

Board of Selectmen Meeting
Notice & Agenda
June 10, 2020

Notice is hereby given that the Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority will hold a public meeting on Wednesday, June 10, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, there is no physical location for this meeting. It will be held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020. Emails to the Board of Selectmen prior to the meeting may be sent to selectman@westportct.gov. Comments to be read during the public comment portion of the meeting may be emailed to BOScomments@westportct.gov. We will use our best efforts to read public comments if they are received during the public comment period, include your name and are brief; no longer than 3 minutes. Agenda shall include but not be limited to the following (subject to revision):

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting of May 27, 2020 and the Local Traffic Authority's Special Meeting of June 2, 2020.
2. To take such action as the meeting may determine upon the request of the Executive Director of the Westport Library to approve a temporary encroachment agreement for an office container to be installed on the town owned parking area adjacent to the existing Library Annex building for the exclusive use to quarantine book returns.
3. To take such action as the meeting may determine to approve the Agreement between the Town of Westport and MySeniorCenter as it relates to a software program for managing clients, registrations, meals, programming and inventory at the Westport Center for Senior Activities.
4. To take such action as the meeting may determine, upon the request of the Finance Director, to approve the appointment of the Town's Insurance Consultant, Lockton, and the law firm of McAfee & Taft to represent the Town of Westport in a claim for damages due to Oxycontin and Opioids produced by Purdue Pharma, L.P.
5. To take such action as the meeting may determine, upon the request of the IT Director, to approve the Saltbox Platform Services Agreement between the Town of Westport and Vision 33 Inc.
6. To take such action as the meeting may determine to approve the use of town-owned property known as the Imperial Avenue Parking Lot, for a period of time to be determined, for the purposes of organizing a drive-in movie theater as described in the application submitted by the Remarkable Theatre, dated June 4, 2020, and contingent upon compliance with recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways, as amended.
7. Acting in its capacity as the Local Traffic Authority, to take such action as the meeting may determine to review and approve the request to temporarily suspend or extend current parking time limits in certain town-owned parking lots and on certain town roadways, for a period of time to be determined, to allow for increased consumer activity in the downtown area during implementation of phased reopening plans in response to the Covid-19 pandemic.

James S. Marpe
First Selectman

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or eflug@westportct.gov at least three (3) business days prior to the scheduled meeting or event to request an accommodation.

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Public Meeting of May 27, 2020 and the Local Traffic Authority's Special Meeting of June 2, 2020.

Board of Selectmen Meeting
May 27, 2020
DRAFT ACTION MINUTES

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public meeting on Wednesday, May 27, 2020 at 9:00 a.m. Pursuant to the Governor's Executive Order No. 7B, there was no physical location for this meeting. It was held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020 and now available at:

<https://view.earthchannel.com/PlayerController.aspx?&PGD=westportct&eID=1030>

In attendance were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Peter Ratkiewich, Keith Wilberg, Lynn Scully, Bryan Thompson, presenters as noted in the minutes, and Eileen Francis, recording secretary.

MINUTES

1. Jennifer Tooker presented Item #1. There were no revisions. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the minutes of the Board of Selectmen's Public Meeting of May 13, 2020 are hereby APPROVED.

APPROVE REQUEST FOR A WAIVER OF THE POLICY ON ENCROACHMENT ON TOWN PROPERTY FOR ENCROACHMENTS LOCATED AT 192 CROSS HIGHWAY

2. Town Engineer Keith Wilberg and Rob Frangione of Frangione Engineering, LLC, representing the homeowners, presented Item #2. The approved resolution reflects the revision to the original agenda item as described by Assistant Town Attorney Eileen Flug. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the request for a waiver of the Westport Policy on Encroachments on Town Property as it relates to five feet of a Belgian block apron and an existing stone wall located within the town right of way at property known as 192 Cross Highway, contingent upon the homeowners' execution of an encroachment easement to be filed on the Westport Land Records and submission of insurance satisfactory to the Town Attorney's Office, is hereby APPROVED.

APPROVE REQUEST FOR A WAIVER OF THE POLICY ON ENCROACHMENTS ON TOWN PROPERTY FOR 22 VISTA TERRACE

3. Attorney Rosamund A. Koether, representing the homeowners presented Item #3 with input from Town Engineer Keith Wilberg, Public Works Director Peter Ratkiewich and WPCA Collection Systems Supervisor Bryan Thompson. Mr. Ratkiewich requested a condition that the homeowners file a survey with the town indicating the location of the system on town property. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the request for a waiver of the Westport Policy on Encroachments on Town Property as it relates to the location of a dry well, leaching field and a fence located on Town property adjacent to property known as 22 Vista Terrace, contingent upon the homeowners' execution of an

encroachment easement to be filed on the Westport Land Records, submission of insurance satisfactory to the Town Attorney's Office, and submission of an updated survey map, is hereby APPROVED.

APPROVE ENGAGEMENT LETTER BETWEEN TOWN OF WESTPORT AND BLUM SHAPIRO COMPANY, P.C. FOR YEAR-END AUDIT

4. Audit Manager Lynn Scully presented Item #4. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the Engagement Letter between the Town of Westport and Blum Shapiro & Company, P.C. as it relates to the June 30, 2020-year end audit is hereby APPROVED.

APPROVE AWARD OF CONTRACT #20-996T TO QUALIFIED BIDDER GRASSO COMPANIES, LLC

5. Director of Public Works Peter Ratkiewich presented Item #5. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the award of contract for Bid #20-996T, Myrtle Ave Sidewalk Improvements, to Grasso Companies, Inc. in the amount of \$ 219,239.50 is hereby APPROVED.

APPROVE PROPOSED MINIMAL SEWER USE CHARGE AND RATE PER HUNDRED CUBIC FEET

6. Item #6 was presented by WPCA Collection Systems Supervisor Bryan Thompson. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that Acting in its capacity as the Water Pollution Control Authority, the proposed minimal sewer use charge of \$350.00 per assessed property, and a rate of \$6.40 per hundred cubic feet, due and payable July 1, 2020, which shall be applicable to the 2018-2019 fiscal year is hereby APPROVED.

ADJOURNMENT

Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, the meeting adjourned at 10:06 AM.

Eileen Francis
Recording Secretary

Board of Selectmen Special Meeting
June 2, 2020
DRAFT ACTION MINUTES

The Westport Board of Selectmen, acting in its capacity as the Local Traffic Authority (LTA), held a special meeting on Tuesday, June 2, 2020 at 9:00 a.m.

Pursuant to the Governor's Executive Order No. 7B, there was no physical location for this meeting. It was held electronically, live streamed on www.westportct.gov, and broadcast on Westport's Optimum Government Access Channel 79 and Frontier Channel 6020.

In attendance were Jim Marpe, Jennifer Tooker, Melissa Kane, Peter Ratkiewich, Foti Koskinas, Al D'Amura, Sam Arciola, Sara Harris, Nate Gibbons, presenters as noted in the minutes, and Eileen Francis, recording secretary.

<https://view.earthchannel.com/PlayerController.aspx?PGD=westportct&eID=1035>

REVIEW TRUCKING ROUTE PLANS FOR AQUARION WATER TANKS CONSTRUCTION PROJECT ON NORTH AVENUE

There was no vote taken for this agenda item – Discussion/Review only

1. Item #1 was presented by Aquarion Water Company Senior Engineer and Project Manager Mark Fois, AE Company Project Manager Gary Simard. Ombudsman Gail Kelly was in attendance. Additional input was provided by the Westport Police and Public Works Departments. As recommended by Condition #4 of the Planning and Zoning Commission's special permit #17-043, the Board for Selectmen, acting in its capacity as the Local Traffic Authority, reviewed the trucking route plans proposed by the Aquarion Water Company for bringing equipment and materials to the water tank construction site located on North Avenue in Westport.

APPROVE REQUEST TO CLOSE PARKING SPACES ON MAIN STREET TO ALLOW FOR INCREASED PEDESTRIAN ACCESS

Original Item: *To take such action as the meeting may determine to approve the request from the Downtown Merchants Association to close 1) Church Lane on Wednesdays through Saturdays from 10:00 AM to 10:00 PM; and 2) Main Street from Post Road East to Avery Place on Tuesdays, Thursdays, Saturdays and Sundays from 10:00 AM to 6:00 PM, during the time period commencing June 1, 2020 through and including August 31, 2020, contingent upon compliance with comments from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways, as amended due to the Covid-19 pandemic.*

Item #2 was presented by Downtown Merchants Association President Randy Herbertson and David Waldman. Mr. Herbertson asked that, since the plans to close Church Lane continued to be reviewed and analyzed, the item be revised to reflect only the plans for Main Street. A proposed plan for Church Lane was described, but the LTA did not vote on or approve that portion of the original request. The final resolution reflects the consensus of the meeting participants and is an accurate representation of the approved item. Nate Gibbons, Foti Koskinas, Al D'Amura, Peter Ratkiewich contributed their opinions and expertise relative to safety measures and planned construction activity in the downtown area that would impact the proposal. It is

anticipated that the new pedestrian access and elimination of parking spaces will be reviewed periodically and initially on or about 30 days from the date of original implementation. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the request from the Downtown Merchants Association to eliminate parking on Main from Post Road East to Elm Street on Tuesdays, Thursdays, Saturdays and Sundays from 10:00 AM to 6:00 PM, from June 1, 2020 through and including August 31, 2020, contingent upon compliance with all described safety measures and comments from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways, as amended due to the Covid-19 pandemic, is hereby APPROVED.

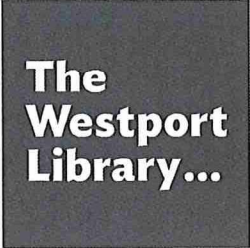
ADJOURNMENT

Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, the meeting adjourned at 11:20 AM.

Eileen Francis
Recording Secretary

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2. To take such action as the meeting may determine upon the request of the Executive Director of the Westport Library to approve a temporary encroachment agreement for an office container to be installed on the town owned parking area adjacent to the existing Library Annex building for the exclusive use to quarantine book returns.



**The
Westport
Library...**

May 28, 2020

Mr. James Marpe
First Selectman, Town of Westport
110 Myrtle Avenue
Westport, CT 06880

Dear Sirs:

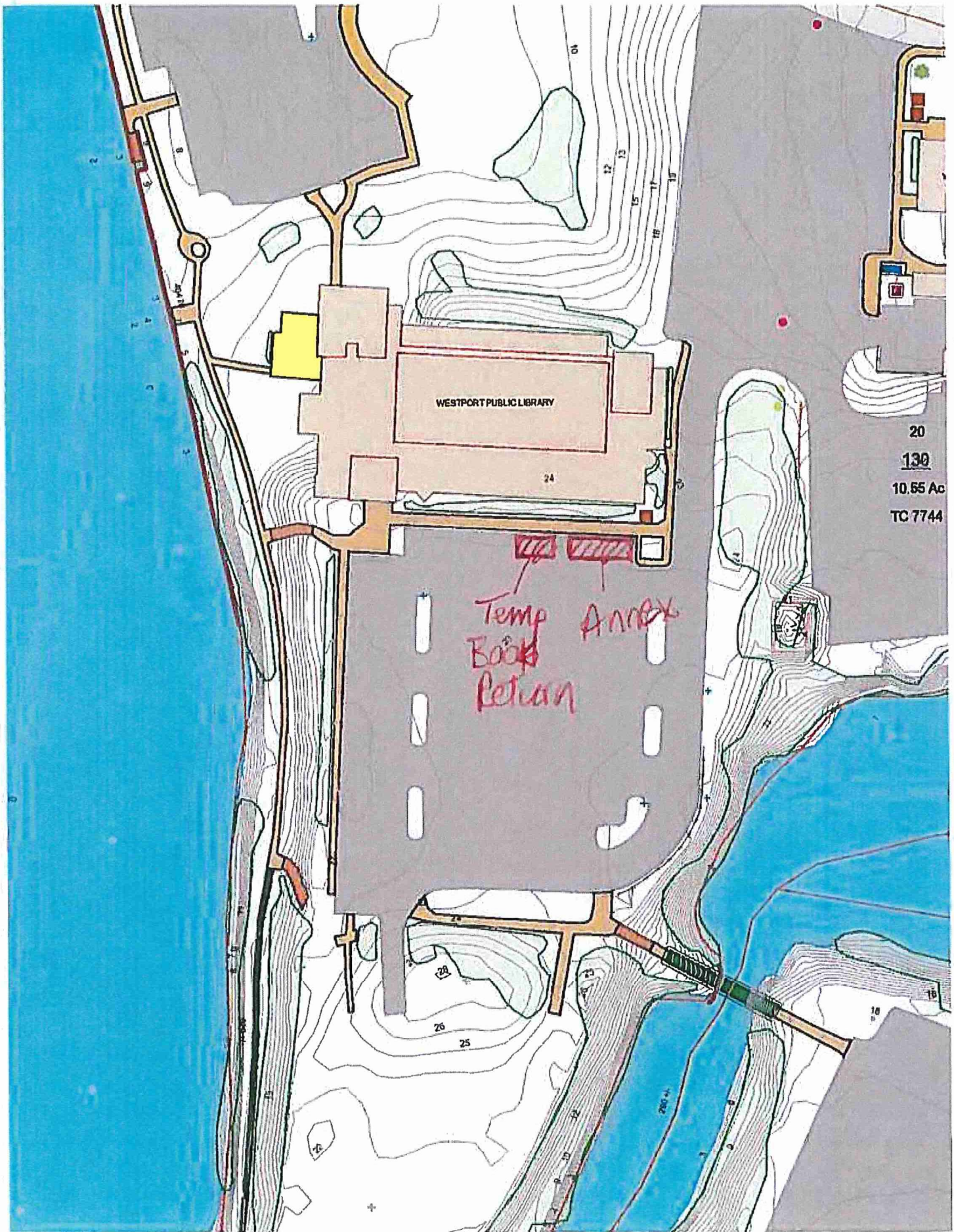
In an effort to address the ongoing challenge of service to our patrons during the COVID 19 Pandemic, which necessitates outdoor service, we are requesting permission to place a temporary office container on the asphalt parking area adjacent to the existing Annex building, and adjacent to the curb at the south side of the Library. The container will be used only for book returns and quarantine and not for office use. Patrons will not be allowed into interior access to the container.

This will consist of a 20 ft x 8 ft ground-level rented office container, which will not impede the flow of traffic or fire dept access. We are requesting a 3-month approval, with the expectation that we will ask for an extension of 3 months as the end of the initial approval approaches, and possibly again depending on the progress of the disruption. When no longer needed, the container will be removed and any damage to asphalt because of the placement of the unit shall be repaired by The Westport Library.

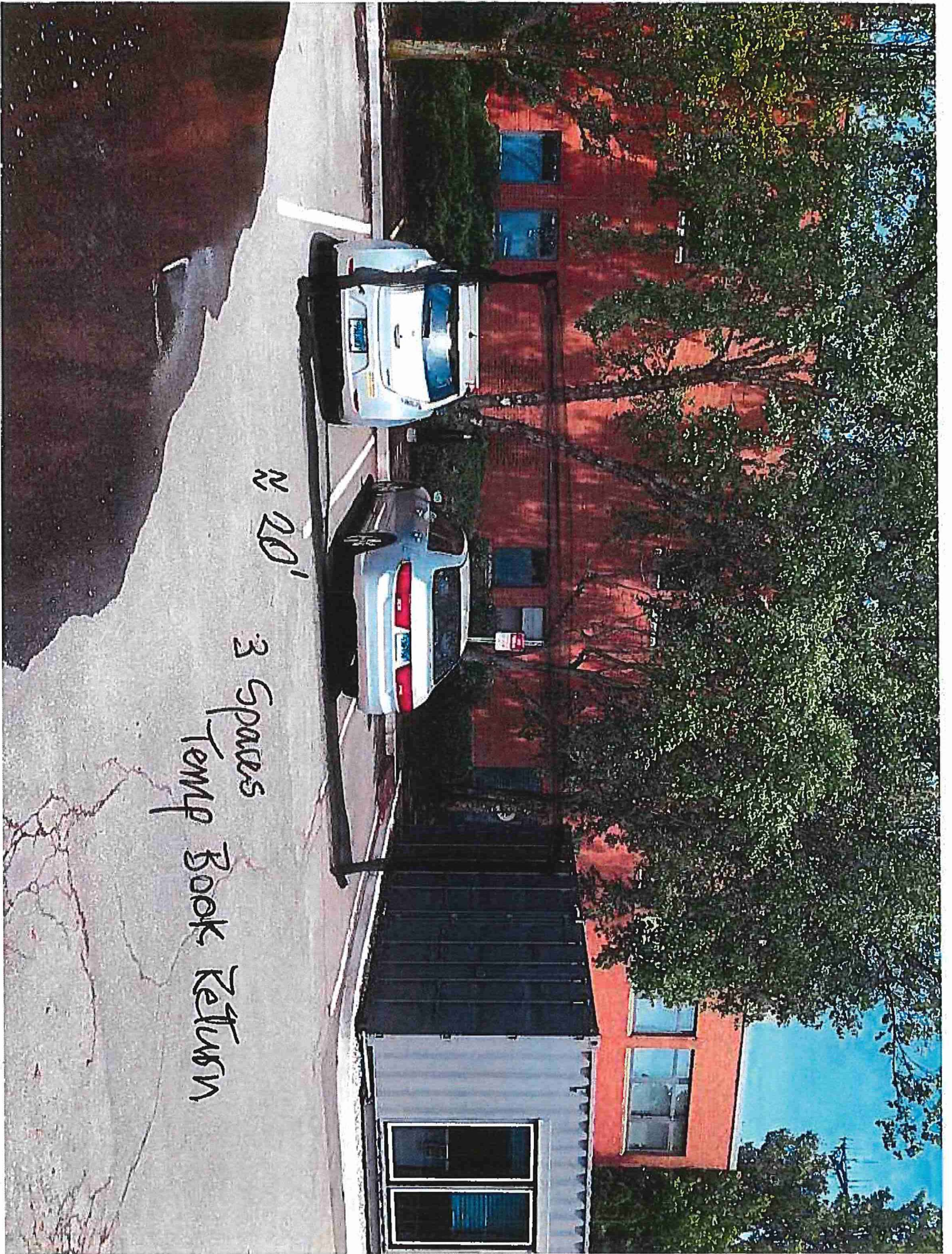
Thank you for your consideration in this matter.

Best Regards,

Bill Harmer
Executive Director



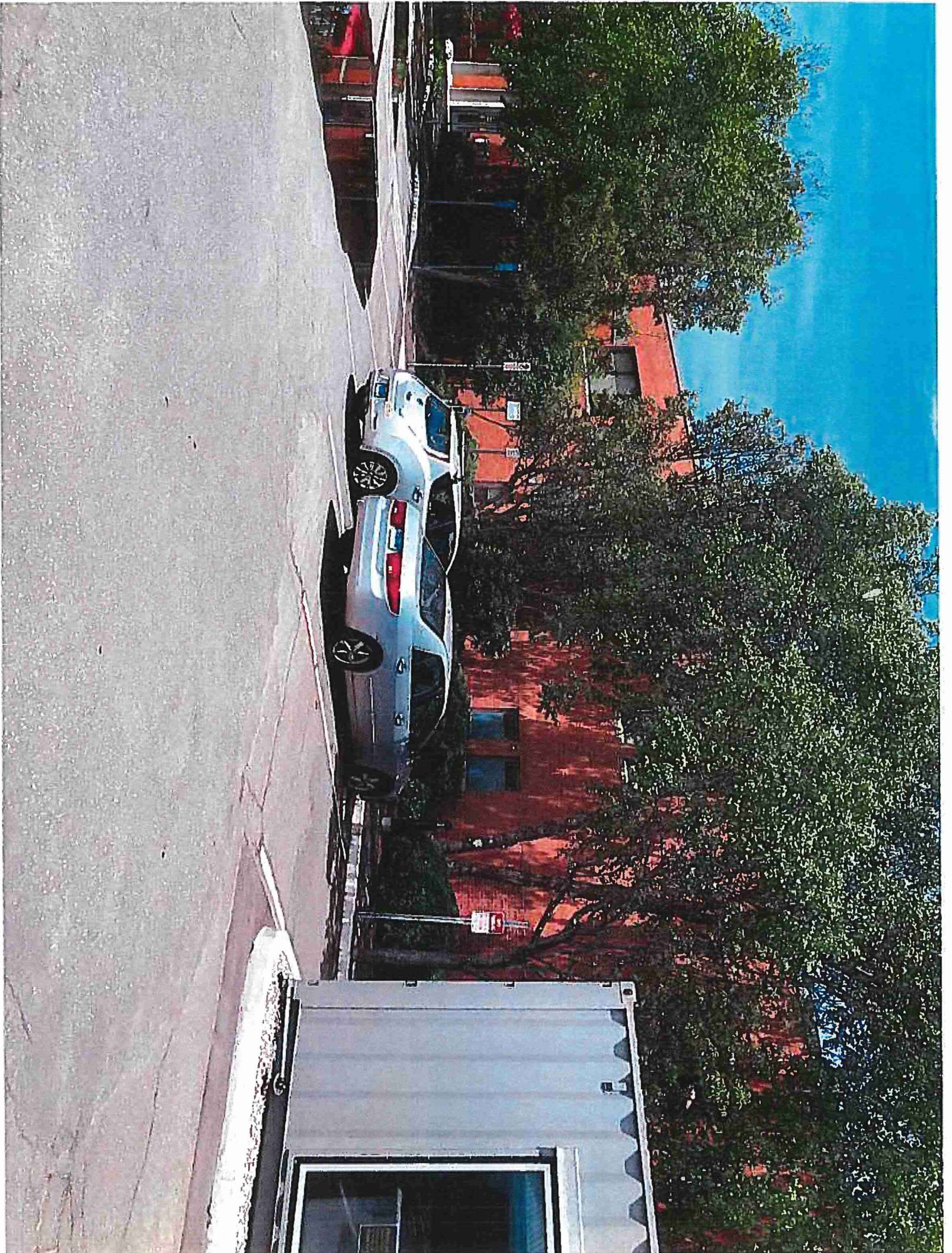
20
130
10.55 Ac
TC 7744



N 20'

3 Spaces

Temp Book Return



TEMPORARY ENCROACHMENT REQUEST
 WESTPORT LIBRARY
 STORAGE UNIT
 SENT FOR COMMENT 06-03-2020
 BOARD OF SELECTMEN AGENDA 06-10-2020

<i>DATE</i>		<i>COMMENTS</i>
06-04-2020	PUB WORKS	<p>I don't have an issue with the request as long as the placement is OK with Fire and PD. Mr. Harmer and I talked about a temporary drop off area a while back. This is part of his book decontamination plan for their re-opening</p> <p>Peter Ratkiewich, P.E. Director of Public Works</p>
	FIRE	
06-04-2020	POLICE	<p>The Police Department has no problem with this request.</p> <p>Thanks, Staff Corporal D'Amura</p>
	P&Z	
06-04-2020	P&R	No comments from P&R
06-04-2020	WWHD	<p>The Westport Weston Health District has no objections.</p> <p>Mark A.R. Cooper, Director of Health</p>
	TOWN ATTY	To prepare Easement
		NOTICE TO PROPERTY OWNER CONFIRMING BOS
		BOARD OF SELECTMEN MEETING
		FOLLOW UP

3. To take such action as the meeting may determine to approve the Agreement between the Town of Westport and MySeniorCenter as it relates to a software program for managing clients, registrations, meals, programming and inventory at the Westport Center for Senior Activities.

Eileen Francis

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WESTPORT CONNECTICUT

DEPARTMENT OF HUMAN SERVICES

Elaine Daignault, M.A., N.C.C.
Director
(203) 341-1165 email: elained@westportct.gov

MEMO

TO: James Marpe, First Selectman

CC: Eileen Flug, Assistant Town Attorney

FROM: Elaine Daignault, DHS Director

DATE: May 27, 2020

RE: Agenda Item for 6/10/2020 BOS meeting

To take such action as the meeting may determine to approve a contract between the Westport Center for Senior Activities and MySeniorCenter. The MySeniorCenter contract will provide the WCSA with a software program to manage clients, registration, meals, programming, and inventory for all WCSA activities.

Xavus Solutions
 PO Box 55071 #30713
 Boston, MA 02205-5071
 5088344113
 tina@myseniorcenter.com



Quote

ADDRESS	SHIP TO	QUOTE # s-090917-6741
Susan Pfister	Susan Pfister	DATE 11/08/2019
Westport Center for Senior Activities	Westport Center for Senior	
21 Imperial Ave	Activities	
Westport, CT 06880	21 Imperial Ave	
United States	Westport, CT 06880	
	United States	

ACTIVITY	QTY	RATE	AMOUNT
MySeniorCenter System Configuration with All in One Computer/Touchscreen and MySeniorCenter Management System and MySeniorCenter Touchscreen application. Includes one omni-directional scanner, one webcam, and 900 standard MySeniorCenter keytags.	1	10,000.00	10,000.00
MySeniorCenter Swipe Station All-in-One - Includes MySeniorCenter Touchscreen Application, Omni-directional scanner and cable	1	4,500.00	4,500.00
Voice Connect PREMIUM 1 year - unlimited calls; allows for Center's number to show on caller id; this is an annual fee	1	150.00	150.00
MySeniorCenter App license for smartphone	1	300.00	300.00
MySeniorCenter Hand-held Scanner with USB cable, MySeniorCenter synchronization software license and one hour of web-based training	1	820.00	820.00
Upgrade initial 900 Standard keytags to color customized keytags	1	450.00	450.00
Color Customized Tags - Quantity 300; brings total number of keytags for this order to 2100	4	220.00	880.00
On site MySeniorCenter application training. (Travel and Expenses Not Included)	1	990.00	990.00
Shipping and handling	1	320.00	320.00
CASCP Member Discount	1	-4,120.00	-4,120.00
	1	0.00	0.00
Annual maintenance fee in subsequent years for the configuration listed above is \$2450 beginning in year 2 (\$1800 for the main system, \$300 for the additional swipe station, \$150 for Voice Connect Premium, \$100 for the handheld scanner and \$100 for the app license). Any changes to the configuration listed above may increase the annual maintenance fee. Maintenance includes updates to the software, access to technical support, nightly database backups and periodic web-based refresher training.			

Please sign and fax back to 508-834-4125 (or scan/email to tina@myseniorcenter.com).

TOTAL

\$14,290.00

Accepted By

Accepted Date

Xavus Solutions LLC PURCHASE and LICENSE TERMS

The following are Xavus Solutions LLC's, terms and conditions of sale and license for hardware and software products. (Products):

GOVERNING TERMS The purchase is subject solely to these Terms and those on the Quote or Estimate that accompanies this contract. No other terms and conditions in addition to, or in conflict with these Terms not separately and specifically executed by both parties as an amendment to these terms shall apply.

ORDERS All orders must be in the form of a valid, unexpired Xavus Solutions LLC Purchase Agreement or Quote signed by Customer and must; a) state the Xavus Solutions LLC part numbers, descriptions and quantities of products purchased b) state the Xavus Solutions LLC quotation number, quotation date and expiration date and that the order is placed pursuant to the terms and conditions of the Xavus Solutions LLC Purchase Agreement, or words of similar effect. (Orders for software customization or Xavus Solutions LLC installation services, must also reference the Xavus Solutions LLC's Statement of Work or Quote for such services) c) be signed by an authorized representative of Customer d) include an initialed or signed Xavus Solutions LLC Purchase and License Terms (this document); Xavus Solutions LLC may reject any non-conforming Order. If Customer organization requires issuance of a Purchase Order in order to process an invoice for payment, then for an Order to be valid it must also include a completed Purchase Order signed by an authorized representative of Customer, stating the terms shown on the Xavus Solutions LLC Purchase Agreement, or words of similar effect.

PRICES All prices are in United States Dollars.

TAXES, FEES, AND OTHER Prices do not include any export fees, duties, OST, Sales, ISO, excise, ad valorem, property, withholding from source income or other taxes of any nature, or other taxes or fees applicable to the sale, use, license, or delivery of the equipment, software or services supplied, all of which are the responsibility of Customer. Incidental IT professional services incurred by the Customer in preparing for the installation of the MySeniorCenter system are outside the scope of this contract and are the responsibility of the Customer.

DELIVERY Equipment sold and software licensed are delivered from Xavus Solutions LLC's manufacturing facility. Shipping fees are listed as a separate line item on the estimate and invoice.

ACCEPTANCE of products delivered and services performed shall be upon delivery unless otherwise agreed. Customer shall provide Xavus Solutions LLC written notice of delivery and acceptance.

MAINTENANCE AND SUPPORT beyond the initial 12-month period shall be available at customer's option. Maintenance and Support fee is **\$2,450.00** per year beginning 12 months from the initial purchase date and due annually on the anniversary of the purchase date. Maintenance and Support for the first 12 months is included unless otherwise specified. Changes to the configuration described on the accompanying estimate may increase the cost of the annual maintenance. Any increases will be clearly specified on future quotes.

Current Maintenance entitles Customer to: technical support (via telephone, email, and web); generally available product updates; database back-up services; and periodic web-based refresher training (open to customers only).

Hardware components are not covered as part of the Xavus Maintenance and Support. Hardware is covered by the manufacturer of the components for the duration of the manufacturer's warranty period. Xavus Solutions requires a 45-day notice of the customer's intent to cancel Maintenance and Support. Customers that cancel maintenance retain ownership of any hardware components but no longer have access to hosted software. All data will be returned at the conclusion of the final Maintenance period. Customers electing to renew after their expiration date may be subject to a reactivation fee.

LICENSES, PERMITS AND EXPORT CONTROL Customer will comply fully with the export control laws and regulations of the United States Government and will indemnify Xavus Solutions LLC for any claims or penalties incurred as a result of any violation of applicable United States laws or regulations.

LIMITED WARRANTY AND DISCLAIMER OF WARRANTY Xavus Solutions does not warranty third party hardware and software and such items are subject to their manufacturers' warranty. Xavus will coordinate its customer's claims for warranty service and support on Xavus Solutions LLC supplied third party products with the manufacturer. Manufacturers' warranty is 1 (ONE) year from date of purchase.

Xavus Solutions LLC Software is warranted to substantially conform to Xavus Solutions LLC's specifications in effect as of the date of shipment under normal use for a period of ninety (90) days from the date of shipment. Xavus Solutions LLC's sole obligation under this warranty, in the event of a non-conformance occurring and reported to Xavus Solutions LLC's service department within the warranty period., is to provide bug fixes, patches, or work-around by access to download or other appropriate method. Xavus Solutions LLC does not warrant that use of the software will be uninterrupted or error free.

Xavus Solutions LLC warrants that services, if any, will be performed with reasonable skill and care and will conform to any agreed to Statement of Work, (SOW). Xavus Solutions LLC's entire obligation for defects in services reported to Xavus Solutions LLC within ten (10) days from completion shall be to perform or re-perform the services.

The foregoing hardware, software and services warranties do not extend to defects or nonconformities from abuse, acts of God, improper use, installation, modifications, or unauthorized maintenance.

THE FOREGOING WARRANTIES REPRESENT XAVUS SOLUTIONS LLC'S SOLE OBLIGATION AND CUSTOMER'S SOLE REMEDY FOR NON-CONFORMANCES. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

The terms and limitations of this warranty represent bargained for provisions agreed to in return for pricing and other terms.

SOFTWARE LICENSE AGREEMENT Xavus Solutions LLC retains all title and ownership of all software, including software customization and software developed for a particular Customer, as well as included firmware. Custom developments shall not be deemed works for hire. All Software is provided to Customer only under the following license terms: Upon payment of the applicable license fee Xavus Solutions LLC grants to the Customer an indivisible, nonexclusive and non-transferable license, without right to sublicense, in the software and firmware, including patches updates and upgrades for its own internal business purposes on the hardware with which the software and firmware is first supplied.

Licensee may only copy the software as reasonably necessary for operation and archival purposes and shall reproduce all proprietary and copyright notices of Xavus Solutions LLC or its licensor which appear. Licensee shall not cause or permit any merger of the software with other computer program material to form a derivative work or otherwise make changes to the software or alter the software in any manner whatsoever and will not attempt or allow any decompilation or reverse assembly of all or any portion of the software. Licensee agrees not to rent or lease the software and that the software is and shall remain the property of Xavus Solutions LLC or its licensors.

This License is terminable in the event of a breach by Customer that is not corrected within fifteen (15) days after notice. Xavus Solutions LLC' licensors shall be entitled to directly enforce the provisions of this software license to the extent a breach relates to such third party software.

Upon license termination the Licensee shall return the software and all copies to Xavus Solutions LLC or upon Xavus Solutions LLC's instructions, destroy the software and all copies and provide to Xavus Solutions LLC a certificate of destruction signed by an officer of Licensee.

FORCE MAJEURE Neither party shall be liable for any loss or damage due to failure or delay arising out of any cause beyond the control, in the exercise of due diligence or without the fault or negligence of such party.

PAYMENT TERMS A 50% deposit is required and the balance is due upon installation. Timely payment by Customer to Xavus Solutions LLC at its principal place of business of all sums due hereunder is a material element hereof. Xavus Solutions LLC may charge the Customer 1.5% interest per month or part on any past due amounts. Customer shall reimburse Xavus Solutions LLC for all reasonable expenses of collection including attorney's fees.

ASSIGNMENT Neither party may assign its rights or obligations hereunder without the other party's consent, which consent shall not be unreasonably withheld.

APPLICABLE LAW These terms shall be governed by the laws of the Commonwealth of Massachusetts. The United Nations Convention for the Sale of Goods shall not apply to any transactions hereunder.

CANCELLATION SCHEDULE Orders accepted by Xavus Solutions LLC are non-cancelable, non-returnable and nonrefundable. All advance payments for delivered products and services are non-refundable. Orders may be rescheduled a single time, no later than 30 days prior to scheduled ship date, for up to forty-five (45) days without charge.

PATENT INFRINGEMENT Xavus Solutions LLC, agrees at its expense, to defend Customer in any suit, claim or proceeding brought against Customer alleging that any equipment or software furnished hereunder directly infringed any U.S. Letters Patent or U.S. copyright, provided Xavus Solutions is promptly notified of any actual or threatened claim, is given all reasonable assistance required, and is given sole control over the defense or settlement of the claim, at Xavus Solutions LLC expense. Xavus Solutions LLC agrees to pay any final judgment rendered in such suit should the use of any equipment or software be enjoined, or in the event that Xavus Solutions LLC desires: to minimize its liability hereunder, Xavus Solutions LLC may fulfill its obligations hereunder by, either substituting fully equivalent non-infringing items, or modifying the infringing item so that it no longer infringes, or by obtaining for Customer, at the expense of Xavus Solutions LLC, the right to continue use of such item. The foregoing states the entire liability of Xavus Solutions for patent or copyright infringement or for any breach of warranty of non-infringing, express or implied. The foregoing indemnity shall not apply to any equipment or software made to the specification or design of Customer or to claims based upon the combination of any equipment or software purchased pursuant to this contract with products or software supplied by Customer or others.

LIMITATION OF LIABILITY XAVUS SOLUTIONS LLC SHALL NOT BE LIABLE FOR BUSINESS INTERRUPTION, LOSS OF DATA, PROFITS OR REVENUE, OR SPECIAL, IN-DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE AND FROM

ANY CAUSE WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER. LEGAL THEORY, EVEN IF XAVUS SOLUTIONS LLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL XAVUS SOLUTIONS LLC BE LIABLE FOR DAMAGES OF ANY KIND IN EXCESS OF THE PRICE PAID FOR THE EQUIPMENT, SOFTWARE AND SERVICES PROVIDED HEREUNDER.

DEFAULT In the event Customer defaults or breaches under the Contract as formed, in addition to all other remedies available to Xavus Solutions LLC at law or equity, Xavus Solutions LLC shall be entitled to recover attorney's fees and costs.

NONDISCLOSURE Each Party shall treat as confidential all Confidential Information of the other Party, shall not use such Confidential Information except as set forth herein, and shall not disclose such Confidential Information to any third party. Examples of Xavus Solutions LLC's Confidential Information include, but are not limited to, product design, marketing plans and pricing. Examples of CUSTOMER's Confidential Information include, but are not limited to, client data that Xavus may encounter in the course of normal customer support operations. This obligation of confidentiality shall remain in effect for three (3) years after the disclosure. Each Party shall promptly notify the other Party of any actual or suspected misuse or unauthorized disclosure of the other Party's Confidential Information.

U.S. GOVERNMENT RESTRICTED RIGHTS NOTICE Distribution and use of products including computer programs and any related documentation and derivative works thereof, to and by the United States Government, are subject to the Restricted Rights provisions of FAR 52.227-19, paragraph (c)(2) as applicable, except for purchases by agencies of the Department of Defense (DOD). If the Software is acquired under the terms of a Department of Defense or civilian agency contract, the Software "commercial item" as that term is defined at 48 C.F.R. 2.101 (Oct. 1995), consisting of-commercial computer software and "commercial computer software documentation" as such terms are used in 48 C.F.R 12.212 of the Federal Acquisition Regulations and its successors and 48 C.F.R 227.7202-1 through 227.7202-4 (June 1995) of the DoD FAR Supplement and its successors. All U.S. Government end users acquire the Software with only those rights set forth in this Agreement. Manufacturer is Xavus Solutions LLC, Boston, MA.

VALIDITY Should any provision of these terms be found illegal or unenforceable in any respect, such illegality or unenforceability shall not affect the validity any other provision of this terms.

ARBITRATION Any dispute arising in respect of those terms shall be referred to arbitration conducted in Boston, MA under the rules of the American Arbitration Association. The award rendered in such arbitration will be final and binding and may be enforced in any court of competent jurisdiction. Each party shall bear its own costs incurred in the arbitration action. Notwithstanding the provisions of this section, any party may seek injunctive relief in any court of competent jurisdiction in order to protect its proprietary and confidential information and to enforce or obtain compliance with the scope of rights and licenses granted under these terms without first submitting, such claim to arbitration.

Quote #: s-090917-6741

Westport Center for Senior Activities
Sue Pfister
21 Imperial Avenue
Westport, CT 06880

Customer Signature: _____

Customer Title: _____

Date: _____

Sales Tax Exempt # _____
(required if applicable)

Please also attach or mail a copy of Sales Tax Exempt Certificate.

4. To take such action as the meeting may determine, upon the request of the Finance Director, to approve the appointment of the Town's Insurance Consultant, Lockton, and the law firm of McAfee & Taft to represent the Town of Westport in a claim for damages due to Oxycontin and Opioids produced by Purdue Pharma, L.P.



WESTPORT CONNECTICUT

FINANCE DEPARTMENT

110 MYRTLE AVENUE - ROOM 313
WESTPORT, CONNECTICUT 06880

June 2, 2020

To: The Honorable James S. Marpe

Re: Approval Purdue Bankruptcy Representation – OPIOD Settlement

This is to request the Board's review and approve the appointment of Lockton (Town's Insurance Consultant) and the law firm of McAfee & Taft to represent the Town in a claim for damages because of OxyContin and Opioid's produced by Purdue Pharmaceutical.

Regards,

A handwritten signature in black ink, appearing to read "Gary G. Conrad".

Gary G. Conrad
Finance Director

Cc: Ralph Chetcuti
Eileen Lavigne Flug
Michele Mace
Sheila Carey



UNCOMMONLY INDEPENDENT

PURDUE PHARMA, INC.

OUTLINE AND TALKING POINTS

1. Overview:

In September 2019, Purdue Pharma, Inc. ("Purdue") filed for protection under the bankruptcy laws in the State of New York. As a result of this process, it is estimated that the bankruptcy assets to be distributed to the qualifying creditors of Purdue will exceed \$10 billion. The creditor groups are expected to include individuals who claim to have been damaged or injured as a result of the sale of OxyContin and other opioids manufactured by Purdue. In addition, the other creditor lists include hospitals, Native American groups, third-party payers and employer sponsored health plans like those represented by Lockton.

Recently the bankruptcy judge in charge of the Purdue bankruptcy issued an order which requires all "potential" creditors to make certain court filings on their own behalf by June 30, 2020. If a potential creditor does not follow these procedures as outlined by the Bankruptcy Court, we believe they will lose all rights to make any claims against the \$10 billion bankruptcy asset of Purdue.

2. Administrative Bankruptcy Steps:

In order for potential creditors to qualify and be in line to receive proceeds from the Purdue bankruptcy assets, each of the creditors must take two affirmative steps. These steps include filing an initial Proof of Claim with the Bankruptcy Court and submitting certain specific information (plan name, TIN and employer consent etc.) which outlines their claim to a portion of the Purdue assets.

This filing must be done no later than June 30, 2020 as outlined by the Purdue Bankruptcy Court.

Later in the bankruptcy process, the Bankruptcy Court will request additional information and ask each of the potential creditors to provide specific information regarding the damages caused to the creditor by Purdue's actions. As an example, in a prior bankruptcy matter the bankruptcy court requested information regarding the number of opioid pills a creditor purchased during a 4 year period. If the Purdue court follows this same process this will require that we work with the PBM of each employer health plan to obtain the information as requested by the Bankruptcy Court - this is relatively easy for the PBM. However, the actual required information has not yet been disclosed by the Purdue court at this time and probably won't be requested until later this year

3. Lockton's Role:

In order to stay on top of this Purdue bankruptcy matter Lockton has been working with the law firm of McAfee & Taft and NexClaim, a national subrogation company. McAfee & Taft is a law firm of over 170 lawyers who have previously filed a class action lawsuit on behalf of all self-insured health plans against certain manufacturers and distributors of opioids. As a result, they have been involved in the opioid matter for over a year and a half and have also been actively involved in the Purdue bankruptcy matter. Their legal expertise and experience in this specific matter we believe will bring value to our Lockton clients.



NexClaim is a nationwide healthcare subrogation company who already provides subrogation services to many of our Lockton clients. NexClaim and McAfee & Taft have teamed up in order to provide a collective service on behalf of our employer sponsored self-funded health plans clients that need to take proactive steps in this Purdue matter. It is anticipated that McAfee & Taft would handle the legal aspects of the bankruptcy matter including submitting the proof of claim and handle any legal issues that might arise in the Purdue Bankruptcy as it relates to the Lockton clients to ensure that the Lockton client's rights are protected.

Likewise, NexClaim would handle any and all of the administrative requirements as set forth by the Bankruptcy Court and would work directly with our Lockton representatives and the PBMs who are involved with our employers' self-funded plan clients so they would have very little, if any, disruption in this matter. We believe the combined efforts of McAfee & Taft, NexClaim and Lockton would provide a service that others in our industry are not currently pursuing and we believe it is important that our clients' interest be protected given the size of the Purdue bankruptcy assets.

4. Payment Structure:

Fees for these services will be based on a contingency fee arrangement; therefore, they will only be paid if and when our clients receive proceeds from the Purdue bankruptcy. The contingency fee is 30% of the client's recovery in the Purdue bankruptcy and will be paid directly to McAfee & Taft and NexClaim. However, because Lockton would be assisting them in obtaining and working with the PBMs of our clients, McAfee & Taft and NexClaim will pay Lockton 5% of the 30% fee.

We hope this outline provides you a good summary of the proposed process in the Purdue bankruptcy and the importance of our being proactive in this matter on behalf of our clients. Should additional questions arise, we will be glad to address them and, if necessary, hold a conference call and discuss.

Conrad, Gary G.

From: Conrad, Gary G.
Sent: Wednesday, May 13, 2020 2:51 PM
To: Ritter, Jillian; Chetcuti, Ralph
Cc: Gabriele, Jessica; Hasselman, Tim; Testa, Debra
Subject: RE: Perdue Pharma \$10+ Billion Bankruptcy Settlement

I spoke with our Town attorneys and we feel it is best if Lockton guides us through the litigation with your partnerships.

From: Ritter, Jillian <jritter@lockton.com>
Sent: Wednesday, May 13, 2020 12:45 PM
To: Conrad, Gary G. <GCONRAD@westportct.gov>; Chetcuti, Ralph <rchetcuti@westportct.gov>
Cc: Gabriele, Jessica <JGabriele@lockton.com>; Hasselman, Tim <THasselman@lockton.com>; Testa, Debra <DTesta@lockton.com>
Subject: Perdue Pharma \$10+ Billion Bankruptcy Settlement

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Gary & Ralph,

As you are likely aware, Purdue Pharma has set aside a \$10+ Billion settlement distribution with the court which is tied to their bankruptcy filing. This compensation is for those who may have been harmed by their drugs, primarily Oxycontin. The courts have decided that eligible claimants for this fund would include individuals, municipalities, tribes, insurers and self-funded plan sponsors such as your organization. For a self-funded plan, the court will identify the pool of potential creditors and the number of scripts filled by those creditors will be the "denominator" to calculate what % of the settlement should be allocated to each creditor. Municipalities also have the right to request compensation based on expenses incurred for public safety measures. The court has assigned a registration deadline of June 30, 2020 for any claimant against this distribution, claims filed after that date will not be considered. We are sure that you may already be working on this filing with your legal counsel and/or other municipalities.

In the event that you would like assistance with this filing, Lockton has partnered with a law firm and a third party subrogation firm who can assist our clients in the filing process and the gathering of all key documentation related to client claims against this distribution. Through our partners, Lockton is prepared to assist you in your registration and filing of claim against this fund. Let us know if you have questions/concerns or would like to discuss.

Thanks,
Jillian

Jillian Ritter
Account Executive
Lockton Companies

Office 860.678.4044
Mobile 860.977.5310
76 Batterson Park Rd, Farmington, CT 06032

Conrad, Gary G.

From: Conrad, Gary G.
Sent: Wednesday, May 13, 2020 3:32 PM
To: Flug, Eileen
Subject: FW: Perdue Pharma \$10+ Billion Bankruptcy Settlement
Attachments: PURDUE PHARMA Representation Agreement.docx; PURDUE PHARMA Bankruptcy Talking Points.docx

From: Ritter, Jillian <jritter@lockton.com>
Sent: Wednesday, May 13, 2020 3:24 PM
To: Conrad, Gary G. <GCONRAD@westportct.gov>; Chetcuti, Ralph <rchetcuti@westportct.gov>
Cc: Gabriele, Jessica <JGabriele@lockton.com>; Hasselman, Tim <THasselman@lockton.com>; Testa, Debra <DTesta@lockton.com>
Subject: RE: Perdue Pharma \$10+ Billion Bankruptcy Settlement

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Gary,

Lockton has partnered with the law firm of McAfee and Taft and the third party subrogation firm NexClaim who can assist our clients in the filing process and the gathering of all key documentation related to client claims against this distribution. McAfee & Taft have agreed to work entirely on contingency basis at the rate of 30% of recoveries (Lockton to receive 5%). As this is a bankruptcy distribution rather than a class action lawsuit, there will be no other representation involved in your claims against this distribution.

Through our partners, Lockton is prepared to assist you in your registration and filing of claim against this fund. Attached to this email you will find talking points as well as an agreement to contract with McAfee & Taft. If the Town wants to proceed, please complete the attached agreement and we will move it forward.

Let us know if you have questions/concerns.

Thanks!
Jillian

Jillian Ritter
Account Executive
Lockton Companies

Office 860.678.4044
Mobile 860.977.5310
76 Batterson Park Rd, Farmington, CT 06032

From: Conrad, Gary G. <GCONRAD@westportct.gov>
Sent: Wednesday, May 13, 2020 2:51 PM
To: Ritter, Jillian <jritter@lockton.com>; Chetcuti, Ralph <rchetcuti@westportct.gov>

REPRESENTATION AGREEMENT

_____ (the "Plan") would like to retain McAfee & Taft to assist the Plan in recovering a potential claim it has against Purdue Pharma, Inc in Purdue's bankruptcy. The representation would be limited to this Purdue bankruptcy matter only. McAfee & Taft will file the necessary legal documents (including the Proof of Claim) on behalf of the Plan and will take all reasonable efforts to collect any payment that is due the Plan under the Purdue bankruptcy. The Plan agrees to pay McAfee & Taft thirty percent of the total recovery the Plan receives from this Purdue bankruptcy matter. The Plan also understands and agrees that McAfee & Taft is representing other clients in connection with this Purdue bankruptcy.

Both parties have agreed to these terms effective as of the date below.

MCAFEE & TAFT

PLAN

By: Richard D. Nix, Vice President

By: James S. Marpe First Selectman
Town of Westport Health Plan

Tax ID Number: 06-6002128

Dated: _____, 2020

5. To take such action as the meeting may determine, upon the request of the IT Director, to approve the Saltbox Platform Services Agreement between the Town of Westport and Vision 33 Inc.



SALTBOX PLATFORM SERVICES AGREEMENT

This Saltbox Platform Services Agreement (the “*Agreement*”) is entered into as of June 4, 2020 (the “*Effective Date*”) by and between Vision33 Inc., a Delaware corporation with offices at 6 Hughes, Suite #220, Irvine, California 92618 (“*Vision33*”) and The Town of Westport incorporation with offices at 110 Myrtle Ave, Westport CT 06880, USA (“*Customer*”).

WHEREAS, Customer wishes to be granted, and Vision33 has agreed to provide Customer, access to and use of the Saltbox Platform Services subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions and Interpretation.

- a. “*Aggregated Statistics*” has the meaning given in Section 2.d.
- b. “*Authorized User*” means Customer and Customer’s employees, consultants, contractors, and agents:
(i) who are authorized by Customer to access and use the Saltbox Platform Services under the rights granted to Customer pursuant to this Agreement; and (ii) for whom access to the Saltbox Platform Services has been purchased from Vision33 pursuant to this Agreement.
- c. “*Customer Data*” means, other than Aggregated Statistics, information, data, and any other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or any other Authorized User to the Saltbox Platform Services.
- d. “*Order Form*” means any Vision33 order form for Saltbox Platform Services signed by Vision33 and Customer, including details on pricing, payment terms and subscription term, as amended or supplemented from time to time.
- e. “*Saltbox Documentation*” means Vision33’s standard end user documentation relating to the Saltbox Platform Services accessible through a website operated by Vision33 which may include but is not limited to user manuals, operating instructions, handbooks, guides and release notes, each as updated by Vision33 from time to time.
- f. “*Saltbox Platform Services*” means the cloud-based integration and application platform service made available by Vision33 to Customer online and via a mobile application.
- g. “*Saltbox Platform Services Initial Term*” has the meaning given in Section 14.a.
- h. “*Saltbox Platform Services Renewal Term*” has the meaning given in Section 14.a.
- i. “*Saltbox Platform Services Term*” has the meaning given in Section 14.a.
- j. “*Subscription Fees*” means the subscription fees payable by Customer to Vision33, as set forth in the applicable Order Form, which will entitle Authorized Users to access and use the Saltbox Platform Services and the Saltbox Documentation in accordance with this Agreement.
- k. “*Third-Party Services*” means any services, products, content, information, applications, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Saltbox Platform Services.

1. “*Vision33 IP*” means the Saltbox Platform Services, the Saltbox Documentation, and all intellectual property provided to Customer or any other Authorized User in connection with the foregoing. For the avoidance of doubt Vision33 IP includes Aggregated Statistics and any information, data, or other content derived from Vision33’s monitoring of Customer’s access to or use of the Saltbox Platform Services, but does not include Customer Data.

Any capitalized terms not defined in this Section 1 have the meaning given in any other part of this Agreement.

2. Access and Use.

- a. Provision of Access. Subject to Customer’s and other Authorized Users’ compliance with the terms and conditions of this Agreement, Vision33 grants Customer a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to access and use the Saltbox Platform Services during the Saltbox Platform Services Term solely for use by Authorized Users for Customer’s internal business operations. Vision33 will provide Customer the necessary passwords and access credentials to allow Authorized Users to access the Saltbox Platform Services.
- b. Saltbox Documentation License. Subject to the terms and conditions contained in this Agreement, Vision33 grants Customer a non-exclusive, non-sublicensable, non-transferable license for Authorized Users to use the Saltbox Documentation during the Saltbox Platform Services Term solely for Customer’s internal business operations in connection with use of the Saltbox Platform Services.
- c. Use Restrictions. Customer shall not, and shall not permit any Authorized Users to, use the Saltbox Platform Services, any software component of the Saltbox Platform Services, or the Saltbox Documentation for any purposes beyond the scope of the access granted under this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Saltbox Platform Services, any software component of the Saltbox Platform Services, or the Saltbox Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, include in a service bureau or outsourcing offering, or otherwise make available the Saltbox Platform Services or the Saltbox Documentation except as expressly permitted under this Agreement; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Saltbox Platform Services, in whole or in part; (iv) remove any proprietary notices from the Saltbox Platform Services or the Saltbox Documentation; (v) use the Saltbox Platform Services or the Saltbox Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law, regulation, or rule; (vi) use the Saltbox Platform Services to store or transmit any code, files, scripts, agents or programs intended to do harm, including, but not limited to, viruses, worms, time bombs and Trojan horses; or (vii) use the Saltbox Platform Services or the Saltbox Documentation for any fraudulent, offensive, or obscene activity, or in a manner that violates any policies, guidelines, standards and requirements relating to the Saltbox Platform Services or the Saltbox Documentation that may be posted online by Vision33 from time to time.
- d. Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Vision33 may monitor Customer’s use of the Saltbox Platform Services and collect and compile data and information related to Customer’s use of the Saltbox Platform Services to be used by Vision33 in an aggregated and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Saltbox Platform Services (“*Aggregated Statistics*”). As between Vision33 and Customer, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Vision33. Customer agrees

that Vision33 may make Aggregated Statistics publicly available and use Aggregated Statistics for the purpose of providing, improving or publicizing Vision33's products and services and for other business purposes, in each case to the extent and in the manner permitted under applicable law.

- e. Reservation of Rights. Vision33 reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Vision33 IP.
- f. Suspension. Notwithstanding anything to the contrary in this Agreement, and in addition to any other remedies available under this Agreement or at law or in equity, Vision33 may temporarily suspend Customer's and any other Authorized User's access to any portion or all of the Saltbox Platform Services if: (i) Vision33 reasonably determines that: (A) there is a threat or attack on any of the Vision33 IP; (B) Customer's or any other Authorized User's use of the Vision33 IP disrupts or poses a security risk to the Vision33 IP or to any other customer or vendor of Vision33; (C) Customer or any other Authorized User is using the Vision33 IP in a manner prohibited by this Agreement or for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Vision33's provision of the Saltbox Platform Services to Customer or any other Authorized User is prohibited by applicable law; (ii) any vendor of Vision33 has suspended or terminated Vision33's access to or use of any third party services or products required to enable Customer to access the Saltbox Platform Services; or (iii) in accordance with Section 6.a. (any such suspension described in subsection 2.f.(i), (ii), or (iii), a "***Saltbox Service Suspension***"). Vision33 will use commercially reasonable efforts to provide written notice of any Saltbox Service Suspension to Customer and to provide updates regarding resumption of access to the Saltbox Platform Services following any Saltbox Service Suspension. Vision33 will use commercially reasonable efforts to resume providing access to the Saltbox Platform Services as soon as reasonably possible after the event giving rise to the Saltbox Service Suspension is cured. Vision33 will have no liability for any damages, liabilities, losses, or any other consequences that Customer or any other Authorized User may incur as a result of a Saltbox Service Suspension.
- g. Open Source Components. Customer acknowledges that the Saltbox Platform Services may include open source components and that any use of such open source components by Customer is subject to and governed solely by the terms and conditions of the applicable open source license agreements. Notwithstanding anything to the contrary in this Agreement, Vision33 provides no warranty or indemnity with respect to such open source components.

3. Customer Responsibilities.

- a. Account Use. Customer is responsible and liable for all uses of the Saltbox Platform Services and the Saltbox Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the preceding sentence, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized Users' use of the Saltbox Platform Services and the Saltbox Documentation, and shall cause all Authorized Users to comply with such provisions.
- b. Customer Data. Customer grants to Vision33 a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display Customer Data and perform all acts with respect

to Customer Data as may be necessary for Vision33 to provide the Saltbox Platform Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics. Customer will ensure that Customer Data and any Authorized User's use of Customer Data will not violate the terms of this Agreement or any policy referenced in or incorporated into this Agreement or any applicable law. Customer is solely responsible for the accuracy, quality, integrity, development, content, operation, maintenance, and use of Customer Data.

- c. Passwords and Access Credentials. Customer is responsible for keeping its passwords and access credentials associated with the Saltbox Platform Services secure and confidential. Customer shall not sell or transfer such passwords and access credentials to any other person or entity. Customer shall promptly notify Vision33 about any unauthorized access to such passwords or access credentials.
- d. Customer's Network and Systems. Customer shall ensure that its network and systems comply with the relevant specifications for accessing the Saltbox Platform Services as set forth in the Saltbox Documentation. Customer shall be, to the extent applicable and permitted by law, solely responsible for: (i) procuring, maintaining and securing its network connections and telecommunications links from its systems to the Saltbox Platform Services; and (ii) all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Customer's network connections or telecommunications links or caused by the internet.

4. Third-Party Services.

- a. Independent Relationship. The Saltbox Platform Services may permit access to Third-Party Services procured by Customer from a third party provider. Vision33 assumes no responsibility for, and specifically disclaims, any liability or obligation with respect to such Third-Party Services. Customer's relationship with such Third-Party Services and any terms governing Customer's payment for, and use of, such Third-Party Services, including the collection, processing and use of Customer Data by such Third-Party Services, are subject to a separate contractual arrangement solely between Customer and the provider of such Third-Party Services. Vision33 is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by such Third-Party Services. Vision33 does not warrant or support Third-Party Services, whether they are designated by Vision33 as "certified" or otherwise.
- b. Integration with Third-Party Services. The Saltbox Platform Services may contain features designed to interoperate with Third-Party Services. If the provider of such Third-Party Services ceases to make such Third-Party Services available for interoperation with the corresponding Saltbox Platform Services features in a manner acceptable to Vision33, then Vision33 may cease providing those Saltbox Platform Services features without entitling Customer to any refund, credit, or other compensation.

- 5. Support. Vision33 will provide standard technical support for the Saltbox Platform Services to Customer at no additional charge, and upgraded technical support if purchased separately by Customer. All technical support requests will be submitted by Customer via email to: support@vision33.com. Vision33 will use commercially reasonable efforts to respond promptly to all such technical support requests during Vision33's normal business hours.

6. Subscription Fees.

- a. Invoicing and Payment. In consideration of providing access to the Saltbox Platform Services and the Saltbox Documentation, Customer will pay to Vision33 the Subscription Fees. The Subscription Fees will be invoiced by Vision33 and paid by Customer in advance in accordance with the payment terms

set forth in the applicable Order Form. Except as otherwise specified in this Agreement, all Subscription Fees are non-refundable and not subject to set-off or deduction by Customer. If any invoice is not paid when due, Vision33, without waiving any other rights or remedies to which it may be entitled, may: (i) charge interest on the unpaid amounts at the rate of two percent (2%) per month or the maximum rate permitted by law, whichever is lower; and (ii) suspend, in accordance with Section 2.f., Customer's and any other Authorized User's access to any portion or all of the Saltbox Platform Services until such amounts, including interest, are paid in full. All Subscription Fees and other amounts payable to Vision33 under this Agreement do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which will be the sole responsibility of Customer (excluding any taxes, statutory withholdings or deductions based on, or with respect to, Vision33's net income or personnel). Customer agrees that its order of Saltbox Platform Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Vision33, including any roadmaps, with respect to future functionality or features.

- b. Fee Increases. Vision33 shall be entitled to increase the Subscription Fees at the start of each Saltbox Platform Services Renewal Term upon sixty (60) days' prior written notice to Customer. In the event of any such fee increase, Customer may terminate this Agreement upon written notice provided to Vision33 at least thirty (30) days prior to the start of the applicable Saltbox Platform Services Renewal Term. Not raising the Subscription Fees for a given Saltbox Platform Services Renewal Term shall not be a waiver of Vision33's right to do so for subsequent Saltbox Platform Services Renewal Terms.
- c. Increasing Authorized Users. Customer may purchase an increase to the number of Authorized Users at any time during the Saltbox Platform Services Initial Term or a Saltbox Platform Services Renewal Term by executing an additional Order Form which will become an integral part of the original Order Form. The subscription term for such additional Authorized Users will be coterminous with the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term, irrespective of the effective date of the additional Order Form. The fees for the increase to the number of Authorized Users will be prorated accordingly to reflect the remaining period of the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term. Any increase to the number of Authorized Users during the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term will continue to apply for each subsequent Saltbox Platform Services Renewal Term, except as otherwise reduced in accordance with Section 6.d. below.
- d. Reducing Authorized Users. Customer may reduce the number of Authorized Users set forth in an Order Form as originally executed or as increased as set out in Section 6.c. above by providing written notice of the reduction to Vision33 at least thirty (30) days prior to expiration of the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term. Any such reduction will take effect on commencement of the next following Saltbox Platform Services Renewal Term. For the avoidance of doubt, this means Customer is not entitled to reduce the Subscription Fees during the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term.

- 7. Confidential Information. From time to time during the Saltbox Platform Services Term, Vision33 and Customer may disclose or make available to the other party information about its business affairs, products, services, pricing, confidential intellectual property, third party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving

party; (c) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (d) independently developed by the receiving party. The receiving party will not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees, agents, or subcontractors who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder and who are required to protect the Confidential Information in a manner no less stringent than required under this Agreement. Notwithstanding the foregoing, each party may disclose the other party's Confidential Information to the limited extent required: (i) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall, unless prohibited by law, first have given written notice to the other party so that the other party may seek a protective order; or (ii) to establish a party's rights under this Agreement, including to make required court filings. Each party's obligations of non-disclosure with regard to Confidential Information are effective as of the date such Confidential Information is first disclosed to the receiving party and will expire three (3) years thereafter.

8. Data Security. Vision33 will maintain and enforce an information security program for the protection of Customer Data, including commercially reasonable administrative, physical, and technical measures designed to: (a) protect the confidentiality, availability and integrity of Customer Data; (b) restore the availability of Customer Data in a timely manner in the event of a physical or technical incident; and (c) ensure the proper disposal and destruction of Customer Data. Vision33 will notify Customer, as required by applicable law, of any actual or reasonably suspected breach of security known to Vision33 that has resulted in, or creates a reasonable risk of, unauthorized access to Customer Data without undue delay, consistent with the legitimate needs of law enforcement and with any measures necessary to determine the scope of the breach.
9. Privacy Policy. Vision33 complies with its privacy policy available at www.vision33.com ("**Privacy Policy**") in providing the Saltbox Platform Services. The Privacy Policy is subject to change by Vision33 from time to time. By accessing, using, and providing Customer Data to or through the Saltbox Platform Services, Customer acknowledges that it has reviewed and accepted the Privacy Policy, and Customer consents to all actions taken by Vision33 with respect to Customer Data in compliance with the then-current version of the Privacy Policy.
10. Intellectual Property Ownership; Feedback. Except for the limited rights and licenses expressly granted under this Agreement, as between Vision33 and Customer: (a) Vision33 owns all right, title, and interest, including all intellectual property rights, in and to the Vision33 IP; and (b) Customer owns all right, title, and interest, including all intellectual property rights, in and to Customer Data. Customer grants to Vision33 and its affiliates a worldwide, transferable, perpetual, irrevocable, royalty-free license to use and incorporate into their products and services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or other Authorized Users to Vision33 relating to the Saltbox Platform Services.
11. Warranty.
 - a. Mutual Warranties. Each party represents and warrants that: (i) it has the full corporate right, power and authority to enter into this Agreement and to perform its obligations hereunder; and (ii) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation of such party, enforceable against it in accordance with its terms.
 - b. Additional Vision33 Warranty. Vision33 warrants that the Saltbox Platform Services will perform substantially in accordance with the applicable Saltbox Documentation. This warranty will not apply to the extent of any non-performance which is non-material or caused by use of the Saltbox Platform Services contrary to the Saltbox Documentation or Vision33's instructions, or modification or alteration of the Saltbox Platform Services by any person other than Vision33. In the event of breach of this warranty and Vision33 does not cure or correct the non-performance within thirty (30) days

following receipt of Customer's written notice of the breach, Customer may terminate this Agreement, as it relates to the non-performing Saltbox Platform Services, and Vision33 will refund any prepaid Subscription Fees relating to the non-performing Saltbox Platform Services for the remainder of the Saltbox Platform Services Initial Term or the then-current Saltbox Platform Services Renewal Term, as the case may be. Such termination and refund constitute Customer's sole and exclusive remedy for any breach of the warranty in this Section 11.b. Except for the warranty explicitly set forth in this Section 11.b., Vision33 makes no warranties or representations of any kind, whether oral, written, express, implied, or arising by statute, custom, course of dealing, or trade usage, with respect to the Saltbox Platform Services. Vision33 specifically disclaims any and all implied warranties or conditions of title, merchantability, fitness for a particular purpose, or non-infringement. Without limiting the foregoing, Vision33 makes no warranty of any kind: (i) relating to third party products, software or services or that the Saltbox Platform Services will be compatible or work with any third party software, system or other services; (ii) that the Saltbox Platform Services will meet Customer's requirements or achieve any intended result; (iii) that the Saltbox Platform Services will be uninterrupted, error free (or that any errors or defects will be corrected), or free of viruses or other harmful components or code; or (iv) that any Customer Data will be secure or not otherwise lost or damaged.

- c. Additional Customer Warranty. Customer represents and warrants to Vision33 that Customer owns or otherwise has and will have the necessary rights and consents in and relating to Customer Data so that, as used by Vision33 in accordance with this Agreement, it does not and will not infringe, misappropriate or otherwise violate any intellectual property rights, or any privacy or other rights, of any third party or violate any applicable laws, including data protection and export control laws.

12. Indemnification.

- a. Vision33 Indemnification. Vision33 will indemnify, defend and hold harmless Customer from and against any and all losses, damages, liabilities, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees (collectively, "**Losses**"), finally awarded against Customer by a court of competent jurisdiction, or agreed to via settlement approved by Vision33 in writing, as a result of any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Saltbox Platform Services, or any use of the Saltbox Platform Services in accordance with this Agreement, infringes or misappropriates such third party's United States patents, copyrights, trade secrets or other United States intellectual property rights of such third party, provided that Customer promptly notifies Vision33 in writing of the Third-Party Claim, cooperates with Vision33, and allows Vision33 sole authority to control the defense and settlement of such Third-Party Claim. If such a Third-Party Claim is made or Vision33 reasonably anticipates such a Third-Party Claim will be made, Customer agrees to permit Vision33, at Vision33's sole discretion, to: (a) modify or replace the Saltbox Platform Services, or the affected component or part thereof, to make it non-infringing; or (b) obtain the right for Customer to continue use of the Saltbox Platform Services. If Vision33 determines that neither alternative is reasonably available, Vision33 may terminate this Agreement, in its entirety or with respect to the affected component or part of the Saltbox Platform Services, effective immediately on written notice to Customer. This Section 12 will not apply to the extent that any Third-Party Claim arises from: (i) modifications or changes made to the Saltbox Platform Services by any person other than Vision33 or its subcontractors; (ii) use of the Saltbox Platform Services in combination with data, services, products, software, hardware, equipment, or technology not provided by Vision33 or authorized by Vision33 in writing; (iii) Vision33's customization of the Saltbox Platform Services based on Customer's specifications or instructions; (iv) Customer Data; (v) Third-Party Services; or (vi) Customer's breach of this Agreement. This Section 12 sets forth Customer's sole remedies and Vision33's sole liability and obligation for any actual, threatened, or alleged Third-Party Claims that

the Saltbox Platform Services infringe, misappropriate, or otherwise violate any intellectual property rights of any third party.

- b. Customer Indemnification. Customer will indemnify, hold harmless, and, at Vision33's option, defend Vision33 and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all Losses arising from or relating to any Third-Party Claim: (i) that Customer Data, or any use of Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights; or (ii) based on Customer's or any Authorized User's use of the Saltbox Platform Services in a manner not authorized by this Agreement; provided that Customer may not settle any Third-Party Claim against Vision33 unless Vision33 consents to such settlement, and further provided that Vision33 will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

13. Limitation of Liability. IN NO EVENT WILL VISION33 BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) BUSINESS INTERRUPTION; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER VISION33 WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR IF A REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL VISION33'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EXCEED THE TOTAL SUBSCRIPTION FEES PAID TO VISION33 UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING PROVISIONS OF THIS SECTION 13 WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

14. Term and Termination.

- a. Term. This Agreement will commence on the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement, will remain in force and effect for the period of time specified in the applicable Order Form (the "*Saltbox Platform Services Initial Term*"). Unless terminated earlier in accordance with the terms of this Agreement or either party provides notice to the other party of its intent not to renew at least thirty (30) days prior to expiration of the then-current term, this Agreement will automatically renew for successive terms equal in length to the Saltbox Platform Services Initial Term (each a "*Saltbox Platform Services Renewal Term*" and together with the Saltbox Platform Services Initial Term, the "*Saltbox Platform Services Term*").
- b. Termination for Convenience. Either party may terminate this Agreement for any reason upon providing written notice to the other party at least thirty (30) days prior to expiration of the then-current term. Any such termination will be effective at the end of the then-current term. For the avoidance of doubt, in the event of such termination, Customer will pay all Subscription Fees owing for the Saltbox Platform Services up to the end of the then-current term regardless if Customer accesses the Saltbox Platform Services after providing such termination notice and any Subscription Fees paid in advance by Customer will be non-refundable.
- c. Termination for Cause. Each party may terminate this Agreement immediately if the other party: (i) breaches any material term of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice thereof; or (ii) ceases to operate in the ordinary course of business,

becomes insolvent, is unable to pay debts when due, is subject to bankruptcy, receivership or dissolution proceedings, or makes an assignment for the benefit of creditors or similar disposition of its assets. In addition, and without affecting any other available rights or remedies, Vision33 may terminate this Agreement immediately upon written notice if any act or omission by Customer or any other Authorized User results in a suspension described in Section 2.f. above.

- d. Consequence of Expiration or Termination. Upon expiration or earlier termination of this Agreement: (i) Customer shall immediately discontinue use of the Vision33 IP; and (ii) if requested in writing by Customer within thirty (30) days after such expiration or earlier termination, Vision33 will make any Customer Data in its possession or control available to Customer for export or download. After such thirty (30) day period, Vision33 will have no obligation to maintain or provide any Customer Data and may thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited. No expiration or termination of this Agreement shall affect Customer's obligation to pay all Subscription Fees that may have become due before such expiration or termination, or entitle Customer to any refund.
- e. Survival. Sections 1, 2.d., 2.e., 3.b. (as it relates to Aggregated Statistics), 6, 10, 10, 12, 13, 14.d., 14.e. and 18 of this Agreement shall survive any termination or expiration of this Agreement. No other provisions of this Agreement shall survive such termination or expiration.

- 15. Modifications. Customer acknowledges and agrees that Vision33 has the right, in its sole discretion, to modify this Agreement from time to time, and that the modified terms will become effective upon commencement of the next following Saltbox Platform Services Renewal Term. Vision33 will provide sixty (60) days' prior written notice to Customer of any such modifications. Customer is responsible for reviewing and becoming familiar with any such modifications. Customer's continued use of the Saltbox Platform Services after the effective date of the modifications will be deemed acceptance of the modified terms.
- 16. Export Regulation. The Saltbox Platform Services utilize technology that may be subject to export control laws. Customer shall not, directly or indirectly, export, re-export, or release the Saltbox Platform Services or the underlying technology to, or make the Saltbox Platform Services or the underlying technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation.
- 17. US Government Rights. The Saltbox Platform Services and the Saltbox Documentation are "commercial items" consisting in part of "commercial computer software" and "computer software documentation," as such terms are used in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS). In accordance with FAR 12.211 and FAR 12.212, and DFARS 227.7102 and DFARS 227.7202, as applicable, if Customer is an agency of the US Government or any contractor therefor, then the rights of Customer to use, modify, reproduce, release, perform, display, or disclose computer software, computer software documentation, and technical data furnished in connection with the Saltbox Platform Services and the Saltbox Documentation will be pursuant to the terms of this Agreement. This Section 17 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software, computer software documentation, or technical data.
- 18. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. This Agreement and any claims or disputes arising out of or related to this Agreement and its subject matter (including non-contractual claims or disputes) shall be governed by and construed in accordance with the internal laws of the State of California, without reference to conflicts of law principles or rules. Each party irrevocably: (a) attorns to the exclusive jurisdiction of the federal courts of the United States or the courts of the State of California in each case located in the city of Irvine and County of Orange and all courts of appeal

therefrom with respect to any such claims or disputes; and (b) waives any right it may have to a jury trial in respect of any such claims or disputes. All notices required or permitted under this Agreement (“*Notices*”) will be in writing and will be deemed to be duly given when delivered to the applicable party at the email address set forth below or to such other email address as may be specified by either party to the other party in accordance with this Section 18. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. Neither party will be responsible for any failure or delay in its performance under this Agreement (except for the payment of money) due to causes beyond its reasonable control, including, but not limited to, fire, flood, explosion, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials, transportation or supplies, denial-of-service attacks, interruption or failure of the internet or any telecommunications or utility service, failures in third party hosting services, virus attacks or hackers, failure of third party software or hardware, war, acts of terror, riot, natural disaster, acts of God or governmental action. This Agreement may only be modified by a written document executed by both parties. The waiver of any breach or default of any provision of this Agreement will not be effective unless set forth in writing signed by the party so waiving and will not constitute a waiver of any other right hereunder or of any subsequent breach or default. Neither party may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party; provided that, upon prior written notice to the other party, either party may assign this Agreement to an affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. This Agreement will bind and inure to the benefit of the parties and their respective successors and permitted assigns. Section headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement. For purposes of this Agreement the words “include”, “includes” and “including” shall be deemed to be followed by the words “without limitation”, and the words “herein”, “hereof”, “hereby”, “hereto” and “hereunder” refer to this Agreement as a whole. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the Effective Date by their duly authorized representatives.

**Vision33 Inc.
Westport**

The Town of

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Email Address for Notices: legal@vision33.com

Email Address for Notices: _____

Date: _____

Date: _____

6. To take such action as the meeting may determine to approve the use of town-owned property known as the Imperial Avenue Parking Lot, for a period of time to be determined, for the purposes of organizing a drive-in movie theater as described in the application submitted by the Remarkable Theatre, dated June 4, 2020, and contingent upon compliance with recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways, as amended.

APPLICATION FOR USE OF TOWN-OWNED PROPERTY, FACILITIES AND/OR PUBLIC ROADWAYS

Completed applications must be submitted no later than 90 days in advance of scheduled event.
 Applications not received 90 days in advance of scheduled event may not be approved.

NAME OF NON-PROFIT ORGANIZATION: Westport Cinema Initiative dba Remarkable Theater
 FUNDRAISING ENTITY: (If applicable) with Westport Weston Chamber of Commerce and Westport Public Library
 ADDRESS: 118 Myrtle Ave., Westport CT 06880
 CONTACT: NAME: Marina Derman CELL NUMBER: 203-858-2276
 E-MAIL ADDRESS: marina@remarkabletheater.org
 NAME OF EVENT: Remarkable Drive-In
 INDIVIDUAL IN CHARGE ON-SITE ON DAY OF EVENT: NAME: Marina Derman CELL NUMBER: 203-858-2276
 # OF PARTICIPANTS: ~ 80 cars Admission Charge (IF ANY) \$40/regular, \$100/car if fundraiser
 DATE(S) OF EVENT: begin June 19, end after Labor Day
 START DATE AND TIME: 7:30-9:00 PM END DATE AND TIME: 10:30-11:30
 (including set up) (including breakdown)
 TOWN PROPERTY AND/OR ROAD(S) TO BE USED: Imperial Lot
notes with sunset

****A LEGIBLE MAP OF THE ROUTE AND/OR EVENT SET-UP (INCLUDING PLACEMENT OF TENTS AND EQUIPMENT ON THE TOWN-OWNED PROPERTY) MUST ACCOMPANY THE APPLICATION.** See attached - drawing is illustrative, not to scale

Please check any of the following that will be brought onto, provided, or used at the event:
 Food/Beverages Alcohol Drones Automobiles Tents
 Bouncy House (Requires professional installation and trained staff on site.)

Third parties providing any of the above are required to sign the Town's Indemnity/Hold Harmless and provide Insurance.

BELOW FOR OFFICE USE ONLY:

INSURANCE & INDEMNITY AGREEMENT RECEIVED:	DATE
<u>Eileen Lavigne Flug, Assistant Town Attorney</u>	_____
APPROVALS:	_____
<u>Board of Selectmen/Traffic Authority/BOS Office</u>	_____
<u>(BOS Approval Date, if applicable)</u>	_____

Approvals/Comments	Date
Chief of Police	
Fire Chief	
Director of Public Works	
Director of Parks and Recreation	
Director of Westport/Weston Health District	
Westport Library	

	Completed
Processing Fee (\$100)	
Certified Check (\$1000)	
Certificate of Insurance	
Indemnity/Hold Harmless	
Map/Route/Set-Up	
After Action Report	
Certified Check Returned	



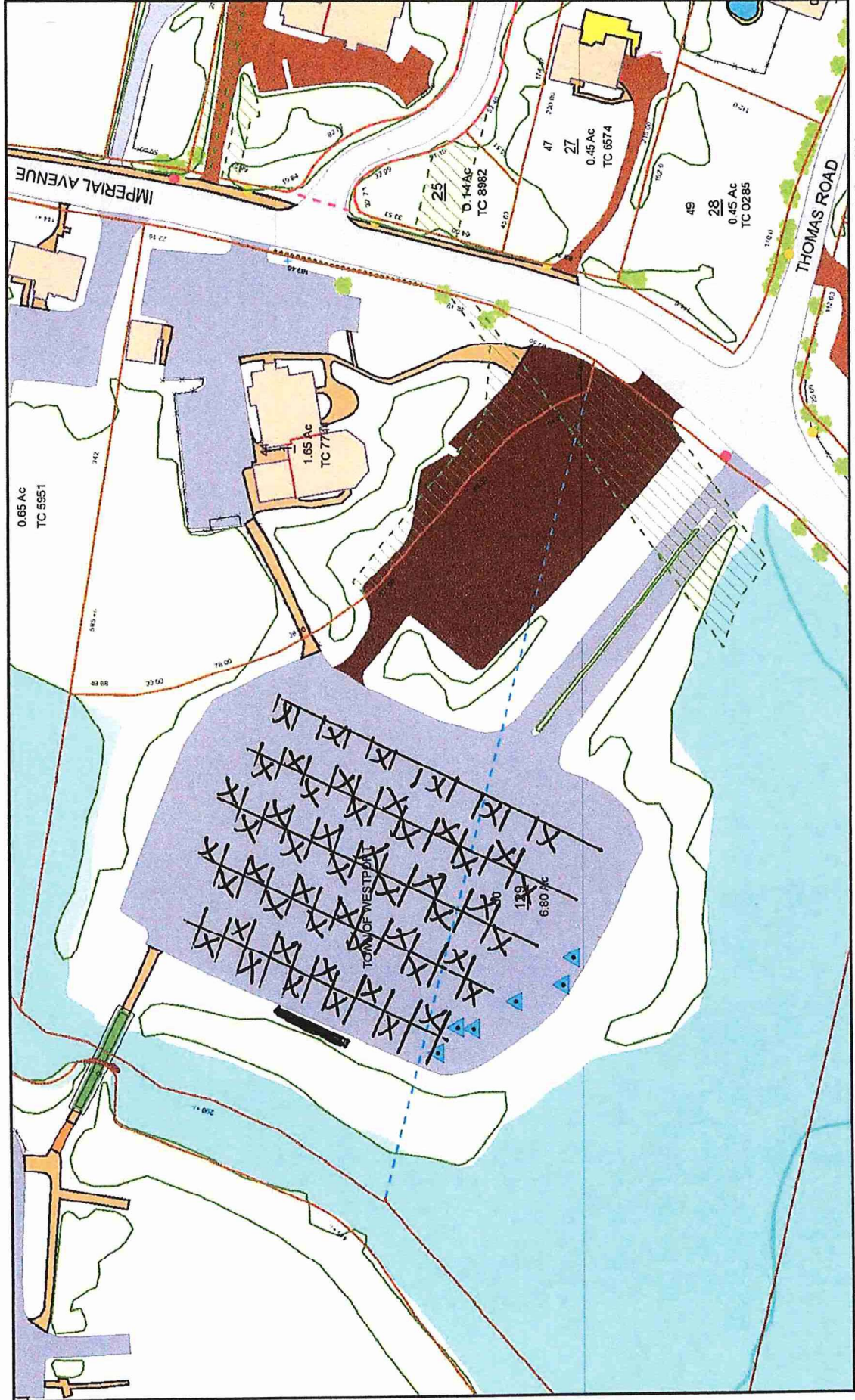
Drive in Movie Theater Imperial Lot



1 inch = 100 Feet



May 4, 2020



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

NOT TO SCALE

REMARKABLE THEATER



PROPOSAL REMARKABLE DRIVE-IN

The Remarkable Theater, in partnership with the Westport Weston Chamber of Commerce and the Westport Public Library, would like to develop a seasonal drive-in at the Imperial parking lot.

Dates

Our plan would be to offer four screenings per week, starting on June 19, running to Labor Day or shortly afterwards. Specific nights of the week can be determined along with the town.

Location

The drive-in would be located in the upper section of the Imperial Lot. See attached map for the proposed location of the movie screen and parking spots.

We are contracting with a vendor who can build a seasonal screen that will last through the summer, providing high quality visibility and better stability than inflatable or tied screens.

In order to provide social distancing, we will be parking cars with substantial spacing between them -- using the equivalent of every other space parking, alternating spots so that cars in rows front and behind will be offset from each other (checkerboard). This spacing allows for more than 10 feet between cars, and sufficient space between rows to easily park cars and leave after the movie is over. Since our recommended screen placement rotates the parking 90° from the direction the lines are painted, we would use some type of marker (traffic cones, flags, etc.) to mark each parking spot.

Based on this plan, we estimate that the lot has the capacity to hold 80-90 cars.

Sound will be provided both via FM transmitter (cars would leave their radios on, but not run their engines, or bring a portable radio if they choose) and with several speakers to provide ambient movie sound for people walking to bathrooms.

Partnerships

The entire Remarkable Drive-In project is working in partnership with the Downtown Merchants Association and the Westport Public Library. In addition, specific screenings can be performed in partnership with other town organizations. Our opening weekend screenings planned to be a partnership with the Westport Woman's Club to generate funds for that nonprofit, which is losing its main source of fundraising due to the cancellation of the Yankee Doodle Fair.

Other town organizations have expressed interest in partnerships, and we are happy to do that. Pricing for those screenings will be determined jointly with those organizations. We can also seek sponsorships from local businesses for screenings.

Process

Tickets can be purchased through the Remarkable Theater ticketing system. Customers would pay in advance for their car, and their ticket would be printed at home.

Customers would be encouraged to pack a "Drive-in to go bag" with supplies for the evening – e.g. blanket, portable radio and fresh batteries if desired, flashlight, face masks for all attending, hand sanitizer, bug spray, sweatshirt if night is to be cool, something to occupy kids before the movie starts, etc.

Upon driving into the lot customers would be met by a staff ticket-taker who would check the ticket and allow them into the lot. Staff will direct cars toward either assigned spots, or available parking spots (TBD).

Safety

Drive-ins by their nature provide a good amount of social distancing. Creating greater separation between cars improves that even more. We will also take additional safety measure including requesting that people stay inside their vehicles unless necessary, having staff wearing masks and gloves, and monitoring flow of patrons to the bathroom. Patrons would also be asked to wear masks if walking to the bathrooms or if leaving their cars for any reason.

The Westport Police Department has kindly agreed to provide an officer to direct traffic, manage security, etc. They have offered to provide this at no charge for the first weekend.

The lower lot (Woman's Club lot) would provide an emergency exit if needed, as well as an entrance point for an ambulance if needed.

Food

Because a traditional walk-up concession stand provides a potential concentration point, we recommend the following strategies for food:

1. We will offer theater-type concessions (popcorn, candy, canned drinks) which can be ordered using the Fan Food app or the concession option in our ticketing system (we are researching both options), which allows people to order their items and pay for them inside the app, and be notified when their order is ready. This will minimize money changing hands and also reduce people walking around the lot. We can have masked and gloved staff deliver snacks to people's cars.
2. We would like to partner with a local restaurant (or several) that will offer "movie-meals" that can be pre-ordered by the customer, picked up on the way to the drive-in, and brought along to eat during the movie. This will both support local restaurants and provide a safe and simple way to provide food.

Bathrooms

We are hoping to use either the bathrooms at the Levitt Pavilion, those at the Westport Woman's Club building, or both. We would have staff cleaning the bathrooms frequently during the movie, as well as some managing flow into the bathroom so that no more than an agreed-upon number of people (1-2, TBD with the town) enter the bathroom at any time.

Since neither of those bathrooms are ADA compliant, we will also secure at least one portable bathroom. Similar precautions would be required – having staff to manage customer flow and clean the unit between customers.

Staffing

Volunteers from the Remarkable Theater group (and partner organizations such as the Woman's Club) will be on duty, and paid positions will be given to Remarkable Employees (individuals with disabilities) where possible.

Trash

We recommend following the lead of other drive-ins which have a policy of "No trash here -- take with you what you brought." This removes the need for people to leave their cars to throw away any trash in garbage cans. If it turns out that this solution doesn't work, we will engage a trash hauler to put out and empty garbage cans.

Other

There are many smaller decisions being made (what movies to screen, food offerings, special events) that we expect will evolve as the summer goes along.



WESTPORT

DEPARTMENT RESPONSES

Day, Date, Time of Event	Various Days/Dates Requested for Ongoing June – September, 2020
Event	Drive In Movie
Town Property	Imperial Avenue Parking Lot
Event organizer	Remarkable Theatre, et al.
Organizer Contact Info	Marina Derman, marina@remarkabletheater.org , 203-858-2276 Doug Tirola, 917-562-8240
Set Up/Breakdown Times	Ongoing
Req to Depts Sent	06-04-2020

DATE:		
06-05-2020	<u>POLICE:</u>	<p>I see that sound will be provided both via FM transmitter and with several speakers. We have learned from experience from the Levitt Pavilion and other events in town, that music on or adjacent to the Saugatuck River carries far beyond the immediate location into parts of town that are not expected. That being said, we need to be respectful to the residents in the area concerning noise.</p> <p>For the first weekend, the Westport Police Department will assist with the event at no charge. We will help assess the needs going forward. After the first weekend, they will need to hire officers for traffic and security; we cannot use taxpayer's dollars for a profit driven event.</p> <p>Staff Corporal Alan D'Amura</p>
06-05-2020	<u>FIRE:</u>	FD has no concerns, R Yost
06-05-2020	<u>FIRE MARSHAL:</u>	<p>I have reviewed the proposal and have the following comments:</p> <ol style="list-style-type: none"> 1) The bathroom use and sanitation plan needs to be more specific. How many restroom attendants are dedicated to this (Levitt/Women's Club/Accessible restroom= 3)? How frequently will the restrooms be cleaned? Will there be a "family" restroom? What about people waiting in line- will social distancing markers be applied? 2) Please provide details on how the films will be projected: from a platform? Tent? Powered by what: generator? Tap into street lighting? Extension cords? <p>The general concept and parking layout are good – please provide more detail as requested above.</p> <p>Nathaniel Gibbons Fire Marshal</p>



DEPARTMENT RESPONSES

06-05-2020	<u>PUBLIC WORKS:</u>	<p>regardless of the carry in-carry out concept, the lot must still be cleaned after every event . If trash barrel ultimately do get utilized, they must have locking covers, otherwise the seagulls and other birds will redistribute the trash after the moviegoers have left and before the hauler arrives. The hauler, if used must remove the trash no later than the next morning. If events happen on Wednesday nights the lot must be made ready for the Farmers market the next day. If the lot is not cleaned up the organization will be charged for a full sweep of the lot by Public Works. The organizers should budget for that contingency in their plan. Other than lot cleanliness this office has no other issues.</p> <p>Peter Ratkewich</p>
06-05-2020	<u>PARKS & REC:</u>	<p>While the event seems to be socially distanced (and a nice idea), I don't know if this constitutes a "gathering ". My understanding from what I have seen, a gathering for outdoor arts, entertainment and events is only planned to be a maximum of 50 people starting June 20. Again, because of the nature of the event, I'm not sure it applies. I suggest the ability to hold this in accordance with state requirements be reviewed by legal counsel.</p> <p>I believe the use of the Levitt restrooms would need to be cleared through the Levitt. I don't believe we can provide consent for usage. Also, I am not sure if water etc has been turned on there, DPW would have to supply that information.</p> <p>Jen Fava</p>
06-05-2020	<u>WWHD:</u>	<p>The Westport Weston Health District has no objection to the use of town property for the proposed "drive-in" movie concept. There seems to be growing interest in this kind of activity in many surrounding communities - including Weston, with restrictions to ensure compliance with the Governor's Directives.</p> <p>Drive in movies have been proposed in other Fairfield County communities as well, with restrictions of no more than 50 cars and no food sales or distributions on site. The restaurant take out - pick up on the way to the event - would be no problem. Sales and/or the distribution of food items at the event needs further discussion. Food distribution in the venue, during the event, has not been approved in Weston. The number of cars allowed at the event also needs further discussion - but is hard to "pin down" at this time since the Governor's Directives/guidelines are changing every week. The number allowed will need to be evaluated for compliance to whatever the requirements may be at the time of each proposed "movie nite". It is likely that more cars may be allowed in successive events as the Governor's social distancing restrictions are eased.</p>



WESTPORT™

DEPARTMENT RESPONSES

		<p>New more comprehensive Outdoor Recreational guidelines are expected from the Governor's office this Saturday. The proposal will need to comply with whatever they may be. <u>As of this review</u>, the Westport Weston Health District has no objection to the proposal with this understanding, and that no more than 50 cars be allowed onsite and that there be no food sales and/or distributions onsite.</p> <p>Mark A.R. Cooper, Director of Health Westport Weston Health District</p>
	<p><u>LIBRARY:</u></p>	

7. Acting in its capacity as the Local Traffic Authority, to take such action as the meeting may determine to review and approve the request to temporarily suspend or extend current parking time limits in certain town-owned parking lots and on certain town roadways, for a period of time to be determined, to allow for increased consumer activity in the downtown area during implementation of phased reopening plans in response to the Covid-19 pandemic.

From: Jacqui Bidgood [<mailto:events1@westportdma.com>]

Sent: Thursday, June 4, 2020 2:26 PM

To: Francis, Eileen <efrancis@westportct.gov>

Cc: Randy Herbertson <randy@thevisualbrand.com>

Subject: Submission of Agenda Item to BoS Meeting concerning Downtown Parking Limits

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Eileen - here is the proposal WDMA would like to have considered at the next BoS meeting:

To consider the lifting of all downtown parking restrictions to **unlimited** to encourage residents and patrons to freely visit downtown retail areas for shopping and dining with no concerns for receiving parking tickets.

This initiative is felt to be a very important component in the re-opening of the downtown economy. The specific parking areas proposed are:

Parker Harding Lot

Baldwin Lot

Sigrid Schultz Lot

Main Street from Elm to Avery

Bay Street Lot

Taylor Lot

Jesup Green Lot

All public lots on Jesup Road

Upper Library Lot

Church Lane from Elm to Post, until other actions may be taken to close this block for the restaurant seating expansion

(This request recognizes that Main Street from Post to Elm Street will be closed to parking for an initial period of 30 days from implementation.)

Period Requested: from approval date through August 31st initially. Propose review of the impact after 1 September, 2020.

Communication to Downtown Community :

WDMA is communicating directly with the downtown retail community (not just members) to inform them of this proposal and specifically:

- a). Request their support to eliminate parking time restrictions to encourage patrons to shop, dine, browse.
- b). To strongly request each business monitor that their employees do not park in lots and street spaces that best serve patron access to their businesses. We will include a list of where they need to ask their employees to park instead. Preferred lots for employee parking are: back section of Baldwin, Town Hall, Taylor Lot, Bay Street and all those lots around Jesup Road, the Library and Imperial.

Please let us know if you need further information from WDMA.

Many thanks.

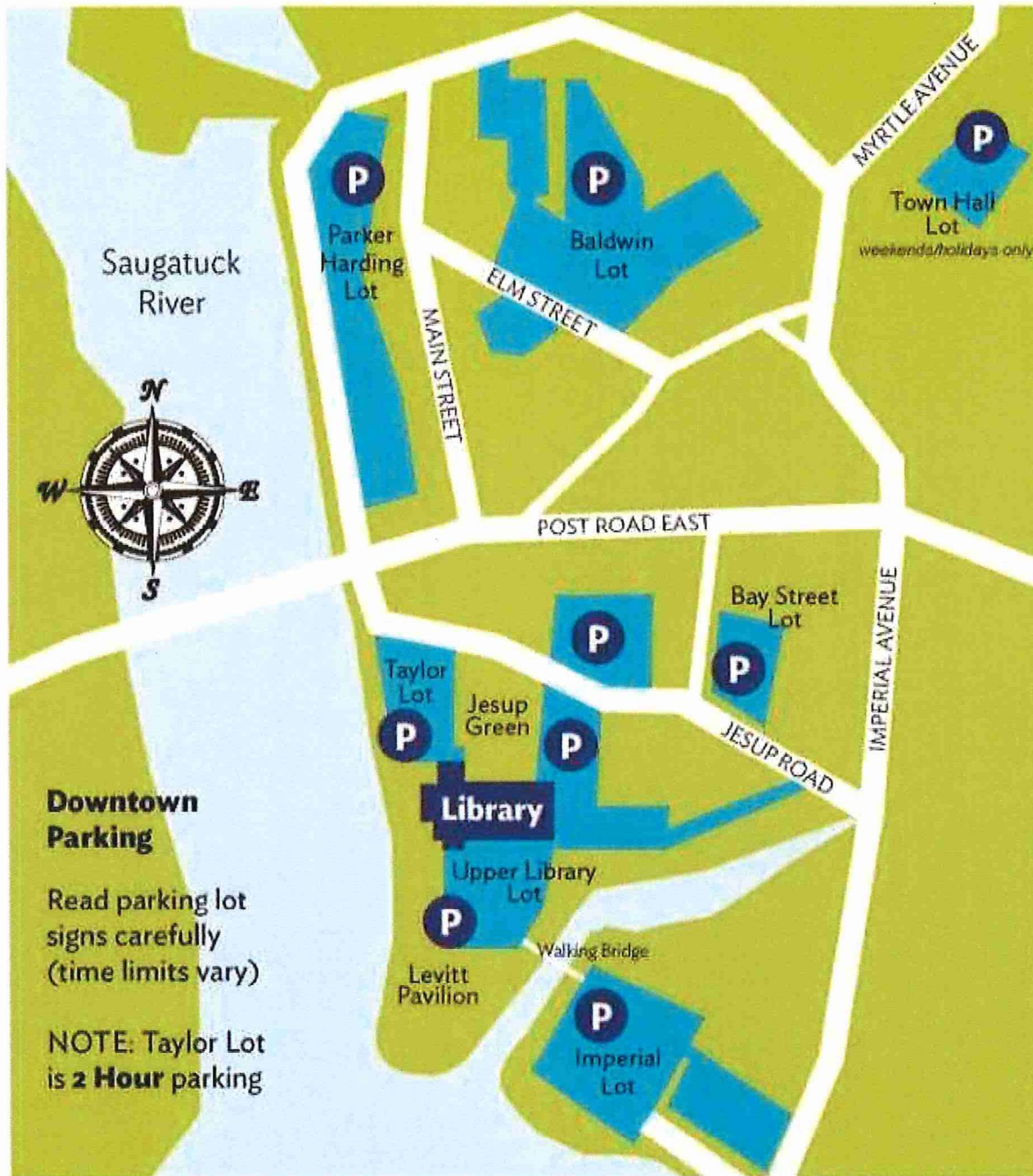
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Jacqui Bidgood - Events Director
Westport Downtown Merchant's Association
events1@westportdma.com



Downtown Parking Map

Downtown Public Parking Lots



Francis, Eileen

From: D'Amura, Alan
Sent: Friday, June 5, 2020 10:59 AM
To: Francis, Eileen; Koskinas, Fotios; Arciola, Samuel
Subject: RE: Submission of Agenda Item to BoS Meeting concerning Downtown Parking Limits

Hi Eileen,

We only have one comment for the parking restriction request downtown. We ask that each business please monitor that their employees do not park in lots and street spaces that best serve patrons and residents.

On a side note, I will be off next Wednesday.

Thanks,

Al

Staff Corporal Alan D'Amura
Westport Police Department
50 Jesup Road
Westport, CT 06880
203-341-6000

From: Francis, Eileen <efrancis@westportct.gov>
Sent: Thursday, June 04, 2020 3:09 PM
To: Koskinas, Fotios <fkoskinas@westportct.gov>; Arciola, Samuel <sarciola@westportct.gov>; D'Amura, Alan <adamura@westportct.gov>
Subject: FW: Submission of Agenda Item to BoS Meeting concerning Downtown Parking Limits

Please see below request related to the suspension of timed parking limits in downtown area Town Parking lots and parking spaces in anticipation of reopening. If you could please provide comment ASAP, this is expected to be included in the BOS agenda for next Wednesday.

Please anticipate participation in that meeting for this item, as well as possible other requests related to safety and parking enforcement in other town lots.

Thanks so much!

Eileen Francis
Selectman's Office Manager
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