in the Town of the ownership of all Improvements. Upon such termination, the Town may re-enter the Premises and dispossess Tenant and anyone claiming by, through or under Tenant by summary proceedings or other lawful process.

14.3 Town's Right To Perform Tenant's Covenants. (a) Upon any Event of Default, the Town may, but shall be under no obligation to, cure such default. The Town may enter upon the Premises (after five (5) days' written notice to Tenant except in the event of emergency) for any such purpose, and take all such action thereon, as may be necessary.

(b) The Town shall not be liable for inconvenience, annoyance, disturbance or other damage to Tenant or any operator or occupant thereof by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment onto the Premises during the course thereof, and the obligations of Tenant under this Lease shall not be affected thereby. The Town shall minimize interference with or disruption of Tenant or Tenant's business, occupants, operators and or lessees.

(c) All reasonable sums so paid by the Town and all reasonable costs and expenses incurred by the Town, including reasonable attorneys' fees and expenses, in connection with the performance of any such act, together with interest at the Default Rate from the date of such payment or incurrence by the Town of such cost and expense until the date paid in full, shall be paid by Tenant to the Town, as Additional Rent, on demand. If the Town shall exercise its rights under this Section to cure a default of Tenant, Tenant shall not be relieved from the

obligation to make such payment or perform such act in the future, and the Town shall be entitled to exercise any remedy contained in this Lease if Tenant shall fail to pay such obligation to the Town upon demand.

14.4 No Waiver. No failure by either the Town or Tenant to insist upon the strict performance of any agreement, term, covenant or condition hereof or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such agreement, term, covenant or condition. No agreement, term, covenant or condition hereof to be performed or complied with by either the Town or Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver by the Town or Tenant of any breach shall affect or alter this Lease, but each and every agreement, term, covenant and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

14.5 Injunctive Relief. In the event of any breach by Tenant of any of the agreements, terms, covenants or conditions contained in this Lease, the Town shall be entitled to enjoin such breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease.

14.6 Remedies Cumulative. Each right and remedy provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Town or Tenant of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

14.7 Town Default. The Town shall not be in default of any of its material obligations under this Lease unless and until Tenant shall have given written notice to the Town specifying the nature of such default and the Town shall have failed to cure the same within ninety (90) days from the date of said notice, provided that if such default cannot reasonably be cured within said ninety (90)-day period, if the Town shall have failed to commence the cure within the ninety (90)-day period and thereafter completed the same within a reasonable period of time.

ARTICLE 15 - SURRENDER; HOLD-OVER

15.1 Surrender. (a) Tenant shall on the last day of the Term, or upon any earlier termination of this Lease, have the right, but not the obligation, to remove any Improvements made by Tenant from the Premises. Tenant shall quit and peacefully surrender and deliver up the Premises, including the Improvements (if Tenant elects not to remove the same), subject to the rights of a Permitted Mortgagee hereunder, to the possession and use of the Town without delay and in good order, condition and repair (excepting only reasonable wear and tear and damage from a Taking or from a fire or other casualty after the last repair, replacement, restoration or renewal required to be made by Tenant, all as provided under this Lease). The Premises shall be surrendered free and clear of all liens and encumbrances other than those existing at the commencement of the Term or those created or suffered by the Town. Upon or at any time after the expiration or earlier termination of this Lease, the Town shall have, hold and enjoy the Premises and the right to receive all income from the same.

(b) Tenant shall, within sixty (60) days after the expiration or earlier termination of this Lease, remove from the Premises all the Improvements (as provided in Section 15.1(a)) and other personal property, repair any damage to the Premises caused by such removal, unless the Town permits such property to remain, and restore the Premises to the condition they were in as of the Commencement Date.

15.2 Holdover. If Tenant or any party claiming by, through or under Tenant, retains possession of the Premises or any part thereof after the expiration or earlier termination of this Lease, then the Town may, at its option, serve written notice upon Tenant that such holding over constitutes (i) an Event of Default under the Lease, or (ii) a month-to-month tenancy, upon the terms and conditions set forth in this Lease, or (iii) the creation of a tenancy-at-sufferance, in any case upon the terms and conditions set forth in this Lease. Tenant shall also pay to the Town all damages sustained by the Town resulting from retention of possession by Tenant. The provisions of this Section 15.2 shall not constitute a waiver by the Town of any right of re-entry as set forth in this Lease; nor shall receipt of any Rent or any other act in apparent affirmance of the tenancy operate as a waiver of the Town's right to

terminate this Lease for a breach of any of the terms, covenants, or obligations herein on Tenant's part to be performed.

15.3 Survival. The provisions of this Article 15 shall survive the expiration or earlier termination of this Lease.

ARTICLE 16 - ESTOPPEL CERTIFICATES

The Town and Tenant promptly shall execute and deliver to each other or to any Permitted Mortgagee, within fifteen (15) business days after request, a certificate as to matters customarily requested in connection with estoppel certificates, including, without limitation, whether or not (i) the Lease is in full force and effect, (ii) the Lease has been modified or amended in any respect and describing such modifications or amendments, if any, and (iii) there are any existing defaults thereunder to the knowledge of the party executing the certificate, and specifying the nature of such defaults, if any. Any such certificate may be relied upon by the Town, Tenant, any Permitted Mortgagee, and any transferee or assignee of a Permitted Mortgagee.

ARTICLE 17 - NON-DISCRIMINATION COVENANTS

17.1 Non-Discrimination. With respect to its exercise of all rights and privileges granted herein, Tenant agrees that Tenant, its successors in interest, sublessees, licensees, operators, and assigns shall not discriminate against any person, employee, or applicant for employment because of race, color, creed, religion, national origin, age, sex, sexual orientation, marital status, handicap, veteran status or any other basis prohibited by law in Tenant's use of the Premises, including the hiring and discharging of employees, the provision or use of services, and the selection of suppliers and contractors.

17.2 Non-Compliance. Tenant shall defend, indemnify and hold the Town Parties harmless from and against any and all Claims of third persons resulting from Tenant's non-compliance with any of the provisions of this Article 17.

ARTICLE 18 - MISCELLANEOUS

18.1 Amendments to Lease. This Lease may not be amended, modified, supplemented or extended except by a written instrument executed by the Town and Tenant.

18.2 Notices. Any and all notices, demands, requests, submissions, approvals, consents, disapprovals, objections, offers or other communications or documents required to be given, delivered or served, or which may be given, delivered or served, under or by the terms and provisions of this Lease or pursuant to law or otherwise, shall be in writing and shall be delivered by hand, nationally recognized overnight express commercial service such as "Federal Express" (in either case with evidence of delivery or refusal thereof) or by registered or certified mail, return receipt requested, addressed if to Tenant to:

Attention: _____
Phone: _____
Fax: _____

with a copy to:

Attention: _____
Phone: _____
Fax: _____

or to such other address as Tenant may from time to time designate by written notice to the Town, or if to the Town, addressed to:

Town of Edgartown
Attn: Select Board and Affordable Housing Committee

P.O. Box 5158
Edgartown, MA 02539

with a copy to:

Ronald H. Rappaport, Town Counsel
Reynolds, Rappaport, Kaplan & Hackney
P.O. Box 2540
Edgartown, MA 02539

or to such other address as the Town may from time to time designate by written notice to Tenant, or to such other agent or agents as may be designated in writing by either party. The earlier of: (i) the date of delivery by overnight express commercial service, or (ii) the date of delivery or upon which delivery was refused as indicated on the registered or certified mail return receipt shall be deemed to be the date such notice or other submission was given.

18.3 Severability. If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

18.4 Waiver. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them, whether exercised by said party or not, shall be deemed to be in exclusion of any other; and two or more or all of such rights and remedies may be exercised at the same time.

18.5 Integration. All prior understandings and agreements between the parties with respect to this Lease are merged within this Lease, which alone fully and completely sets forth the understanding of the parties.

18.6 Bind and Inure. The covenants and agreements herein contained shall bind and inure to the benefit of the Town, its successors and assigns, and Tenant, its successors and assigns.

18.7 Notice of Lease. The Town and Tenant mutually agree to execute herewith, in triplicate, a Notice of Lease in recordable form with respect to this Lease, which shall be recorded forthwith with the Dukes County Registry of Deeds, and agree to execute, upon termination of this Lease for whatever cause, a Notice of Termination of Lease in recordable form for recording with said Registry of Deeds.

18.8 Enforcement of the Parties' Liability. Anything contained in this Lease to the contrary notwithstanding, but without limitation of Tenant's equitable rights and remedies, the Town's liability under this Lease shall be enforceable only out of the Town's interest in the Premises; and there shall be no other recourse against, or right to seek a deficiency judgment against, the Town, nor shall there be any personal liability on the part of the Town or any member of any officer, employee, agent or representative of the Town, with respect to any obligations to be performed hereunder. Anything contained in this Lease to the contrary notwithstanding, there shall be no personal liability on the part of Tenant or any partner of Tenant, or any officer or employee of Tenant, with respect to any obligations to be performed hereunder. In no event shall any party be liable for indirect, special, consequential or punitive damages, including any lost revenues.

18.9 Captions. The captions of this Lease are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease nor in any way affect this Lease.

18.12 Massachusetts Law Governs. This Lease shall be governed exclusively by, and construed in accordance with, the laws of the Commonwealth of Massachusetts, and all claims relating in any way to this Lease shall be brought in the courts of the Commonwealth of Massachusetts.

18.13 Time of the Essence. Time shall be of the essence hereof.

18.15. No Partnership or Joint Venture. Nothing contained under this Lease shall be construed to create a partnership or joint venture between the Town and Tenant or to make the Town an associate in any way of Tenant in the conduct of Tenant's business, nor shall the Town be liable for any debts incurred by Tenant in the conduct of Tenant's business, and it is understood by the parties hereto that this relationship is and at all times shall remain that of landlord and tenant.

18.16 Prevailing Party. In any litigation between the parties arising out of this Lease, or in connection with any other actions taken or notices delivered in relation to a default by any party to this Lease, the non-prevailing party shall pay to the prevailing party the prevailing party's reasonable attorneys' fees and costs incurred in connection with the enforcement of the terms of this Lease.

18.17 Brokers. The Town and Tenant each warrants and represents to the other that it has had no dealings or negotiations with any broker or agent in connection with this Lease. Each agrees to pay, and shall hold the other harmless and indemnified from and against any and all costs, expenses (including without limitation counsel fees) or liability for any compensation, commissions and charges claimed by any broker or agent resulting from any such dealings by the indemnifying party with respect to this Lease or the negotiation therefor.

18.18 Covenants Running with the Land. Tenant intends, declares, and covenants, on behalf of itself and all future holders of Tenant's interest hereunder, that this Lease and the covenants and restrictions set forth in this Lease regulating and restricting the use, occupancy, and transfer of the Premises (a) shall be and are covenants running with the Premises, encumbering the Premises for the Term of this Lease, binding upon Tenant and Tenant's successors-in-interest; (b) are not merely personal covenants of Tenant; and (c) the benefits shall inure to the Town.

18.19 Tenant Request for Consent. Tenant shall reimburse the Town for its reasonable attorneys' fees and out-of-pocket expenses incurred in connection with any request by Tenant for the Town's consent hereunder.

[Signature on Following Page]

EXECUTED as of the date first set forth above.

TOWN OF EDGARTOWN,
By Its Select Board

TENANT:

By: _____
Name:
Title:

Exhibits

- Exhibit A – Legal Description of Premises
- Exhibit B – Plan of Premises
- Exhibit C – Ground Lease Mortgagee Protection Provisions

EXHIBIT A
LEGAL DESCRIPTION OF PREMISES

EXHIBIT B

PLAN OF PREMISES

EXHIBIT C

GROUND LEASE MORTGAGEE PROTECTION PROVISIONS

C. Town Meeting Warrant 4/10/12—Article 19

2012

three (3) other buildings are being repaired with a grant of \$90,000.00 from the Community Development Block Grant.

Moved and seconded; thereafter voted in favor by a UNANIMOUS VOTE.

ARTICLE 15. Moved that the Town vote to appropriate from the Fiscal Year 2012 Community Preservation Historic Preservation Fund the sum of \$53,000.00 and from the Community Preservation Unreserved Fund the sum of \$20,000.00 for a total of \$73,000.00 for the preservation and restoration of firefighting artifacts and antique fire vehicles at the fire museum. These items have been deemed historically important to the town by the Edgartown Historic District Committee.

Moved and seconded; thereafter voted with the Moderator declaring that the Article CARRIED.

ARTICLE 16. Moved that the Town vote to appropriate from the Fiscal Year 2012 Community Preservation Historic Preservation Fund the sum of \$12,500.00 to restore a stained glass window at St. Andrew's Church. The window has been deemed historically significant to the town by the Edgartown Historic District Committee.

Moved and seconded; thereafter voted with the Moderator declaring that the Article CARRIED.

ARTICLE 17. Moved that the Town vote to appropriate from the Fiscal Year 2012 Community Preservation Budgeted Reserve Fund the sum of \$409,000.00 and from the Community Preservation Unreserved Fund the sum of \$291,500.00 for a total of \$700,500.00 for restoration and preservation of the exterior of the Town Hall. The Town Hall is in the Historic District and is on the National Register of Historic Places. The Historic District Committee has also deemed the building historically significant to the Town.

Moved and seconded; thereafter voted in favor by a UNANIMOUS VOTE.

ARTICLE 18. Moved that the Town vote to appropriate from the Community Preservation Unreserved Fund the sum of \$85,000.00 for the Parks Department to build new housing for the portable toilets at South Beach. This project will preserve and protect the barrier beach and sand dunes from misuse, abuse, and destabilization of increased foot traffic by the public and protect the public from harmful ticks and poison ivy. It will preserve the open space of the dunes and the recreational resource of the beach by keeping human waste out of the water and the dunes.

Moved and seconded; thereafter voted in favor by a UNANIMOUS VOTE.

ARTICLE 19. Moved that the Town vote to transfer the care, custody, management, and control of a parcel of land identified on Assessor's Map 28, as Parcel 225, located on,

Meshacket Road acquired by Tax Title Possession according to M.G.L. c. 60, s. 77, to the Edgartown Affordable Housing Committee to be developed for the use of affordable housing. This development is intended to provide access to stable year-round housing through rental and ownership opportunities for our community individuals and families.

Moved and seconded; thereafter opened for discussion.

Janet Hathaway, of the Affordable Housing Committee, spoke in favor of development of the property for affordable housing. The following is from a paper provided by the Committee: "Warrant Article 19 secures the property for affordable housing. If approved, it allows the Town to secure future funding from outside sources for this project."

Meshacket is a 9 acre property, owned by the Town of Edgartown, located off of Clevelandtown Road.

The concept is to develop a viable year-round neighborhood with both home ownership and rental options available. This site is near to both town water and sewer services.

Over the next year we will be exploring a variety of building plans and density options, with help from our townspeople's input at public meetings, before any final plans are presented.

Other persons spoke for and against the planned use of the land.

Mr. James Athearn made a motion to amend the Article by adding the following at the end of the Article, removed the period and add the following, *and is to be designed in a way intended to maximize the preservation of open and to preserve natural views from Meshacket Road and Swimming Place Path.* The motion to amend the Article was moved and seconded; thereafter voted with the Moderator declaring that the Amendment CARRIED. The main Article with the amendment was voted by a standing vote YES: 250 NO: 17, the Article CARRIED by the required two-thirds majority.

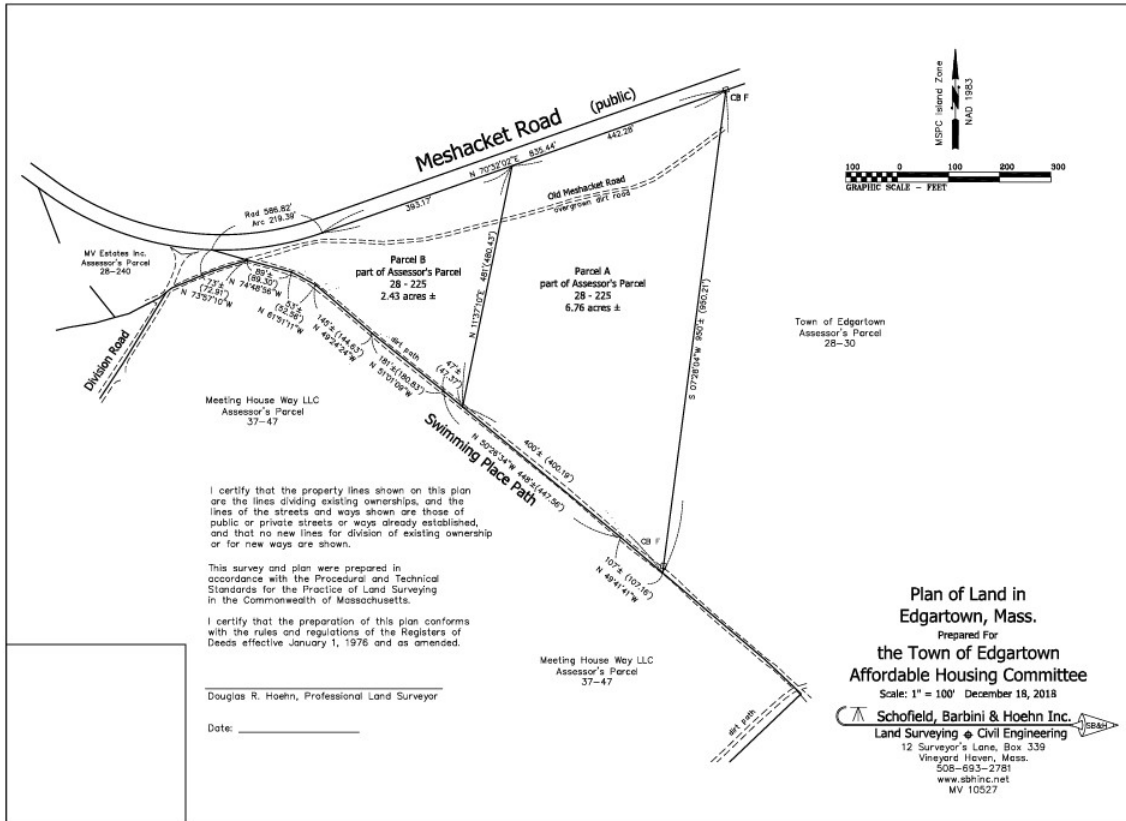
ARTICLE 20. Moved that the Town vote to appropriate from Free Cash the sum of \$30,000.00 to be used for valuation updates of real and personal property, revaluations, and Department of Revenue recertification.

Moved and seconded; thereafter voted in favor by a UNANIMOUS VOTE.

ARTICLE 21. Moved that the Town vote appropriate from Free Cash the sum of \$12,500.00, for expenditure in Fiscal Year 2013, for the purpose of upgrading the Town's GIS database and tax mapping in conjunction with the MassGIS statewide parcel standardization project.

Moved and seconded; thereafter voted in favor by a UNANIMOUS VOTE.

D. Site Map



I certify that the property lines shown on this plan are the lines dividing existing ownerships, and the lines of the streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.

I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds effective January 1, 1976 and as amended.

Douglas R. Hoehn, Professional Land Surveyor
 Date: _____

Plan of Land in Edgartown, Mass.
 Prepared For
 the Town of Edgartown Affordable Housing Committee
 Scale: 1" = 100' December 18, 2018
Schofield, Barbini & Hoehn Inc.
 Land Surveying & Civil Engineering
 12 Surveyor's Lane, Box 339
 Vineyard Haven, Mass.
 508-693-2781
 www.sbhinc.net
 MV 10527

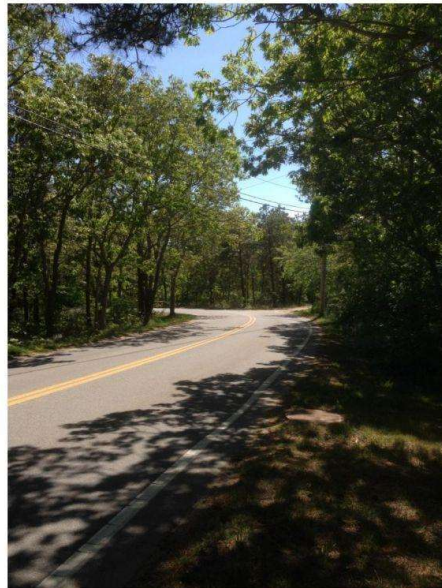
E. Traffic Count



MARTHA'S VINEYARD COMMISSION

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REGIONAL PLANNING AGENCY OF DUKES COUNTY
SERVING AQUINNAH, CHILMARK, EDGARTOWN, GOSNOLD, OAK BLUFFS, TISBURY, & WEST TISBURY



Meshacket Road / Clevelandtown Road Area Traffic Count Data Report for the Town of Edgartown

**Martha's Vineyard Commission
December 2014**

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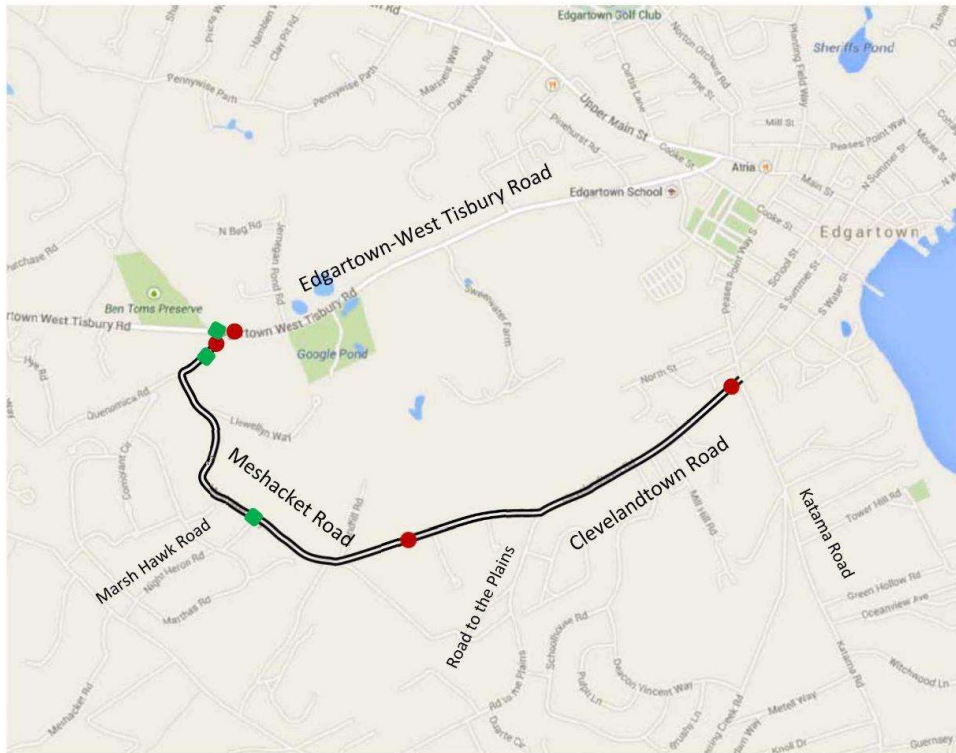
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Location

As part of ongoing local technical assistance and the MVC traffic counting program, the MVC staff conducted traffic counts in Edgartown. Specific traffic counts were performed in the vicinity of Edgartown-West Tisbury Road, Meshacket Road, and Clevelandtown Road, in Edgartown, during the summer 2014, at the request of the Town of Edgartown Affordable Housing Committee.

Figure 1: Locus Map



- Automatic Traffic Recorder (ATR) Count Locations
- ◆ Turning Movement Count (TMC) Locations

Background

The area is predominantly rural residential neighborhood section of Edgartown along with a farm, the farm composting area, the former landfill site, and the former water department building. Morning Glory Farm is just off Edgartown-West Tisbury Road and accessed from Meshacket Road.* The farm's composting area is accessed via Quenomica Road, off of Meshacket Road. The landfill site and the water department building are further down Meshacket Road toward the Clevelandtown Road section.

Meshacket Road and Clevelandtown Road are classified as local roads and act essentially as one roadway. In addition to providing access to the neighborhood homes and other land uses, the roads create a connecting link between Edgartown-West Tisbury Road and Pease's Point Way / Katama Road. This link provides an alternate route to the Upper Main Street, Main Street, and Cooke Street route to access downtown Edgartown and the Katama area.

*The Morning Glory Farm access was revised to add an exit via Quenomica Road following the turning movement count data collection in 2014.

Traffic Counts

Automatic Traffic Recorder (ATR) Counts

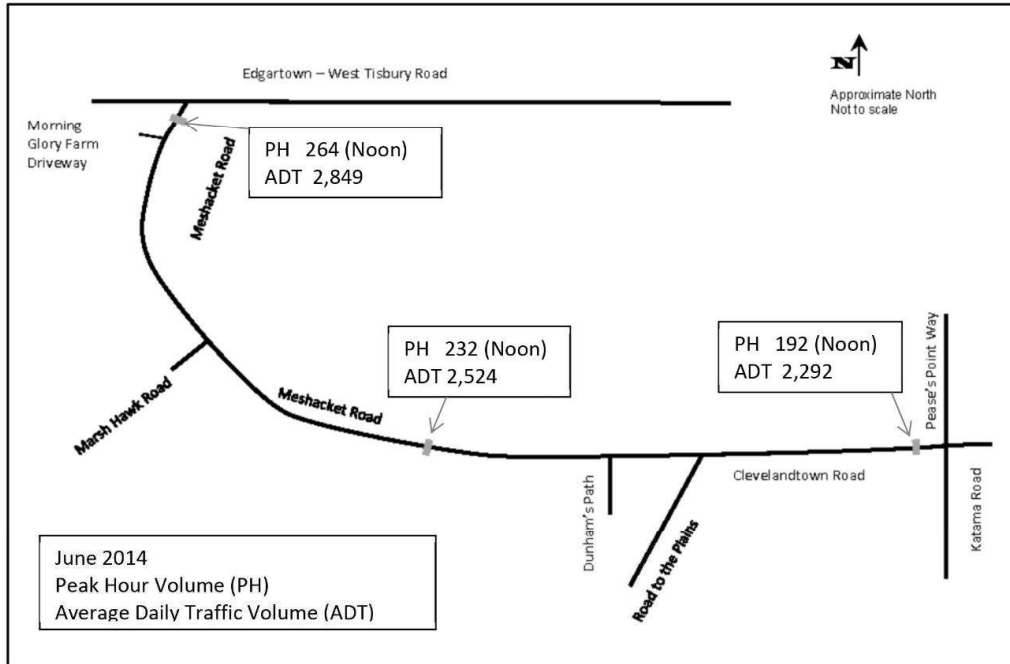
The Automatic Traffic Recorder (ATR) counts are samples of vehicular traffic volume data typically over a few days to several days that is collected via a boxed automatic counter connected to tubes across the roadway.

Traffic Count Site	Date	Location	Average Peak Hour Volume (PH) noon	Average Daily Traffic Volume (ADT)
234	June 2010	Meshacket Rd., South of Edg-West Tisbury Road	180	2,137
234	June 2014	Meshacket Rd., South of Edg-West Tisbury Road	264	2,849
253	June 2014	Meshacket Rd. near former water dept.	232	2,524
253	August 2014	Meshacket Rd. near former water dept.	276	3,162
208	June 2014	Clevelandtown Road	192	2,292
216	June 2014	Edgartown-West Tisbury Rd.	693	8,619

The table has the noon peak hour volume and the average daily total volume. These volumes are averages over the sample days that were counted, and include both weekdays and weekend days.

The sketch below shows the approximate traffic count locations and the June 2014 average data.

Figure 2: June 2014 Traffic Volumes



Turning Movement Counts

A Turning Movement Count (TMC) is vehicular data that is counted over a shorter period, in this case and hour, tabulating the number of vehicles that are turning in each direction at an intersection.

MVC staff collected sample vehicular turning movement count data, in June 2014, at the following intersections:

- Edgartown-West Tisbury Road and Meshacket Road
- Meshacket Road and the Morning Glory Farm driveway
- Meshacket Road and Marsh Hawk Road

The 11:15 a.m. to 12:15 p.m. data from these counts is summarized by vehicle turning movement in Figures 3 and 4 on the following pages.

Figure 3: Turning Movement Counts

Turning Movement Count Data
 June 2014
 11:15 am to 12:15 pm
 Not to Scale

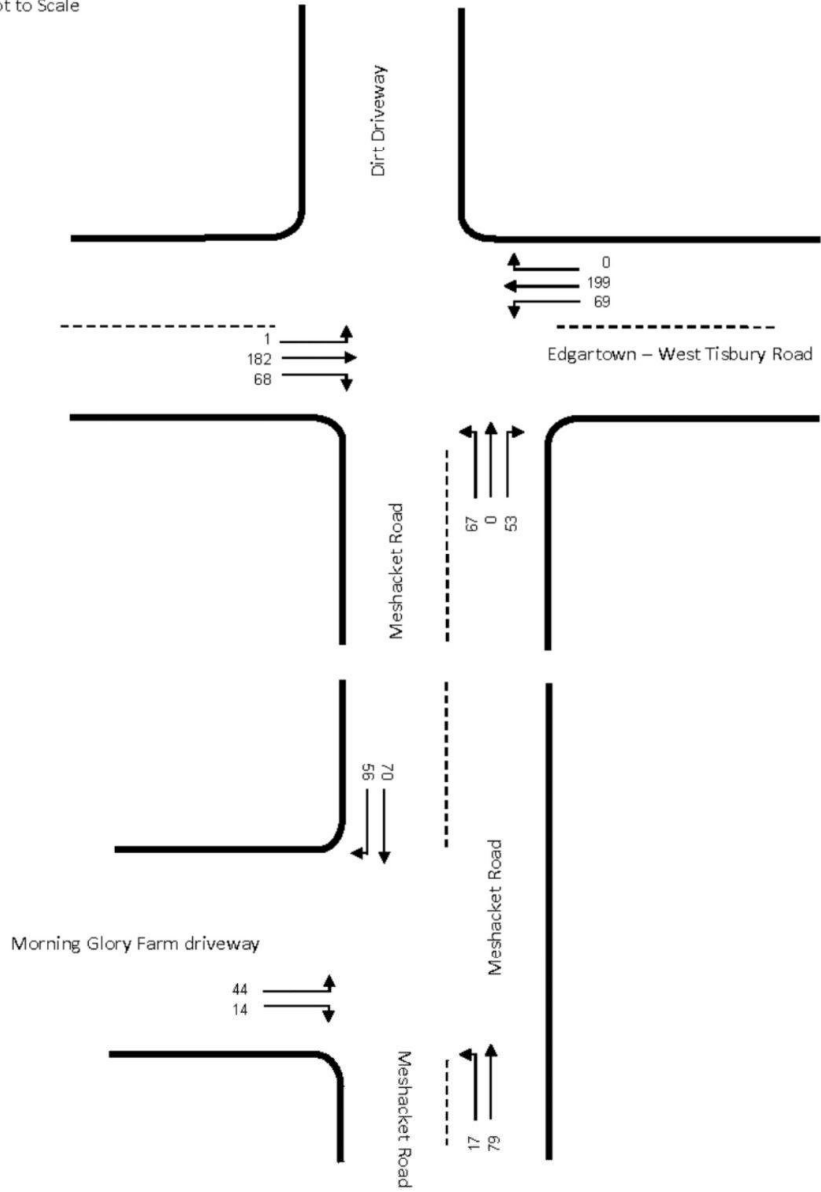
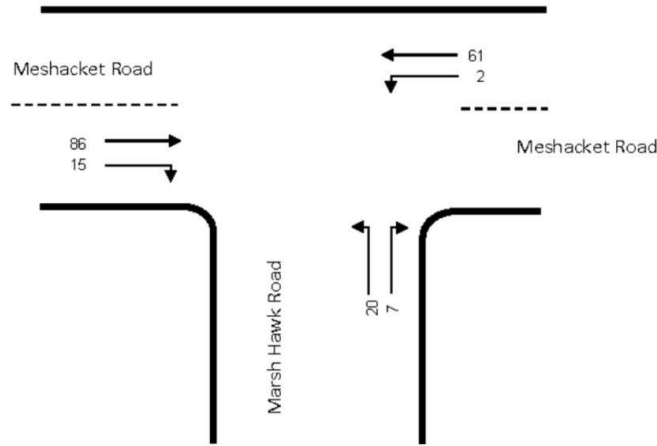


Figure 4: Turning Movement Count

Turning Movement Count Data
 June 2014
 8 am to 9 am

Edgartown TMC
 Meshacket Road at
 Marsh Hawk Road



Traveling Speeds

In addition to the counts, MVC staff set up the automatic traffic recorders (ATR) to collect vehicular traveling speeds.

Figure 5: Meshacket Road Site 234 Speeds

Meshacket Road, South of Edgartown-West Tisbury Road					
Traveling Speed		Meshacket Road		Jun 2014	
(miles per hour)					
from	to	number	%	cumulative %	
6	12	2,530	7.64%	7.64%	
12	19	14,914	45.01%	52.65%	highest % from 12 to 19 mph
19	25	12,105	36.53%	89.18%	85th about 25 mph
25	31	2,659	8.02%	97.20%	
31	37	568	1.71%	98.92%	
37	and over	359	1.08%	100.00%	
Total		33,135	vehicles sampled		

The traveling speed data on Meshacket Road near to Edgartown-West Tisbury Road showed that 97% were going slower in general at 31 miles per hour (mph) or lower, with the 85th percentile speed about 25 mph. Faster speeds were found at the site collected near to the former water department, with the 85th percentile speed at about 40 miles per hour (mph).

Figure 6: Meshacket Road Site 253 Speeds, June 2014

Meshacket Road, West of former water department and Dunham's Path					
traveling speed (miles per hour)		Meshacket Road		Jun 2014	
from	to	number	%	cumulative %	
6	12	99	0.25%	0.25%	
12	19	513	1.28%	1.53%	
19	25	1,740	4.34%	5.87%	
25	31	13,998	34.93%	40.80%	highest % from 25 to 31 mph
31	37	8,582	21.42%	62.22%	
37	43	7,526	18.78%	81.00%	85th about 40 mph
43	50	5,452	13.61%	94.61%	
50	56	1,674	4.18%	98.79%	
56	62	364	0.91%	99.70%	
62	68	79	0.20%	99.89%	
68	and over	43	0.11%	100.00%	highest speeds
Total		40,070	vehicles sampled		
		15,138	37.78%	Most traveling 40 mph and under traveling over 37 mph	

Figure 7: Meshacket Road Site 253 Speeds, August 2014

Meshacket Road, West of former water department and Dunham's Path					
traveling speed (miles per hour)		Meshacket Road		Aug 2014	
from	to	number	%	cumulative %	
6	12	538	1.17%	1.17%	
12	19	1,088	2.37%	3.54%	
19	25	967	2.10%	5.64%	
25	31	8,759	19.06%	24.70%	
31	37	21,407	46.58%	71.28%	highest % from 31 to 37 mph
37	43	10,887	23.69%	94.97%	85th about 40 mph
43	50	2,029	4.41%	99.38%	
50	56	244	0.53%	99.91%	
56	62	32	0.07%	99.98%	
62	68	4	0.01%	99.99%	
68	and over	5	0.01%	100.00%	highest speeds
Total		45,960	vehicles sampled		
		13,201	28.72%	Most traveling 40 mph and under traveling over 37 mph	

Crash Data

Crash experience was reviewed for Meshacket and Clevelandtown Roads, along with the intersection of Meshacket Road with Edgartown-West Tisbury Road, in the area selected shown in Figure 8. There were six crashes in the four years from 2009-2012, according to the MassDOT online crash information web site. Of the six crashes: 1 crash was a rear-end collision at the intersection of Edgartown-West Tisbury Road and Meshacket Road; four crashes were single vehicle crashes with three on Meshacket Road and one on Katama Road, and the final crash was a vehicle and moped angle crash listed on Meshacket Road.

All of these crashes were responded to by the local Edgartown Police Department. Three of the crashes involved injuries that were non-fatal. The three injury crashes occurred at different times of day: one at night, one in the morning, and one in the afternoon.

Three of the six crashes happened during nighttime hours and all were lane departure crashes with the vehicles hitting a utility pole, a curb, or a tree. The single vehicle crash into the tree also mentioned sleet, hail, freezing rain as the weather condition.

It appears from the initial crash review that the crashes were not likely due to geometric deficiencies, but rather driver error, inattention, or traveling too fast, or too fast for conditions.

Figure 8: MassDOT Crash Information Area Selection



Data Review and Analysis

In general, the roadway use appears to be for local access to the properties along the roadway and in particular to the residential uses, but traffic also uses Meshacket Road – Clevelandtown Road as an alternative route to the Katama / South Beach area of Edgartown. Looking back to the June 2010 ATR count and comparing the noon hour in 2010 with the noon hour count in June 2014, there is a 47% increase in the hourly traffic volume on Meshacket Road. Comparing the Average Daily Traffic (ADT) of 2,137 for June 2010 with June 2014 there is a 33% increase in the average daily traffic volume to

2,849 ADT. Another potential contributing factor of additional through traffic on the Meshacket Road / Clevelandtown Road may be due to the closure in 2013 and 2014 of Robert's Way and Robinson's Road that connect between Edgartown-West Tisbury Road and Pease's Point Way, as a result of efforts on the new library building.

The Turning Movement Count (TMC) data at the locations gives a sample of the amount of traffic turning from the main roadway, in this case Edgartown-Vineyard Haven Road, to a side or more local roadway such as Meshacket Road. Another TMC at the Morning Glory Farm driveway samples the traffic turning in and out of the Farm, while the third TMC is a sample of traffic coming and going to the Island Grove neighborhood through Marsh Hawk Road.

Based on the Turning Movement Count (TMC) data, the traffic on Edgartown-West Tisbury Road at the Meshacket Road intersection is primarily through traffic, at 59.7% heading eastbound and westbound. Of the overall traffic volume at that intersection, 40.3% is turning in or out of Meshacket Road. The traffic turning to Meshacket Road is evenly split, with 68 turning from the west, and 69 from the east / downtown Edgartown area turning left.

On Meshacket Road, 53.2% of the traffic volumes are traveling by Morning Glory Farm (MGF) the farm while the remainder are entering or exiting the farm driveway in the mid-day sample. The southbound Meshacket Road traffic turning right into MGF numbered 56, while only 17 vehicles turned left into MGF from the Clevelandtown end.

At the Marsh Hawk Road the TMC taken between 8:00 am to 9:00 am, shows that 23% of vehicles are turning in or out of that roadway, while nearly 77% combined in both directions are going past Marsh Hawk Road and traveling through on Meshacket Road. Of the traffic exiting Marsh Hawk Road, 3 out of 4 turned left onto Meshacket Road toward Edgartown-Vineyard Haven Road.

The Automatic Traffic Recorder (ATR) data collected shows that the mid-day period is where the majority of hourly traffic is counted or the "peak hours" of vehicular numbers on the roadway in both June and August. This may be indicative of a combination of residents and/or visitors changing their location via vehicles in the mid-day time frame. The reason might be to travel to a workplace where their workday begins near lunchtime, many stores and restaurants begin the day in mid to late morning. Or it could be that they are traveling simply to go out to lunch or an activity. Without extensive surveys on where people are beginning their trips and how they are traveling, the data simply tells us that the highest vehicular volumes on the roadway are at mid-day.

Summary

One of the reasons that the traffic data was requested was due to perception among residents and the Town that the traffic is increasing on Meshacket Road. Generally, increased traffic activity follows increased development, or a change in traffic patterns to use a different route in order to avoid a congested location. In an area such as this one in Edgartown, the increase is not usually from one location, but an overall increase based on the land use changes in the area. An increase on Meshacket Road in traffic volumes may be due to additional residential or commercial development or an increase in traffic that is using the roadway as a bypass to the Upper Main and Cooke Streets area. Without further surveys and/or study, it is difficult to determine the reason for the traffic increase; however, the Town could review building permits issued to see if new residential development may be the source of additional vehicles on the roadway.

As far as the safety aspects, the crash data does not suggest a major safety issue; however, the speeds documented in the vicinity of the former water department on Meshacket Road suggest that there is an issue with vehicular speed in that area. The Town may want to suggest that the police provide a visible presence with enforcement at times to try to reduce vehicular speeds in the area.

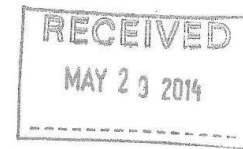
Appendices

Attached are the following:

- Letter Requesting Traffic Information
- Summary of Crashes 2009-2012
- Speed Statistics by Hour for Meshacket Road site 253 (near the former
water department building)
- Turning Movement Counts
- Automatic Traffic Recorder (ATR) Traffic Counts



TOWN OF EDGARTOWN
Edgartown Affordable Housing Committee
70 Main St. PO BOX 1065
Edgartown, Massachusetts 02539
(508) 627-6178



Chair: Mark Hess
Vice-Chair: Tim Rush
Christina Brown, Joseph Roberts, Tom Soldini, Melissa Vincent, Christine White

May 21, 2014

Priscilla Leclerc
Transportation Planner
Martha's Vineyard Commission
P.O. Box 1447
Oak Bluffs, MA 02557

Dear Priscilla,

Edgartown is planning a new group of affordable housing at a town-owned property on Meshacket Road. The Affordable Housing Committee is looking at some of the issues that have bearing on this site.

It would be useful to have some preliminary information about present traffic and the possible future traffic at this site, including:

- Estimate of present traffic along Clevelandtown/Meshacket road, used by houses along Clevelandtown Road, the Island Grove subdivision, the Fisherman's Lot
- Direction the Island Grove traffic takes onto Clevelandtown Road when leaving the subdivision
- Estimate of expected traffic from 30 new housing units with approximately 50 bedrooms

Could you help us put together some of this information? We would be grateful and look forward to working together.

Sincerely,

Mark Hess
Chairman

Crash Data from the MassDOT online database; November 2014

Crash Number	Crash Date	Crash Day	Crash Time	Town	Crash Severity	Maximum Injury Severity Reported	Number of Non-Fatal Injuries	Number of Fatal Injuries	Number of Vehicles	Manner of Collision	Vehicle Action Prior to Crash	Vehicle Travel Directions	Harmful Event	First Harmful Event Location	
2555551	10/15/2009	Thu	3:01 PM	EDGARTOWN	Property damage only (none injured)	No injury	0	0	2	Rear-end	V1: Travelling straight ahead / V2: Slowing or stopped in traffic	V1: E / V2: E	Collision with motor vehicle in traffic	Unknown	
2562608	7/3/2009	Fri	10:34 PM	EDGARTOWN	Property damage only (none injured)	No injury	0	0	1	Rear-to-rear	V1: Travelling straight ahead	V1: 8	Collision with utility pole	Outside roadway	
3111033	2/19/2011	Sat	11:54 PM	EDGARTOWN	Not Reported	Not reported	0	0	1	Sideswipe, same direction	V1: Turning left	V1: W	Collision with curb	Roadway	
3242672	5/1/2012	Tue	11:33 PM	EDGARTOWN	Non-fatal injury	Non-fatal injury - Non-incapacitating	1	0	1	Single vehicle crash	V1: Travelling straight ahead	V1: 8	Collision with tree	Shoulder - unpaved	
3266818	7/7/2012	Sat	11:37 AM	EDGARTOWN	Non-fatal injury	Non-fatal injury - Incapacitating	2	0	1	Single vehicle crash	V1: Travelling straight ahead	V1: S	Collision with tree	Outside roadway	
3344818	10/18/2012	Thu	2:47 PM	EDGARTOWN	Non-fatal injury	Non-fatal injury - Non-incapacitating	2	0	2	Not reported	V1: Turning right / V2: Travelling straight ahead	V1: E / V2: 8	Not reported	Not reported	
Totals							5	0	8						
injury crashes							3								
EPDO							18								

Crash Data from the MassDOT online database; November 2014

Vehicle Configuration	Age of Driver - Youngest Known	Age of Driver - Oldest Known	Driver Contributing Codes	Road Surface	Ambient Light	Weather Condition	Street Number	Roadway	Near Intersection Roadway	Landmark	Distance And Direction From Landmark	Traffic Way	Speed Limit	Roadway Intersection Type
V1:(Single-unit truck (2-axle, 6-tire)) V2:(Passenger car)	25-34	45-54	D1:(Followed too closely),(Inattention) D2:(No improper driving),(No improper driving)	Wet	Daylight	Rain/Rain		WEST TISBURY ROAD	MESHACKET ROAD			Two-way, not divided		0 T-intersection
V1:(Light truck(van, mini-van, panel, pickup, sport utility) with only four tires)	21-24	21-24	D1:(Operating vehicle in erratic, reckless, careless, negligent or aggressive manner),(Exceeded authorized speed limit)	Dry	Dark - roadway not lighted	Clear		MESHACKET ROAD	WEST TISBURY ROAD			Two-way, not divided	10	Not at junction
V1:(Passenger car)			D1:(Unknown)	Dry	Dark - lighted roadway	Clear		CLEVELANDTOWN ROAD / KATAMA ROAD				Two-way, not divided	25	Four-way intersection
V1:(Light truck(van, mini-van, panel, pickup, sport utility) with only four tires)	45-54	45-54	D1:(Failure to keep in proper lane or running off road)	Wet	Dark - roadway not lighted	Cloudy/Sleet, hail (freezing rain or drizzle)		MESHACKET ROAD	MARSH HAWK CIRCLE			Two-way, not divided		0 Not at junction
V1:(Passenger car)	55-64	55-64	D1:(Physical impairment),(Failure to keep in proper lane or running off road)	Dry	Daylight	Clear/Clear		MESHACKET ROAD	LLEWELLYN WAY			Two-way, divided, unprotected median	25	Not at junction
V1:(Passenger car) V2:(MOPED)	45-54	55-64	D1:() D2:()	Not reported	Not reported	Not Reported	89	MESHACKET ROAD		POLE 116	40 feet W of	Not reported		0 Not reported

Crash Data from the MassDOT online database; November 2014

Traffic Control Device Type	Traffic Device Functioning	Police Agency	Linked RI Functional Classification	Linked RI Access Control	Linked RI Jurisdiction	Linked RI Number of Travel Lanes	Linked RI Opposing Number of Travel Lanes	Linked RI Street Name	Linked RI Street Operation	Is Geocoded	Geocoding Method	X	Y	Crash Status	Road Segment ID
No controls	Not reported	Local police	Urban minor arterial or rural major collector	No control	Massachusetts Department of Transportation	2		EDGARTOWN WEST TISBURY ROAD	Two-way traffic	Yes	Off Intersection	280258.65	793313.19	Closed	129300
No controls	Not reported	Local police	Local	No control	City or Town accepted road	2		MESHACKET ROAD	Two-way traffic	Yes	Off Intersection	280258.65	793313.19	Closed	129473
Stop signs	Yes, device functioning	Local police	Urban minor arterial or rural major collector	No control	City or Town accepted road	2		KATAMA ROAD	Two-way traffic	Yes	At Intersection	282074.85	793167.4	Closed	129408
No controls	Not reported	Local police	Local	No control	City or Town accepted road	2		MESHACKET ROAD	Two-way traffic	Yes	Off Intersection	280379.69	792671.8	Closed	129472
No controls	Not reported	Local police	Local	No control	City or Town accepted road	2		MESHACKET ROAD	Two-way traffic	Yes	Off Intersection	280227.87	793024.37	Closed	129472
Not reported	Not reported	Local police	Local	No control	City or Town accepted road	2		MESHACKET ROAD	Two-way traffic	Yes	At Address	280229.76	792867.77	Closed	129472

MetroCount Traffic Executive
Speed Statistics by Hour

SpeedStatHour-1929 -- English (ENU)**Datasets:**

Site: [253] Between Dunham's Path and Plain Field Way
Direction: 2 - East bound, A hit first. Lane: 0
Survey Duration: 10:31 Monday, August 11, 2014 => 11:26 Wednesday, August 27, 2014
Zone:
File: 25327Aug2014.EC0 (Plus)
Identifier: M917HFEF MC56-L4 [MC55] (c)Microcom 19Sep03
Algorithm: Factory default (v3.21 - 15275)
Data type: Axle sensors - Paired (Class/Speed/Count)

Profile:

Filter time: 10:32 Monday, August 11, 2014 => 11:26 Wednesday, August 27, 2014
Included classes: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
Speed range: 6 - 99 mph.
Direction: North, East, South, West (bound)
Separation: All - (Headway)
Name: Default Profile
Scheme: Vehicle classification (Scheme F2)
Units: Non metric (ft, mi, ft/s, mph, lb, ton)
In profile: Vehicles = 45960 / 46302 (99.26%)

Speed Statistics by Hour

SpeedStatHour-1929

Site: 253.0.0E
Description: Between Dunham's Path and Plain Field Way
Filter time: 10:32 Monday, August 11, 2014 => 11:26 Wednesday, August 27, 2014
Scheme: Vehicle classification (Scheme F2)
Filter: Cis(1 2 3 4 5 6 7 8 9 10 11 12 13) Dir(NESW) Sp(6,99) Headway(>0)

Vehicles = 45960
 Posted speed limit = 37 mph, Exceeding = 14082 (30.64%), Mean Exceeding = 40.71 mph
 Maximum = 86.8 mph, Minimum = 6.7 mph, Mean = 34.1 mph
 85% Speed = 39.8 mph, 95% Speed = 43.4 mph, Median = 34.2 mph
 12 mph Pace = 29 - 41, Number in Pace = 35346 (76.91%)
 Variance = 41.41, Standard Deviation = 6.43 mph

Hour Bins (Partial days)

Time	Bin	Min	Max	Mean	Median	85%	95%	>PSL 37 mph		
0000	214	0.5%	14.2	56.2	37.3	37.1	44.3	48.3	111	51.9%
0100	186	0.4%	9.8	60.6	37.7	37.6	44.7	49.0	98	52.7%
0200	61	0.1%	11.4	58.8	38.0	38.5	43.4	51.9	33	54.1%
0300	25	0.1%	23.3	62.2	36.9	36.0	40.3	44.3	11	44.0%
0400	30	0.1%	27.5	52.0	38.1	38.0	42.7	45.2	18	60.0%
0500	167	0.4%	13.7	56.2	36.2	36.5	42.7	48.3	76	45.5%
0600	521	1.1%	7.9	60.5	35.2	36.0	41.8	45.6	225	43.2%
0700	1369	3.0%	11.0	57.3	34.5	34.9	41.6	45.6	494	36.1%
0800	2500	5.4%	7.3	55.7	33.8	34.0	39.6	43.4	771	30.8%
0900	3337	7.3%	8.7	57.3	33.7	34.0	39.1	42.5	890	26.7%
1000	3738	8.1%	8.0	59.7	33.3	33.6	39.1	42.3	989	26.5%
1100	4150	9.0%	7.2	57.0	33.3	33.6	39.1	42.7	1102	26.6%
1200	4300	9.4%	7.3	55.4	34.0	34.0	39.6	42.9	1231	28.6%
1300	3976	8.7%	7.5	66.9	33.7	34.0	39.4	42.3	1144	28.8%
1400	3751	8.2%	8.3	61.5	34.1	34.2	39.6	43.2	1115	29.7%
1500	3722	8.1%	6.8	58.3	34.3	34.4	39.8	43.4	1157	31.1%
1600	3836	8.3%	7.7	64.3	34.6	34.9	40.3	43.6	1304	34.0%
1700	3553	7.7%	8.2	58.6	34.8	34.7	40.3	44.1	1211	34.1%
1800	2244	4.9%	6.7	59.5	35.1	35.1	40.7	44.5	820	36.5%
1900	1408	3.1%	7.4	61.8	34.8	34.4	40.0	43.4	468	33.2%
2000	948	2.1%	9.8	86.8	33.9	33.1	38.5	42.9	214	22.6%
2100	873	1.9%	13.0	72.2	34.7	34.0	40.3	44.1	256	29.3%
2200	677	1.5%	10.2	76.3	34.7	34.2	40.5	44.3	200	29.5%
2300	374	0.8%	13.8	73.4	35.4	34.7	40.9	45.4	144	38.5%
----	45960	100.0%	6.7	86.8	34.1	34.2	39.8	43.4	14082	30.6%

Martha's Vineyard Commission

33 New York Avenue
Oak Bluffs, MA 02557
www.mvcommission.org

Default Comments
Change These in The Preferences Window
Select File/Preference in the Main Screenshot
Then Click the Comments Tab

File Name : 14jun5_Edg-WT at MeshacketTMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 1

Groups Printed- Cars - Trucks

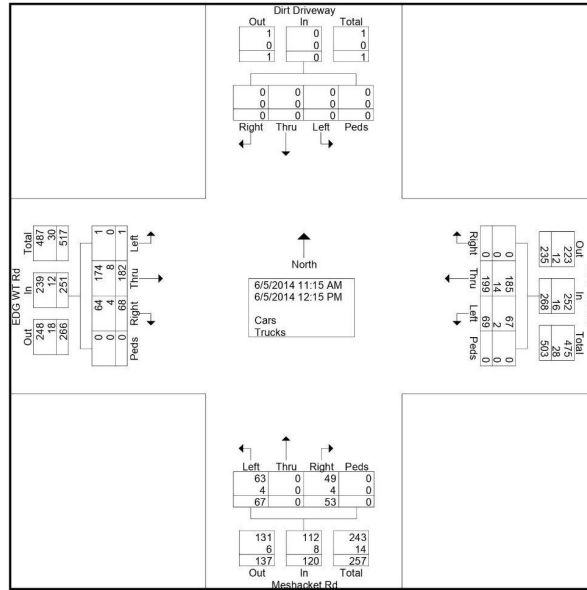
Start Time	Dirt Driveway From North					EDG WT Rd From East					Meshacket Rd From South					EDG WT Rd From West					Int. Total
	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	Right	Thru	Left	Peds	App. Total	
11:15 AM	0	0	0	0	0	0	37	17	0	54	8	0	11	0	19	11	34	0	0	45	118
11:30 AM	0	0	0	0	0	0	39	11	0	50	6	0	12	0	18	19	38	1	0	58	126
11:45 AM	0	0	0	0	0	0	46	9	0	55	14	0	14	0	28	12	35	0	0	47	130
Total	0	0	0	0	0	0	122	37	0	159	28	0	37	0	65	42	107	1	0	150	374
12:00 PM	0	0	0	0	0	0	49	15	0	64	14	0	10	0	24	15	33	0	0	48	136
12:15 PM	0	0	0	0	0	0	28	17	0	45	11	0	20	0	31	11	42	0	0	53	129
Grand Total	0	0	0	0	0	0	199	69	0	268	53	0	67	0	120	68	182	1	0	251	639
Apprch %	0	0	0	0	0	0	74.3	25.7	0	44.2	0	55.8	0	18.8	27.1	72.5	0.4	0	39.3		
Total %	0	0	0	0	0	0	31.1	10.8	0	41.9	8.3	0	10.5	0	18.8	10.6	28.5	0.2	0	39.3	
Cars	0	0	0	0	0	0	185	67	0	252	49	0	63	0	112	64	174	1	0	239	603
% Cars	0	0	0	0	0	0	93	97.1	0	94	92.5	0	94	0	93.3	94.1	95.6	100	0	95.2	94.4
Trucks	0	0	0	0	0	0	14	2	0	16	4	0	4	0	8	4	8	0	0	12	36
% Trucks	0	0	0	0	0	0	7	2.9	0	6	7.5	0	6	0	6.7	5.9	4.4	0	0	4.8	5.6

Martha's Vineyard Commission

33 New York Avenue
Oak Bluffs, MA 02557
www.mvcommission.org

Default Comments
Change These in The Preferences Window
Select File/Preference in the Main Screenshot
Then Click the Comments Tab

File Name : 14jun5_Edg-WT at MeshacketTMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 2



Martha's Vineyard Commission

33 New York Avenue
Oak Bluffs, MA 02557
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Default Comments
Change These in The Preferences Window
Select File/Preference in the Main Scree
Then Click the Comments Tab

File Name : 14jun5_Edg-WT at MeshacketTMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 3



Martha's Vineyard Commission

33 New York Avenue
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Default Comments
Change These in The Preferences Window
Select File/Preference in the Main Scree
Then Click the Comments Tab

File Name : 14jun5 Meshacket Rd TMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 1

Groups Printed- Cars - Trucks

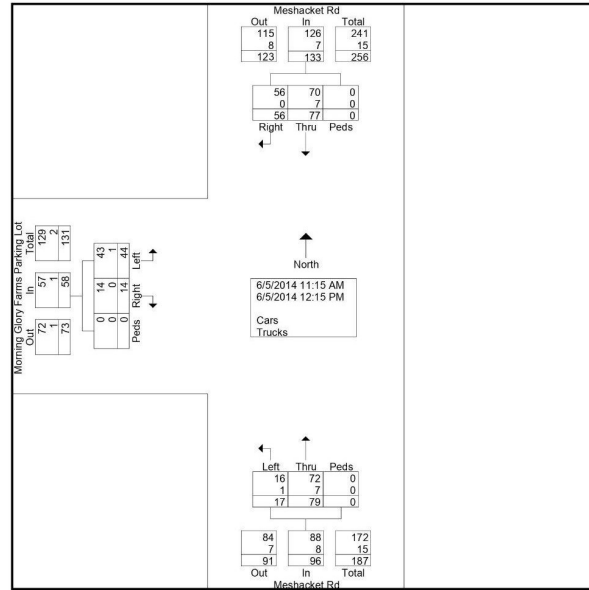
Start Time	Meshacket Rd From North				Meshacket Rd From South				Morning Glory Farms Parking Lot From West				Int. Total
	Right	Thru	Peds	App. Total	Thru	Left	Peds	App. Total	Right	Left	Peds	App. Total	
11:15 AM	8	19	0	27	16	0	0	16	2	3	0	5	48
11:30 AM	12	17	0	29	13	2	0	15	4	4	0	8	52
11:45 AM	12	8	0	20	18	3	0	21	1	11	0	12	53
Total	32	44	0	76	47	5	0	52	7	18	0	25	153
12:00 PM	12	16	0	28	16	7	0	23	6	9	0	15	66
12:15 PM	12	17	0	29	16	5	0	21	1	17	0	18	68
Grand Total	56	77	0	133	79	17	0	96	14	44	0	58	287
Apprch %	42.1	57.9	0		82.3	17.7	0		24.1	75.9	0		
Total %	19.5	26.8	0	46.3	27.5	5.9	0	33.4	4.9	15.3	0	20.2	
Cars	56	70	0	126	72	16	0	88	14	43	0	57	271
% Cars	100	90.9	0	94.7	91.1	94.1	0	91.7	100	97.7	0	98.3	94.4
Trucks	0	7	0	7	7	1	0	8	0	1	0	1	16
% Trucks	0	9.1	0	5.3	8.9	5.9	0	8.3	0	2.3	0	1.7	5.6

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Default Comments
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Select File/Preference in the Main Screenshot
Then Click the Comments Tab

File Name : 14jun5 Meshacket Rd TMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 2

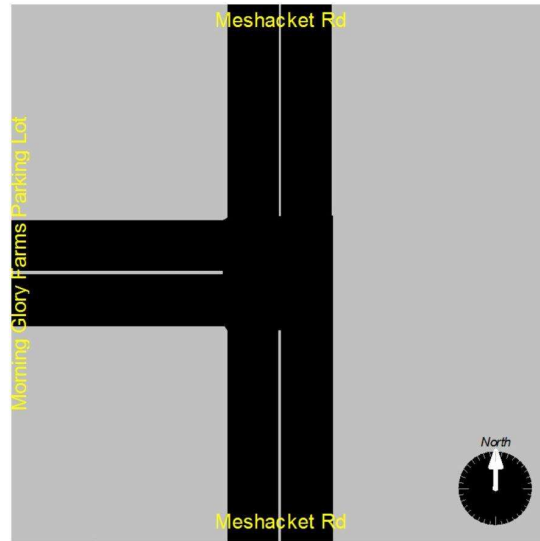


Martha's Vineyard Commission

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Default Comments
Change These in The Preferences Window
Select File/Preference in the Main Screenshot
Then Click the Comments Tab

File Name : 14jun5 Meshacket Rd TMC
Site Code : 00000000
Start Date : 6/5/2014
Page No : 3



Martha's Vineyard Commission

33 New York Avenue
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Martha's Vineyard Commission
TMC Meshaket Road at Marsh Hawk Road
Edgartown

File Name : 14jun10 tmc marsh hawk edg
Site Code : 00000000
Start Date : 6/11/2014
Page No : 1

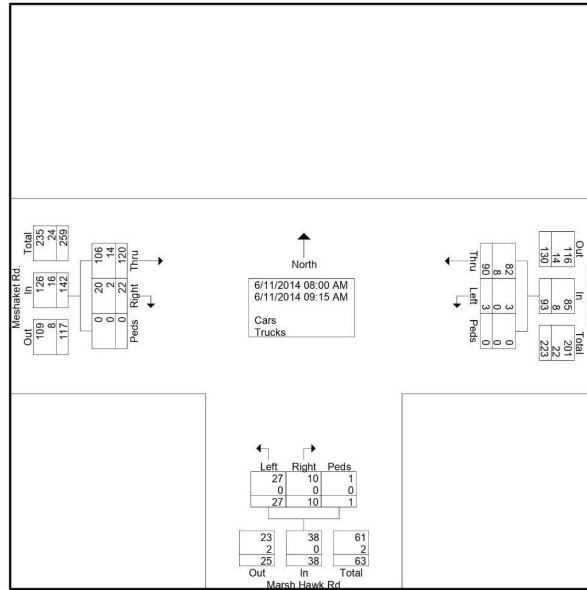
Start Time	Meshaket Rd. From East				Marsh Hawk Rd. From South				Meshaket Rd. From West				Int. Total
	Thru	Left	Peds	App. Total	Right	Left	Peds	App. Total	Right	Thru	Peds	App. Total	
08:00 AM	16	0	0	16	1	5	0	6	6	20	0	26	48
08:15 AM	15	2	0	17	1	6	0	7	2	15	0	17	41
08:30 AM	13	0	0	13	5	5	0	10	5	24	0	29	52
08:45 AM	17	0	0	17	0	4	0	4	2	27	0	29	50
Total	61	2	0	63	7	20	0	27	15	86	0	101	191
09:00 AM	17	1	0	18	1	2	1	4	4	12	0	16	38
09:15 AM	12	0	0	12	2	5	0	7	3	22	0	25	44
Grand Total	90	3	0	93	10	27	1	38	22	120	0	142	273
Apprch %	96.8	3.2	0		26.3	71.1	2.6		15.5	84.5	0		
Total %	33	1.1	0	34.1	3.7	9.9	0.4	13.9	8.1	44	0	52	
Cars	82	3	0	85	10	27	1	38	20	106	0	126	249
% Cars	91.1	100	0	91.4	100	100	100	100	90.9	88.3	0	88.7	91.2
Trucks	8	0	0	8	0	0	0	0	2	14	0	16	24
% Trucks	8.9	0	0	8.6	0	0	0	0	9.1	11.7	0	11.3	8.8

Martha's Vineyard Commission

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Martha's Vineyard Commission
TMC Meshaket Road at Marsh Hawk Road
Edgartown

File Name : 14jun10 tmc marsh hawk edg
Site Code : 00000000
Start Date : 6/11/2014
Page No : 2

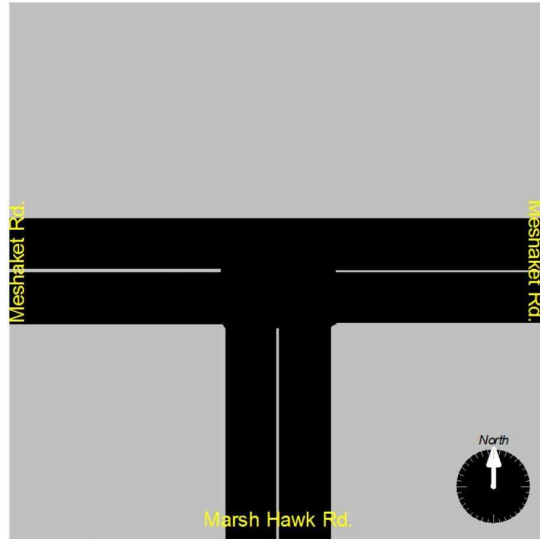


Martha's Vineyard Commission

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Martha's Vineyard Commission
TMC Meshaket Road at Marsh Hawk Road
Edgartown

File Name : 14jun10 tmc marsh hawk edg
Site Code : 00000000
Start Date : 6/11/2014
Page No : 3



Hour	Mon Jun 14			Tue Jun 15			Wed Jun 16			Thu Jun 17			Fri Jun 18			Sat Jun 19			Sun Jun 20		
	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total
0000-0100	*	*		10	6	16	7	5	12	4	7	11	17	14	31	6	6	12	7	7	14
0100-0200	*	*		6	3	9	5	2	7	7	1	8	11	3	14	11	8	19	11	11	22
0200-0300	*	*		4	1	5	2	2	4	2	1	3	5	3	8	0	7	7	6	4	10
0300-0400	*	*		0	0	0	1	0	1	1	0	1	0	1	1	5	0	5	0	2	2
0400-0500	*	*		1	0	1	1	4	5	1	0	1	2	1	3	1	3	4	2	2	4
0500-0600	*	*		7	7	14	6	6	12	6	3	9	6	5	11	10	5	15	2	3	5
0600-0700	*	*		23	15	38	25	9	34	22	10	32	27	16	43	19	14	33	11	5	16
0700-0800	*	*		63	39	102	71	42	113	65	27	92	71	48	119	50	25	75	36	16	52
0800-0900	*	*		87	90	177	82	66	148	62	88	150	86	76	162	64	65	129	46	30	76
0900-1000	*	*		84	80	164	68	64	132	71	73	144	89	85	174	102	79	181	59	55	114
1000-1100	*	*		85	78	163	79	70	149	73	48	121	82	83	165	92	82	174	76	55	131
1100-1200	*	*		90	83	173	85	70	155	80	77	157	97	101	198	104	117	221	78	80	158
1200-1300	0	0	0	82	89	171	87	82	169	81	78	159	86	108	194	98	123	221	93	73	166
1300-1400	0	0	0	90	100	190	83	69	152	88	89	177	84	98	182	60	83	143	87	72	159
1400-1500	41	37	78	95	83	178	64	65	129	95	72	167	96	91	187	86	86	172	71	52	123
1500-1600	77	74	151	92	80	172	74	72	146	67	77	144	104	92	196	93	89	182	79	64	143
1600-1700	91	89	180	92	98	190	113	77	190	106	97	203	94	71	165	94	66	160	70	61	131
1700-1800	80	83	163	99	64	163	68	78	146	75	72	147	85	92	177	71	80	151	49	40	89
1800-1900	54	48	102	62	55	117	50	44	94	52	48	100	53	53	106	61	61	122	43	37	80
1900-2000	43	54	97	41	44	85	40	44	84	31	43	74	44	50	94	46	48	94	30	32	62
2000-2100	31	28	59	26	37	63	25	24	49	35	33	68	35	38	73	44	41	85	30	17	47
2100-2200	21	17	38	10	26	36	16	22	38	19	24	43	20	29	49	30	33	63	14	23	37
2200-2300	7	16	23	11	6	17	14	7	21	15	14	29	19	18	37	13	21	34	10	10	20
2300-2400	6	13	19	9	11	20	4	9	13	6	6	12	17	9	26	9	7	16	7	16	23
Daily Totals	451	459	910	1,169	1,095	2,264	1,070	933	2,003	1,064	988	2,052	1,230	1,185	2,415	1,169	1,149	2,318	917	767	1,684

Avg. Daily Traffic	Hour
16.0	0000-0100
13.2	0100-0200
6.2	0200-0300
1.7	0300-0400
3.0	0400-0500
11.0	0500-0600
32.7	0600-0700
92.2	0700-0800
140.3	0800-0900
151.5	0900-1000
150.5	1000-1100
177.0	1100-1200
180.0	1200-1300
167.2	1300-1400
172.3	1400-1500
162.0	1500-1600
174.1	1600-1700
148.0	1700-1800
103.0	1800-1900
84.3	1900-2000
63.4	2000-2100
43.4	2100-2200
25.9	2200-2300
18.4	2300-2400
2,137	

Hour	Sat Jun 7			Sun Jun 8			Mon Jun 9			Tue Jun 10			Wed Jun 11			Thu Jun 12			Fri Jun 13		
	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total	NB	SB	Total
0000-0100	9	9	18	7	7	14	6	1	7	5	1	6	9	5	14	3	3	6	7	4	11
0100-0200	25	8	33	11	7	18	3	4	7	1	1	2	4	2	6	3	4	7	1	3	4
0200-0300	1	2	3	2	1	3	2	3	5	0	1	1	0	1	1	0	1	1	4	3	7
0300-0400	0	1	1	2	2	4	2	1	3	0	0	0	3	1	4	1	0	1	1	0	1
0400-0500	4	0	4	6	2	8	2	0	2	1	3	4	1	1	2	1	1	2	1	0	1
0500-0600	6	4	10	2	4	6	9	3	12	9	1	10	7	1	8	7	4	11	8	2	10
0600-0700	23	13	36	14	7	21	20	11	31	26	15	41	24	14	38	29	22	51	21	18	39
0700-0800	65	61	126	34	33	67	55	70	125	69	80	149	72	74	146	75	85	160	75	61	136
0800-0900	87	86	173	43	48	91	93	113	206	83	116	199	90	115	205	95	109	204	96	88	184
0900-1000	107	109	216	71	72	143	109	115	224	105	90	195	97	110	207	124	124	248	125	133	258
1000-1100	149	137	286	117	96	213	101	116	217	117	46	163	108	84	192	108	105	213	138	120	258
1100-1200	176	141	317	133	100	233	122	101	223	123	82	205	117	113	230	143	123	266	152	133	285
1200-1300	150	140	290	115	114	229	117	126	243	124	120	244	140	141	281	143	128	271	160	128	288
1300-1400	113	113	226	97	105	202	137	139	276	146	136	282	129	100	229	144	146	290	161	158	319
1400-1500	122	110	232	97	85	182	148	115	263	143	97	240	126	144	270	135	140	275	116	*	
1500-1600	112	98	210	84	75	159	137	145	282	145	131	276	124	115	239	131	120	251	61	*	
1600-1700	117	95	212	92	65	157	146	130	276	130	96	226	128	106	234	127	122	249	52	*	
1700-1800	91	78	169	66	49	115	108	102	210	87	91	178	125	89	214	116	97	213	33	*	
1800-1900	57	46	103	56	29	85	73	57	130	51	46	97	69	67	136	76	55	131	19	*	
1900-2000	46	26	72	31	41	72	44	41	85	42	34	76	36	41	77	41	46	87	11	*	
2000-2100	43	46	89	26	33	59	23	27	50	32	25	57	32	35	67	40	49	89	7	*	
2100-2200	31	37	68	24	32	56	17	24	41	21	17	38	17	26	43	29	24	53	2	*	
2200-2300	21	18	39	13	14	27	9	8	17	13	18	31	25	17	42	25	20	45	1	*	
2300-2400	19	13	32	10	15	25	2	9	11	8	12	20	9	10	19	15	4	19	2	*	
Daily Totals	1,574	1,391	2,965	1,153	1,036	2,189	1,485	1,461	2,946	1,481	1,259	2,740	1,492	1,412	2,904	1,611	1,532	3,143	1,254	851	1,801

Ave. Daily Traffic	Hour
10.9	0000-0100
11.0	0100-0200
3.0	0200-0300
2.0	0300-0400
3.3	0400-0500
9.6	0500-0600
36.7	0600-0700
129.9	0700-0800
180.3	0800-0900
213.0	0900-1000
220.3	1000-1100
251.3	1100-1200
263.7	1200-1300
260.6	1300-1400
243.7	1400-1500
236.2	1500-1600
225.7	1600-1700
183.2	1700-1800
113.7	1800-1900
78.2	1900-2000
68.5	2000-2100
49.8	2100-2200
33.5	2200-2300
21.0	2300-2400
2,849	

partial day

Hour	Mon Jun 23			Tue Jun 24			Wed Jun 25			Thu Jun 26			Fri Jun 27			Sat Jun 28			Sun Jun 29			
	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	
0000-0100	0	0	0	0	0	0	2	3	5	6	9	15	10	10	20	9	13	22	7	15	22	
0100-0200	0	0	0	0	0	0	1	4	5	0	2	2	4	9	13	3	12	15	5	9	14	
0200-0300	0	0	0	0	0	0	2	3	5	0	1	1	1	5	6	1	3	4	10	8	18	
0300-0400	0	0	0	0	0	0	1	1	2	0	0	0	0	0	0	1	1	2	1	2	3	
0400-0500	0	0	0	0	0	0	1	1	1	1	2	3	1	1	2	1	3	4	3	1	4	
0500-0600	0	0	0	0	0	0	5	10	15	4	5	9	4	6	10	3	8	11	3	4	7	
0600-0700	0	0	0	0	0	0	13	22	35	14	17	31	19	25	44	8	17	25	9	13	22	
0700-0800	0	0	0	0	0	0	58	52	110	49	49	98	68	57	125	48	45	93	23	26	49	
0800-0900	0	0	0	0	0	0	105	64	169	79	61	140	82	70	152	68	77	145	60	57	117	
0900-1000	0	0	0	0	0	0	94	77	171	93	90	183	118	96	214	108	106	214	82	78	160	
1000-1100	0	0	0	0	0	0	85	95	180	92	86	178	116	100	216	139	121	260	109	80	189	
1100-1200	0	0	0	0	0	0	92	110	202	92	103	195	112	105	217	139	145	284	124	101	225	
1200-1300	0	0	0	0	0	0	118	113	231	95	101	196	161	138	299	138	92	230	116	89	205	
1300-1400	0	0	0	0	0	0	111	103	214	103	102	205	137	133	270	102	90	192	90	74	164	
1400-1500	0	0	0	87	98	185	110	100	210	95	106	201	100	128	228	102	98	200	85	82	167	
1500-1600	0	0	0	87	97	184	111	102	213	119	117	236	121	119	240	97	105	202	80	105	185	
1600-1700	0	0	0	82	101	183	85	98	183	87	104	191	102	120	222	95	109	204	62	89	151	
1700-1800	0	0	0	83	116	199	74	93	167	83	93	176	78	117	195	70	94	164	53	90	143	
1800-1900	0	0	0	58	61	119	55	64	119	66	81	147	71	69	140	54	58	112	52	67	119	
1900-2000	0	0	0	39	44	83	34	35	69	39	31	70	50	51	101	37	53	90	44	47	91	
2000-2100	0	0	0	25	29	54	25	25	50	23	25	48	31	42	73	25	36	61	31	26	57	
2100-2200	0	0	0	28	21	49	17	22	39	22	21	43	30	31	61	30	32	62	28	21	49	
2200-2300	0	0	0	15	13	28	13	9	22	7	15	22	21	21	42	18	22	40	13	17	30	
2300-2400	0	0	0	11	9	20	6	11	17	17	5	8	13	5	13	18	17	16	33	5	11	16
Daily Totals	-	-	-	515	589	1,104	1,217	1,217	2,434	1,174	1,229	2,403	1,442	1,466	2,908	1,313	1,356	2,669	1,095	1,112	2,207	

Ave. Daily Traffic (5 days)	Hour
16.6	0000-0100
9.8	0100-0200
6.8	0200-0300
1.4	0300-0400
2.8	0400-0500
10.4	0500-0600
31.4	0600-0700
95.0	0700-0800
144.6	0800-0900
188.4	0900-1000
204.6	1000-1100
224.6	1100-1200
232.2	1200-1300
209.0	1300-1400
201.2	1400-1500
215.2	1500-1600
169.0	1600-1700
163.0	1700-1800
127.4	1800-1900
84.2	1900-2000
57.8	2000-2100
50.8	2100-2200
31.2	2200-2300
19.4	2300-2400
2,524	

Hour	Mon Aug 18			Tue Aug 19			Wed Aug 20			Thu Aug 21			Fri Aug 22			Sat Aug 23			Sun Aug 24		
	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total	EB	WB	Total
	0000-0100	6	6	12	4	8	12	8	8	16	7	6	13	7	12	19	4	7	11	4	12
0100-0200	6	3	9	2	5	7	4	7	11	1	4	5	9	13	22	5	15	20	4	11	15
0200-0300	3	1	4	1	0	1	1	2	1	1	2	1	2	1	0	1	0	2	2	3	5
0300-0400	1	1	2	1	1	2	1	1	2	2	1	3	1	0	1	1	1	2	2	4	6
0400-0500	0	1	1	0	2	2	0	1	1	1	4	5	2	1	3	0	1	1	0	1	1
0500-0600	5	9	14	3	7	10	4	8	12	5	10	15	7	13	20	4	2	6	7	4	11
0600-0700	18	32	50	17	22	39	28	22	50	17	20	37	14	27	41	6	24	30	4	20	24
0700-0800	57	51	108	53	54	107	43	73	116	46	59	105	52	43	95	50	40	90	40	30	70
0800-0900	97	85	182	115	82	197	99	81	180	115	103	218	102	85	187	80	70	150	53	48	101
0900-1000	117	124	241	112	140	252	110	122	232	104	136	240	109	130	239	104	129	233	97	110	207
1000-1100	130	112	242	131	163	294	139	134	273	120	148	268	109	153	262	111	180	291	114	117	231
1100-1200	168	133	301	156	132	288	159	146	305	161	147	308	125	178	303	126	155	281	123	159	282
1200-1300	149	114	263	164	126	290	154	122	276	128	169	297	129	159	288	157	124	281	132	105	237
1300-1400	129	136	265	137	132	269	146	95	241	128	145	273	141	145	286	127	140	267	119	98	217
1400-1500	116	136	252	151	133	284	143	128	271	117	145	262	158	144	302	109	121	230	118	81	199
1500-1600	136	139	275	112	123	235	128	148	276	145	147	292	153	132	285	126	107	233	85	105	190
1600-1700	137	189	326	129	166	295	124	167	291	115	125	240	146	139	285	114	127	241	72	100	172
1700-1800	136	146	282	108	134	242	117	138	255	122	148	270	118	150	268	92	127	219	72	100	172
1800-1900	73	74	147	64	95	159	77	84	161	70	91	161	64	85	149	71	70	141	71	83	154
1900-2000	49	59	108	47	53	100	38	70	108	64	42	106	45	53	98	36	44	80	46	48	94
2000-2100	34	35	69	36	37	73	53	28	81	45	23	68	33	30	63	29	30	59	29	45	74
2100-2200	13	32	45	39	35	74	27	22	49	36	37	73	32	19	51	29	30	59	15	25	40
2200-2300	14	27	41	19	17	36	25	31	56	24	27	51	42	27	69	41	25	66	10	11	21
2300-2400	9	13	22	10	16	26	10	16	26	13	15	28	16	13	29	20	14	34	5	5	10
Daily Totals	1,603	1,658	3,261	1,611	1,683	3,294	1,638	1,653	3,291	1,587	1,753	3,340	1,615	1,751	3,366	1,442	1,585	3,027	1,225	1,327	2,552

Ave. Daily Traffic ADT	Hour
14.1	0000-0100
12.7	0100-0200
2.9	0200-0300
2.6	0300-0400
2.0	0400-0500
12.6	0500-0600
38.7	0600-0700
98.7	0700-0800
173.6	0800-0900
234.9	0900-1000
265.9	1000-1100
296.4	1100-1200
276.0	1200-1300
259.7	1300-1400
257.1	1400-1500
255.1	1500-1600
264.3	1600-1700
244.0	1700-1800
153.1	1800-1900
99.1	1900-2000
69.6	2000-2100
55.9	2100-2200
48.6	2200-2300
25.0	2300-2400
3,162	

F. Environmental Review of the Meshacket Site for Wildlife Habitat and State Rare Species

3/22/2021

Meshacket Affordable Housing Project

Leddick, Jesse (FWE) <jesse.lednick@state.ma.us>

Mon 3/22/2021 10:43 AM

To: Lucy Morrison <morrison@mvcommission.org>;

Hi Lucy,

I have summarized below my high level, conceptual comments / feedback on the project. Please note that these comments are on a pre-filing basis (e.g., a formal MESA filing is still required), and collectively reflect my prior guidance to you and others during pre-filing consultations for this property / project. Prior to submitting a formal MESA filing, I would recommend submitting a conceptual plan and related impact calculations for our review and approval. I would also be happy to schedule a time to discuss and or clarify these comments if helpful.

This site is currently mapped as Priority Habitat for a suite of state-listed Lepidoptera (moth and butterfly) species. Based on a review of the concept plans previously submitted and the information currently in our database, and in order to avoid a Take of state-listed Lepidoptera species, we would recommend that any proposed project / activity on the property implement the following: a) keep the total acreage of disturbance (the "development envelope") clearly below five (5) acres; b) avoid and minimize impacts to frost bottom habitats, and maintain a small no-disturb buffer (ideally 25ft) between the development envelope's and the edge of frost bottom habitats; c) consolidate the development envelope as much as possible toward Meshacket Road; d) simplify the limit of work (especially on its south and east sides) to the greatest degree practicable; and e) integrate "dark sky" principles to the greatest degree practicable.

Best regards,

Jesse Lednick

Chief of Regulatory Review

Massachusetts Division of Fisheries & Wildlife

1 Rabbit Hill Road, Westborough, MA 01581

Temp Phone: (978) 707-9587 | e: Jesse.Leddick@mass.gov

mass.gov/masswildlife | facebook.com/masswildlife

Important: Our offices are currently closed and all non-essential state employees, including Environmental Review staff, are working remotely. We will respond to your inquiry as quickly as possible. Thank you for your patience. Please visit our website (www.mass.gov/nhesp) for updates.

G. PAL Archaeological Reconnaissance Survey Town of Edgartown



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

May 27, 2021

Arielle Faria
Affordable Housing Committee Administrator
Town of Edgartown
Edgartown Town Hall
70 Main Street, 3rd Floor
Edgartown, MA 02539

RE: AHC-19-30 Affordable Housing, Chapter 40B, 38 Meshacket Road, Map 28, Lot 225, Edgartown, MA. MHC #RC.69460.


Dear Ms. Faria:

Thank you for your inquiry to the Massachusetts Historical Commission (MHC) for the project referenced above. Staff of the MHC have reviewed our files and the information submitted. The proposed project consists of the construction of affordable housing at the address referenced above in Edgartown.

Review of MHC files determined that a Project Notification Form (PNF) was received at this office on March 9, and 15, 2021. MHC did not issue comment or a determination of effect for the project within 30 days (36 CFR 800.3(c)(4); 950 CMR 71.07(2)(f)). No further MHC review is required for the project as proposed.

These comments are provided to assist in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800) and/or Massachusetts General Laws Chapter 9, Sections 26-27C (950 CMR 71). If you have questions or require additional information, please contact me at this office.

Sincerely,


Jonathan K. Patton
Archaeologist/Preservation Planner
Massachusetts Historical Commission

xc: DHCD-HOME

220 Morrissey Boulevard, Boston, Massachusetts 02125
(617) 727-8470 • Fax: (617) 727-5128
www.sec.state.ma.us/mhc

H. Letter from Waste Water Commission



TOWN OF EDGARTOWN

WASTE WATER DEPARTMENT
330 WEST TISBURY ROAD
P.O. BOX 1068
EDGARTOWN, MA 02539

TEL. 508 627-5482
FAX 508 627-5169

March 4, 2021

Arielle Faria
Affordable Housing Committee

RE: Additional Wastewater Capacity set aside for Meshacket Road Affordable Housing Project

At the Regular Meeting of the Wastewater Commission on February 18, 2021 the following motion was APPROVED:

Commissioner Murphy made a motion to grant the Affordable Housing Committee 7,700 gallons of flow per day, to be used within two years; and further, if not used within two years, to return to the Board for an extension; and further, that the staff would issue a letter confirming this decision. Commissioner Ellis provided a second, and Chairman Searle conducted a Roll Call Vote: Mr. Ellis, Aye; Mr. Murphy, Aye; Mr. Searle, Aye.

Please let us know if you have any questions or if we can be of any further assistance in moving this project forward.

Respectfully,

William G. Burke
Facility Manager



TOWN OF EDGARTOWN

WASTE WATER DEPARTMENT
330 WEST TISBURY ROAD
P.O. BOX 1068
EDGARTOWN, MA 02539

TEL. 508 627-5482
FAX 508 627-5189

April 6, 2017

COPY

Mark Hess, Chairman
Town of Edgartown
Affordable Housing Committee
Post Office Box 5158
Edgartown MA 02539-5158

Subject: Affordable Housing Project Pumps
Dedicated to Meshacket Substation

Dear Chairman Hess:

By this letter I attest that the 30-unit affordable housing complex planned for nine acres on Meshacket Road by the Town of Edgartown is part of a comprehensive wastewater management plan for the Edgartown Great Pond Watershed; and further, that the connections required for this project have been reserved by the Board of Waste Water Commissioners for that purpose as the number of tie-ins available in that area approaches build-out, given the current capacity of the Plant and the system.

Very truly yours,



David Thompson
Facilities Manager

Copies: Board of Selectmen
Board of Waste Water Commissioners

MV-2248-1
TOWN OF EDGARTOWN
KATAMA PROJECT
DESIGN DATA

1. Subdivision - Tennis Facility

A. 8 Tennis Courts @ 250 gpd/court =	2000 gpd
B. Pool - 50 person @ 10 gpd/person =	500 gpd
C. Staff Housing 12 bedrooms @ 110 gpd/bedroom	1320 gpd
D. Snack Bar 40 seats @ 10 gpd/seat =	400 gpd
E. Lockers 80 @ 20 gpd/locker =	1600 gpd
F. Office 1000 SF x 75 gpd/1000 sf =	75 gpd
G. 25-Lots - 110 bedrooms x 110 gpd/bedroom	12,100 gpd

SUB TOTAL 17,995 gpd done

2. Dwellings in Edgartown Great Pond Water Shed

A. Immediate 60 bedrooms (15 lots) @ 110 gpd/bedroom =	6600 gpd	<u>done</u>
B. Future		
1. Island Grove 600 bedrooms (150 lots) @ 110 gpd/bedroom =	66,000 gpd	<u>27</u>
2. Road to the Plains 540 bedrooms (135 lots) @ 110 gpd/bedroom =	59,400 gpd	<u>14</u>
3. Llewellyn Way - 100 bedrooms (25 lots) @ 110 gpd/bedroom =	11,000 gpd	<u>5</u>
4. Town Project 40 bedrooms (10 lots) @ 110 gpd/bedrooms =	4400 gpd	<u>10</u>

SUBTOTAL 147,400 gpd (53)

TOTAL 165,395 gpd 5930 gpd
(115 gpm)

25465 gpd