

Board of Selectmen Meeting
August 26, 2020
Notice & Agenda

Notice is hereby given that the Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority will hold a public meeting on Wednesday, August 26, 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 to include but not be limited to the following and subject to revision:

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Meetings of July 22, 2020 and August 12 ~~16~~, 2020 and the Water Pollution Control Authority's Meetings of July 22, 2020 and August 12 ~~16~~, 2020.
2. To take such action as the meeting may determine to approve the extension of the previously approved request to close the town owned roadway known as Church Lane from the intersection of Elm Street to Post Road East through September, 2020 to allow for additional pedestrian access and outdoor restaurant seating.

Item #3 received after Westport News Publication Deadline

3. To take such action as the meeting may determine to approve the closure of a portion of the Main Street from 6:00 am to 7:00 pm on Saturday, September 12, 2020 (rain date TBD) for a "Fitness Day on Main Street" program sponsored by the Downtown Merchants Association, contingent upon compliance with comments and safety recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways.
4. To take such action as the meeting may determine to approve the Trademark License Agreement between the Town of Westport and Earthplace, Inc. as it relates to use of the Sustainable Westport trademark in connection with its programming to organize volunteers and raise funds to help achieve the Licensor's goal.

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.

ITEM #1

1. To take such action as the meeting may determine to approve the minutes of the Board of Selectmen's Meetings of July 22, 2020 and August 16, 2020 and the Water Pollution Control Authority's Meetings of July 22, 2020 and August 16, 2020.

Board of Selectmen Meeting

July 22, 2020

DRAFT MINUTES

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public meeting on Wednesday, July 22, 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.

<https://view.earthchannel.com/PlayerController.aspx?&PGD=westportct&eID=1104>

In attendance were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Al D'Amura, Peter Ratkiewich, John Broadbin, Gary Conrad, Bryan Thompson, presenters as noted in the minutes and Eileen Francis, recording secretary.

MINUTES

1. Jen 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 July 8, 2020 and the Water Pollution Control Authority's Public Meeting of July 8, 2020 are hereby APPROVED.

CLOSURE OF CHURCH LANE FROM ITS INTERSECTION OF ELM STREET TO POST ROAD EAST FOR THE MONTH OF AUGUST, 2020

2. President of the Downtown Merchants Association (DMA) Randy Herbertson and DMA Events Director Jacqui Bidgood presented Item #2. Mr. Herbertson and Ms. Bidgood explained the proposed physical set up to barricade the street to allow outdoor dining and additional pedestrian access to Church Lane businesses, stating the merchants were in agreement that the closure would be beneficial for business. He stated that the set up would provide for emergency access at all times and trash/delivery access in the morning hours. Adequate signage will be installed. The Police and Fire Departments support the proposal provided emergency access is maintained as described. Assistant Town Attorney Eileen Flug asked whether the Hold Harmless and Insurance requirements would be waived for the closure of the street as it was for Main Street, but recommended that any restaurants utilizing parking spaces be required to provide their own Certificates of Insurance and Hold Harmless Agreements in addition to the application requirements from the Planning & Zoning Department. Director of Public Works Peter Ratkiewich addressed the potential for construction in the area and believes there would be little impact on the closure. Mr. Herbertson further explained that residents of the area will be informed of the closure; that access to their residences would not be impeded, and any elevated sound levels would be minimal as there would be no music and activity will end by restaurants' closing time. The DMA agreed to return to the Board of Selectmen at its regular meeting of August 26 to review the closure and request an extension if warranted. Mr. Herbertson also commented on the status of the arrangement on Main Street, which he indicated was working well and has received positive feedback with few complaints. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the closure of the town owned roadway known as Church Lane from the intersection of Elm Street to Post Road East for the month of August, 2020 to allow for additional pedestrian access and outdoor restaurant seating, and the waiver of a hold harmless agreement and

provision of insurance from the DMA for the street closure, contingent upon compliance with safety requirements and recommendations from relevant town departments, and review by the Board of Selectmen its August 26 public meeting if an extension of time is requested is hereby APPROVED.

APPROVE AMENDMENT 3 TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN OF WESTPORT AND WISS JANNEY ELSTNER RE CMS REHAB PROJECT

3. Deputy Director of Public Works John Broadbin, representing the CMSBC presented Item #3. Mr. Broadbin explained that the amendment was to account for engineering, site modifications, and design solutions at the site. He stated further that the amount was within the contingency budget for consultation and construction. Mr. Broadbin provide an updated status on the construction progress at the site. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that Amendment 3 to the Professional Services Agreement between the Town of Westport and Wiss Janney Elstner for the Coleytown Middle School Rehabilitation Project, dated April 11, 2019, as modified by Amendment 1, dated August 12, 2019 and Amendment 2, dated March 17, 2020 is hereby APPROVED.

APPROVE AGREEMENT BETWEEN TOWN OF WESTPORT AND MARSH & McLENNAN AGENCY, LLC

4. Finance Director Gary Conrad presented Item #4. Mr. Conrad recommended renewal of the Agreement based on the performance consultant Marty Burger. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that upon the request of the Finance Director, the Agreement between the Town of Westport and Marsh & McLennan Agency, LLC to provide consulting services is hereby APPROVED.

APPROVE AGREEMENT BETWEEN THE TOWN OF WESTPORT AND MILLIMAN, INC.

5. Finance Director Gary Conrad presented Item #5. Mr. Conrad noted that Milliman has been the actuary since 2014 and is highly qualified to perform the services. Assistant Town Attorney Eileen Flug stated that the Agreement extension to FY 2023-2024 passed legal review. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that upon the request of the Finance Director, to approve the Agreement between the Town of Westport and Milliman, Inc. as it relates to actuarial services for the Town's pension and other post employment benefit fund including its annual plan and GASB valuations and other related services is hereby APPROVED.

**REVISION 1 added 07-20-2020*

APPROVE AGREEMENT BETWEEN THE TOWN OF WESTPORT AND STREETSCAN, INC.

6. Director of Public Works Peter Ratkiewich presented Item #6. Mr. Ratkiewich described the activity to date performed by the company, noting that the scanning of pavement and sidewalks allows for efficient maintenance and repair. The town has a comprehensive view of conditions that proves beneficial when coordinating the paving program and method of prioritizing construction work. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that the agreement with StreetScan Inc. for Automated Asset Management Services related to street and sidewalk maintenance, pending final review by the Town Attorney's Office, is hereby APPROVED.

7. *ITEM #7 IS INCLUDED WITH THE WPCA MINUTES OF 07-22-2020*

PRESENTATION OF SUPPLEMENTAL SOIL INVESTIGATION AND PRELIMINARY RISK ASSESSMENT REPORT, BARON'S SOUTH PROPERTY *Discussion only, no vote taken*

8. *Presentation of Supplemental Soil Investigation and Preliminary Risk Assessment Report, Baron's South Property, conducted by Thunderbird Environmental, LLC, to present findings of additional investigations, analyses, and to make recommendations for disposition of the excess fill associated with the expansion and site improvements at the Westport Center for Senior Activities, (WCSA).*

Report Available for review on the Town's website at: <https://www.westportct.gov/government/baron-s-south-stockpile-2019>

This presentation and discussion commences at 1:46 of the following:

<https://view.earthchannel.com/PlayerController.aspx?PGD=westportct&eID=1104>

Director of Public Works Peter Ratkiewich presented a timeline of the construction site and the request for review of the stockpiled material on Baron's South.

Darby Hittle of Thunderbird Environmental described the findings of his supplemental soil investigation report (see: <https://www.westportct.gov/government/baron-s-south-stockpile-2019>) noting the process and procedure by which soil samples were collected and analyzed.

Environmental Health Risk Analyst Dr. Kurt Franzen presented his findings of the supplemental soil investigation and provided his opinion on the risk assessment and data obtained from samples of the stockpile as well as the soil samples from the entirety of the 22-acre site.

Discussion included a description on the history of the property, specifically as to the previous longstanding use of the site for both horticultural purposes and as a perfume "lab".

Discussion on potential re-use of the stockpile continued. Mr. Ratkiewich proposed three alternatives:

- 1) Leave the soil where it is since it is considered stable;
- 2) Flatten and expand the stockpile at its current site;
- 3) Move and spread thin layers within the site to low-lying areas not exposed to erosion;

Members of the public who provided comments during the meeting were Mark Friedman, Sal Liccione, Wendy Batteau, John Suggs and Wendy Crowther. Those questions and comments were addressed.

The Board requested that Mr. Ratkiewich provide a report at a future public meeting as to the potential re-use of the stockpile. He determined that he would be able to compile data, produce some options, including costs for each option, for the Board to consider. The probable time for such a public meeting is the end of September, 2020.

ADJOURNMENT

Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, the meeting adjourned at 12:30 pm

Eileen Francis, Recording Secretary

Water Pollution Control Authority

July 22, 2020

DRAFT MINUTES

The Westport Board of Selectmen, acting in its capacity as the Water Pollution Control Authority held a public meeting on Wednesday, July 22, 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 at this time were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Peter Ratkiewich, Bryan Thompson, and Eileen Francis, recording secretary.

Discussion on this item may be found at 1:29:08 of the following:

<https://view.earthchannel.com/PlayerController.aspx?&PGD=westportct&eID=1104>

1. WPCA Collection System Supervisor Bryan Thompson presented WPCA Item #1 (BOS Item #7). Mr. Thompson explained the process by which an accurate accounting and costs associated with the policy was determined. The Inflow and Infiltration (I&I) Abatement Policy had not been updated since its inception in 2006. The Engineering firm of Weston and Sampson was hired to perform a wastewater system flow analysis to assist the town in understanding flow allocations within the existing Sewer Service Area and the impact to the wastewater treatment plant. The data from that analysis and report determined that the value increase to \$5.33/gpd was accurate, appropriate, and would be effective immediately upon approval. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0 it was:

RESOLVED, that upon the request of the WPCA Collection System Supervisor, the revised Inflow & Infiltration (I&I) Abatement Policy, including the increase from the 2006 value of \$2.50/gpd TO \$5.33/gpd effective immediately, in accordance with the wastewater collection system flow evaluation of the Town's sewer service area and the WPCA Collection System Supervisor's letter of July 9, 2020 is hereby APPROVED.

ADJOURNMENT

Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, the meeting adjourned at 12:30 pm

Eileen Francis, Recording Secretary

Board of Selectmen Meeting
August 12, 2020
DRAFT MINUTES

The Westport Board of Selectmen, Traffic Authority and Water Pollution Control Authority held a public meeting on Wednesday, August 12, 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, Eileen Flug, Elaine Daignault, Susan Stefenson, Peter Ratkiewich, Gary Conrad, Bryan Thompson, presenters as noted in the minutes, and Eileen Francis, recording secretary.

<https://view.earthchannel.com/PlayerController.aspx?&PGD=westportct&eID=1127>

MINUTES

1. Jennifer Tooker presented Item #1. There was discussion related to revision of the July 22, 2020 Minutes. The Board decided to hold approval of those minutes until the next scheduled meeting. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the Board of Selectman's Special Meetings of July 15, 2020 and August 3, 2020 (as revised) are hereby APPROVED.

APPROVE CERTIFICATION OF TOWN OF WESTPORT'S SPECIAL APPLICATION AND ENVIRONMENTAL REVIEW DOCUMENTS FOR CORONAVIRUS FUNDING CDBG GRANT

2. Director of Human Services Elaine Daignault presented Item #2. Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, that certification of the following documents:

- i) Special Application;
- ii) Environmental Review; and
- iii) Proposal Letter

as they relate to the Town of Westport's request for Coronavirus Funding (Sc Cdbg- Cv) Under The Cares Act through the CT Department of Housing/Small Cities Community Development Block Grant, are hereby APPROVED.

APPROVE AGREEMENT AND RIDER BETWEEN ENTERPRISE FM TRUST AND THE TOWN OF WESTPORT AND MAINTENANCE AGREEMENT BETWEEN ENTERPRISE FLEET MANAGEMENT AND THE TOWN OF WESTPORT

3. Finance Director Gary Conrad and Director of Public Works Peter Ratkiewich presented Item #3. Enterprise Representatives, Area Sales Manager Robert Jaworski and Account Manager Ashley Chavez, participated in the discussion and answered questions. Assistant Town Attorney Eileen Flug noted that the Rider passed legal review. Upon motion by Jim Marpe, seconded by Melissa Kane and passing by a vote of 3-0, it was:

RESOLVED, that the Master Equity Lease Agreement, and the Rider thereto, between Enterprise FM Trust and the Town of Westport; and the Maintenance Agreement between Enterprise Fleet Management, Inc. and the Town of Westport, for leasing and maintenance of vehicles within the Town fleet. Is hereby APPROVED.

ITEM #4 IS INCLUDED IN THE WPCA MINUTES OF 08-12-2020

WITHDRAWN AFTER WESTPORT NEWS PUBLICATION DEADLINE

~~5. Acting in its capacity as the Water Pollution Control Authority, to approve the supplemental sanitary sewer connection and increased discharge for property located at 41 Richmondville Avenue, contingent upon compliance with the WPCA Collection System Supervisor's letter of August 4, 2020.~~

ADJOURNMENT

Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, the meeting adjourned at 10:05 a.m.

Eileen Francis, Recording Secretary

DRAFT

Water Pollution Control Authority
August 12, 2020
DRAFT MINUTES

The Westport Board of Selectmen, acting in its capacity as the Water Pollution Control Authority held a public meeting on Wednesday, August 12, 2020. 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 at this time were Jim Marpe, Jennifer Tooker, Melissa Kane, Eileen Flug, Peter Ratkiewich, Bryan Thompson, and Eileen Francis, recording secretary.

NOTE: Action on the approval of the July 22, 2020 WPCA Minutes was postponed to the August 26, 2020 BOS/WPCA meeting.

1. WPCA Collection System Supervisor Bryan Thompson presented WPCA Item #1 (BOS Item #4) Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, it was:

RESOLVED, the supplemental sanitary sewer connection for property located at 8 Green Acre Lane, contingent upon compliance with the WPCA Collection System Supervisor's letter of August 4, 2020 is hereby APPROVED.

ADJOURNMENT

Upon motion by Melissa Kane, seconded by Jim Marpe and passing by a vote of 3-0, the meeting adjourned at 10:05 a.m.

Eileen Francis, Recording Secretary

ITEM #2

2. To take such action as the meeting may determine to approve the extension of the previously approved request to close the town owned roadway known as Church Lane from the intersection of Elm Street to Post Road East through September, 2020 to allow for additional pedestrian access and outdoor restaurant seating.



EVENT CHECKLIST

Day, Date, Time of Event	August 2020
Event	Closing Church Street <u>LANE</u>
Town Property	Church Street <u>LANE</u>
Event organizer	Westport Downtown Merchants Association
Organizer Contact Info	Jacqui Bidgood, 203-293-0099, events1@westportdma.com
Set Up/Breakdown Times	
Req to Depts Sent	7/16/2020
BOS Approval Date	
FINAL APPROVAL DATE	

	Date
Processing Fee	
Bond	Roll
Verified COI	
Verified Hold Harmless	5/21/2020
3 rd Party (if Applicable)	n/a
Map/Route/Set-Up	7/15/2020
After Action Report	
Bond Returned	

Approvals/Comments (see att)	✓
Chief of Police	✓
Fire Chief	✓
Director of Public Works	
Director of Parks and Recreation	✓
Director of Westport/Weston Health District	
Westport Library	N/A



WESTPORT

DEPARTMENT RESPONSES

Day, Date, Time of Event	August 2020
Event	Closing Church Street
Town Property	Church Street
Event organizer	Westport Downtown Merchants Association
Organizer Contact Info	Jacqui Bidgood, 203-293-0099, events1@westportdma.com
Set Up/Breakdown Times	
Req to Depts Sent	7/16/2020

DATE:		
7/17/2020	<u>POLICE:</u>	The Police Department has reviewed the request and we have no public safety concerns at this time with Church Lane. AI
7/20/2020	<u>FIRE:</u>	See attachment
	<u>PUBLIC WORKS:</u>	
7/16/2020	<u>PARKS & REC:</u>	No comments from P&R Jennifer A. Fava
	<u>WWHD:</u>	
	<u>LIBRARY:</u>	N/A

During the week there is minimal foot traffic which is not likely to increase by closing the street at the present time. I realize it might create more business for The Spotted Horse and the new restaurant. The manager at Nic and ? had one customer on Tuesday prior to my coming in around 4 pm. We chatted about the possible closure and Main Street flowers.

I realize this year is different but some people will still venture to other places in August making even less people around.

As a compromise I would try closing the street perhaps Saturday and Sunday to better gauge the foot traffic. I also have some sympathy for people who live in the neighborhood and should be able to have easy access.

My opinion of course

Arline P Gertzoff

RTM3



DEPARTMENT OF FIRE SERVICES

Fire Marshals Office (203) 341-5020

Fax (203) 341-5009

Nathaniel Gibbons, Fire Marshal

July 17, 2020

Westport Traffic Commission
110 Myrtle Avenue
Westport CT 06880

Subject: Closing Church Street a.k.a Church Lane.

Dear Members of the Commission:

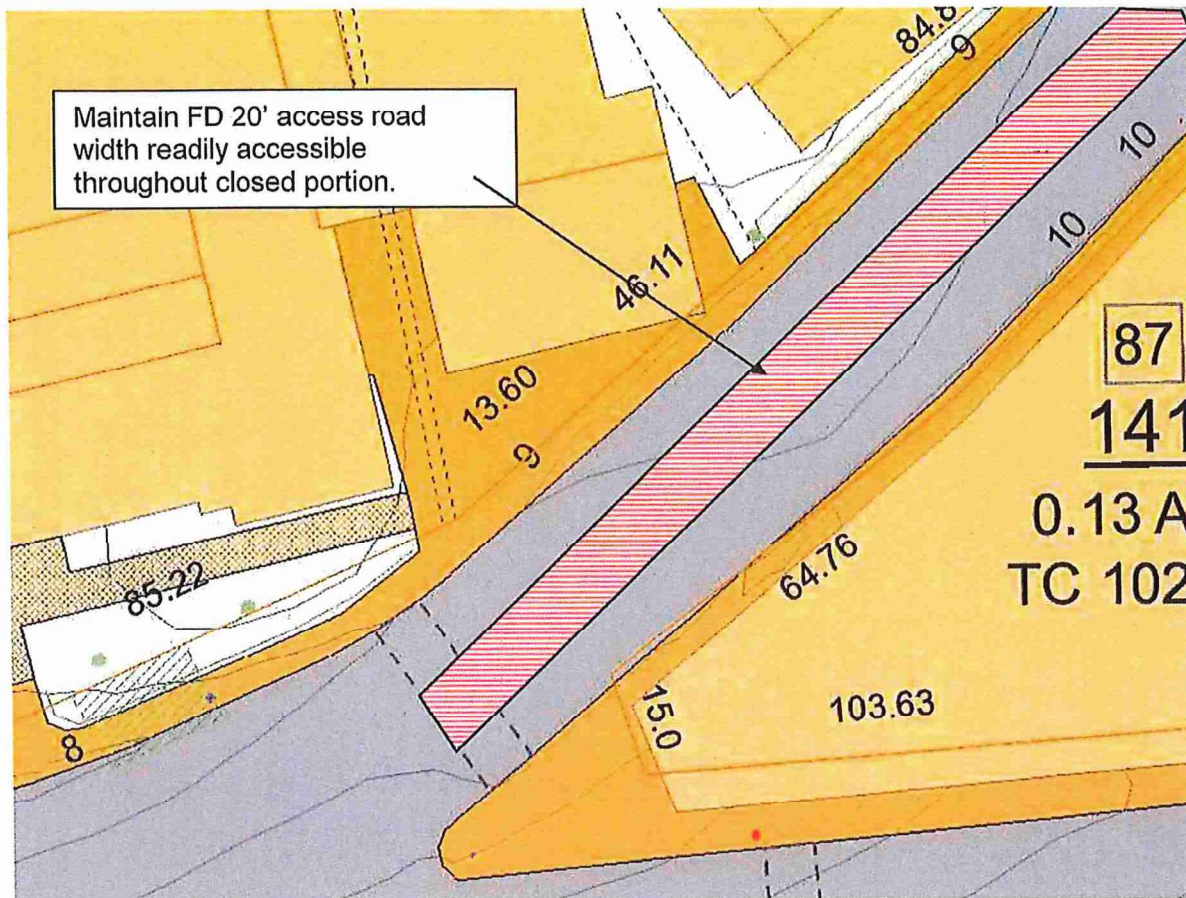
This office has received and reviewed the application by the Westport Downtown Merchant's Association to temporarily close Church Lane and has the following comments:

Fire Apparatus Emergency Access

The applicant has stated they plan to provide emergency access to Church Lane. As this is a high-value densely developed area with mercantile, assembly, business and residential occupancies on both side of the street, it is imperative that apparatus access be maintained for the protection of life and property.

Applicant's proposal to use temporary cones or saw horses (easily removed) are acceptable.

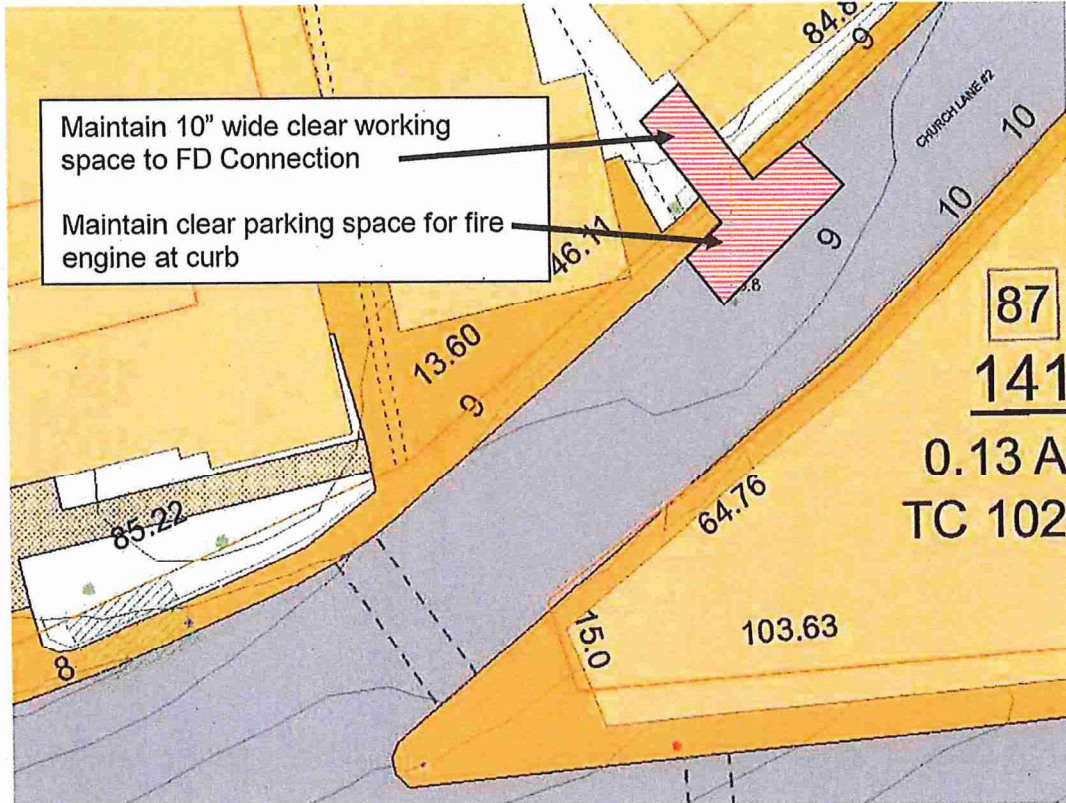
CSFSC 18.2.3.4.1.1 requires a minimum 20 foot width for a fire access road. Applicant shall maintain a readily accessible fire access lane throughout Church Lane.

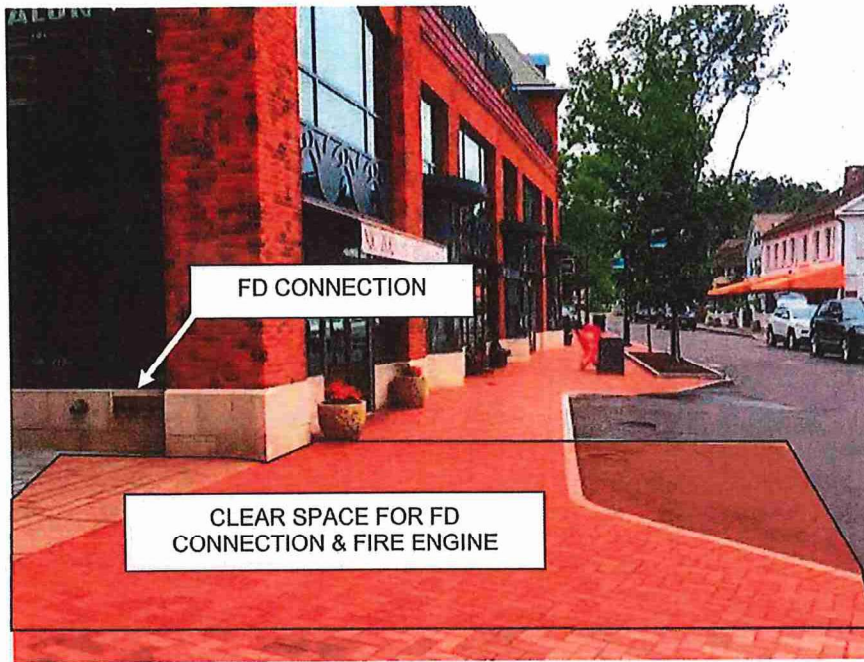


515 POST ROAD EAST, WESTPORT, CT 06880

Access to Bedford Square FD Connection

The applicant's drawing appears to show dining tables set up in front or blocking street hose line access to the Fire Department Connection located at the north side of the Bedford Square residential entrance. This connection may require up to 4 lines, 2 1/2" in size. A clear working space 10 feet wide shall be maintained between the FD connection and the street curb. The curb space shall be kept clear for apparatus positioning to service the connection:

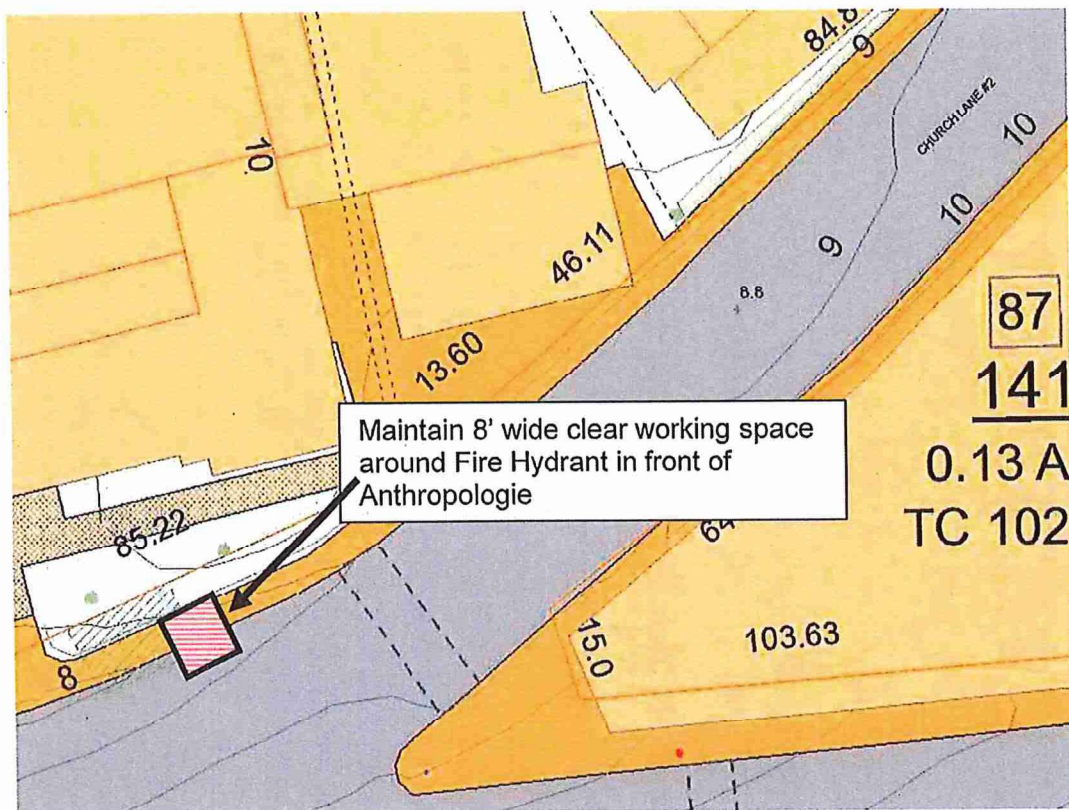




515 Post Road East, Westport, CT 06880

Access to Church Lane Fire Hydrant

The fire hydrant in front of Anthropologie serves the entire Bedford Square complex and the occupancies across Church Lane through The Spotted Horse. Instant access to this hydrant is part of the process of supplying water to the Square's fire sprinkler system. An 8' box of clear space shall be maintained on all four sides of this hydrant, including the curb space and street in front of it.





Summary

This office has no objection to the temporary closure of Church Lane subject to:

- 1) Easily movable barriers at closure points
- 2) 20' minimum fire access road width throughout
- 3) 10' clear access to FD Connection with road space for fire engine
- 4) 8' clear access to fire hydrant with road space.

Please call if you have any questions

Fire Marshal

515 POST ROAD EAST, WESTPORT, CT 06880

Hi Eileen - this is the formal request and recommendation from WDMA for the Church Lane block closure. We would appreciate being able to present the recommendation to the Board of Selectmen on July 22.

Recommendation: the block of Church Lane from Elm Street to Post Rd E be closed to parking and regular traffic initially for the calendar month of August. Trash, deliveries and emergencies will have access.

Purpose: to enable the restaurant businesses of Amis, Spotted Horse and Manna Toast to expand their outdoor dining into the pavement area of the street. A plan of how we anticipate the tables to occupy their additional space is attached. If other restaurants on the block choose to join the program, they will be welcomed and accommodated.

Barricades and Safety: WDMA plans to work with PD to place PD barricades at the Elm & Church end of the block to restrict regular traffic but is easy to move when trash trucks and delivery vehicles need to access. WDMA can place sandwich boards in front of the barricades with signage indicating there is access for trash and deliveries, but the road is closed to traffic for the expansion of dining businesses on the block.

At the Post Road end of Church Lane, WDMA will place its branded white cones across the width of the block to denote there is no traffic on the block.

This plan leaves a clear lane in the road for trash, deliveries and emergencies.

Participating Restaurants: Amis, Spotted Horse and Manna Toast. Each restaurant will be submitting permit applications to P&Z for outdoor dining expansion concurrently with this recommendation.

Overall Mission: to increase the outdoor dining capacity on Church Lane, bring more people to the block and encourage foot traffic into the retail stores.

WDMA does not consider this initiative an "event" and is relying on individual restaurants to satisfy permit and insurance requirements directly with the Town of Westport. Additionally other retailers on this block are very interested in being able to bring merchandise tables or experiences outside their premises on the sidewalk, attracting patrons to their stores.

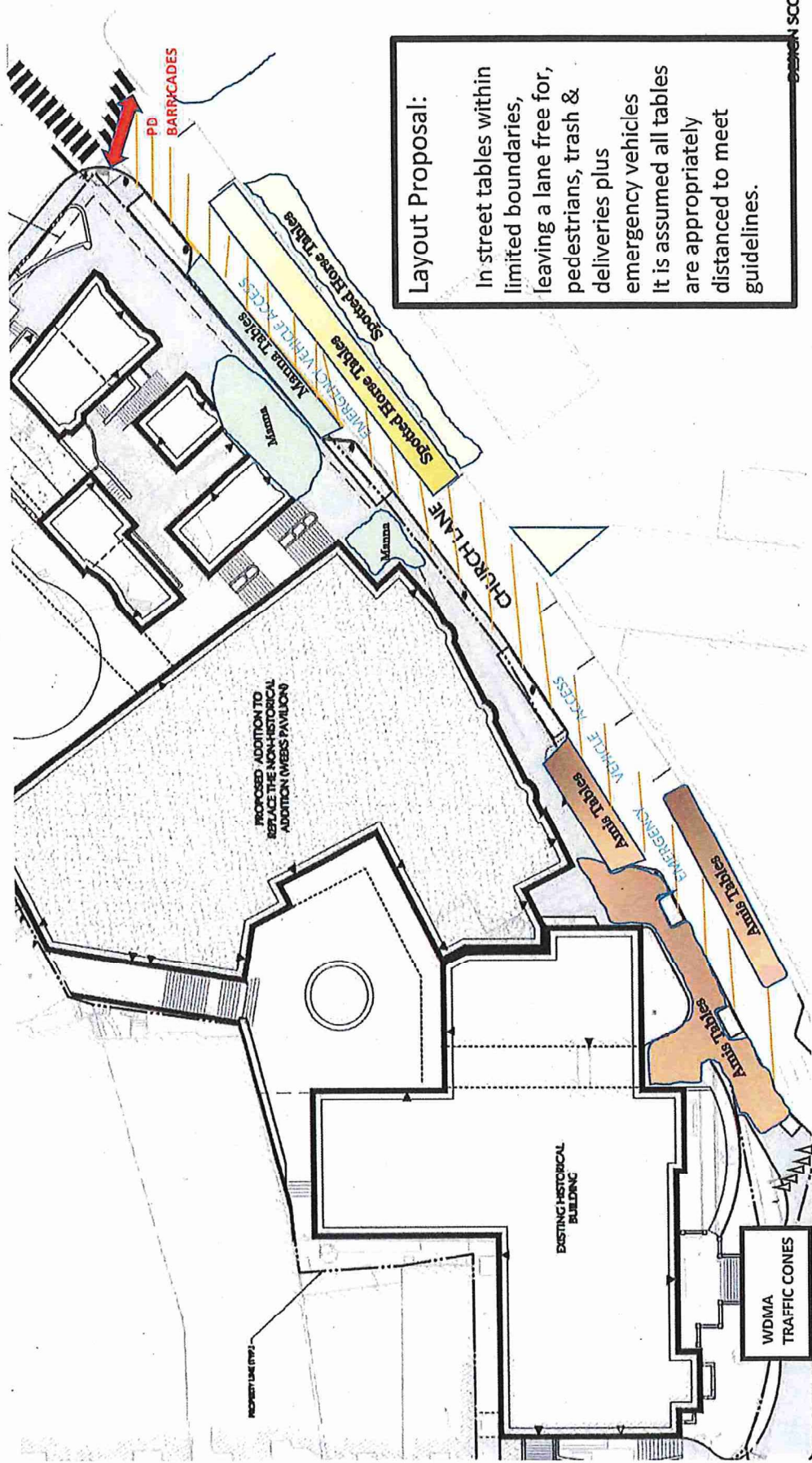
Future Enhancement: To further create the atmosphere of a fun and summery dining and shopping destination, WDMA is exploring adding string lights across the street, high up between Bedford Square and Patagonia building - at the height of the proposed cross street banner.

Respectfully submitted,

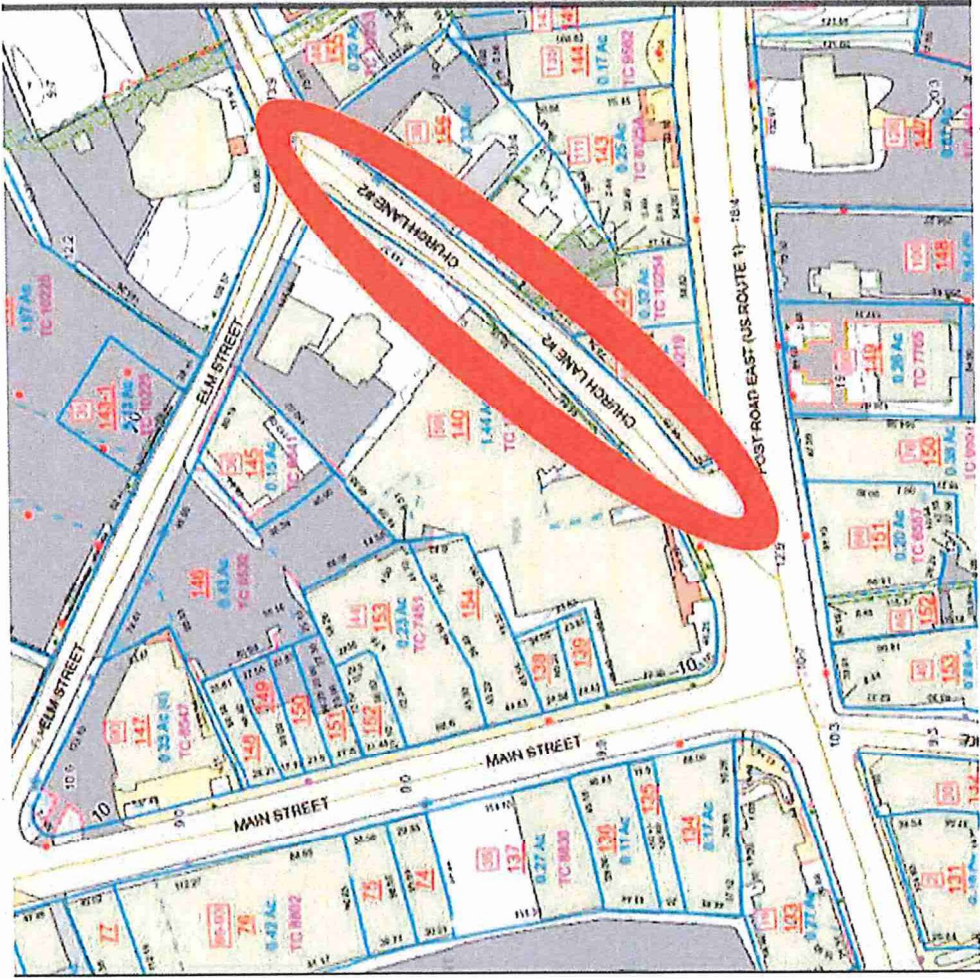
for the Westport Downtown Merchants Association

Jacqui Bidgood
EVENTS DIRECTOR

56 Church Lane
Westport, CT 06880
o: [203.293.0099](tel:203.293.0099)
c: [612.419.9736](tel:612.419.9736)



Layout Proposal:
 In street tables within limited boundaries, leaving a lane free for, pedestrians, trash & deliveries plus emergency vehicles. It is assumed all tables are appropriately distanced to meet guidelines.



EVENT PERMITTEE
INDEMNITY AND HOLD HARMLESS AGREEMENT

(revised August 2018)

This Indemnity and Hold Harmless Agreement ("Agreement") is made this 21 day of May, 2020, by Westport Downtown Merchants Assn (PRINT NAME OF CORPORATION, LLC OR OTHER ENTITY OBTAINING THE PERMIT] ("Indemnitor") of 56 Church Lane (PRINT ADDRESS) for the benefit of the Town of Westport, a municipality in the State of Connecticut ("Town").

WHEREAS, Indemnitor has submitted an application (the "Application") for the Town's permission to use athletic facilities, parks, public roads, the Wakeman Town Farm, and/or other Town-owned property (the "Premises") for the following event [PRINT NAME OF EVENT]: Closing Main Street and Church Lane for Re-opening of downtown. (the "Event") beginning June 1st - August 31st (earliest start date, including set-up) and ending August 31st. (latest end date including breakdown and rain date),

OR

WHEREAS, Indemnitor has requested permission to hang a banner (the "Banner") across Main Street or at Luciano Park or Compo Beach or at _____ location on _____ (date(s)),

NOW THEREFORE, in consideration of Indemnitor's receipt of said permission from the Town, Indemnitor agrees as follows:

1. Permission to use the Premises for the Event or permission to hang the Banner, as the case may be, may be revoked by the Town immediately upon the breach by Indemnitor of any term of this Agreement or any term or condition of the approved Application. This Agreement shall survive any such revocation, and Indemnitor shall remain bound by the terms of this Agreement.
2. Indemnitor shall indemnify, defend and hold harmless the Town and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers and representatives, to the fullest extent permitted by law, from and against any and all losses, claims, allegations, actions, awards, costs and expenses (including but not limited to, court costs and attorney's fees), judgments, subrogations and damages of every kind and character which may arise out of or result from, in whole or in part, Indemnitor's use of the Premises or hanging of the Banner, as the case may be, or from the negligent or willful acts or omissions of the Indemnitor or any of its employees or agents, subcontractors, third parties invited or authorized by the Indemnitor to participate at the Event, and/or anyone else for whose acts Indemnitor may be liable, in connection with the Indemnitor's use of the Premises or the hanging of the Banner, as the case may be.
3. Indemnitor shall (i) make no improvements or alterations to the Premises without specific prior written approval from the Town's First Selectman or the Director of Parks and Recreation, (ii) relinquish use of the Premises upon expiration or termination of the Event in the same condition as it was prior to its entrance on the Premises, (iii) remove all litter, trash and other refuse from the Premises following the conclusion of its use, and (iv) use the Premises in strict compliance with the terms and conditions of the approved Application and all policies, procedures and conditions relating to the use of Town-owned properties, and in accordance with all applicable laws, rules, regulations and ordinances of all governmental authorities.
4. Indemnitor shall safeguard all who come upon the Premises and shall protect against any personal injuries and property damage resulting from Indemnitor's use of the Premises.

5. Indemnitor shall obtain the following insurance coverages covering the Indemnitor's obligations under this Agreement, including without limitation claims by participants in the Event, from companies with an A.M. Best rating of A- (VII) or better:
- a. **Commercial General Liability insurance** including Products and Completed Operations. Limits shall be at least: **Bodily Injury & Property Damage with an occurrence limit of \$1,000,000; Personal & Advertising Injury limit of \$1,000,000 per occurrence; General Aggregate limit of \$2,000,000 (other than Products and Completed Operations) per location; and Products and Completed Operations aggregate limit of \$2,000,000. For each policy required by this Agreement, the Indemnitor is required to provide the amount of insurance specified in this Agreement or the amount of insurance that the Indemnitor actually has, whichever is higher.**
 - i. If drones are permitted at, on or above the Premises, this coverage must include **drone liability insurance** for the limits above.
 - ii. If children at the Event will be under the care, custody or control of the Indemnitor or any employee, volunteer, or other agent of the Indemnitor or any subcontractor of the Indemnitor, this coverage shall include **Abuse and Molestation liability insurance** with a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for the actual or threatened abuse or molestation of anyone or any person while in the care, custody or control of any Indemnitor.
 - iii. If alcoholic beverages will be sold, provided and/or served and either (i) a fee is charged for the Event or (ii) an alcoholic beverage permit is obtained, **Liquor Liability insurance** in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, unless the Event is scheduled as an exception to the liquor liability exclusion on the Commercial General Liability policy.
 - iv. If automobiles are an integral part of the Event (car shows, road rallies, touch-a-truck, filming from automobiles, and the like), **Automobile insurance** in the amount of \$1,000,000 each accident combined single limit covering bodily injury and property damage for all owned, hired and non-owned autos.
 - v. If Indemnitor has employees, **Workers Compensation insurance** required by statute with Employer's Liability limits for at least the amounts of liability for bodily injury by accident of \$500,000 each accident, bodily injury by disease of \$500,000, and \$500,000 disease aggregate, including a waiver of subrogation in favor of the Town.
 - vi. If Indemnitor is renting a Town building, **Damage and Rented Premises insurance** in the amount of \$500,000 per occurrence.
6. Indemnitor shall provide the Town with Certificate(s) of Insurance on Acord 25 (2016/03) or later edition evidencing all insurance policies required by this Agreement, and all such Certificate(s) of Insurance, shall:
- a. Name the "Town of Westport" as an **additional insured** and include **ISO Form CG 20 12 04 13 ("Additional Insured – State or Governmental Agency or Subdivision or Political Subdivision – Permits or Authorizations")** or equivalent (except that this is not required for Workers Compensation insurance), and
 - b. Be provided on an **occurrence basis** and will be **primary and shall not contribute** in any way to any insurance or self-insured retention carried by the Town, and
 - c. Contain a **waiver of subrogation** in favor of the Town, and
 - d. Contain a **broad form contractual liability** endorsement or wording within the policy form to comply with the hold harmless and indemnity obligations of Indemnitor under this Agreement, and
 - e. Declare all **deductible and self-insured retentions**, and all such deductibles and self-insured retentions are subject to the approval of the Town.
 - f. Show that policies are in effect for all of the days of the Event; otherwise a renewal certificate is required.
 - g. Require notice of cancellation to the Town according to policy provisions.

7. If a high risk third party, as determined by the Town, (e.g., tent provider, bouncy house provider, valet parking service, fireworks provider) will be authorized to participate at the Event, the third party shall execute and deliver a separate Indemnity and Hold Harmless Agreement and provide the insurance coverages required hereby.

8. This Agreement and the Town's permission to use the Premises or hang the Banner, as the case may be, shall not be assigned by Indemnitor without the prior written approval of the Town's First Selectman, the Director of Parks and Recreation, or the Farm Director.

9. This Agreement and the Application and the Town's policies and procedures supersede any and all prior agreements and understandings with the Indemnitor regarding the subject matter of this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Connecticut. No provision of this Agreement shall be deemed waived by the Town unless the waiver is in writing and signed by the Town's First Selectman or the Director of Parks and Recreation. Any provision of this Agreement that is deemed unenforceable by a court of competent jurisdiction shall be deemed amended and construed to have a valid meaning that is the most protective to the Town, and if no such validating construction is possible shall be severed from this Agreement, and the enforceability of the remaining provisions shall not be impaired thereby.

This Agreement shall be binding on Indemnitor and its heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Town of Westport and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers, representatives and assigns.

[NAMES APPEAR ON FOLLOWING PAGE]

WITNESS

[Signature]
Print Name: WM. SCOT BENNETT
Print Address: 1 GREENBELT RD
WESTPORT CT 06880

INDEMNITOR

Westport Downtown Merchants Association
Print Name of the Corporation, LLC, or other Entity

By [Signature]
Signature of Authorized Signatory
Print Name: Randy Herbertson
Print Title: President, Westport DMA

STATE OF CONNECTICUT)

) ss:

_____, Connecticut, _____ 20____

COUNTY OF _____)

Personally appeared _____ signer(s) and sealer of the foregoing instrument, and acknowledged before me the same to be his/her/their free act and deed, and acknowledged before me that he or she is authorized to execute this agreement on behalf of the Indemnitor and to bind the Indemnitor to its terms and that he or she holds the title with the Indemnitor that is written below his or her name above.

Notary Public
Print Name: _____
Print Address: _____
My Commission Expires: _____
Commissioner of the Superior Court

IMPORTANT NOTE:

**PLEASE SEND A COPY OF THIS AGREEMENT TO YOUR INSURANCE BROKER OR COMPANY
SO THAT THEY UNDERSTAND YOUR INSURANCE OBLIGATIONS
BEFORE THEY ISSUE YOUR CERTIFICATE OF INSURANCE**



TO: Finance Department

FROM: Donna Douglass
Selectman's Office

DATE: July 16, 2020

SUBJECT: Use of Town Roads BOND ROLLOVER

The Westport Downtown Merchants Association has a 1000.00 bond on file. Please rollover that bond to accommodate its request for the Use of the Town Property for its closing of Church Street to be held on August 2020.

ITEM #3

3. To take such action as the meeting may determine to approve the closure of a portion of the Main Street from 6:00 am to 7:00 pm on Saturday, September 12, 2020 (rain date TBD) for a “Fitness Day on Main Street” program sponsored by the Downtown Merchants Association, contingent upon compliance with comments and safety recommendations from relevant Town departments and in accordance with the Town Policy on the Use of Town Property, Facilities and Public Roadways.



WESTPORT™

EVENT CHECKLIST

Day, Date, Time of Event	Saturday, September 12, 2020 (rain date ? 6:00 AM – 7:00 PM)
Event	Fitness & Health Day on Main
Town Property	1 Main Street to 90 Main Street
Event organizer	WDMA
Organizer Contact Info	Jacqui Bidgood, 612-419-9736, events1@westportdma.com
Set Up/Breakdown Times	6:00 AM – 7:00 PM
Req to Depts Sent	8/20/2020
BOS Approval Date	
FINAL APPROVAL DATE	

	Date
Processing Fee	
Bond	
Verified COI	
Verified Hold Harmless	8/20/20
3 rd Party (if Applicable)	
Map/Route/Set-Up	
After Action Report	
Bond Returned	

Approvals/Comments (see att)	✓
Chief of Police	✓
Fire Chief	✓
Director of Public Works	✓
Director of Parks and Recreation	✓
Director of Westport/Weston Health District	
Westport Library	N/A



WESTPORT™

DEPARTMENT RESPONSES

Day, Date, Time of Event	Saturday, September 12, 2020 (rain date ? 6:00 AM – 7:00 PM)
Event	Fitness & Health Day on Main
Town Property	1 Main Street to 90 Main Street
Event organizer	WDMA
Organizer Contact Info	Jacqui Bidgood, 612-419-9736, events1@westportdma.com
Set Up/Breakdown Times	6:00 AM – 7:00 PM
Req to Depts Sent	8/20/2020

DATE:		
8/20/2020	<u>POLICE:</u>	The WPD has no issue with this request. As noted in the application, we agree the WDMA should hire an officer for assistance with the event. We have nothing further at this time. Staff Corporal Alan D'Amura
8/20/2020	<u>FIRE:</u>	I would like to amend my response to include: Provided that the tents or tables are to the sides of Main street and that the exercise equipment can be quickly moved in the event of a fire emergency, I will approve.
8/20/2020	<u>PUBLIC WORKS:</u>	DPW Comment– Blocking Main Street may cause traffic to back up in the Westbound turning lane into Main from the Post Road. The barricades should probably also be set up to also block the turning lane, which will require a State permit for traffic pattern change. (This is very similar to what Aquarion had to do recently when they were blocking the entrance to Myrtle Avenue). Peter Ratkiewich
8/20/2020	<u>PARKS & REC:</u>	No Issues for P&R Jennifer A. Fava
	<u>WWHD:</u>	
	<u>LIBRARY:</u>	N/A

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 Downtown Merchants Association.
 FUNDRAISING ENTITY: (If applicable) 501 c(6) Non-profit Economic Advocacy
 ADDRESS: 56 Church Lane, Westport CT 06880
 CONTACT: NAME: Jacqui Bidgood CELL NUMBER: 612 419 9736.
 E-MAIL ADDRESS: Events 1 @ westportdma.com
 NAME OF EVENT: Block closure Series: Fitness & Health Day on Main
 INDIVIDUAL IN CHARGE ON-SITE ON DAY OF EVENT: NAME: Randy Hebertson CELL NUMBER: _____
 # OF PARTICIPANTS: Downtown Shopping Public Admission Charge (IF ANY) 0
 DATE(S) OF EVENT: Saturday 12 September (rain date)
 START DATE AND TIME: 6:00am (including set up) END DATE AND TIME: 7pm (including breakdown)

TOWN PROPERTY AND/OR ROAD(S) TO BE USED: 1 Main Street to 90 Main Street (diagram attached)

****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.**

Please check any of the following that will be brought onto, provided, or used at the event:

Food/Beverages Possibly Alcohol _____ Drones _____ Automobiles _____ Tents 10x10 max
 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
_____	_____
APPROVALS:	
_____	_____
Board of Selectmen/Traffic Authority/BOS Office (BOS Approval Date, if applicable)	

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	

WESTPORT DOWNTOWN MERCHANTS ASSOCIATION



APPLICATION NOTES FOR
PURSUAL OF PERMIT FOR
BLOCK CLOSURE SERIES:
FITNESS AND HEALTH ON MAIN
SATURDAY 12 SEPTEMBER
10.00AM-4.00PM

Rain Date Sunday 13 September

These notes accompany the formal application paperwork of the Town of Westport for temporary use of town owned property.

Premis

WDMA wishes to produce a series of three one day block closure events on the lower part of Main Street (1 Main to 90 Main). This application is the first of three and its purpose is to attract foot traffic to the downtown merchant area. The Fitness and Health theme is offered to inspire the community and offer a positive and uplifting outlook as we head towards the Fall and Winter.

The block would be closed to traffic with barriers at Post Road and Main Street - WDMA will hire Westport PD to monitor this barrier. A second barrier would be positioned across Main Street by the entry to the 90 Main Street lot (Vineyard Vines).

We are asking each of 4 classroom providers to schedule 3 classes in their dedicated space between 10am and 4pm.

Insurance

WDMA is pursuing a multi event insurance policy from the same carrier from whom we submitted coverage in 2019. (K&K Insurance).

We are requiring all of our business participants - gyms, exercise studios and table vendors, to provide a Col to the DMA.

Layout

Layout plans are included in this application packet showing the street layout as well as the classroom layouts.

We anticipate that the pilot scheme of no parking and wider sidewalk access will have ended and that barrels will be removed from the pavement and sidewalks are returned to normal access.

This event is both an exhibition of fitness classes as well as a small market of vendors from the health sector (largely Westport businesses).

Classroom providers are required to show a physical boundary around their spaces, mostly they will use cones.

The vendor tables or 10x10 pop ups are oriented to the sidewalks for the regular downtown shopping patrons to engage with. They are spaced 10ft apart. We do not envision this event as a physically contained area with entry and exit, it is offered as an extension of the normal Main Street weekend destination for the members of our community.

Sound

Class room providers will bring their own localized amplified sound sources. The spinning classroom will be streaming sound to their riders headsets only - so virtually no external sound. Other classrooms will have speaker systems. DMA will monitor for excessive noise and will schedule classes so that elevated volumes do not coincide with each other.

Promotion and Publicity

We are limiting the promotion of this event to local resources only, namely: DMA website and email distribution, DMA social media. We are requiring classroom providers to cross-promote to their client base. We will utilize normal in town media outlets such as: 06880, Our Town Crier, WestportMoms and WestportNow. This event will not utilize regional media outlets, print, TV or radio ads.

COVID Safety

On site at the event we will use multiple sandwich boards advising the public to wear masks, socially distance and help themselves to hand sanitizer provided.

DMA is dedicated to upholding COVID safety standards whilst offering an environment that the public can feel safe and comfortable whilst being engaged and inspired.

In the layout of the classrooms, we have also aspired to uphold industry sector guidelines for the protection of class members and the instructors.

WDMA is at the disposal of The Town of Westport for further questions, clarifications and requests.

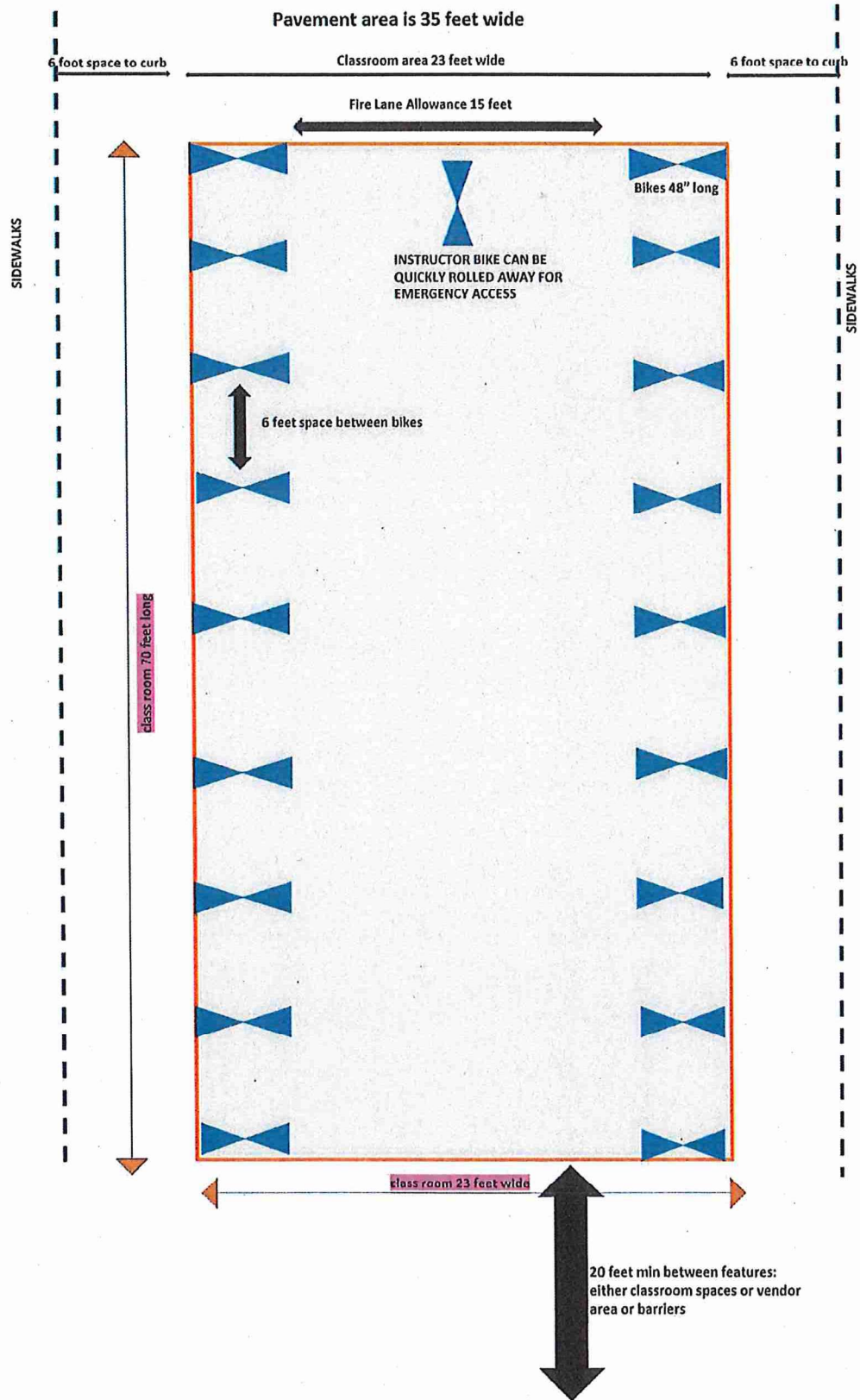
Respectful Submitted

Jacqui Bidgood
Event Director

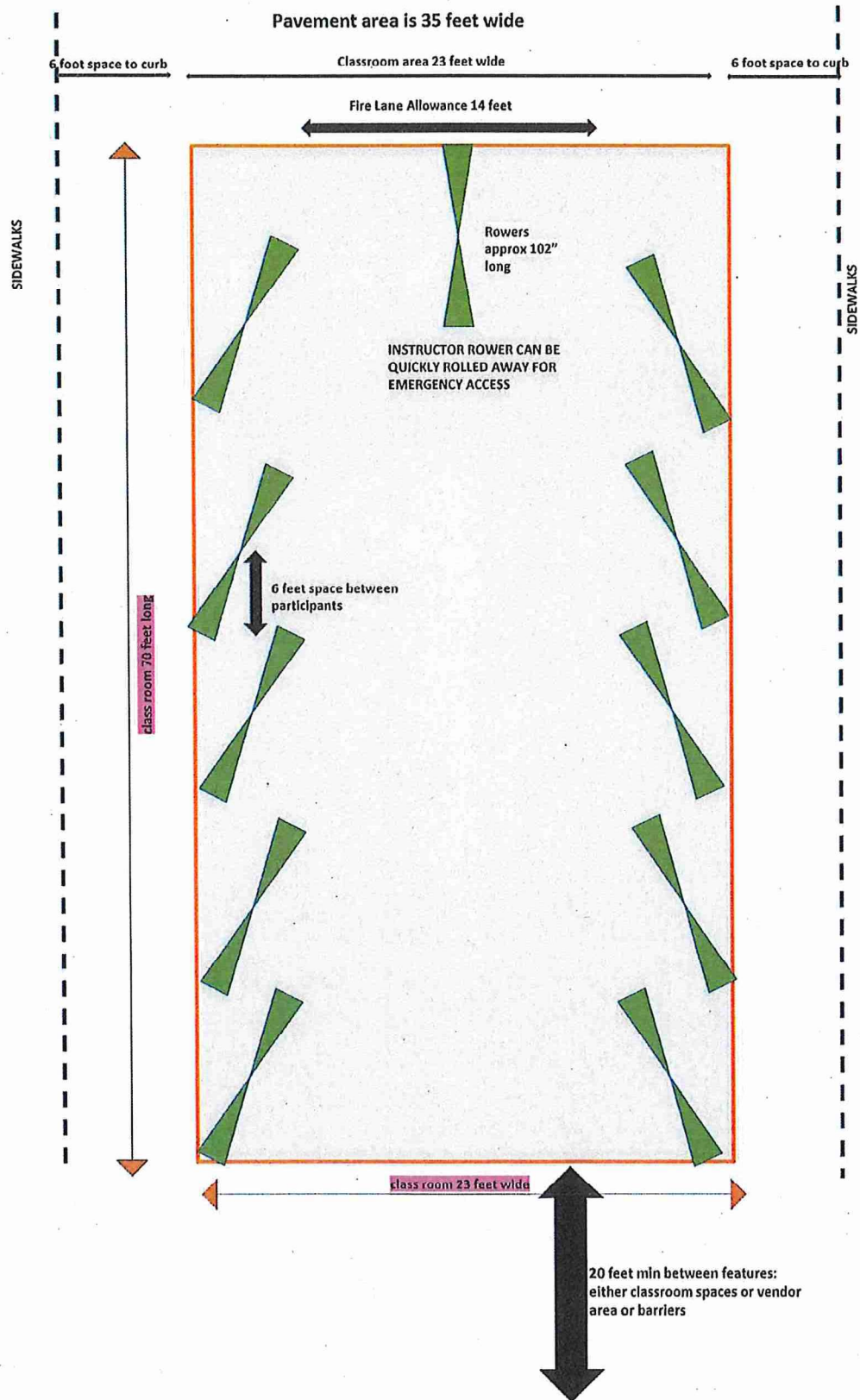
On behalf of

Randy Herbertson
President
Westport Downtown Merchants Association
56 Church Lane
Westport CT 06880

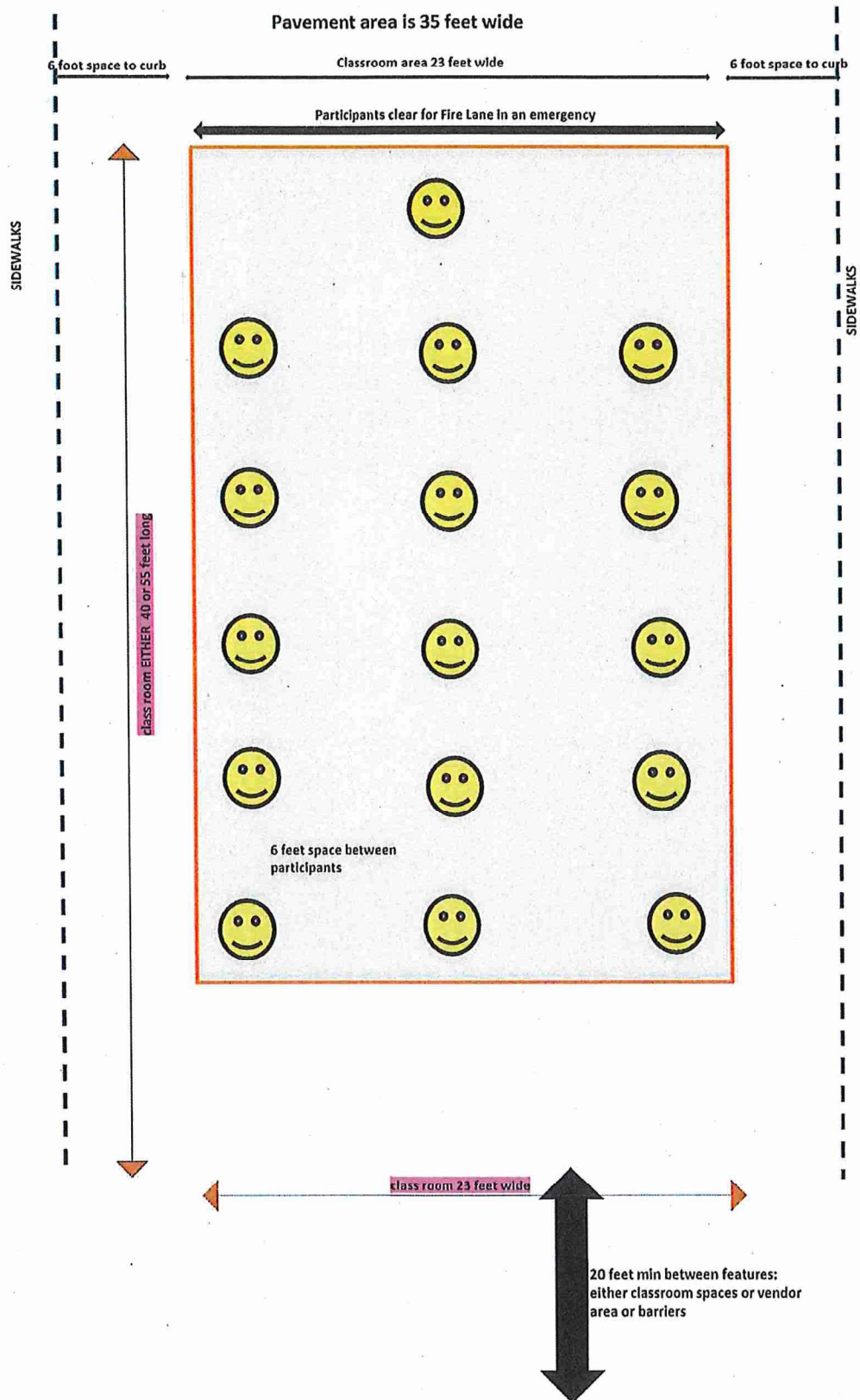
SCHEMATIC OF SPINNING CLASSROOM LAYOUT IN RELATION TO PAVEMENT AND SIDEWALKS, SHOWING SPACIAL DISTANCE



SCHEMATIC OF ROWING CLASSROOM LAYOUT IN RELATION TO PAVEMENT AND SIDEWALKS, SHOWING SPACIAL DISTANCE



SCHEMATIC OF MAT OR BODYWEIGHT CLASSROOM LAYOUT IN RELATION TO PAVEMENT AND SIDEWALKS, SHOWING SPACIAL DISTANCE



**Example of on-site signage:
presented on sandwich boards**



WELCOME TO FITNESS & HEALTH EXPO ON MAIN

**PLEASE WEAR A MASK AT ALL TIMES AND SOCIALLY DISTANCE
ON THIS BLOCK TODAY**

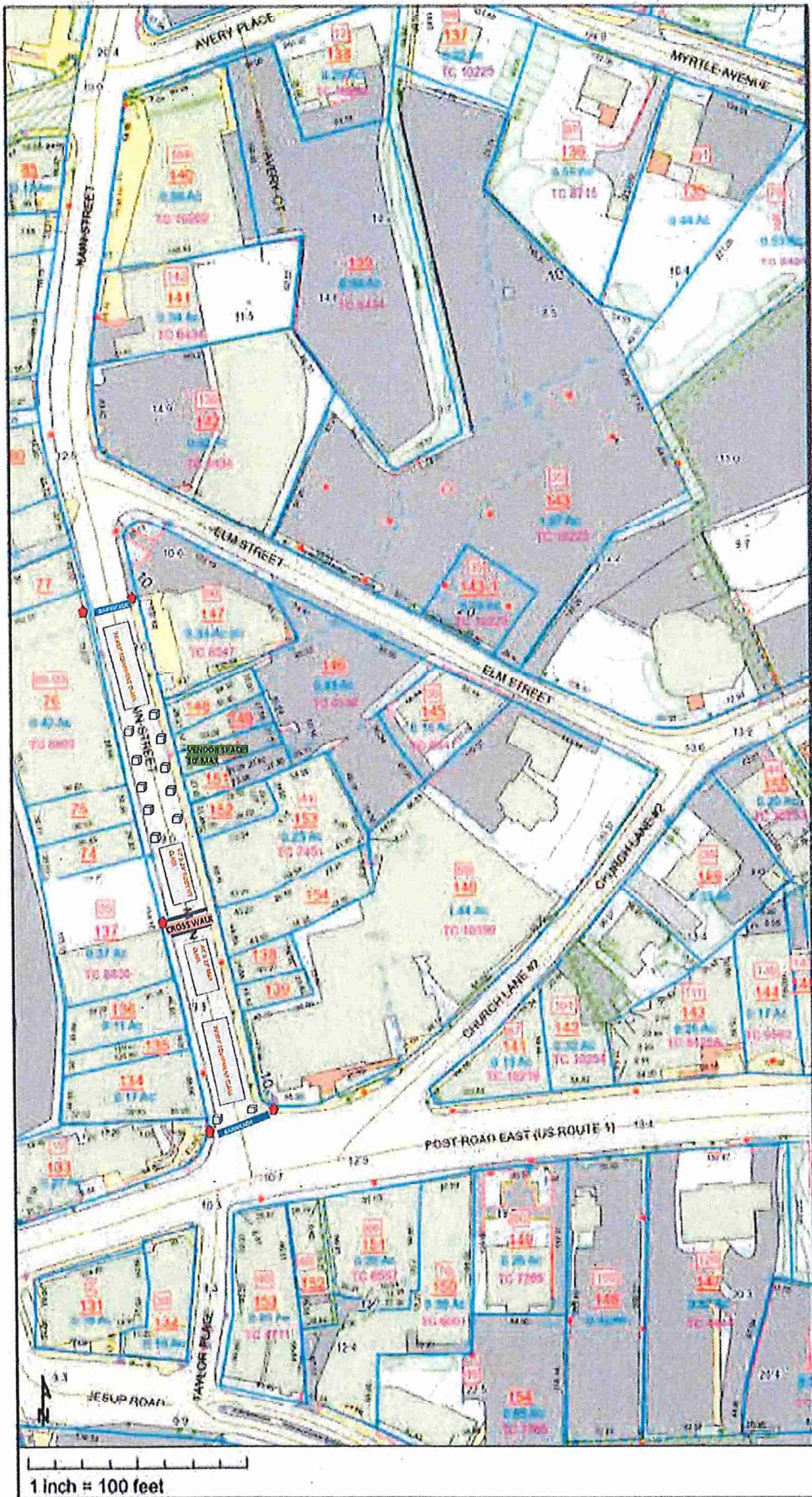
FEEL FREE TO USE THE HAND SANITIZER OFFERED

**PLEASE SPECTATE, ENJOY AND BE INSPIRED FOR GREATER
HEALTH BY THE EXHIBITION CLASSES**

**PLEASE VISIT THE VENDOR MARKET OF HEALTH AND FITNESS
TABLES - WHILST MAINTAINING 6 FOOT DISTANCE BETWEEN
GROUPS AND ALWAYS WEAR YOUR MASK**

THANK YOU







WESTPORT, CONNECTICUT

James S. Marpe
First Selectman

EVENT PERMITTEE INDEMNITY AND HOLD HARMLESS AGREEMENT

(revised March 2018)

This Indemnity and Hold Harmless Agreement ("Agreement") is made this 19th day of August, 2020, by Westport Downtown Merchants Ass'n ("Indemnitor") of 56 Church Lane, Westport (address) for the benefit of the Town of Westport, a municipality in the State of Connecticut ("Town").

WHEREAS, Indemnitor has submitted an application (the "Application") for the Town's permission to use athletic facilities, parks, public roads, the Wakeman Town Farm, and/or other Town-owned property (the "Premises") for the purpose of

Fitness + Health on Main: One Day Block Closure Series (the "Event") beginning 6:00am Sat 12 September (earliest start date, including set-up) and ending 7pm Sat 12 September (latest end date including breakdown and rain date),

OR

WHEREAS, Indemnitor has requested permission to hang a banner (the "Banner") across Main Street or at Luciano Park or Compo Beach or at _____ location on _____ (date(s)),

NOW THEREFORE, in consideration of Indemnitor's receipt of said permission from the Town, Indemnitor agrees as follows:

1. Permission to use the Premises for the Event or permission to hang the Banner, as the case may be, may be revoked by the Town immediately upon the breach by Indemnitor of any term of this Agreement or any term or condition of the approved Application. This Agreement shall survive any such revocation, and Indemnitor shall remain bound by the terms of this Agreement.
2. Indemnitor shall indemnify, defend and hold harmless the Town and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers and representatives, to the fullest extent permitted by law, from and against any and all losses, claims, allegations, actions, awards, costs and expenses (including but not limited to, court costs and attorney's fees), judgments, subrogations and damages of every kind and character which may arise out of or result from, in whole or in part, Indemnitor's use of the Premises or hanging of the Banner, as the case may be, or from the negligent or willful acts or omissions of the Indemnitor or any of its employees or agents, subcontractors, third parties invited or authorized by the Indemnitor to participate at the Event, and/or anyone else for whose acts Indemnitor may be liable, in connection with the Indemnitor's use of the Premises or the hanging of the Banner, as the case may be.
3. Indemnitor shall (i) make no improvements or alterations to the Premises without specific prior written approval from the Town's First Selectman or the Director of Parks and Recreation, (ii) relinquish use of the Premises

Town Hall • 110 Myrtle Avenue • Westport, CT 06880 • (203) 341-1111 • Fax (203) 341-1038

E-mail: selectman@westportct.gov • Website: www.westportct.gov

upon expiration or termination of the Event in the same condition as it was prior to its entrance on the Premises, (iii) remove all litter, trash and other refuse from the Premises following the conclusion of its use, and (iv) use the Premises in strict compliance with the terms and conditions of the approved Application and all policies, procedures and conditions relating to the use of Town-owned properties, and in accordance with all applicable laws, rules, regulations and ordinances of all governmental authorities.

4. Indemnitor shall safeguard all who come upon the Premises and shall protect against any personal injuries and property damage resulting from Indemnitor's use of the Premises.
5. Indemnitor shall obtain the following insurance coverages from companies with an A.M. Best rating of A- (VII) or better:

- a. **Commercial General Liability Insurance** including Products and Completed Operations. Limits shall be at least: **Bodily Injury & Property Damage with an occurrence limit of \$1,000,000; Personal & Advertising Injury limit of \$1,000,000 per occurrence; General Aggregate limit of \$2,000,000 (other than Products and Completed Operations) per location; and Products and Completed Operations aggregate limit of \$2,000,000.**
 - i. If drones are permitted at, on or above the Premises, this coverage must include **drone liability insurance** for the limits above.
 - ii. If children at the Event will be under the care, custody or control of the Indemnitor or any employee, volunteer, or other agent of the Indemnitor or any subcontractor of the Indemnitor, this coverage shall include **Abuse and Molestation liability insurance** with a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for the actual or threatened abuse or molestation of anyone or any person while in the care, custody or control of any Indemnitor.
 - iii. If alcoholic beverages will be sold, provided and/or served and either (i) a fee is charged for the Event or (ii) an alcoholic beverage permit is obtained, **Liquor Liability insurance** in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, unless the Event is scheduled as an exception to the liquor liability exclusion on the Commercial General Liability policy.
 - iv. If automobiles are an integral part of the Event (car shows, road rallies, touch-a-truck, filming from automobiles, and the like), **Automobile insurance** in the amount of \$1,000,000 each accident combined single limit covering bodily injury and property damage for all owned, hired and non-owned autos.
 - v. If Indemnitor has employees, **Workers Compensation insurance** required by statute with Employer's Liability limits for at least the amounts of liability for bodily injury by accident of \$500,000 each accident, bodily injury by disease of \$500,000, and \$500,000 disease aggregate, including a waiver of subrogation in favor of the Town.
 - vi. If Indemnitor is renting a Town building, **Damage and Rented Premises insurance** in the amount of \$500,000 per occurrence.

6. Indemnitor shall provide the Town with Certificate(s) of Insurance on Acord 25 (2016/03) or later edition evidencing all insurance policies required by this Agreement, and all such Certificate(s) of Insurance, shall:
 - a. Name the "Town of Westport" as an **additional insured** and include ISO Form CG 2010 (04/13) and CG 2037 (04/13) or equivalent (except that this is not required for Workers Compensation insurance), and
 - b. Be provided on an **occurrence basis** and will be **primary and shall not contribute** in any way to any insurance or self-insured retention carried by the Town, and
 - c. Contain a **waiver of subrogation** in favor of the Town, and
 - d. Contain a **broad form contractual liability** endorsement or wording within the policy form to comply with the hold harmless and indemnity obligations of Indemnitor under this Agreement, and
 - e. Declare all **deductible and self-insured retentions**, and all such deductibles and self-insured retentions are subject to the approval of the Town.

- f. Show that policies are in effect for all of the days of the Event; otherwise a renewal certificate is required.
- g. Require notice of cancellation to the Town according to policy provisions.

7. If a high risk third party, as determined by the Town, (e.g., tent provider, bouncy house provider, valet parking service, fireworks provider) will be authorized to participate at the Event, the third party shall execute and deliver a separate Indemnity and Hold Harmless Agreement and provide the insurance coverages required hereby.

8. This Agreement and the Town's permission to use the Premises or hang the Banner, as the case may be, shall not be assigned by Indemnitor without the prior written approval of the Town's First Selectman, the Director of Parks and Recreation, or the Farm Director.

9. This Agreement and the Application and the Town's policies and procedures supersede any and all prior agreements and understandings with the Indemnitor regarding the subject matter of this Agreement. This Agreement shall be governed and interpreted in accordance with the laws of the State of Connecticut. No provision of this Agreement shall be deemed waived by the Town unless the waiver is in writing and signed by the Town's First Selectman or the Director of Parks and Recreation. Any provision of this Agreement that is deemed unenforceable by a court of competent jurisdiction shall be deemed amended and construed to have a valid meaning that is the most protective to the Town, and if no such validating construction is possible shall be severed from this Agreement, and the enforceability of the remaining provisions shall not be impaired thereby.

This Agreement shall be binding on Indemnitor and its heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Town of Westport and its agents, employees, elected and appointed officials, boards, commissions, committees, volunteers, representatives and assigns.

WITNESS

INDEMNITOR

Deborah Herbertson
 Print Name: Deborah Herbertson
 Print Address: 24 Whitney Street, Westport CT

Westport Downtown Merchants Assn
 Print Name of Indemnitor (the entity holding the Event)

Additional Witness:

J. Bidgood
 J. BIDGOOD
 8 Winslow Lane, Westport, CT.
 STATE OF CONNECTICUT)

By [Signature]
 Print Name: RANDY HERBERTSON
 Print Title: PRESIDENT

) ss: Westport, Connecticut, 19 August 2020

COUNTY OF FAIRFIELD)

Personally appeared _____ signer(s) and sealer of the forgoing instrument, and acknowledged before me the same to be his/her/their free act and deed, and acknowledged before me that he or she is authorized to execute this agreement on behalf of Indemnitor and to bind Indemnitor to its terms and that he or she holds the title with Indemnitor that is written below his or her name above.

 Notary Public
 Print Name:
 Print Address:
 My Commission Expires: _____
 Commissioner of the Superior Court

ITEM #4

4. To take such action as the meeting may determine to approve the Trademark License Agreement between the Town of Westport and Earthplace, Inc. as it relates to use of the Sustainable Westport trademark in connection with its programming to organize volunteers and raise funds to help achieve the Licensor's goal.

TRADEMARK LICENSE AGREEMENT

This Trademark License Agreement ("Agreement") is entered into and effective as of this ____ day of _____, 2020, between the TOWN OF WESTPORT, a municipality in Westport, Connecticut ("Licensor"), and EARTHPLACE INC., a nonprofit organization in Westport, Connecticut ("Licensee").

RECITALS

WHEREAS, Licensor has a stated goal of achieving Net-Zero energy use by the year 2050, where the community has reduced its impacts across energy, water and waste so that they are sustainably managed, using approaches that are economically viable, of social benefit, and environmentally responsible (the "Licensor's Goal"); and

WHEREAS, Licensor has formed an appointed body named Sustainable Westport (known also as the Sustainable Westport Advisory Team, and formerly known as the Green Task Force and originally, when formed in 2007, the Green Energy Task Force) (the "Advisory Team") consisting of knowledgeable local residents appointed by the First Selectman of Licensor; and

WHEREAS, Licensor, through the Advisory Team, created the trademark SUSTAINABLE WESTPORT in word form, and in all style and design variations used to date by Licensor or its authorized licensees, including without limitation the logo created by Lisa Mezoff in a logo contest sponsored by the Advisory Team, attached in Exhibit A hereto (together, the "Marks"), to be used in furtherance of the Licensor's Goal; and

WHEREAS, Licensee is committed to building passion and respect for the natural world and a more sustainable future for our community, and it accomplishes this by blending science, conservation, and education into pathways for learning about nature and the environment; and

WHEREAS, the Licensee desires to use the Marks in connection with a program (the "Program") to organize volunteers and raise funds for the purpose of leading, supporting, and incubating resident-led ideas, working groups and projects that would help Licensor achieve the Licensor's Goal; and

WHEREAS, Licensee desires to license from Licensor, and Licensor desires to license to Licensee, the right of Licensee to use the Marks in connection with the Program, on the terms and conditions of this Agreement;

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

- 1) Grant of License. Licensor grants to Licensee a limited, royalty-free, non-exclusive, non-transferrable license to use the Marks, subject to the terms and conditions of this Agreement.
- 2) Restrictions on Use. Licensee agrees that Licensee's and the Program's uses, programs and services that are associated with the Marks will be in support of and in furtherance of the Licensor's Goal, that

Licensee will conduct itself in a manner so as to preserve the goodwill associated with the Marks, and that Licensee will not do anything that would damage or depreciate such goodwill. If Licensee desires to use the Marks on any goods to be sold or otherwise distributed, then prior to such use, Licensee shall obtain the prior written approval of Licensor. In addition, upon the request of Licensor, Licensee shall in a timely manner provide copies of goods, services, advertising and promotional materials, and other signage or uses of the Marks, for review by Licensor to ensure that each such use is of proper quality and otherwise consistent with this Agreement.

- 3) Termination. This Agreement and the license granted hereby shall commence as of the date first written above and shall continue until terminated by either party. Either party may terminate this Agreement at any time by written notice to the other party specifying the effective date of such termination. Upon the effectiveness of any termination, Licensee shall immediately cease using the Marks. The provisions of Sections 5, 6, 7, 8, 9 and 11 shall survive any termination of this Agreement.
- 4) Assignment. Licensee shall not assign or otherwise transfer the license in and to the Marks without express prior written consent from Licensor in its sole discretion.
- 5) Retention of Ownership. Licensee acknowledges that Licensor is the owner of the Marks and that Licensor retains all ownership rights, subject to the limited license granted pursuant to this Agreement, and that Licensor makes no representations or warranties, express or implied, except as expressly set forth in this Agreement. All usage of the name shall inure to the benefit of Licensor. Licensor has the right, but not the obligation, to apply to register the Marks, in all forms and variations, as a trademark or service mark, as the case may be, with any or all state, federal or foreign trademark authorities as Licensor shall, in its sole discretion, determine. Licensee shall cooperate with Licensor to sign all documents, provide adequate specimens and information, and to take all steps reasonably necessary to allow Licensor to register the Marks as so determined.
- 6) Responsibility for Licensed Products/Services. Licensee shall be solely responsible for and assume all costs and liabilities related to: (a) the programs, goods and services provided by the Licensee and its Program, (b) any defect or failure in or of any program, goods or services relating to this license (whether such defect be in materials, workmanship or design), (c) conformance of programs, goods and services relating to this license with all applicable laws, rules, regulations and standards, and (d) the promotion, sale, documentation and marketing of programs, goods and services relating to this license. Licensee shall be solely responsible for the payment and discharge of any taxes or duties relating to any transactions of Licensee, the Program, its subsidiaries, employees, contractors, agents or sublicensees, in connection with the programs, goods or services relating to this license.
- 7) Licensee Protection of Licensor. During the term of this Agreement, and continuing after the expiration or termination of this Agreement, Licensee shall indemnify, reimburse, hold harmless and defend Licensor from any loss, liability, damage, cost or expense arising out of any claims or suits which may be brought or made against Licensor by reason of: (i) any breach of Licensee's covenants and undertakings under this Agreement; (ii) any unauthorized use of the Marks by Licensee; (iii) Licensee's non-compliance with any applicable federal, state or local laws or with any other applicable regulations; and (iv) any product liability, any alleged defect in materials or workmanship, alleged inherent dangers (whether obvious or hidden) in the programs, goods and services relating to this Agreement.

- 8) Relationship. Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency or employment relationship between the parties hereto. Except as specified herein, neither party shall have the right, power or implied authority to create any obligation or duty, express or implied, on behalf of the other party hereto. It is expressly agreed and understood that the Licensor and the Licensee and any of their respective employees, volunteers, agents and representatives at all times shall not be considered under the provisions of this Agreement as employees, volunteers, agents or representatives of the other party, or as being entitled to participate in or receive any benefit under any benefit plan or program made available by the other party to its employees.
- 9) Disclaimer of Representations and Warranties. Licensor makes no representation or warranty whatsoever with respect to the freedom of the Marks from claims of infringement by third parties arising from trademark, patent or other property rights in the Marks. Licensor has no knowledge of any trademark or copyright claims by third parties in the Marks.

LICENSOR EXPRESSLY DISCLAIMS THE WARRANTIES AND CONDITIONS OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL LICENSOR BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, LOST PROFITS, INDIRECT OR OTHER DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

- 10) Insurance. Licensee shall obtain the following insurance coverages covering the Licensee's obligations under this Agreement, from companies with an A.M. Best rating of A- (VII) or better:

a) Commercial General Liability insurance including Products and Completed Operations. Limits shall be at least: Bodily Injury & Property Damage with an occurrence limit of \$1,000,000; Personal & Advertising Injury limit of \$1,000,000 per occurrence; General Aggregate limit of \$2,000,000 (other than Products and Completed Operations) per location; and Products and Completed Operations aggregate limit of \$2,000,000. For each policy required by this Agreement, the Licensee is required to provide the amount of insurance specified in this Agreement or the amount of insurance that the Licensee actually has, whichever is higher.

b) Workers Compensation insurance required by statute with Employer's Liability limits for at least the amounts of liability for bodily injury by accident of \$500,000 each accident, bodily injury by disease of \$500,000, and \$500,000 disease aggregate, including a waiver of subrogation in favor of the Town.

Licensee shall provide the Town with Certificate(s) of Insurance on Acord 25 (2016/03) or later edition evidencing all insurance policies required by this Agreement, and all such Certificate(s) of Insurance, shall:

- Name the "Town of Westport" as an additional insured and include ISO Form CG 20 26 04 13 ("Additional Insured – Designated Person or Organization") or equivalent (except that this is not required for Workers Compensation insurance), and
- Be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self-insured retention carried by the Town, and
- Contain a waiver of subrogation in favor of the Town, and

- Contain a broad form contractual liability endorsement or wording within the policy form to comply with the hold harmless and indemnity obligations of Licensee under this Agreement, and
- Declare all deductible and self-insured retentions, and all such deductibles and self-insured retentions are subject to the approval of the Town, and
- Require notice of cancellation to the Town according to policy provisions.

11) Disputes. The rights and liabilities of the parties arising out of or relating to this Agreement will be governed by the laws of the state of Connecticut.

IN WITNESS WHEREOF, this Agreement is executed by the parties as of the date first written above.

TOWN OF WESTPORT, LICENSOR

James S. Marpe
First Selectman

EARTHPLACE INC., LICENSEE

Tony McDowell
Executive Director

EXHIBIT A

SUSTAINABLE WESTPORT

