



TOWN COUNCIL MEETING
Jamestown Town Hall
Rosamond A. Tefft Council Chambers
93 Narragansett Avenue
Monday, September 16, 2019
6:30 PM

The public is welcome to participate in this Town Council meeting. Open Forum offers citizens the opportunity to clarify an item on the agenda, address items not on the agenda, or comment on a communication or Consent Agenda item. Citizens are welcome to speak to the subject of a Public Hearing, and are allowed to speak at the discretion of the Council President or a majority of Councilors present, or at other times during the meeting, in particular during New or Unfinished Business.

Anyone wishing to speak should use the microphone at the front of the room, stating their name and address for the record; comments must be addressed to the Council, not the audience. It is the Town Council's hope that citizens and Councilors alike will be respectful of each other's right to speak, tolerant of different points of view, and mindful of everyone's time.

Attachments for items on this meeting agenda are available to the public on the Town website at: <http://www.jamestownri.gov/town-government/town-council/town-council-meetings-minutes/2019-meetings-minutes/2019-meetings>

I. ROLL CALL

II. CALL TO ORDER, PLEDGE OF ALLEGIANCE

III. TOWN COUNCIL SITTING AS THE BOARD OF WATER AND SEWER COMMISSIONERS

- A) Approval of Minutes; review, discussion and/or potential action and/or vote August 19, 2019 (regular meeting)
- B) Open Forum
Comments are not limited to items on this agenda. However, items not on this agenda will only be heard and not acted upon by the Town Council. Note: Section 42-46-6 of the Open Meetings Act, and Department of the Attorney General Advisory Opinions relevant to this item on any public body meeting agenda specifically prohibits the Town Council from discussing, considering or acting on any topic, statement or question presented. The Town Council may, if warranted, refer such matters to an appropriate committee, to another body or official, or post the matter for consideration at a properly-noticed, future meeting.
 - 1) Scheduled request to address – None.
 - 2) Non-scheduled request to address
- C) Report of Town Officials - Status Reports; review, discussion and/or potential action and/or vote
 - 1) Pumping report
 - 2) Town project reports
 - a) Town Wells
 - b) Water Treatment Plant
 - c) Transfer Pumping/Reservoir
 - d) Distribution System
 - e) Wastewater Treatment Facility

- 3) Clean Water Infrastructure Replacement Plan (July 2019), prepared by Pare Corporation; review, discussion and/or potential action and/or vote (continued from 08/19/19)

Town Council Adjourns from sitting as the Board of Water and Sewer Commissioners

IV. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, PRESENTATIONS, RESOLUTIONS AND PROCLAMATIONS

- A) Proclamations:
 - 1) No. 2019-18: Designating October as Community Planning Month
- B) Presentations:
 - 1) Gould Island by David Sommers, Gould Island Advisory Chair

V. OPEN FORUM

Please note that under scheduled requests to address, comments are not limited to items on this agenda. However, items not on this agenda will only be heard and not acted upon by the Town Council. Note: Section 42-46-6 of the Open Meetings Act and Department of the Attorney General Advisory Opinions relevant to this item on any public body meeting agenda specifically prohibits the Town Council from discussing, considering or acting on any topic, statement or question presented. The Town may, if warranted, refer such matters to an appropriate committee, to another body or official, or post the matter for consideration at a properly-noticed, future meeting.

- A) Scheduled request to address- None
- B) Non-scheduled request to address

VI. COUNCIL, ADMINISTRATOR, SOLICITOR, COMMISSION/COMMITTEE COMMENTS & REPORTS

- A) Town Administrator's Report: Christina D. Collins, Interim Town Administrator
 - 1) Town Administrator's Search Update
 - 2) Conservation Easements/Restrictions Jamestown Shores

VII. UNFINISHED BUSINESS

Please Note in Accordance with Section 42-46-6 (b) the Council May Review, Discuss and/or take Action and/or Vote on the following items:

- A) Upcoming Meetings and Sessions – dates and times
 - 1) Town Council Meeting Schedule: September October 7th and October 21st at 6:30 p.m.
 - 2) Schedule Hearing Date and Discussion of Hearing Process: Museler Appeal
 - 3) Schedule Special Meeting for the review of Town Administrator Applicants

VIII. NEW BUSINESS

Please Note in Accordance with Section 42-46-6 (b) the Council May Review, Discuss and/or take Action and/or Vote on the following items:

- A) Discussion on Parking at Beach Facilities

IX. ORDINANCES, APPOINTMENTS, VACANCIES AND EXPIRING TERMS

Please Note in Accordance with Section 42-46-6 (b) the Council May Review, Discuss and/or take Action and/or Vote on the following items:

- A) Discussion on Noise Ordinance Amendments to Article III- Sections- 22-66 C, 22-66 D, 22-66 E, 22-71; Proposed by Chief Edward A. Mello

X. CONSENT AGENDA

An item on the Consent Agenda need not be removed for simple clarification or correction of typographical errors. Approval of the Consent Agenda shall be equivalent to approval of each item as if it had been acted upon separately for review, discussion and/or potential action and/or vote. A Consent Agenda item or items may be removed by the Town Council for review, discussion and/or potential action and or vote.

- A) Adoption of Town Council Minutes
 - 1) August 28, 2019 (special meeting)
 - 2) September 3, 2019 (executive session)
 - 3) September 3, 2019 (regular meeting)
- B) Minutes of Boards/Commissions/Committees
 - 1) Jamestown Zoning Board of Review (July 23, 2019)
- C) CRMC Notices
 - 1) Joint Public Notice RE-Notice of CRMC File No: 2019-06-014 and RI DEM No: WQC 19-123 DP19-174 Jamestown Boatyard
- D) Public Notice
 - 1) Zoning Board of Review Notice of ESJ Inc. /JTN LLC/ Simpatico Jamestown 13 Narragansett Ave
 - 2) Zoning Board of Review Notice of William & Glenna McCaffrey of 232 Beacon Ave.
- E) Abatements/Addenda of Taxes
Total Abatements \$ 1,219.59 Total Addenda \$ 1,666.66

Account/Abatement Amount

- 1) Abatements to 1998 Motor Vehicle Tax Roll
 - a) 06-0379-50 \$235.27
- 2) Abatements to 1999 Motor Vehicle Tax Roll
 - a) 06-0379-50M \$251.27
- 3) Abatements to 2000 Motor Vehicle Tax Roll
 - a) 06-0379-50M \$179.91
- 4) Abatements to 2019 Motor Vehicle Tax Roll
 - a) 07-0367-00M \$ 2.84
 - b) 08-1081-80M \$ 60.56
 - c) 11-0133-97M \$131.78
 - d) 19-0029-87M \$235.21
 - e) 19-0762-06M \$ 44.93
 - f) 19-0980-13M \$ 77.82
- 5) Addenda to Real Estate and Real Property 2019 Tax Roll
 - a) 18-0604-82 \$868.78
 - b) 22-0186-00 \$547.88
 - c) 23-0453-28 \$250.00

- F) Award of Bids:
 - 1) Public Works Department
 - a) New 2019 Four Wheel Drive Utility Truck
 - b) New 2019 Four Wheel Drive Extended Cab Pickup Truck and Plow
 - c) New 2019 Four Wheel Drive Dump Truck with Plow and Sander
 - d) New 7X14 Enclosed Trailer
 - e) New 44,000 GVW Dump Truck and Plow
 - f) New 44,000 GVW Hook Lift Truck, Plow, and Body Options
- G) Authorization of Agreement:
 - 1) Energy Agreement with Constellation

XI. COMMUNICATIONS, PETITIONS, AND PROCLAMATIONS AND RESOLUTIONS FROM OTHER RHODE ISLAND CITIES AND TOWNS

The Council may acknowledge any of the listed Communications and Proclamations and Resolutions. Should any member wish to have a conversation on any of the matters, the item will be placed on a future agenda for review, discussion and/or potential action and/or vote.

- A) Communications
 - 1) Letter of Mark Baker regarding Beavertail State Park
 - 2) Letter of Kayla E. O'Rourke, Special Assistant Attorney General regarding Dickinson v. Jamestown Board of Canvassers and Murphy v. Jamestown Board of Canvassers
 - 3) Email of Al McKibben regarding Construction Noise on East Shore Road

XII. EXECUTIVE SESSION

The Town Council may seek to enter into Executive Session for review, discussion and/or potential action and/or vote on the following:

- A) Pursuant to RIGL § 42-46-5(a) Subsection (2) Potential or Pending Litigation- Geoffrey Hamlin and Kristan Hamlin v. Zoning Board of Review of the Town of Jamestown, CA No. NC-2018-0373 and CA No. NC-2019-0166

XIII. ADJOURNMENT

Pursuant to RIGL § 42-46-6(c) Notice of this meeting shall be posted on the Secretary of State's website and at the Town Hall and the Jamestown Philomenian Library. Notice is also posted at the Jamestown Police Station and on the Internet at www.jamestownri.gov.

ALL NOTE: This meeting location is accessible to the physically challenged. If communications assistance is needed or other accommodations to ensure equal participation, please call 1-800-745-5555, or contact the Town Clerk at 401-423-9800, via facsimile to 401-423-7230, or email to 0 not less than three (3) business days prior to the meeting.

Posted on the RI Secretary of State website on September 11, 2019

**TOWN OF JAMESTOWN
TOWN COUNCIL MEETING
for
TOWN, WATER AND SEWER MATTERS**

August 19, 2019

A regular meeting of the Jamestown Town Council sitting as the Board of Water and Sewer Commissioners was called to order at the Jamestown Town Hall, Council Chambers, 93 Narragansett Avenue at 6:31 PM by Commission President Michael G. White.

The following members were present:

Mary E. Meagher, Vice-President
Nancy A. Beye
William J. Piva, Jr.
Randall White

Also present were:

Andrew Nota, Town Administrator
Peter D. Ruggiero Esq., Town Solicitor
Michael Gray PE, Public Works Director
Christina D. Collins, Finance Director
Erin F. Liese, Town Clerk
Cheryl Fernstrom, Town Clerk (outgoing)
Denise Jennings, Water and Sewer Clerk

AWARDS, PRESENTATIONS AND ACKNOWLEDGMENTS

(None)

READING AND APPROVAL OF MINUTES

1) 07/08/19 (regular meeting)

Motion was made by Commissioner Meagher, seconded by Commission Piva to accept the 07/08/19 regular meeting minutes. So unanimously voted.

OPEN FORUM

Commission President White noted that this open forum would be for water and sewer matters only.

1) Scheduled requests to address:

(No scheduled requests)

2) Non-scheduled request to address:

(None)

REPORT OF TOWN OFFICIALS

1) **Pumping Report:**

The Public Works Director reported the following:

- Pumping was average for the month of July.
- JR-1 is on for the season.
- Rainfall was above average for the month of July.
- No water was transferred during the month of July.
- North Reservoir is @ capacity, usable storage-60MG
- South Pond is @ capacity, usable storage-6MG

2) **Town project reports:** *(See attached Project Update Report dated August 2019)*

Treatment Plant/Reservoir

The Public Works Director reported the following:

Clean Water Infrastructure Replacement Plan (July 2019)-

- He has supplied the Commission with a copy of the Clean Water Infrastructure Replacement Plan (July 2019), prepared by Pare Corporation. The purpose of the plan is to identify water system infrastructure within the water supply system that require rehabilitation and replacement in accordance with the requirements of the Rules and Regulations for Clean Water Infrastructure Plans.
- Table 6-1 summarizes the 5-year infrastructure costs, which includes four major projects as follows:
 - Rebuilding the earthen berm at South Pond
 - Replacing the membranes at the water treatment plant
 - Refurbishing Howland Ave. Standpipe #1
 - Water main replacement work to includes Narragansett Avenue at Southwest Avenue going west towards west ferry.
- Table 6-2 summarizes the 5-20 year infrastructure improvements

The Public Works Director stated that he would like the Commission to review the plan and discussion could continue at the next meeting in September.

Transfer Pumping/Reservoir

The Public Works Director reported that Highway staff is making progress on the bike path and the bridge abutments at North Reservoir. Upon completion of the bridge abutments, staff will install the wooden bridge.

Wastewater Treatment Plant

The Public Works Director reported that during the weekend of July 20th and the high temperatures this summer, the town experienced brown outs within the electrical grid. All generators were turned on at the pump stations to avoid failure of our computer systems.

Following clarification on a few items, it was the consensus of the Commission to accept the Public Works Director's report, as presented.

3) **Finance Director's Report:** Comparison of Budget to Actuals as of July 31, 2019.

No action taken.

LETTERS AND COMMUNICATIONS

1) Letter of **Dennis H. Webster of 8 Mount Hope Avenue** to Michael Gray, Public Works Director re: **request for relief from excess sewer charges** on his July 2019 water and sewer bill.

The Public Works Director stated that when there is a leak, water staff goes out to do water meter reading and also checks to make sure that the excess water/leak did not affect or go into the municipal sewer system. The Public Works Director further stated that historically, relief is not given on the excess water side, as it costs money for the treatment of the excess water and that historically, we have given relief on the excess sewer side.

Motion was made by Commissioner Meagher, seconded by Commissioner Beye to grant the request from Dennis Webster for relief from excess sewer charges on his July 2019 water and sewer bill, as requested and suggested by the Public Works Director. So unanimously voted.

UNFINISHED BUSINESS

(None)

NEW BUSINESS

(None)

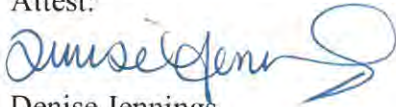
TOWN BUSINESS

(None)

ADJOURNMENT

There being no further business before the Commission, motion was made by Commission Vice-President Meagher, seconded by Commissioner Piva to adjourn the Water and Sewer meeting at 6:40 PM. So unanimously voted.

Attest:



Denise Jennings
Water and Sewer Clerk

xc: Commission Members (5)
Town Administrator
Town Solicitor
Public Works Director
Town Clerk

Project Update August 2019

WELLS

JR-1, JR-3

- JR-1 has been turned on for the season. The well pumps water at a rate of 50 gpm directly into the transmission main feeding the water plant from the reservoir.

TREATMENT PLANT

- The Clean Water Infrastructure Replacement Plan was completed by Pare Corporation and submitted to the RI Department of Health for their review and comment. I will provide a hard copy of the full report to the Council at our meeting. Attached is Section 6 of the report that provides Summary Table 6-1 that includes the 5- year projected costs for improvements and Summary Table 6-2 for long-range costs for the 20-year plan. The total of \$2,934,000 for the 5-year plan includes \$1,210,000 for three projects that have already been approved for funding by the Commission that include the South Pond Dam, membrane filter replacement, and painting of one tank on Howland Avenue. Another \$1,250,000 are anticipated costs for watermain replacement on Narragansett Avenue and the bridge crossing on North Road at Great Creek (Zekes Creek). Both projects will need to be discussed in future budgets for the water department. RIDOT has scheduled road and bridge construction in 2023.

TRANSFER PUMPING/RESERVOIR

- No water was transferred from South Pond.
- The highway department is making progress on the Bike Path project at North Reservoir. Work on the bridge abutments has been ongoing for the past 3 weeks. We should be accepting delivery of the bridge spanning the spillway later this month. In September crews will be working on regrading the slope face of the North Reservoir Dam as part of the Bike Path Construction.

DISTRIBUTION SYSTEM

South Pond @ 6 MG

Usable Storage, 6 Million Gallons

North Pond @ 60 MG

Usable Storage 60 Million Gallons

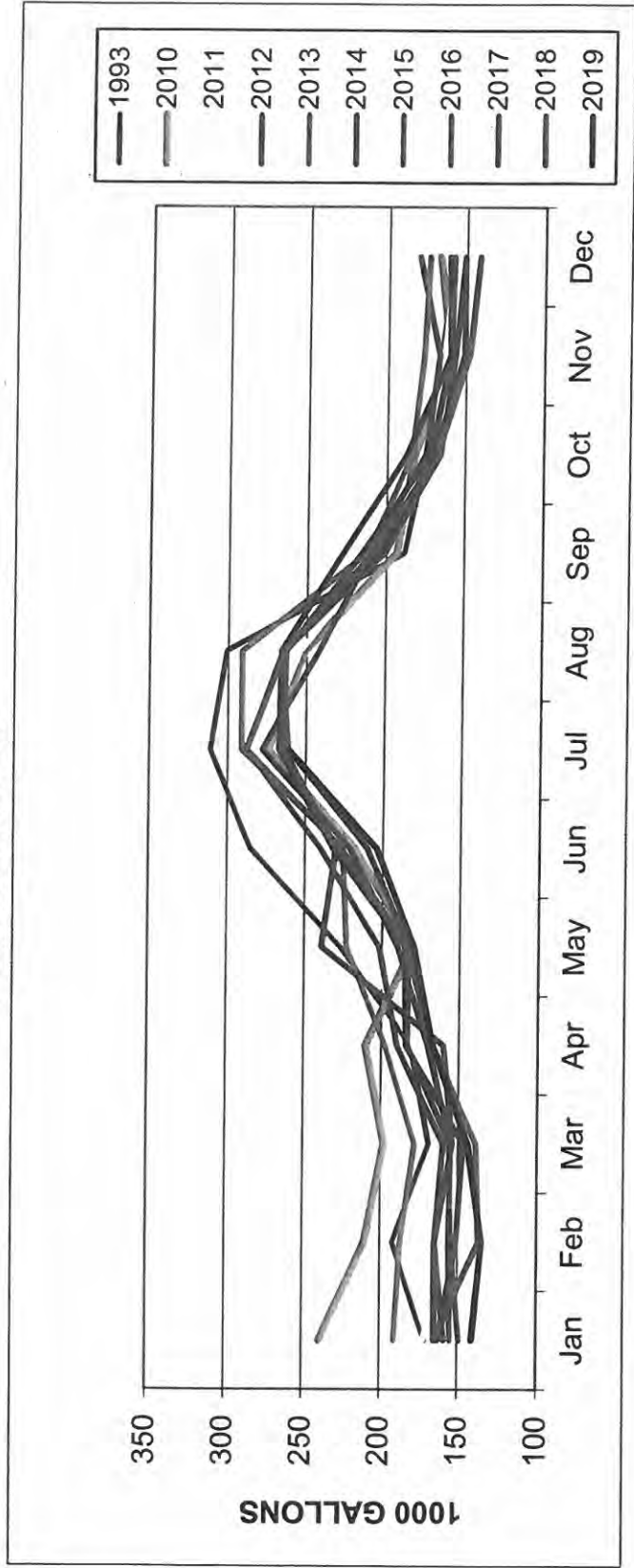
- There were no leaks reported for July.

WASTEWATER TREATMENT PLANT

- The monthly average daily flow at the treatment plant for July was 0.34 million gallons per day. The peak daily flow was 0.68 million gallons. The permitted monthly average is 0.73 million gallons per day as a condition of our discharge permit. There were no sanitary sewer overflows for the month of July.
- During the weekend of July 20th the Town experienced temperatures in the 90s with high humidity. When there are multiple days of high temperatures the Town experiences brown outs within our electrical grid. That weekend staff for both water and sewer had to respond to multiple alarms at our plants and pump stations due to electrical issues and intermittent power. All generators were turned on for the weekend to power our water and sewer infrastructure to avoid failures to our logic controls and computer SCADA systems. Some of our generators unfortunately are adjacent to homes that are near our pump stations but no complaints were received.

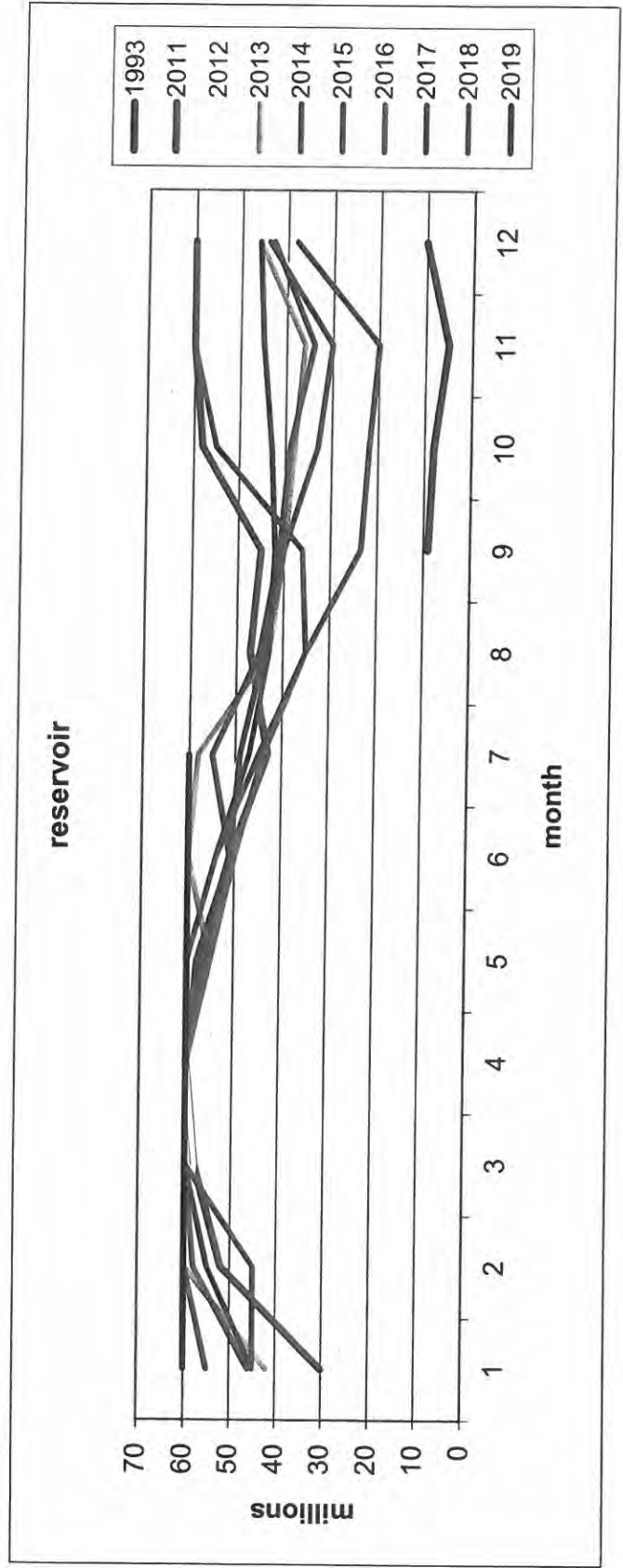
	1993	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Jan	171	172	173	239	172	155	191	163	165	159	149	165	141
Feb	192	154	173	210	158	156	187	151	165	165	155	137	135
Mar	169	155	165	198	157	155	178	147	154	160	156	139	144
Apr	181	174	196	210	180	170	198	184	160	190	183	167	167
May	227	202	195	180	212	190	223	185	239	202	183	184	179
Jun	285	246	215	218	226	221	226	232	230	240	210	227	204
Jul	311	296	277	274	279	278	291	267	264	288	261	288	261
Aug	301	256	290	251	254	242	291	266	263	264	266	265	265
Sep	188	210	245	193	205	210	212	227	215	201	203	208	208
Oct	175	187	259	182	175	175	184	187	172	166	170	168	168
Nov	166	175	226	160	164	167	177	160	160	157	151	148	148
Dec	158	192	230	167	158	180	174	161	158	151	151	142	142

PUMPING REPORT



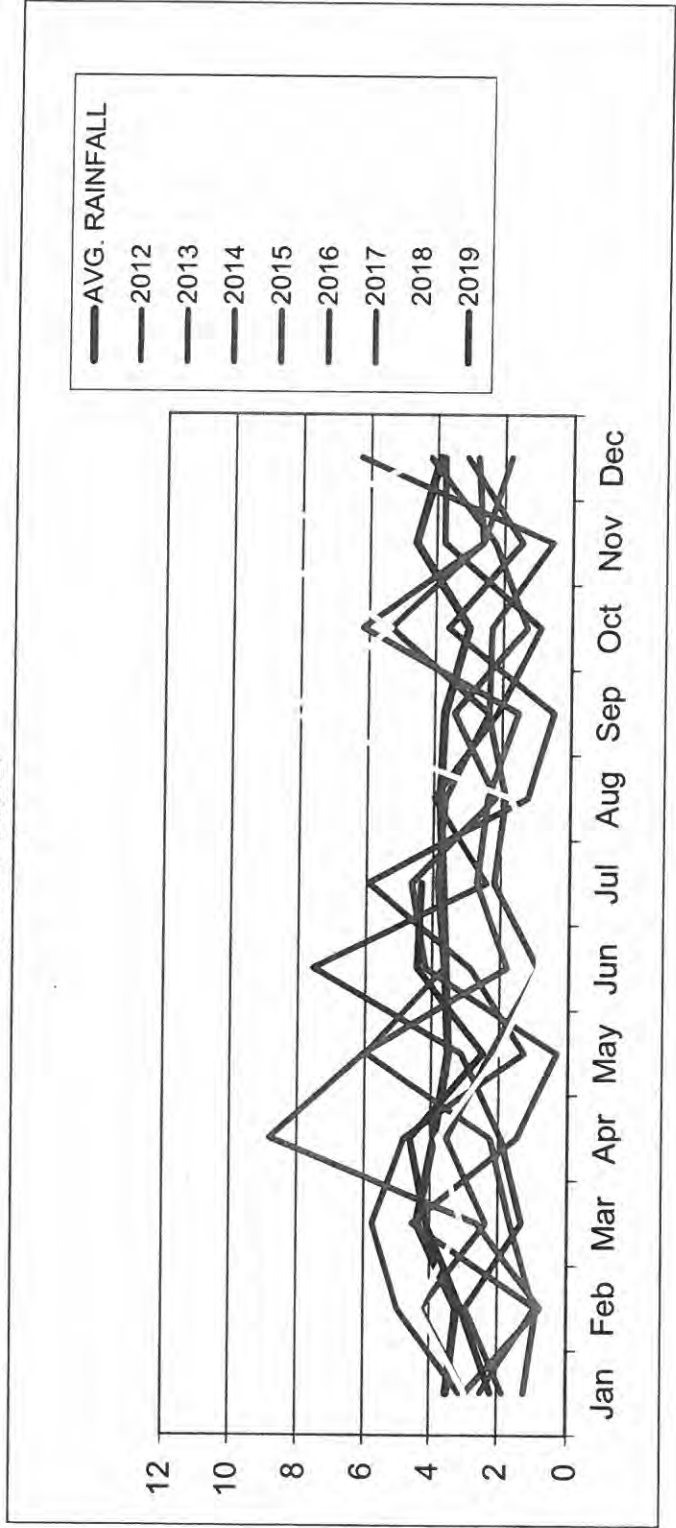
RESERVOIR LEVEL

	1993	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Jan		60	30	60	42	55	45	46	45	60	60
Feb		60	52	60	60	60	45	58	55	60	60
Mar		60	58	58	60	60	60	60	60	60	60
Apr		60	60	60	60	60	60	60	60	60	60
May		60	57	60	55	58	56	55	60	60	60
Jun		51	51	54	60	51	51	50	54	54	60
Jul		43	43	49	58	55	49	44	47	45	60
Aug		40	47	43	43	45	44	35	43	35	60
Sep	9	35	45	40	40	41	40	23.5	42	36	60
Oct	8	30	58	38	38	39	33	22	43	55	60
Nov	5	28	60	35	36	34	30	20	45	60	60
Dec	10	29	60	42	46	43	44	38	46	60	60

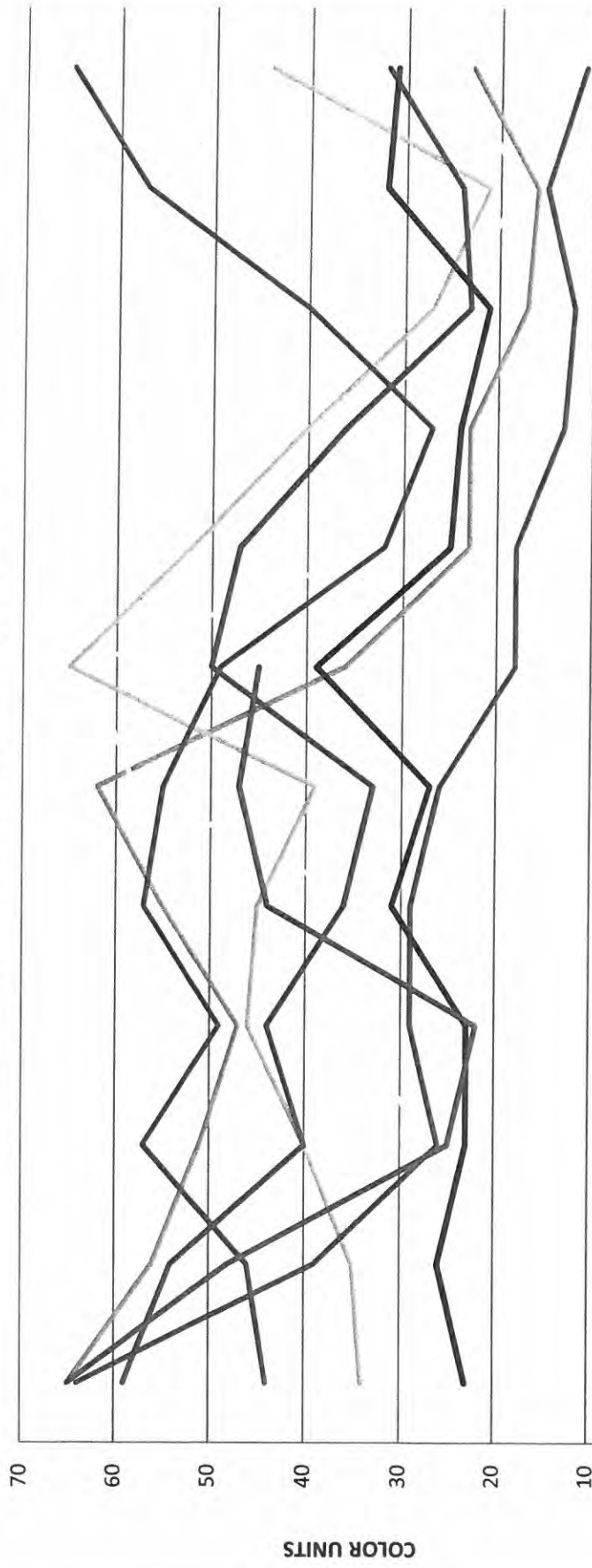


	AVG. RAINFALL												Total							
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
Jan	3.5	4.22	1.85	3.1	1.22	2.94	2.94	2.94	2.19	3.5	4.22	1.85	3.1	1.22	2.94	2.94	2.94	2.19	3.5	44.8
Feb	3.2	3.09	2.94	4.98	0.86	4.25	0.76	4.33	2.19	3.2	3.09	2.94	4.98	0.86	4.25	0.76	4.33	2.19	3.2	40.18
Mar	4.4	1.32	1.32	5.74	4.53	2.36	2.62	3.07	4.11	4.4	1.32	1.32	5.74	4.53	2.36	2.62	3.07	4.11	4.4	47.02
Apr	3.9	4.25	1.92	4.8	1.47	3.53	8.8	3.79	4.61	3.9	4.25	1.92	4.8	1.47	3.53	8.8	3.79	4.61	4.4	25.2
May	3.5	2.32	3.11	1.27	0.32	2.24	6.03	2.03	2.46	3.5	2.32	3.11	1.27	0.32	2.24	6.03	2.03	2.46	2.46	
Jun	3.6	4.4	7.55	2.86	4.2	0.89	1.79	0.89	4.44	3.6	4.4	7.55	2.86	4.2	0.89	1.79	0.89	4.44	4.44	
Jul	3.7	2.01	2.42	5.93	4.63	2.19	2.7	0.61	4.33	3.7	2.01	2.42	5.93	4.63	2.19	2.7	0.61	4.33	4.33	
Aug	3.8	5.23	3.98	1.23	2.17	1.88	2.4	1.73		3.8	5.23	3.98	1.23	2.17	1.88	2.4	1.73			
Sep	3.7	5.41	2.13	0.5	3.41	2.42	1.54	8.35		3.7	5.41	2.13	0.5	3.41	2.42	1.54	8.35			
Oct	3	7.18	0.9	3.61	1.31	5.33	6.18	5.34		3	7.18	0.9	3.61	1.31	5.33	6.18	5.34			
Nov	4.6	4.05	3.76	1.47	2.27	2.63	2.61	9.61		4.6	4.05	3.76	1.47	2.27	2.63	2.61	9.61			
Dec	3.9	2.51	3.76	3.1	4.2	2.79	1.81	4.33		3.9	2.51	3.76	3.1	4.2	2.79	1.81	4.33			

RAINFALL



Transfer Pumping NORTH POND WATER QUALITY



	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2012	65	56	51	47	55	62	36	23	23	17	16	23
2013	26	22	27	35	33	58	63	33	34	25	18	24
2014	34	35	40	46	45	39	65	52	40	27	21	44
2015	59	54	40	44	36	33	50	47	36	23	24	32
2016	64	39	26	29	29	26	18	18	13	12	15	11
2017	23	26	23	23	31	27	39	25	24	21	32	31
2018	44	46	57	49	57	55	49	32	27	40	57	65
2019	65	48	25	22	44	47	45					

SECTION 6 - INFRASTRUCTURE REPLACEMENT PLAN

The purpose of this Plan has been to identify water system infrastructure components within the JWD water supply system that require rehabilitation and replacement in accordance with the requirements of the Rules and Regulations for Clean Water Infrastructure Plans. It is the obligation of the JWD that in combination with these infrastructure improvements and general system maintenance, operation, and upkeep, that the water system operates and provides a safe and reliable water supply for an indefinite period of time.

Table 6-1 summarizes the 5-year infrastructure improvement costs. This includes four major projects including rebuilding the earthen berm at South Pond, replacing the membranes at the Treatment Plant, refurbishing Howland Standpipe #1, and nearly \$1.5 million in water main replacement work. The total cost of these projects has been estimated to be **\$2,934,000**, or \$587,000 per year over the 5-year period.

Table 6-2 summarizes the 5- to 20-year infrastructure improvement costs. This includes the rehabilitation of Howland Standpipe #2, routine inspections and equipment replacement. The total cost of all projects anticipated during the 5 to 20-year period has been estimated to be **\$1,423,000**, or \$95,000 over the 15-year period.



**Table 6-1
JAMESTOWN WATER DISTRICT
Infrastructure Improvements
Five-Year Plan (2019 – 2024)**

Time Interval/Year	Project Description	Opinion of Probable Construction Cost
North Pond		
2019	Flatten dam embankment, extend toe drain, provide upstream slope protection	\$50,000
	Spillway repairs;	\$10,000
	Intake Repairs	\$5,000
2024	Inspect intake structure/spillway	\$3,500
South Pond		
Yearly	Maintain vegetation along entire dam	\$50,000
2019	Rebuild earthen berm, improvements to spillway and dike	\$500,000
2024	Inspect dam, dike, intake structure and spillway	\$3,500
JR-1		
2022	Well inspection/redevelopment as required	\$15,000
2022	Construct well building	\$10,000
JR-3		
2022	Well inspection/redevelopment as required	\$15,000
Pretreatment Facility		
2019	Replace asphalt shingle roof and fascia boards	\$2,000
	Inspect and repoint brick where needed, paint doors and trim	\$2,000
2024	Perform Facility Inspection, minor repairs	\$3,000
Main Treatment Building		
2020	Replace Roof and Windows on Original Treatment Building	\$40,000
	Replace membranes (15-year life span); tank improvements	\$310,000
	Replace Static Mixers	\$5,000

Table 6-1 (cont'd)
JAMESTOWN WATER DISTRICT
Infrastructure Improvements
Five-Year Plan (2019 – 2024)

Howland Standpipe #1		
2019	Perform inspection	\$5,000
2020	Welding repairs/refurbish interior & exterior protective coatings	\$400,000
2024	Perform tank inspection	\$5,000
Howland Standpipe #2		
2023	Perform tank inspection	\$5,000
Pump Station		
2022	Inspect and service pumps	\$5,000
Water Mains		
2021	Conanicus Ave from Union to Lincoln – 400 feet 8”	\$60,000
2022	Fowler and Douglas – 800 feet of 8”	\$120,000
2023	Narragansett SW Ave to end of West Ferry - 2000 feet 12” and 1000 feet 8”, done by 2023	\$750,000
2023	Crossing at Great Creek – 1,500 feet 8 and 12”, by HDD	\$500,000
Vehicles		
2023	F550	\$60,000
TOTAL 5 YEAR PLAN		\$2,934,000

* Information presented in this table is only a guideline. As such, it is important to note that it does not represent the JWD Infrastructure Replacement budget.

Table 6-2
JAMESTOWN WATER DISTRICT
Infrastructure Improvements
5-20 Year Plan (2025 – 2040)

Time Interval/Year	Description	Opinion of Probable Construction Cost
North Pond		
10-year/2029	Inspect intake structure/spillway	\$3,500
10-year/2029	Replace Pond aeration building and blower motor	\$15,000
15-year/2034	Inspect intake structure/spillway	\$4,000
20-year/2039	Inspect intake structure/spillway	\$4,500
South Pond		
Yearly	Maintain vegetation along entire dam	\$150,000
10-year/2029	Inspect dam, dike, intake structure and spillway	\$3,500
15-year/2034	Inspect dam, dike, intake structure and spillway	\$4,000
20-year/2039	Inspect dam, dike, intake structure and spillway	\$4,500
JR-1		
10-year/2029	Perform well inspection, test pump	\$5,000
	Replace mechanical/electrical equipment, as required	\$15,000
15-year/2034	Well inspection/redevelopment as required	\$15,000
20-year/2039	Perform well inspection, test pump	\$5,000
JR-3		
10-year/2029	Perform well inspection, test pump	\$5,000
	Replace pump and mechanical/electrical equipment, as required	\$25,000
15-year/2034	Well inspection/redevelopment as required	\$15,000
20-year/2039	Perform well inspection, test pump	\$5,000
Pretreatment Facility		
10-year/2029	Perform Facility Inspection, minor repairs	\$3,000
	Replace Chlorine Dioxide Generator	\$10,000
15-year/2034	Perform Facility Inspection, minor repairs	\$4,000
20-year/2039	Perform Facility Inspection, minor repairs	\$5,000

Table 6-2 (cont'd)
JAMESTOWN WATER DISTRICT
Infrastructure Improvements
5-20 Year Plan (2025 – 2040)

Main Treatment Building		
10-year/2029	Inspect and Service Generator, Pumps, & Other Components	\$15,000
10-year/2029	Replace Permeate Pumps	\$25,000
10-year/2029	Replace Blowers	\$50,000
15-year/2034	Perform Inspection of Treatment Facility	\$5,000
20-year/2039	Inspect and Service Generator, Pumps, & Other Components	\$15,000
Howland Standpipe #1		
10-year/2029	Perform tank inspection	\$6,000
15-year/2034	Perform tank inspection	\$7,000
20-year/2039	Perform tank inspection	\$8,000
Howland Standpipe #2		
10-year/2028	Perform tank inspection	\$6,000
10-year/2029	Welding repairs/refurbish interior & exterior protective coatings	\$500,000
15-year/2034	Perform tank inspection	\$7,000
20-year/2039	Perform tank inspection	\$8,000
Howland Ave. Pumps		
10-year/2029	Pump Replacement	\$5,000
10-year/2029	Compressor Replacement	\$5,000
Pump Station		
10-year/2027	Replace pumps as required	\$50,000
15-year/2032	Inspect and service pumps	\$5,000
20-year/2037	Inspect and service pumps	\$5,000
Water Mains		
10-year/2025	North Road from Narragansett Ave to Arnold Ave – 2000 feet	\$400,000
TOTAL 5-20 YEAR PLAN		\$1,423,000

* Information presented in this table is only a guideline. As such, it is important to note that it does not represent the JWD Infrastructure Replacement budget.

Project Update September 2019

WELLS

JR-1, JR-3

- JR-1 has been turned on for the season. The well pumps water at a rate of 50 gpm directly into the transmission main feeding the water plant from the reservoir.

TREATMENT PLANT

- I have placed the Clean Water Infrastructure Replacement Plan on the agenda since it was hand delivered at the last meeting.

TRANSFER PUMPING/RESERVOIR

- No water was transferred from South Pond.
- The bridge has been delivered and the beams have been assembled by the highway department. The structure will be lifted into place by crane and the decking and railings will be completed.

DISTRIBUTION SYSTEM

South Pond @ 6 MG

Usable Storage, 6 Million Gallons

North Pond @ 56 MG

Usable Storage 60 Million Gallons

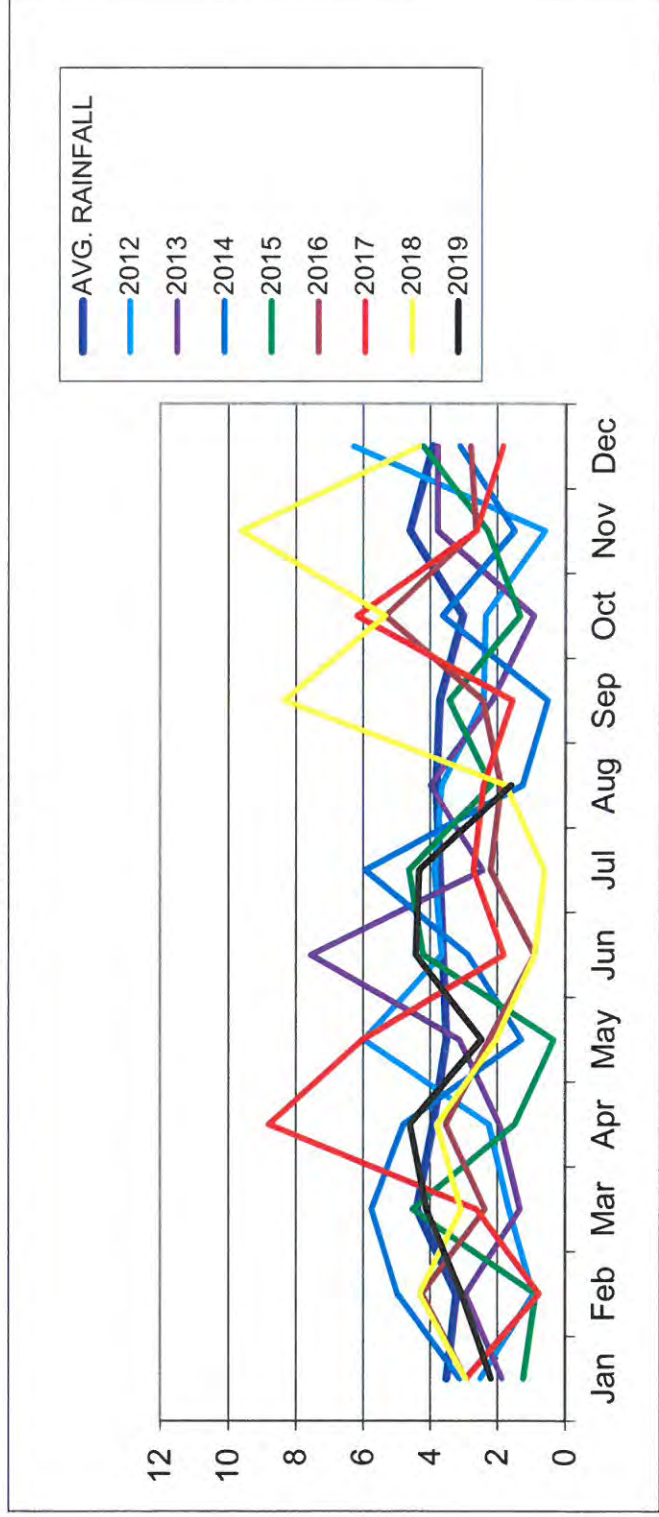
- There were no leaks reported for August.
- Staff from the water department have been inspecting services to our commercial accounts for backflow devices. Our Cross-Connection program requires each commercial customer to have a backflow device (check valve) at the meter to protect the water distribution system from cross connection. There are 97 commercial accounts on the water system.
- Inspections of both water storage tanks will be completed on September 18th.

WASTEWATER TREATMENT PLANT

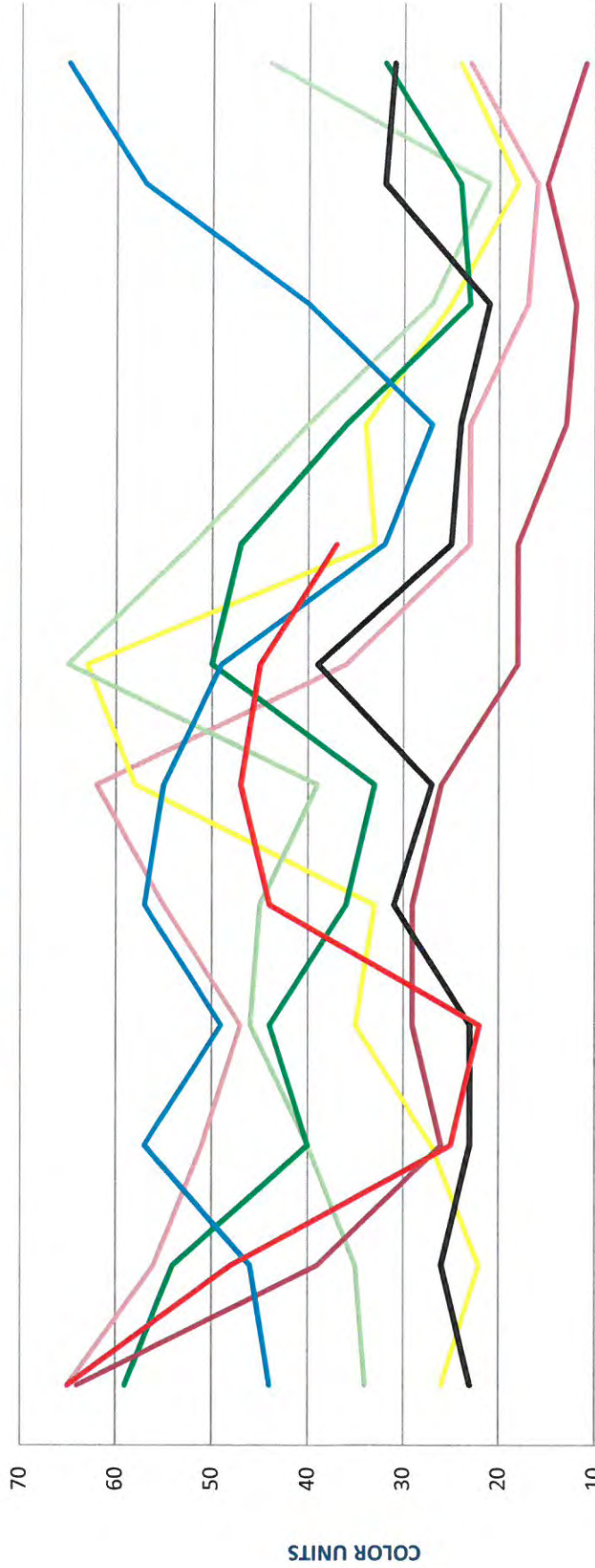
- The monthly average daily flow at the treatment plant for August was 0.20 million gallons per day. The peak daily flow was 0.31 million gallons. The permitted monthly average is 0.73 million gallons per day as a condition of our discharge permit. There were no sanitary sewer overflows for the month of August. There was 1.885 million gallons of effluent delivered to the golf course for irrigation.

	2011	2012	2013	2014	2015	2016	2017	2018	2019
Jan	3.5	4.22	1.85	3.1	1.22	2.94	2.94	2.94	2.19
Feb	3.2	3.09	2.94	4.98	0.86	4.25	0.76	4.33	3.06
Mar	4.4	1.32	1.32	5.74	4.53	2.36	2.62	3.07	4.11
Apr	3.9	4.25	1.92	4.8	1.47	3.53	8.8	3.79	4.61
May	3.5	2.32	3.11	1.27	0.32	2.24	6.03	2.03	2.46
Jun	3.6	4.4	7.55	2.86	4.2	0.89	1.79	0.89	4.44
Jul	3.7	2.01	2.42	5.93	4.63	2.19	2.7	0.61	4.33
Aug	3.8	5.23	3.98	1.23	2.17	1.88	2.4	1.73	1.58
Sep	3.7	5.41	2.13	0.5	3.41	2.42	1.54	8.35	
Oct	3	7.18	0.9	3.61	1.31	5.33	6.18	5.34	
Nov	4.6	4.05	3.76	1.47	2.27	2.63	2.61	9.61	
Dec	3.9	2.51	3.76	3.1	4.2	2.79	1.81	4.33	
Total	44.8	45.99	35.64	38.59	30.59	33.45	40.18	47.02	26.78

RAINFALL



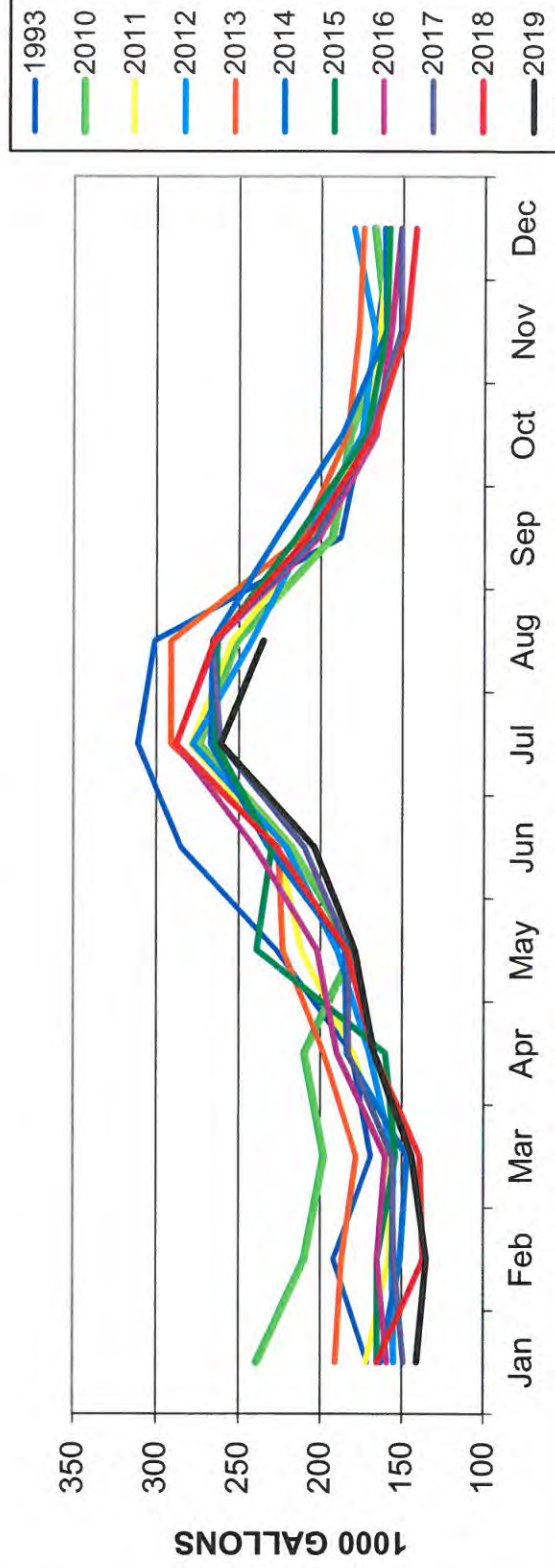
Transfer Pumping NORTH POND WATER QUALITY



	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2012	65	56	51	47	55	62	36	23	23	17	16	23
2013	26	22	27	35	33	58	63	33	34	25	18	24
2014	34	35	40	46	45	39	65	52	40	27	21	44
2015	59	54	40	44	36	33	50	47	36	23	24	32
2016	64	39	26	29	29	26	18	18	13	12	15	11
2017	23	26	23	23	31	27	39	25	24	21	32	31
2018	44	46	57	49	57	55	49	32	27	40	57	65
2019	65	48	25	22	44	47	45	37				

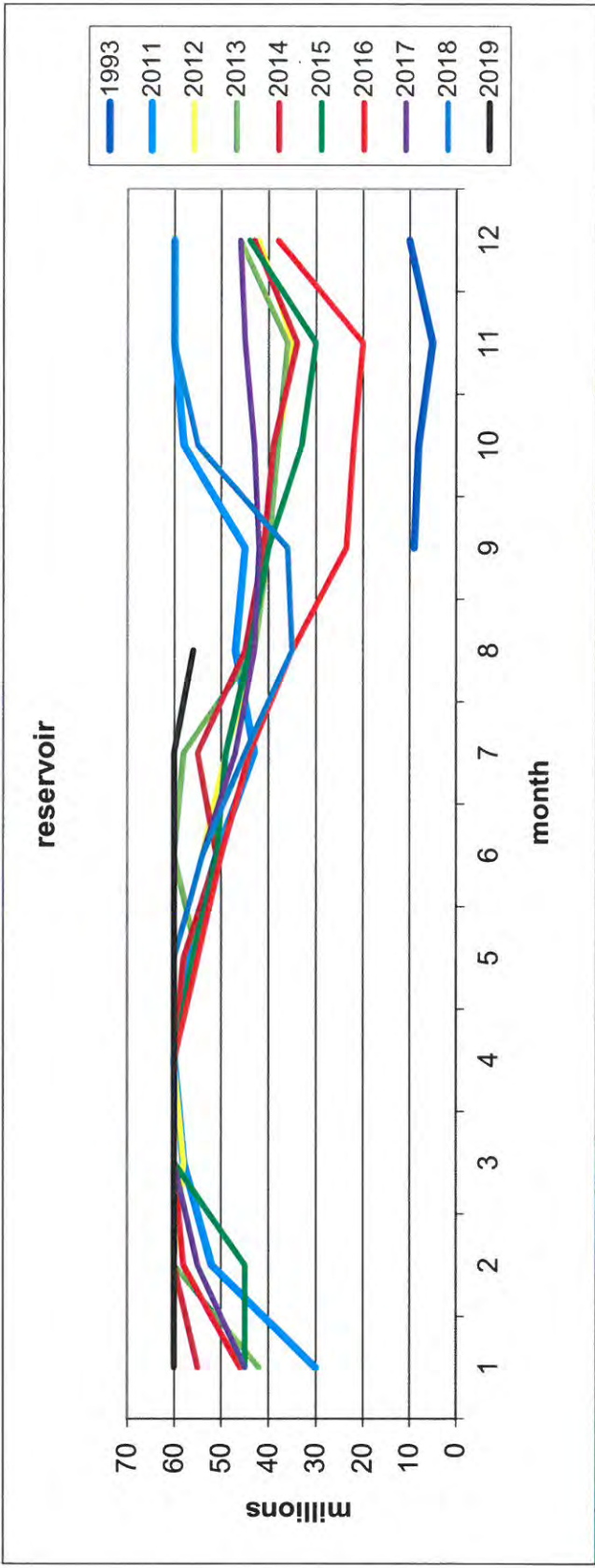
	1993	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Jan	171	172	173	239	172	155	191	163	165	159	149	165	141
Feb	192	154	173	210	158	156	187	151	165	165	155	137	135
Mar	169	155	165	198	157	155	178	147	154	160	156	139	144
Apr	181	174	196	210	180	170	198	184	160	190	183	167	167
May	227	202	195	180	212	190	223	185	239	202	183	184	179
Jun	285	246	215	218	226	221	226	232	230	240	210	227	204
Jul	311	296	277	274	279	278	291	267	264	288	261	288	261
Aug	301	256	290	251	254	242	291	266	263	264	266	265	235
Sep	188	210	245	193	205	210	212	227	215	201	203	208	
Oct	175	187	259	182	175	175	184	187	172	166	170	168	
Nov	166	175	226	160	164	167	177	160	160	157	151	148	
Dec	158	192	230	167	158	180	174	161	158	151	151	142	

PUMPING REPORT



RESERVOIR LEVEL

	1993	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Jan		60	30	60	42	55	45	46	45	60	60
Feb		60	52	60	60	60	45	58	55	60	60
Mar		60	58	58	60	60	60	60	60	60	60
Apr		60	60	60	60	60	60	60	60	60	60
May		60	57	60	55	58	56	55	60	60	60
Jun		51	51	54	60	51	51	50	54	54	60
Jul		43	43	49	58	55	49	44	47	45	60
Aug		40	47	43	43	45	44	35	43	35	56
Sep	9	35	45	40	40	41	40	23.5	42	36	
Oct	8	30	58	38	38	39	33	22	43	55	
Nov	5	28	60	35	36	34	30	20	45	60	
Dec	10	29	60	42	46	43	44	38	46	60	



**JAMESTOWN, RHODE ISLAND
COMMUNITY PLANNING MONTH PROCLAMATION**

WHEREAS, change is constant and affects all cities, towns, suburbs, counties, boroughs, townships, rural areas, and other places; and

WHEREAS, community planning and planners can help manage this change in a way that provides better choices for how people work, live, and play; and

WHEREAS, community planning provides an opportunity for all residents to be equally involved in making choices that determine the shared-vision of their community; and

WHEREAS, the full benefits of community planning require public officials and citizens who understand, support, and demand excellence in planning and plan implementation; and

WHEREAS, the month of October is designated as National Community Planning Month throughout the United States of America and its territories, and

WHEREAS, The American Planning Association and its professional institute, the American Institute of Certified Planners, endorse National Community Planning Month as an opportunity to highlight the contributions that sound planning and plan implementation make, specifically to the quality of life of the residents in each community; and

WHEREAS, the celebration of National Community Planning Month gives us the opportunity to publicly recognize the participation and dedication of the members of planning commissions and other citizen planners who have contributed their time and expertise to the improvement of the Town of Jamestown, County of Newport, State of Rhode Island; and

WHEREAS, The Jamestown Town Council recognizes the many valuable contributions made by all the members of Jamestown's Planning Commissioners, since its formation by the Town on April 28, 1947 and our professional Town Planners since 1986 and extend our heartfelt thanks for their continued commitment to the residents of Jamestown and the Town of Jamestown;

NOW, THEREFORE, BE IT RESOLVED THAT, the month of October 2019 is hereby designated as Community Planning Month in the Town of Jamestown, County of Newport, State of Rhode Island in conjunction with the celebration of National Community Planning Month.

Adopted this _____ day of _____, 2019.

Chief Elected Official (SEAL)

Clerk

Gould Island

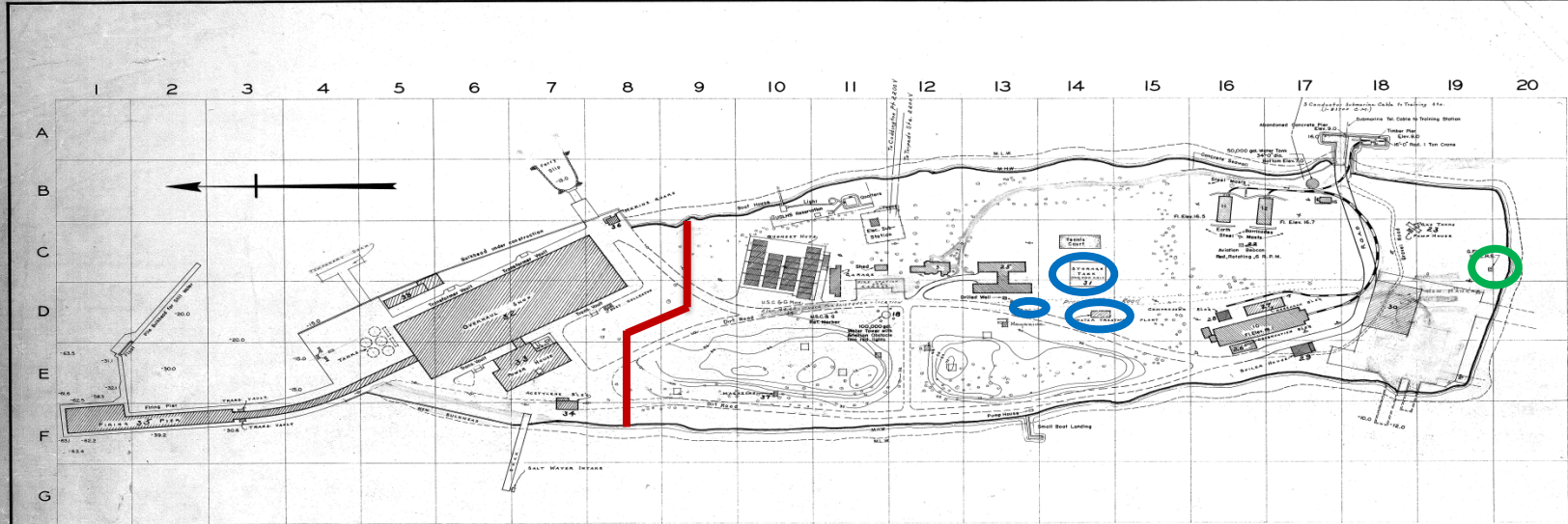
Jamestown Town Council, Sept 16, 2019



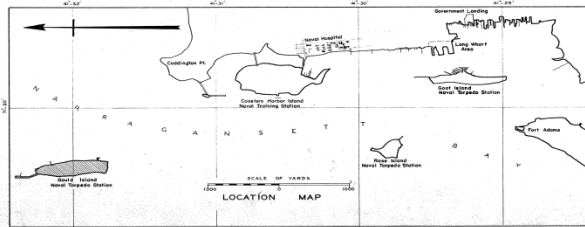
Gould Island South RAB Summary

- Army Corps 2 Years Into Restoring South Gould
 - Formerly Used Defense Site (FUDS)
 - Under 1980 CERCLA legislation (Superfund)
 - Chemical contamination cleanup only
 - One time Federal presence for cleaning up Gould
 - Sampling/analysis plus minimal debris removal only to-date
- Issues Identified So Far
 - Contaminant cleanup plan was initially only for birds
 - Now for public recreation (RIDEM change)
 - Groundwater potability cleanup not agreed
 - **Physical cleanup limited to that incidental to chemical cleanup plus 4 additional structures**
 - 3 Navy owned sites & 1 Coast Guard site still excluded

1942 Navy Site Map



DEPT.	NO.	LOC.	DESIGNATION	LEGEND
1	1	100	WATER BARRIERS	---
2	1	100	WATER BARRIERS	---
3	1	100	WATER BARRIERS	---
4	1	100	WATER BARRIERS	---
5	1	100	WATER BARRIERS	---
6	1	100	WATER BARRIERS	---
7	1	100	WATER BARRIERS	---
8	1	100	WATER BARRIERS	---
9	1	100	WATER BARRIERS	---
10	1	100	WATER BARRIERS	---
11	1	100	WATER BARRIERS	---
12	1	100	WATER BARRIERS	---
13	1	100	WATER BARRIERS	---
14	1	100	WATER BARRIERS	---
15	1	100	WATER BARRIERS	---
16	1	100	WATER BARRIERS	---
17	1	100	WATER BARRIERS	---
18	1	100	WATER BARRIERS	---
19	1	100	WATER BARRIERS	---
20	1	100	WATER BARRIERS	---
21	1	100	WATER BARRIERS	---
22	1	100	WATER BARRIERS	---
23	1	100	WATER BARRIERS	---
24	1	100	WATER BARRIERS	---
25	1	100	WATER BARRIERS	---
26	1	100	WATER BARRIERS	---
27	1	100	WATER BARRIERS	---
28	1	100	WATER BARRIERS	---
29	1	100	WATER BARRIERS	---
30	1	100	WATER BARRIERS	---
31	1	100	WATER BARRIERS	---
32	1	100	WATER BARRIERS	---
33	1	100	WATER BARRIERS	---
34	1	100	WATER BARRIERS	---
35	1	100	WATER BARRIERS	---
36	1	100	WATER BARRIERS	---
37	1	100	WATER BARRIERS	---
38	1	100	WATER BARRIERS	---
39	1	100	WATER BARRIERS	---
40	1	100	WATER BARRIERS	---
41	1	100	WATER BARRIERS	---
42	1	100	WATER BARRIERS	---
43	1	100	WATER BARRIERS	---
44	1	100	WATER BARRIERS	---
45	1	100	WATER BARRIERS	---
46	1	100	WATER BARRIERS	---
47	1	100	WATER BARRIERS	---
48	1	100	WATER BARRIERS	---
49	1	100	WATER BARRIERS	---
50	1	100	WATER BARRIERS	---
51	1	100	WATER BARRIERS	---
52	1	100	WATER BARRIERS	---
53	1	100	WATER BARRIERS	---
54	1	100	WATER BARRIERS	---
55	1	100	WATER BARRIERS	---
56	1	100	WATER BARRIERS	---
57	1	100	WATER BARRIERS	---
58	1	100	WATER BARRIERS	---
59	1	100	WATER BARRIERS	---
60	1	100	WATER BARRIERS	---
61	1	100	WATER BARRIERS	---
62	1	100	WATER BARRIERS	---
63	1	100	WATER BARRIERS	---
64	1	100	WATER BARRIERS	---
65	1	100	WATER BARRIERS	---
66	1	100	WATER BARRIERS	---
67	1	100	WATER BARRIERS	---
68	1	100	WATER BARRIERS	---
69	1	100	WATER BARRIERS	---
70	1	100	WATER BARRIERS	---
71	1	100	WATER BARRIERS	---
72	1	100	WATER BARRIERS	---
73	1	100	WATER BARRIERS	---
74	1	100	WATER BARRIERS	---
75	1	100	WATER BARRIERS	---
76	1	100	WATER BARRIERS	---
77	1	100	WATER BARRIERS	---
78	1	100	WATER BARRIERS	---
79	1	100	WATER BARRIERS	---
80	1	100	WATER BARRIERS	---
81	1	100	WATER BARRIERS	---
82	1	100	WATER BARRIERS	---
83	1	100	WATER BARRIERS	---
84	1	100	WATER BARRIERS	---
85	1	100	WATER BARRIERS	---
86	1	100	WATER BARRIERS	---
87	1	100	WATER BARRIERS	---
88	1	100	WATER BARRIERS	---
89	1	100	WATER BARRIERS	---
90	1	100	WATER BARRIERS	---
91	1	100	WATER BARRIERS	---
92	1	100	WATER BARRIERS	---
93	1	100	WATER BARRIERS	---
94	1	100	WATER BARRIERS	---
95	1	100	WATER BARRIERS	---
96	1	100	WATER BARRIERS	---
97	1	100	WATER BARRIERS	---
98	1	100	WATER BARRIERS	---
99	1	100	WATER BARRIERS	---
100	1	100	WATER BARRIERS	---



U. S. NAVAL OPERATING BASE—NEWPORT R. I.
 OFFICIAL USE ONLY
 MAP OF
 GOULD ISLAND
 U. S. NAVAL TORPEDO STATION
 NEWPORT R. I.
 SHOWING CONDITIONS ON
 DEC 31, 1942

SCALE OF FEET
 0 100 200 300 400
 J. H. Johnson
 CAPTAIN, U. S. NAVY
 PUBLIC WORKS OFFICER

Corrected to April 1, 1943

P.W.O. NO. G285-69

Level of Cleanup

- Environmental Cleanup
 - RIDEM declaration Sept 2018
 - Cleanup for public recreation as well as wildlife
 - USACE accepted, except for groundwater
- Physical Cleanup
 - USACE limited to:
 - Incidental to chemical cleanup
 - Structures unsafe at transfer (3 of ~25 buildings, no debris)
 - RIDEM responsible for all other removal
 - RIDEM request for USACE to do all physical cleanup
 - USACE says not without additional Congressional authority

Physical Cleanup in Perspective

- Federal Government took Gould in 1920
 - War fighting for benefit of nation
 - Navy left South Gould a mess in 1950s
- Transferred S. Gould to State/RIDEM in 70s-80s
 - RIDEM initially declared wildlife sanctuary
 - Did no cleanup
 - Now proposed as part of Bay Islands Park System
- Town/State cannot afford/may never cleanup
- Only Federal Government can make Gould safe

August 15 Site Visit

- RAB Initiated / USACE Enabled / Volunteer Supported
 - Made possible by Richard DeSalvo, RI Mooring Services
- 36 Attendees
 - 14 RAB, 3 Town, 6 DEM, 4 Army, 5 Press, 3 Fed, 1 State
- 3 Press articles: ProJo, JTN Press, NPT This Week
- Follow up regarding physical cleanup
 - Conversations with Reed/Whitehouse/Ciccilline staff
 - Commitment from RIDEM to “needs assessment”

Visit Photos

Choices

1. Do only chemical cleanup
 - Island will revert to overgrown wildlife habitat
 2. Follow RIDEM direction for Bay Islands Park
 - Walking trails & overnight campsites
 - Needs extensive physical cleanup for safety
 - Now is the time while USACE is on site
 - Requires federal funding and direction to USACE
- JHS interested in historical signage
 - June 2018 Council supported full cleanup
 - No objections to date with RIDEM direction

Suggested Path Forward

- Confirm Town 2018 position
 - Support RIDEM objective
 - Request full clean up
- Town engagement with federal delegation
 - Reed office press statement:
“Before additional funds are secured, local and state partners need to coalesce around a plan and shared commitment, and Senator Reed will work to ensure the federal government and the U.S. Department of Defense are kept in the loop.”
- Requires RIDEM long term plan
 - Agreed to by Town
 - To be implemented after full cleanup (10+years)

Next Steps

- Town Council resolution
 - Support for RIDEM cleanup objective
 - Request RIDEM long term plan
 - Ask Town Administrator to:
 - Develop Town Plan in coordination with RIDEM
 - Request support from federal delegation for full physical cleanup
- Approval at October 7th Council meeting?

BACKUP SLIDES

History of Gould Property Transfers

- 39 acres transferred from Fed Government to RI
 - South 2/3 of Gould
 - Deed restriction for conservation of wildlife
 - RIDEM is “owner” for State
- 4 South Gould parcels excluded from transfer
- North 17 acres held by Navy for NUWC
 - Cleanup on-going for 20 years
 - Demolition of pier building planned

4 Excluded Parcels


- Still owned by Federal Government for Navy/CG
 - 3 Navy sites now abandoned
 - CG navigation beacon on south tip in use
- Excluded parcels not part of FUDS
 - Not restorable by USACE
 - Contamination not being sampled
- CG plans to retain south beacon w/o cleanup
- Navy willing to transfer 3 sites to RIDEM w/o cleanup
 - Needs RIDEM action with NavSta Newport



Town of Jamestown
Finance Department
Town Hall
93 Narragansett Avenue
Jamestown, Rhode Island 02835-1199
401-423-9809 Fax 401-423-7229
Email: ccollins@jamestownri.net

Christina D. Collins
Finance Director

MEMORANDUM

TO: Honorable Town Council
FROM: Interim Town Administrator 
DATE: 9/12/2019
SUBJECT: Town Administrator's Update

Town Administrator Search – The Town placed ads in the Boston Globe Sunday Edition (print & online), Providence Journal Sunday Edition (print & online), Newport Daily News (print & online), Jamestown Press, RI League of Cities and Towns (online), Massachusetts Municipal Association (MMA) (online), International City/County Management Association (ICMA), (online) & Indeed. We have started to receive applications and the posted deadline is September 30, 2019.

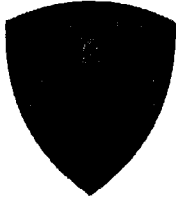
Conservation Easement/Restrictions Jamestown Shores – The Town, the Solicitors office and the Conanicut Island Land Trust are working on preparing easements for the properties which have clear titles. There is 22 lots in this group. There are 10 lots which have Tax Titles only. The Town via the Solicitors office would have to go through a process to “foreclose the right of redemption” on each lot, RIGL 44-9-25. The cost for each parcel would be approximately \$5,000.

§ 44-9-25. Petition for foreclosure of redemption.

(a) After one year from a sale of land for taxes, except as provided in §§ 44-9-19 – 44-9-22, whoever then holds the acquired title may bring a petition in the superior court for the foreclosure of all rights of redemption under the title. The petition shall set forth a description of the land to which it applies, with its assessed valuation, the petitioner's source of title, giving a reference to the place, book, and page of record, and other facts as may be necessary for the information of the court. Two (2) or more parcels of land may be included in any petition brought by any purchaser of a title or titles, if the parcels are in the same record ownership at the time of bringing the petition (Form 5).

(b) No more than one foreclosure petition may be filed for each tax deed regardless of the number of tax title holders having an interest under such deed. If more than one petition is filed, the petitions shall be consolidated for hearing by the court. The court shall not award more than one attorneys' fee to the petitioners.

(c) Notwithstanding the provisions of subsection (a) of this section, no petition for foreclosure of redemption shall be filed or entertained by any court with respect to any property or title acquired by the Rhode Island Housing and Mortgage Corporation pursuant to § 44-9-8.3 of the general laws until after five (5) years from the sale of said property or title for taxes.



Edward A. Mello
Chief of Police

JAMESTOWN POLICE DEPARTMENT

250 Conanicus Avenue, Jamestown, RI 02835
Tel: (401) 423-1212 Fax: (401) 423-3710
www.jamestownri.net/police



MEMORANDUM

TO: Christina Collins, Actin Town Administrator
FROM: Chief Edward A. Mello
DATE: September 6, 2019
SUBJECT: Noise Ordinance

Tina

Please see the attached DRAFT of the noise ordinance. This is a significant re-write of the existing ordinance. The existing noise and construction ordinance have been combined into one. As usual format, underline indicates new language and strike-through indicates deleted language.

Most of the current concerns in front of the Town Council are included in the language. I recommend this as draft language as a starting point for discussion by the Town Council.

Areas such as fines, time of day and activities are included as place holders for topics and not as specific recommendations as these are more in line with policy to be considered by the Council.

I have also included the existing noise and construction ordinance for reference.

I would suggest that particular attention be paid to the highlighted sections:

- Section 22-66 C
- Section 22-66 D
- Section 22-66 E
- Section 22-71

Exhibit A

Sec. 22-61. - Statement of public policy.

The town council finds and declares that extreme and excessive noise affects the health, safety and welfare of its residents and citizens.

Sec. 22-62. - Purpose, title and scope.

(a) The purpose of this article is to establish objective standards to control extreme and excessive noise by setting maximum permissible sound levels for certain times and places in town.

(b) This article may be cited as the "Noise Ordinance of the Town of Jamestown."

(c) This article applies within the town limits as specified below.

~~Sec. 22-63. - Measurement of sound.~~

~~Decibel measurement under this article shall be made with a sound level meter, which shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified by American National Standards Institute (ANSI) standard 1.4-1971. For purposes of this article, a sound level meter shall contain A-weighted scale and both fast and slow meter response capability.~~

Sec 22-63 Definitions

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall have the meanings shown. Definitions of technical terms used shall be obtained from publications of acoustical terminology used by the American National Standards Institute (ANSI) or its successor body.

A-SCALE (dBA) The sound level in decibels measured using the A-weighted network as specified in ANSI S1.4-1971 for sound level meters. The level is designated "dB(A)" or "dBA."

CONSTRUCTION Any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipping of buildings, roadways, infrastructure, or utilities, including drilling, blasting, mining, land clearing, grading, excavating and filling.

DECIBEL (dB) A logarithmic and dimensionless unit of measure often used in describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

DEMOLITION Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, impervious surfaces, or similar property.

EMERGENCY WORK Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

EXTERIOR GENERATOR Gas, propane or diesel-powered engine designed to generate electricity outside the confines of a building.

LOT Any area, a tract or parcel of land owned by or under the lawful control of one distinct ownership. Abutting platted lots under the same ownership shall be considered a lot. The lot line or boundary is an imaginary line at ground level which separates a lot and its vertical extension owned by one person from that owned by another.

MOTORCYCLE Any motor vehicle having a saddle or seat for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term shall include motorized bicycles and motor scooters.

MOTOR VEHICLE Any motor-operated vehicle designed for use on the public highways.

NOISE DISTURBANCE Any sound which:

- A. Exceeds the dBA level for such sound set out in this chapter and;
- B. Annoys, disturbs or endangers the comfort, repose, peace or safety of a reasonable person of normal sensitivities.

OFF-ROAD RECREATIONAL VEHICLE Any motor vehicle, including road vehicles but excepting watercraft, used off public roads for recreational purposes.

PERSON Any individual, association, partnership or corporation, including any officer, department, bureau, agency or instrumentality of the United States, a state or any political subdivision of that state, including the Town.

PLAINLY AUDIBLE (SOUND) Any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensible musical rhythms.

PORTABLE COOLING/HEATING COMPRESSOR

The gas, propane or diesel compressor attached to a truck, trailer or temporary storage unit whose purpose is to heat or cool the space to which it is attached.

POWERED MODEL VEHICLE Any self-propelled airborne, waterborne or land borne model plane, vessel or vehicle which is not designed to carry persons including, but not limited to, any model airplane, boat, car or rocket.

PUBLIC RIGHT-OF-WAY Any street, avenue, highway, boulevard, alley, easement or public space which is owned by or controlled by a public government entity.

PUBLIC SPACE Any real property, including any structure thereon, which is owned or controlled by a governmental entity.

PURE TONE Any sound which can be distinctly heard as a single pitch or set of single pitches.

REAL PROPERTY BOUNDARY An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RECEIVING LAND USE The use or occupancy of the property which receives the transmission of sound as defined in this section.

RESIDENTIAL Any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

SOUND An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

SOUND LEVEL The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network such as A, B or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

SOUND LEVEL METER An instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output or display meter, and weighting networks used to measure sound pressure levels, which complies with American National Standards Institute Standard 1.4-1971.

ZONING DISTRICTS Those districts established by and defined in Chapter 82, Zoning, of the Code of the Town of Jamestown.

Sec. 22-64. - Freedom of speech and expression unaffected.

This article should not be interpreted, construed or applied in a manner that is inconsistent or violative of the First Amendment to the U.S. Constitution or article I, section 21 of the Rhode Island Constitution.

Sec. 22-65. - Prohibited noises.

No person shall make, continue or cause to be made or continued, except as permitted, any noise in excess of the decibel limits set forth in this article.

Sec 22-66 Permitted activities and hours

A. Fireworks displays. Fireworks displays licensed by the State of Rhode Island are permitted between the hours of 7:00 p.m. and 11:00 p.m.

B. Loading and unloading. Any person shall be permitted to load, unload, open, close or handle crates, containers, garbage cans and dumpsters, building materials or similar objects outdoors between the hours of 5:00 a.m. and 9:00 p.m.

C. Construction and manufacturing.

(1) Drilling, blasting, mining, manufacturing or demolition work. The operation of any tools or equipment in drilling, blasting, mining, manufacturing or demolition work or in preventive maintenance work for public service utilities is permitted between the hours of 7:00 a.m. and 5:00 p.m., except on Sundays or legal holidays. The terms of this section shall not apply to emergency work or repair work performed by or for governmental entities or public service utilities for public safety and welfare.

(2) Building construction activities. The operation of building construction, alteration or repair activities is permitted between the hours of: 7:00 a.m. and 8:00 p.m. Monday, Tuesday, Wednesday, Thursday; 7:00 a.m. and 7:00 p.m. Friday; 8:00 a.m. and 6 p.m. Saturday.

Sundays and legal holidays operation is permitted between the hours of 10:00 a.m. and 6:00 p.m. only when directly performed by the property owner or tenant.

D. Domestic power tools. The use of small, domestic power tools or equipment, such as a saw, drill, sander, grinder or similar device, used outdoors in residential areas is allowed but subject to the noise levels set out in Sec. 22-68.

E. Lawn care and grounds maintenance equipment. The use of lawn care and grounds maintenance equipment, such as a lawnmower, leaf blower, lawn or garden tool, if used and maintained in accordance with the manufacturer's specifications, is permitted

between the hours of 7:00 a.m. and 8:00 p.m. Monday, Tuesday, Wednesday, Thursday, 7:00 a.m. and 7:00 p.m. Friday, 8:00 a.m. and 6 p.m. Saturday.

Sundays and legal holidays operation is permitted between the hours of 10:00 a.m. and 6:00 p.m. only when directly performed by the property owner or tenant.

F. Operation of snow-removal and street cleaning equipment. The operation of snow-removal and street cleaning equipment by the Department of Public Works is allowed at any time, provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds being emitted there from.

G. Town-permitted activities:

(1) Parades or processions for which a parade permit has been issued, provided the conditions of the permit are complied with.

(2) Any athletic event or recreational activity which is conducted and sponsored or funded in part by any elementary or secondary school or the Town of Jamestown, on property owned and controlled by the Town of Jamestown.

(3) Band concerts or music provided, sponsored or funded, in whole or in part, by the Town of Jamestown or by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, or on property owned and controlled by the Town of Jamestown for which a valid permit has been obtained.

H. Church or clock carillons, bells or chimes. The emission of sound from church or clock carillons, bells or chimes is permitted at any time.

I. Emergency signaling devices. The testing of a stationary emergency signaling device shall occur at the same time of day each time the test is performed, but not before 8:00 a.m. or after 9:00 p.m. Any such testing shall use only the minimum cycle test time. In no case shall the test time exceed 60 seconds. The emission of sound for the purpose of alerting persons to the existence of an emergency is permitted at any time.

J. The operation of an external generator or portable cooling/heating compressor is permitted at any time during a power outage or a power reduction, or for testing or routine maintenance of the generator or compressor only between the hours of 10:00 a.m. and 6:00 p.m. Such testing or maintenance shall be restricted to no more 30 minutes during any seven day period.

K. The operation of an external generator or portable cooling/heating compressor is permitted at any time for use on or in conjunction with an active construction site, provided all other provisions of the Noise Ordinance are met with respect to hours of construction, and provided further that continuous operation of a generator or compressor at a construction site is permitted where said operation is integral to the nature of the

construction project itself and industrial activities otherwise permitted in an industrial zone.

L. Aircraft. The movements of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations are permitted.

Sec. 22-67. -- Maximum permissible sound levels.

22-67. Specific activities prohibited.

The following acts and the causing thereof are declared to be in violation of this chapter:

A. Radios, television sets, musical instruments and similar devices. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device, or any combination of the same, which produces, reproduces or simulates amplified sound:

(1) In such a manner as to create a noise disturbance across a real property boundary.

(2) In such a manner as to create a noise disturbance at 50 feet from such device, when operated in or on a motor vehicle on a public right-of-way or space, or in a boat on public waters.

(3) In such a manner as to create a noise disturbance to any person other than the operator of the device when operated by any person on either a common carrier, public beach, park, playground or other public recreational area.

B. Animals and birds. No person shall own, possess or harbor any animal or animals, bird or birds which frequently or for continued duration howls, barks, meows, squeaks, or makes other sounds which create a noise disturbance across a real property boundary.

C. Vehicle or motorboat repairs and testing. No person shall repair, rebuild, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a real property boundary.

D. Motorboats, jet skis and similar devices. No person shall operate or permit the operation of any motorboat, jet ski or other similar device in any lake, river, stream or other waterway in such a manner so as to cause a noise disturbance and/or as to exceed a sound level of 50 dBA at 200 feet or the nearest shoreline, whichever is less.

F. Motor vehicles.

(1) Motor vehicle maximum sound levels. No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner as to create a noise disturbance.

(2) Adequate mufflers or sound-dissipative devices.

(a) No person shall operate or cause to be operated any motor vehicle or motorcycle not equipped with a muffler or sound-dissipative device in good working order and in constant operation.

(b) No person shall remove or render inoperative or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound-dissipative device on a motor vehicle or motorcycle.

(3) Motor vehicle horns and signaling devices. The following acts and the causing thereof are declared to be in violation of this chapter:

(a) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right-of-way or public space, except as a warning of danger or as provided in the Vehicle Code.

(b) The sounding of any horn or other auditory signaling device so as to create or cause a noise disturbance.

Sec 22-68 Penalties Sec 22-68 Sound Levels by receiving land use

A. Maximum permissible sound levels by receiving land use. With the exception of sound levels elsewhere specifically authorized or allowed in this chapter, no person shall operate or cause to be operated, make, continue or cause to be made or continued any noise or source of sound as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the property boundary of the receiving land use.

Maximum permitted sound levels are as follows:

Table 1

<u>Zoning Category</u>	<u>Time</u>	<u>Decibel Limit</u>
<u>OS-I, OS-II, RR-200, RR-80, R-40, R-20, R-8</u>	<u>8:00 a.m. to 10:00 p.m.</u>	<u>70</u>
<u>OS-I, OS-II, RR-200, RR-80, R-40, R-20, R-8</u>	<u>10:00 p.m. to 8:00 a.m.</u>	<u>60</u>

<u>CL, CD, CW, DC, P</u>	<u>All</u>	<u>75</u>
--------------------------	------------	-----------

B. Correction for character of sound. For any source of sound which emits a pure tone, the maximum sound level limits set forth in Subsection A Table 1 shall be reduced by five dBA.

C. Measurement of sound.

(1) Decibel measurements shall be made with a sound level meter, which shall be an instrument in good operating condition meeting the requirements of a Type I or Type II meter, as specified by ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain an A-weighted scale and both fast and slow meter response capability.

(2) If the measurements are made with other instruments, the procedure shall be carried out in such a manner that the overall accuracy is at least that called for in ANSI Standard 1.4-1971 for Type II instruments.

(3) When the location or distance prescribed in this chapter for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors specified in this chapter.

Sec. 22-69. -- Construction activities.

~~No person shall operate or permit the operation of any tools, vehicles or equipment involved or related to any construction or demolition work during the following hours: Monday through Friday between 8:00 p.m. to 7:00 a.m. the following day; Saturday from 6:00 p.m. to 7:00 a.m. the following day; and Sunday from 7:00 a.m. to 7:00 a.m. the following day. Such activities are also prohibited from 7:00 a.m. to 7:00 a.m. the following day on all federal and state holidays.~~

Sec. 22-69. Sound variances.

A. The Town Council shall have the authority, consistent with this section, to grant sound variances from this chapter after public hearing.

B. Any person seeking a sound variance under this section shall file an application with Town Council. The application shall contain information which demonstrates that bringing the source of sound or activity for which the sound variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community or on other persons.

C. All applications shall be subject to a fee of \$50 per day if granted and, whether granted or denied, an amount sufficient to cover the cost of advertising and notification to all residents and property owners within 100 feet of the noise source. Advertisement shall be made at least once, seven days prior to the public hearing, in a newspaper of general circulation in the Town. Notification shall be by regular mail at least seven days prior to the public hearing.

D. In determining whether to grant or deny an application or revoke a variance previously granted, Council shall balance hardship to the applicant, the community and other persons if the sound variance is not allowed against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impact, if the sound variance is allowed. Applicants for sound variances and persons contesting sound variances may be required to submit any information that Council may reasonably require. In granting or denying an application or in revoking a sound variance previously granted, Council shall place on public file a copy of the decision and the reasons for granting, denying or revoking the sound variance.

E. Sound variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The sound variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the sound variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the sound variance was granted.

F. Determination of modification of a granted variance shall be made in accordance with the rules and procedures set forth in the section for original applications.

Sec. 22-70. -- Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Construction* means any and all outside activity necessary or incidental to the erection, assembling, altering, installing, repair or equipping of buildings, roadways, infrastructure, or utilities including drilling, blasting, mining, land clearing, grading, excavating and filling.~~

~~*Demolition* means any dismantling, intentional destruction or removal of structures, infrastructure, utilities, public or private right of way surfaces, or similar property.~~

Sec. 22-70- Enforcement.

This article shall be implemented, administered and enforced by the town police department.

Sec. 22-71. Exemptions.

The provisions of this article shall not apply to:

- (1) ~~The operation of snow removal equipment at any time provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds.~~
- (2) ~~Lawn care and grounds maintenance equipment in normal daytime use if used and maintained in accordance with the manufacturer's specifications.~~
- (3) ~~Public emergency activities required to ensure the health, safety and welfare of the citizenry.~~
- (4) ~~The normal day to day agricultural activities associated with the raising of livestock and crops.~~
- (5) ~~Ordinary or routine maintenance and/or repair performed by the owner or resident of a property.~~

Sec.22-71- Landlords and Property Owner Liability and Responsibility

The owner of any property shall be concurrently subject to all fines and penalties as prescribed in Sec. 22-72, regardless of the offending individual(s).

Sec. 22-72- Fines and Penalties.

(a) Any person found to be in violation of this article shall be punished as follows:

- (1) The first offense shall be punished by the issuance of a written warning to immediately cease and desist the violation.
- (2) The second offense within any twelve month period, shall be punished by a fine of \$25.00- \$250.00.
- (3) The third offense and each subsequent offense within twelve month period, shall be punished by a fine of \$100.00. \$500.00.

(b) Any such person charged with a violation of this article shall pay said fine as prescribed within 5-days or shall be summonsed to appear before the District Court.

~~Sec. 22-72. – Enforcement.~~

~~This article shall be implemented, administered and enforced by the town police department.~~

~~Sec. 22-73. – Penalties.~~

~~Any person found to be in violation of this article shall be punished as follows:~~

- ~~(1)
The first offense shall be punished by the issuance of a written warning to cease and desist the violation.~~
- ~~(2)
The second offense shall be punished by a fine of \$250.00 and a notice to cease and desist the violation.~~
- ~~(3)
The third offense and each subsequent offense shall be punished by a fine of \$500.00 and a notice to cease and desist the violation.~~

~~Sec. 22-74. – Sunset clause.~~

~~The provisions of this article shall expire on December 14, 2010, unless the town council takes affirmative action to extend this article.~~

ARTICLE III. - NOISE

Sec. 22-61. - Statement of public policy.

The town council finds and declares that extreme and excessive noise affects the health, safety and welfare of its residents and citizens.

(Code 2003, § 22-61; Ord. of 1-23-2006)

Sec. 22-62. - Purpose, title and scope.

- (a) The purpose of this article is to establish objective standards to control extreme and excessive noise by setting maximum permissible sound levels for certain times and places in town.
- (b) This article may be cited as the "Noise Ordinance of the Town of Jamestown."
- (c) This article applies within the town limits as specified below.

(Code 2003, § 22-62; Ord. of 1-23-2006)

Sec. 22-63. - Measurement of sound.

Decibel measurement under this article shall be made with a sound level meter, which shall be an instrument in good operating condition, meeting the requirements of a type I or type II meter, as specified by American National Standards Institute (ANSI) standard 1.4-1971. For purposes of this article, a sound level meter shall contain A-weighted scale and both fast and slow meter response capability.

(Code 2003, § 22-63; Ord. of 1-23-2006)

Sec. 22-64. - Freedom of speech and expression unaffected.

This article should not be interpreted, construed or applied in a manner that is inconsistent or violative of the First Amendment to the U.S. Constitution or article I, section 21 of the Rhode Island Constitution.

(Code 2003, § 22-64; Ord. of 1-23-2006)

Sec. 22-65. - Prohibited noises.

No person shall make, continue or cause to be made or continued, except as permitted, any noise in excess of the decibel limits set forth in this article.

(Code 2003, § 22-65; Ord. of 1-23-2006)

Sec. 22-66. - Maximum permissible sound levels.

Maximum permitted sound levels are as follows:

Zoning Category	Time	Decibel Limit
Residential, and open space	8:00 a.m. to 10:00 p.m.	<u>70</u>
OS-I, OS-II, RR-200, RR-80, R-40, R-20, R-8	10:00 p.m. to 8:00 a.m.	60
Business (neighborhood, waterfront and general)	All	75
(CL, CD, CW, DC)		
Public	All	75

(Code 2003, § 22-66; Ord. of 1-23-2006)

Sec. 22-67. - Enforcement.

This article shall be implemented, administered and enforced by the town police department.

(Code 2003, § 22-67; Ord. of 1-23-2006)

Sec. 22-68. - Penalties.

Any person found to be in violation of this article shall be punished as follows:

- (1) The first offense shall be punished by the issuance of a written warning to cease and desist the violation.
- (2) The second offense shall be punished by a fine of \$25.00.
- (3) The third offense and each subsequent offense shall be punished by a fine of \$100.00.

(Code 2003, § 22-68; Ord. of 1-23-2006)

State Law reference— Limitation on penalties generally, G.L. 1956, § 45-6-2.

ARTICLE IIIA. - CONSTRUCTION ACTIVITIES

Sec. 22-69. - Construction activities.

No person shall operate or permit the operation of any tools, vehicles or equipment involved or related to any construction or demolition work during the following hours: Monday through Friday between 8:00 p.m. to 7:00 a.m. the following day; Saturday from 6:00 p.m. to 7:00 a.m. the following day; and Sunday from 7:00 a.m. to 7:00 a.m. the following day. Such activities are also prohibited from 7:00 a.m. to 7:00 a.m. the following day on all federal and state holidays.

(Ord. of 12-15-2008, § 22-69)

Sec. 22-70. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Construction means any and all outside activity necessary or incidental to the erection, assembling, altering, installing, repair or equipping of buildings, roadways, infrastructure, or utilities including drilling, blasting, mining, land clearing, grading, excavating and filling.

Demolition means any dismantling, intentional destruction or removal of structures, infrastructure, utilities, public or private right-of-way surfaces, or similar property.

(Ord. of 12-15-2008, § 22-70)

Sec. 22-71. - Exemptions.

The provisions of this article shall not apply to:

- (1) The operation of snow removal equipment at any time provided that such equipment shall be maintained in good repair so as to minimize noise. Noise discharged from exhausts shall be adequately muffled so as to prevent loud and/or explosive sounds.
- (2) Lawn care and grounds maintenance equipment in normal daytime use if used and maintained in accordance with the manufacturer's specifications.
- (3) Public emergency activities required to ensure the health, safety and welfare of the citizenry.
- (4) The normal day to day agricultural activities associated with the raising of livestock and crops.
- (5) Ordinary or routine maintenance and/or repair performed by the owner or resident of a property.

(Ord. of 12-15-2008, § 22-71)

Sec. 22-72. - Enforcement.

This article shall be implemented, administered and enforced by the town police department.

(Ord. of 12-15-2008, § 22-72)

Sec. 22-73. - Penalties.

Any person found to be in violation of this article shall be punished as follows:

- (1) The first offense shall be punished by the issuance of a written warning to cease and desist the violation.
- (2) The second offense shall be punished by a fine of \$250.00 and a notice to cease and desist the violation.
- (3) The third offense and each subsequent offense shall be punished by a fine of \$500.00 and a notice to cease and desist the violation.

(Ord. of 12-15-2008, § 22-73)

State Law reference— Limitation on penalties generally, G.L. 1956, § 45-6-2.

Sec. 22-74. - Sunset clause.

The provisions of this article shall expire on December 14, 2010, unless the town council takes affirmative action to extend this article.

(Ord. of 12-15-2008, § 22-74)

Secs. 22-75—22-85. - Reserved.

**SPECIAL TOWN COUNCIL MEETING
AUGUST 28, 2019**

I. ROLL CALL

A special meeting of the Jamestown Town Council was held on August 28, 2018. Town Council Members present were as follows: Michael G. White, Mary E. Meagher, Nancy A. Beye, Randall White, and William J. Piva, Jr. Also present Interim Town Administrator Christina Collins, Town Solicitor Peter Ruggiero, Chief of Police Edward Mello, Public Works Director Michael Gray and IT Consultant Michael Glier.

II. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Town Council President White called the special meeting of the Jamestown Town Council to order at 9:09 a.m. in the Jamestown Town Hall, Rosamond A. Tefft Council Chambers at 93 Narragansett Avenue, and led the Pledge of Allegiance.

III. NEW BUSINESS

A) Town Administrator's Search (Not all items were taken in agenda order)

- 1) Discussion regarding the Town Administrator, future search process for full-time appointment. Discussion and possible votes and/or actions.

Council President White announced we are here to discuss the process of hiring a Town Administrator. He also suggested the use of a flip chart as a potential tool to facilitate conversation.

- 2) Review information/documents from prior Town Administrator search. Discussion and possible votes, and/or actions.

Previous advertisements were reviewed.

- 3) Establish Criteria/Qualifications for Candidates. Discussion and possible votes, and/or actions.

Vice President Meagher suggested discussions regarding criteria should be held in Executive Session.

- 4) Determine Advertisement Scope. Discussion and possible votes, and/or actions.

Council President White suggested advertisement in the ICMA.

Town Solicitor Ruggiero advised on other sources, so that members outside the field would receive notice.

Discussion ensued on search outside of New England.

It was the consensus of the Council to advertise within New England.

Councilor Piva questioned the amount of time for advertisement.

Town Solicitor Ruggiero advised four weeks would be appropriate. He also suggested the Council nominate a member to provide assistance in preparing the materials.

Councilor Piva questioned if applications would be sent to Administrative Assistant Debbie Shea.

Town Solicitor Ruggiero stated it would be processed through the Town Clerk and applicants would be sealed and labeled Town Administrator Search Committee. He also advised on the confidentiality that would be needed during the process.

The Council concurred with the confidentiality needed to attract potential applicants.

A motion was made by Councilor Beye with second by Vice President Meagher to nominate Councilor White as contact person of the Town Administrator's Search Committee. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor Piva, Aye; Councilor White, Aye.

Councilor Piva agreed with the previous advertisement criteria and qualifications regarding BA/BS in public administration or related field.

The following items were discussed with regard to the advertisement :It was noted 7 years of municipal experience would be changed to 5 years; combine the two previous advertisements and include the following: local government operations, employee citizen relations, strong interpersonal, written, and verbal skills are essential.

It was noted that the language on bonds is outdated and can be stricken.

It was determined the tentative deadline for applicants would be September 30th.

Town Solicitor Ruggiero advised he would draft the advertisement in conjunction with Interim Town Administrator Collins and they would send for the Council's review and for approval would be held at the next meeting.

Discussion ensued on salary.

Interim Town Administrator Collins advised on the current salary. She further explained the base salary.

Vice President Meagher suggested the salary start lower than \$125,000.

Discussion ensued on salary range.

The Council's consensus was to start at \$120,000.00.

Discussion ensued on timeline and procedure to process.

Councilor White questioned his roll.

Town Solicitor Ruggiero advised Councilor White would be the liaison for questions and to assist on communications to the candidates.

Town Solicitor Ruggiero also cautioned the Council on speaking to prospective candidates.

Discussion ensued on advertisement locations. It was determined to be ICMA, Providence Journal, Boston Globe, Newport Daily, Jamestown Press, and Indeed (if can be placed locally).

Alma Davenport of Clinton Ave questioned the legality of requiring the Administrator to be a resident of Jamestown.

Council Vice President Meagher advised it is not required in the Charter, but they must be a resident of Rhode Island.

Town Solicitor Ruggiero advised you could request, but not require residency.

Discussion ensued on residency.

Joe Cannon of Capstan Street urged the Council to not have a number of limiting factors. He further discussed you may find a North Kingstown Administrator who would like to reside in North Kingstown that would do a fine job.

Councilor Beye suggested a rubric system.

- 5) Schedule Future Sessions – dates and times.
Discussion and possible votes and/or actions.

Town Solicitor Ruggiero suggested setting a date to convene again at the September 16th regular meeting, and further advised on the need to convene in Executive Session.

Vice President Meagher stated she had a reservation with starting the salary at \$120,000. She would like to start at \$115,000; as Andy had reached the current salary after five years of service.

Discussion ensued on salary range.

Interim Town Administrator Collins advised on the Municipal Salary Survey; however that information would be a year old.

It was noted the advertisement would be approved at the September 3rd meeting.

The Council did not convene in Executive Session.

IV. NEW BUSINESS/EXECUTIVE SESSION

The Town Council may seek to enter into Executive Session for review, discussion and/or potential action and/or vote on the following:

- A) Pursuant to RIGL § 42-46-5(a) Subsection (1) Personnel (Town Administrator); review, discussion and/or potential action and/or vote in executive session and/or open session

V. ADJOURNMENT

A motion was made by Vice President Meagher with second by Councilor Beye to adjourn the meeting. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor Piva, Aye.

The special meeting was adjourned at 9:49 a.m.

Attest:

Erin F. Liese, CMC, Town Clerk

Copies to: Town Council
 Interim Town Administrator
 Town Solicitor

**TOWN COUNCIL MEETING
September 3, 2019**

I. ROLL CALL

A special meeting of the Jamestown Town Council was held on September 3, 2019. Town Council Members present were as follows: Michael G. White, Mary E. Meagher, Nancy A. Beye, Randall White, and William J. Piva, Jr. Also present Interim Town Administrator Christina D. Collins, Town Solicitor Peter D. Ruggiero, Chief of Police Edward A. Mello, Public Works Director Michael C. Gray and IT Consultant Michael Glier.

II. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Town Council President White called the special meeting of the Jamestown Town Council to order at 6:32 P.M. in the Jamestown Town Hall, Rosamond A. Tefft Council Chambers at 93 Narragansett Avenue, and led the Pledge of Allegiance.

III. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, PRESENTATIONS, RESOLUTIONS AND PROCLAMATIONS

A) Presentation of Proclamations:

- 1) No. 2019-15: Military Service Gordon Mitchell Bruce Livingston
- 2) No. 2019-16: Military Service Walter G. Swistak
- 3) No. 2019-17: Military Service Victor C. Richardson

Councilor Beye read the Proclamation for Gordon Mitchell Bruce Livingston.

A motion was made by Vice President Meagher with second by Councilor Beye to adopt the 2019-15 Proclamation for Gordon Mitchell Bruce Livingston. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

Councilor Piva read the Proclamation for Walter G. Swistak.

A motion was made by Vice President Meagher with second by Councilor Piva to adopt the 2019-16 Proclamation for Walter G. Swistak. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

Councilor White read the Proclamation for Victor C. Richardson

A motion was made by Vice President Meagher with second by Councilor Beye to adopt the 2019-17 Proclamation for Victor C. Richardson. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

A motion was made by Vice President Meagher with second by Councilor Piva to open the Public Hearing at 6:39 PM. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

IV. PUBLIC HEARINGS, LICENSES AND PERMITS

The Town Council will review each license application and vote on it individually. All approvals for licenses and permits are subject to the resolution of debts, taxes and appropriate signatures as well as, when applicable, proof of insurance.

- A) Entertainment License Application; review, discussion and/or potential action and/or vote
 - 1) Applicant Jamestown Beer Holdings LLC
Dates: 09/01/2019 to 11/30/2019
Location: 34 Narragansett Avenue

A representative for the applicant was present; however not familiar with the particular events Jamestown Beer Holdings LLC would like to hold.

Vice President Meagher questioned if Chief Mello had received all conditional items.

Chief Mello advised he had not; but the Town Clerk will not issue until all items have been provided. He also advised this license is only for a few months and would need to know the frequency and type of events held.

A motion was made by Vice President Meagher with second by Councilor Piva to approve the Entertainment License for Jamestown Beer Holdings LLC for the period September 3, 2019 to November 30, 2019, contingent on all conditions of Entertainment License and of Chief Mello as follows: Applicant provide a tentative schedule of inside entertainment; entertainment be limited to inside only; Be limited to acoustical music and non-amplified entertainment; Applicant to provide a floor plan depicting the service area of beer, general seating plan and storage area of brewed products. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

No public comment.

- B) Holiday License Application; review, discussion and/or potential action and/or vote
 - 1) Applicant Jamestown Beer Holdings LLC
Dates: 09/01/2019 to 11/30/2019
Location: 34 Narragansett Avenue

A motion was made by Councilor White seconded by Vice President Meagher to approve the Holiday License for Jamestown Beer Holdings LLC for the period September 3, 2019 to November 30, 2019, contingent on all conditions of a Holiday License and of Chief Mello as follows: Applicant provide a tentative schedule of inside entertainment; entertainment be limited to inside only; Be limited to acoustical music and non-amplified entertainment; Applicant to provide a floor plan depicting the service area of beer, general seating plan and storage area of brewed products. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

No public comment.

A motion was made by Vice President Meagher with second by Councilor Piva to close the Public Hearing. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

V. OPEN FORUM

- A) Scheduled request to address- None
- B) Non-scheduled request to address-

Frank Meyer, of Southwest Avenue commented on the Beavertail Lease and offered to make a power point presentation on Beavertail. He further advised he had provided the power point on a thumb drive to former Town Clerk Cheryl Fernstrom.

Deb Barone, of Cedar Lane questioned the allowance of public comment during the Cell Tower Presentation. She was informed she could speak during that time.

Councilor Piva questioned if Mr. Cannon intended on staying through the meeting or would he like his item to be heard sooner.

Mr. Cannon advised he would stay for the entire meeting.

VI. COUNCIL, ADMINISTRATOR, SOLICITOR, COMMISSION/COMMITTEE COMMENTS & REPORTS

- A) Town Administrator's Report: Christina D. Collins, Interim Town Administrator

Interim Town Administrator Collins reported on the bond rating and the savings to the Town.

VII. UNFINISHED BUSINESS

- A) Presentation and Report on North End Cell Tower by Public Works Director Mike Gray and IT Consultant Mike Glier; review, discussion and/or potential action and/or vote

Public Works Director Gray provided an update and history of the North End Cell Tower. He further advised in the summer of 2017 discussions were held on the lack of coverage on the North End of Town. He further explained in 2018 funds were allocated to determine the

feasibility to provide service to the North End. He explained in addition to staff; GIS Student Interns were used to determine potential locations on town owned parcels. It was identified Cedar Lane and North Main Road would be possible locations to be studied. The Council authorized the study of both sites. He explained IT Consultant Glier drafted an RFP to solicit engineers to assess the two sites.

Councilor Piva questioned how the study came to fruition.

Public Works Director Gray advised he did not recall the Council member that brought it forward.

Vice President Meagher advised it was initiated by Town Administrator Nota and Fire Department.

Interim Town Administrator Collins advised in August, 2017 the Town received many complaints about the coverage.

Chief Mello advised this initiative was not driven by law enforcement and advised on public safety communications.

Discussion ensued on Public Safety communication.

Public Works Director Gray advised on the two locations presented to Council.

Councilor White questioned the distance between the two points and northern tip of the island.

Public Works Director Gray advised it was about a ¼ mile apart in distance between locations. He further advised on the preliminary assessments and it was determined both sites were viable to provide service to the North End of the Island. He explained that Cedar Lane Tower would be 150 feet in height and would reach service as far as West Reach. The North Road Tower would be 175 feet in height and service would reach Summit. He explained utilities at each location. He explained the next phase of research would include balloons to measure from view points and a vehicle would be driving to collect the data.

Councilor White questioned what the balloon data would provide

Public Works Director Gray advised the balloons would provide for renderings; but the final report would determine existing coverage and also what proposed coverage would be if cell towers would be developed.

Discussion ensued on coverage and need.

Councilor Piva remarked if we are providing only a little bit of coverage, it is a lot to ask of the neighbors and would dramatically change the landscape of Route 138.

Councilor White advised on the letter received by Dennis Webster on the historical work done by the Council.

Discussion ensued on past applicants from private contractors and they were denied by Zoning and Planning due to aesthetics.

Discussion ensued on the evolution of service, viability of 5G, and distributed antenna systems.

IT Consultant Glier explained viability of 5G and coverage of antenna systems.

Public Works Director Gray summarized his presentation on opportunities to study (to provide) better coverage by the Town. He advised on the need to be transparent with the public on the next phase of study.

Attorney Dylan Connelly representing the residents of Cedar Lane requested Cedar Lane site be removed from consideration, due to the economic harm to his clients. He also apologized on the short notice of his letter. He requested the vote tonight be to no longer consider Cedar Lane. This would resolve the issue with his client and save the town money and the litigation obstacle. He also stated you do not see residents present tonight requesting more cell service.

Council Vice President stated for the record, she had previously done work for the Charron's; but no longer had a financial or professional interest with the Charron's.

Dennis Webster of Mt Hope Avenue advised on the locations of the previous cell towers that were denied by Planning and Zoning. He further commented on the distributed antenna system and the viability of 5G.

Deb Barone of Cedar Lane thanked those that spoke and for questions asked as the discussion has been informative. She stated no one wants a cell tower in their back yard. She further explained the scenic corridor and history on the initiative. She explained in 2005 cell tower applicants was denied due to disagreement with the Comprehensive Plan. She further stated concern with developing 5G and health concerns. She urged the Council to seek other ways of addressing this. She also was pleased to hear this was not a Public Safety issue. She also suggested reaching out to Cox, as sometimes lack of service can be a simple fix and further requested a study to look at what carriers are working on the island.

Public Works Director Gray clarified that he and Mike Glier are not developing towers. They are simply providing information to make available for a decision of the Council and is ultimately up to the tax payer if this project will move forward.

Council President White stated no Council has approved the building of a cell tower.

Discussion ensued on the scenic highway.

Attorney Connelly commented on effect of his clients with the lost interest in buyers of his client's property. He requested a meeting in Executive Session if Cedar Lane remains as a site to be considered.

Councilor White questioned the next step in the process. He suggested to only progress with the needs assessment to determine the scope of the problem.

Councilor Piva concurred with Councilor White and also commented it was not a Public Safety issue and why would we consider a large tower at this time, when the public is not here requesting a tower.

Vice President Meagher also concurred with the need assessment.

Jane Murray of Cedar Lane was so happy to hear that there is not a safety issue. She commented how the need of cellular is convenient and suggested those without service get a land line.

Chief Mello clarified he was not speaking for the Fire Department and to confirm with Fire Dept. if they have an issue. Also clarified the police do not have an issue communicating with each other; however he cannot confirm if residents have issue contacting the department.

Council President White advised getting a land line could have a financial burden.

Discussion ensued on the lack of cell service in the North End, carrier data and needs assessment.

A motion was made by Councilor White to approve and commission a needs assessment consistent with the next step of the North End Cellular Survey measuring current cell service of all carriers, with an instrumented vehicle driving through all areas to establish a base line of current cell service levels. Seconded by Vice President Meagher.

Councilor Piva stated he would like to eliminate both sites for consideration of a cell tower in Jamestown.

Vice President Meagher questioned if you could see a tower at the Transfer Station.

Discussion ensued on cell tower need and timeframe of the study.

President White questioned if you could suspend potential solutions without determining the need. He further stated no one has authorized a cell tower. They have only tried to determine a solution to add cell service to the North End

Attorney Connelly advised the motion does not prevent consideration of Cedar Ridge it does not resolve the concerns with potential litigation

Vice President Meagher advised consultation with the Town Solicitor would be needed to address Attorney Connelly's request.

Councilor White further amended the motion to suspend the consideration of any cell tower until they analyze the need. Vice President Meagher seconded the addendum to the motion.

Back to the Motion:

Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

- B) Town Administrator's Search; review, discussion and/or potential action and/or vote, continued from August 28, 2019.
 - 1) Approval of Town Administrator's Candidate Recruitment Advertisement; review, discussion and/ or potential action and/or vote

Vice President Meagher stated it was a great advertisement.

Councilor Beye requested the 7 year experience be changed to 5.

Councilor Piva like's the commensurate with experience language.

Town Solicitor Ruggiero commented on the online publication.

Discussion ensued on location of advertisements.

A motion was made by Vice President Meagher to approve advertisement with second by Councilor Beye. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

Town Solicitor Ruggiero advised on the procedure to receive resumes. He stated the Council will receive all applicants at one time. He further explained Deb Shea will receive applications with a specific email address to allow for confidentiality.

- 2) Compensation of Interim Town Administrator; proposed to be the same as the Town Administrator budget amount, of \$123,437.74; review, discussion and/ or potential action and/or vote

Vice President Meagher stated they will be compensating Interim Town Administrator at the current budgeted amount of the previous Town Administrator.

A motion was made by Vice President Meagher to approve the salary adjustment of \$123,437.74 for Interim Town Administrator Collins. Seconded by Councilor Beye. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

- C) Upcoming Meetings and Sessions – dates and times
 - 1) Town Council Meeting Schedule: September 16, 2019 at 6:30 p.m.; review, discussion and/or potential action and/or vote (additional sessions to be added as needed)
 - 2) Schedule Hearing Date and Discussion of Hearing Process: Museler Appeal; review, discussion and/or potential action and/or vote

Town Solicitor Ruggiero advised this will be placed on September 16th Agenda to allow for Attorney Quentin Anthony to be present.

It was noted this would be for scheduling and the process will be reviewed. The hearing will not take place on the 16th.

VIII. NEW BUSINESS

- A) Proposal by Jamestown Arts Center, Outdoor Art Experience (OAE) for approval of exhibit locations, summer 2020; review, discussion and/or potential action and/or vote

Molly Dickinson, Project Manager from the Jamestown Arts Center explained her request to add the town hall lawn as an additional exhibit location.

A motion was made by Vice President Meagher with second Councilor Beye to approve the town hall lawn as an additional exhibit location for the Jamestown Arts Center, Outdoor Art Experience. Seconded by Councilor Beye. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

- B) Amendment to Lease Agreement with AT&T Site ID: RI4182- 96 Howland Avenue Water Tank; review, discussion and/or potential action and/or vote

Interim Town Administrator Collins advised this was initiated with former Town Administrator Nota and the Solicitor had reviewed.

A motion was made by Vice President Meagher to approve the Lease Agreement with AT&T Site ID: RI4182-96 Howland Avenue Water Tank with second by Councilor Piva. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

IX. ORDINANCES, APPOINTMENTS, VACANCIES AND EXPIRING TERMS

- A) Appointments, Vacancies, and Expiring Terms; review, discussion and/or potential action and/or vote on each listed appointment, vacancy and/or expiring term
- 1) Jamestown Affordable Housing Committee (One vacancy with a three-year term ending date of May 31, 2022); duly advertised;
 - a) Letter of interest for appointment
 - i) Joseph Cannon Jr. (previously interviewed)

Council Piva commented on the qualifications of Mr. Cannon.

A motion was made by Councilor Piva to appoint Joseph Cannon Jr. to the Affordable Housing Committee with a term ending May 31, 2022 with second by Councilor Beye. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye

- 2) Jamestown Planning Commission Member (One vacancy with a four-year term ending date of December 31, 2019);
 - a) Request for appointment & continuation
 - i) Michael Swistak

Vice President Meagher spoke on the qualifications of Chairman Swistak.

A motion was made by Vice President Meagher to reappoint Michael Swistak to the Planning Commission with a continuation through December 31, 2023 with second by Councilor Piva.

Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye

X. CONSENT AGENDA

A motion was made by Vice President Meagher with second by Councilor White to approve and accept the Consent Agenda. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

The Consent Agenda approved consists of the following:

- A) Adoption of Town Council Minutes
 - 1) August 19, 2019 (regular meeting)
 - 2) August 19, 2019 (executive session)
- B) Minutes of Boards/Commissions/Committees
 - 1) Jamestown Planning Commission (June 26, 2019)
 - 2) Jamestown Planning Commission (July 17, 2019)
 - 3) Jamestown Planning Commission (August 7, 2019)
- C) Abatements/Addenda of Taxes: \$550.00 Total Abatements: \$ 620.61
 - Account/Abatement Amount**
 - 1) Abatements to 2019 Motor Vehicle Tax Roll
 - a) 04-0160-06M \$132.53
 - b) 04-0160-07M \$82.06
 - c) 13-1559-60M \$144.10
 - d) 19-0990-14M \$261.92
 - 2) Addenda to Real Estate and Real Property 2017 Tax Roll
 - a) 19-0593-00 \$150.00
 - 3) Addenda to Real Estate and Real Property 2018 Tax Roll
 - a) 19-0593-00 \$150.00
 - 4) Addenda to Real Estate and Real Property 2019 Tax Roll
 - a) 07-0741-21 \$250.00
- D) One Day Event/Entertainment License Applications
 - 1) Applicant: Rhode Island Turnpike and Bridge Authority
Event: 4 Bridges Ride
Date: September 15, 2019
Location: Rte. 138
 - 2) Applicant: Rhode Island Turnpike and Bridge Authority
Event: Citizens Bank Pell Bridge Run
Date: October 20, 2019
Location: East Shore Road & Freebody to Pell Bridge
- E) Award of Bid:
 - 1) Parks & Recreation Department: Turf Management Supplies & Consulting Services to Tom Irwin Inc.

XI. COMMUNICATIONS, PETITIONS, AND PROCLAMATIONS AND RESOLUTIONS FROM OTHER RHODE ISLAND CITIES AND TOWNS

A motion was made by Vice President Meagher with second by Councilor Beye to receive the Communications. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye; Councilor Piva, Aye.

The Communications and Proclamations and Resolutions from other RI cities and towns consists of the following:

- A) Communications
 - 1) Invitation to the Rhode Island Coalition for the Homeless's Annual Award Breakfast Monday, September 23, 2019
 - 2) Jamestown School Department Construction Project - Roof Replacement to Colony Roofing Industries Inc.
 - 3) Jamestown School Department Construction Project- Roof Replacement to Commercial Roofing & Contracting, Inc.
 - 4) Jamestown School Department Owner's Project Manager and Commissioning Services for School Building Projects, Revised Fees to Colliers International
 - 5) Jamestown School Department Architectural Services to Saccoccio & Associates, Inc.
- B) Resolutions and Proclamations from other RI cities and towns
 - 1) Resolution of the Town of Charlestown relative to Public Access to the Shoreline

XII. AGENDA ITEMS FOR THE NEXT MEETING AND FUTURE MEETINGS

- A) Presentation on Gould Island (September 16, 2019)
- B) Taxation items: RIGL § 44-3-12 Visually Impaired Persons – Exemption and RIGL § 44-3-5 Gold Star Parents' Exemption
- C) Beavertail Property Lease Terms

Councilor Piva questioned if Mr. Meyer's power point presentation would be reviewed in September.

It was noted they would receive the power point to schedule for a future meeting.

- D) Noise Ordinance (September 16, 2019)

Chief Mello commented on procedure of adopting ordinances and requested he would like to recommend some potential amendments to the Noise Ordinance for discussions; prior to drafting advertisement and adoption.

Discussion ensued on transparency and input on ordinances.

- E) Parking at Beach Facilities (September 16, 2019)

Councilor Piva announced his recusal from Executive Session: RIGL § 42-46-5(a) Subsection (2) Potential or Pending Litigation (IBPO Retiree Pension Benefits: File No. Balzer vs. Town of Jamestown, C.A. No. 1:19-cv-00109-WES-PAS; Dube, etal, vs. Town of Jamestown, C.A. No. 1:19-cv-00018-WES-PAS and departed Council Chambers at 8:11 p.m.

XIII. EXECUTIVE SESSION

A) Pursuant to RIGL § 42-46-5(a) Subsection (2) Potential or Pending Litigation (IBPO Retiree Pension Benefits: File No. Balzer vs. Town of Jamestown, C.A. No. 1:19-cv-00109-WES-PAS; Dube, etal, vs. Town of Jamestown, C.A. No. 1:19-cv-00018-WES-PAS) review, discussion and/or potential action and/or vote

A motion made by Vice President Meagher with second by Councilor Beye pursuant to RIGL § 42-46-5(a) Subsection (2) Potential or Pending Litigation (IBPO Retiree Pension Benefits: File No. Balzer vs. Town of Jamestown, C.A. No. 1:19-cv-00109-WES-PAS; Dube, etal, vs. Town of Jamestown, C.A. No. 1:19-cv-00018-WES-PAS) Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye

The Town Council reconvened the regular meeting at 8:42 p.m. It was announced the following action was taken in Executive Session:

A motion was made by Vice President Meagher with second by Councilor Beye to authorize the Town Solicitor to act as necessary to protect the Town's interest in Balzer vs. Town of Jamestown, C.A. No. 1:19-cv00109-WES-PAS; Dube, etal, vs. Town of Jamestown, C.A. No. 1:19-cv-00018-WES-PAS. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye

A motion was made by Vice President Meagher with second by Councilor Beye to seal the Minutes of the Executive Session. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor White, Aye

XIV. ADJOURNMENT

A motion was made by Vice President Meagher with second by Councilor Beye to adjourn. Vote: President White, Aye; Vice President Meagher, Aye; Councilor Beye, Aye; Councilor, White, Aye.

The regular meeting was adjourned at 8:43 p.m.

Attest:

Erin F. Liese, CMC, Town Clerk

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the July 23, 2019 Meeting

A regular meeting of the Jamestown Zoning Board of Review was held at the Jamestown Town Hall, 93 Narragansett Avenue. The Chairman called the meeting to order at 7:00 p.m. The clerk called the roll and noted the following members present:

Richard Boren, Chair
Terence Livingston, Member
Edward Gromada, Member
Marcy Coleman, Member
Judith Bell, 1st Alt.
James King, 3rd Alt.

Also present: Brenda Hanna, Stenographer
Chris Costa, Zoning Officer
Pat Westall, Zoning Clerk
Wyatt Brochu, Counsel

MINUTES

Minutes of June 25, 2019

A motion was made by Edward Gromada and seconded by Terence Livingston to accept the minutes of the June 25, 2019 meeting as presented.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, Edward Gromada, Marcy Coleman and Judith Bell voted in favor of the motion.

James King was not seated and Dean Wagner and Erik Brine were absent.

CORRESPONDENCE

Clancy

A motion was made by Terence Livingston and seconded by Marcy Coleman to continue the application of David & Jennifer Clancy, whose property is located at 382 North Rd., and further identified as Assessor's Plat 7, Lot 22 for a variance from Article 3,

Section 82-302, Table 3-2. Per Newport Superior Court C.A. NC-2018-0188 Accordingly, this Court remands the Decision to the Zoning Board for findings of fact and conclusion of law. No testimony will be given or heard.

The application is continued to the August 27, 2019 meeting awaiting an ethic Commission ruling.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, Edward Gromada, Marcy Coleman and Judith Bell voted in favor of the motion.

James King was not seated and Dean Wagner and Erik Brine were absent.

NEW BUSINESS

Delude Dix

A motion was made by Terence Livingston and seconded by Marcy Coleman to grant the request of Elizabeth Delude Dix, whose property is located at 1070 East Shore Rd., and further identified as Assessor's Plat 1, Lot 373 for a variance from Article 3, Section 82-302, District Dimensional Regulations, to replace an existing 1980's era addition to a historic house with a new addition that provides an attached garage. The existing house is only 13.5 ft. from the front lot line. The new addition will be set back 20 ft. from the front lot line where 40 ft. is required. That portion of the proposed addition that contains the garage will be located 28 ft. from the side lot line, where 30 ft. is required.

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

This Variance is granted with the following restriction/condition(s):

This project must be constructed in strict accordance with the site and building plans duly approved by this Board.

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 1.627 acres.
2. The front set back will be less nonconforming.
3. The left side set back will be 28' where 30' is required due to placing the garage in the location for an "aging in place" concept and to not impede on the historical character of the house.
4. If the front set back were to be 40', then the addition would be divorced from the main structure and would completely negate the purpose of the project.
5. The owner testified about the historical character and purpose of the project.
6. The expert architect Shahin Barzin testified that the project is the least relief necessary not to any fault of the owner and would not alter or injure the character of the surrounding area and the Board accepts his testimony.
7. Two abutters testified in favor.
8. No one testified in opposition.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, Edward Gromada, Marcy Coleman and Judith Bell voted in favor of the motion.

James King was not seated and Dean Wagner and Erik Brine were absent.

Dumpling Land LLC

A motion was made by Edward Gromada and seconded by Terence Livingston to grant the request of Dumpling Land LLC, whose property is located at 28 Dumpling Drive, Jamestown, Rhode Island, and further identified as Tax Assessor's Plat 10, Lot 111 for an amendment, and/or modification, and/or correction to the Zoning Decision of February 27, 2018, in order to reflect the testimony and plans submitted at said hearing regarding the relief needed off of the North side property line and not the South side property line, pursuant to Article 6, Sections 82-600, 82-605, 82-606, and 82-607, and the inherent authority of the Board to amend, and/or modify, and/or correct, when appropriate, its decisions. Said property is located in a RR80 Zone and contains 33,930 square feet.

The following is agreed:

1. It is the opinion of the Board that the opinion of Feb. 28, 2018 is rewritten and every reference to the south side and north side setbacks is corrected as appropriate.
2. The testimony of 2/28/18 is incorporated here by reference.
3. Having sat for the arguments and decision of Fe. 28, 2018 myself, the discussion of setbacks and relief was clearly discussed at that time.
4. All other relief granted will remain in effect and included here by reference.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, Edward Gromada, Marcy Coleman and Judith Bell voted in favor of the motion.

James King was not seated and Dean Wagner and Erik Brine were absent.

OLD BUSINESS

Hamlin

A motion was made by Marcy Coleman and seconded by Edward Gromada to continue the appeal of Geoff Hamlin, whose property is located at 134 Battery Lane, and further identified as Assessor's Plat 11, Lot 38 pursuant to Article 5, Section 503 to appeal Building Official's refusal to obey Zoning Board of Review decision overruling his Stop Work Order, in which they found him to be arbitrary & capricious, as well as his illegal building permit order about a border wall. Said property is located in a R80 zone and contains 5.28 acres.

The application is continued to the September 24, 2019 meeting allowing time for the parties involved to try for a resolution.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, Edward Gromada, Marcy Coleman and Judith Bell voted in favor of the motion.

James King was not seated and Dean Wagner and Erik Brine were absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 8:03 p.m.
The motion carried unanimously.

State of Rhode Island
Coastal Resources Management Council
Oliver H. Stedman Government Center
4808 Tower Hill Road, Suite 3
Wakefield, RI 02879
(401)783-3370

State of Rhode Island
Department of Environmental Management
Office of Technical and Customer Asst.
235 Promenade Street
Providence, RI 02908-5767
(401)222-6822

JOINT PUBLIC RE-NOTICE

CRMC File No.: 2019-06-014 Date: September 3, 2019

RIDEM Water Quality Certification Number: WQC 19-123 DP19-174

These offices have under consideration the application of:

Jamestown Boat Yard
60 Dumpling Drive
Jamestown, RI 02835

for State of Rhode Island Assent (in accordance with the Coastal Resources Management Program), and a State of Rhode Island Dredge Permit (in accordance with the Marina infrastructure Maintenance Act of 1996 and the Marine Waterways and Boating Facilities Act of 2001, Rhode Island General Laws Chapter 46-6.1) and State of Rhode Island Water Quality Certification (in accordance with Chapter 42-35 pursuant to Chapters 46-12 and 42-17.1 of the RIGL, as amended) to perform

The project will include: Establishment of a new Marina Perimeter Limit, new dredging of approximately 2,100 cubic yards and the relocation and expansion of the floating portion of the marina.

Project Location: Jamestown Boatyard

Street & Number: 60 Dumpling Road

City/Town: Jamestown

Plat Number: 10 Lot Number: 18

Waterway: East Passage

Plans of the proposed work may be seen at the CRMC office in Wakefield.

In accordance with the Administrative Procedures Act (Chapter 42-35 of the Rhode Island General Laws) you may request a hearing on this matter. You are advised that if you have good reason to enter protests against the proposed work it is your privilege to do so. It is expected that objectors will review the application and plans thoroughly, visit site of proposed work if necessary, to familiarize themselves with the conditions and cite what law or laws, if any, would in their opinion be violated by the work proposed.

RICRMC/RIDEM Joint Public **RE-Notice**

CRMC File No. 2019-06-014

September 3, 2019

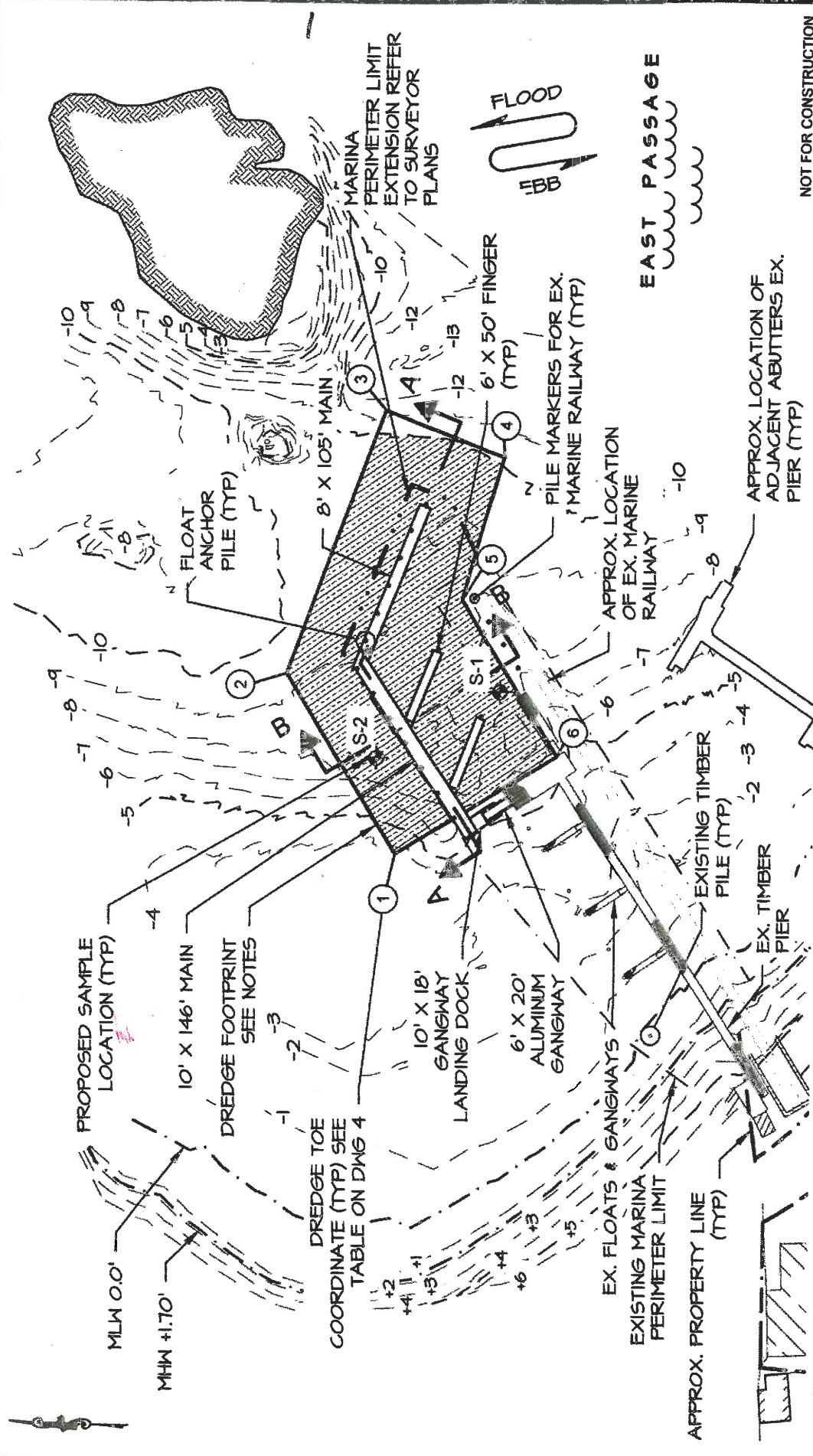
Page Two

This also serves as notice that the Rhode Island Department of Environmental Management, Office of Water Resources, Water Quality Certification Program has under consideration and review the same proposed activity as described above for compliance with the State's Water Quality Regulations (AUTHORITY: in accordance with Clean Water Act, as amended (33 U.S.C. 1251 et.seq.; Chapter 42-35 pursuant to Chapters 46-12 and 42-17.1 of the Rhode Island General Laws of 1956, as amended).

If you desire to protest, you must attend the scheduled hearing and give sworn testimony. A notice of the time and place of such hearing will be furnished you as soon as possible after receipt of your request for hearing. If you desire to request a hearing, to receive consideration, it should be in writing and be received at this office on or before September 18, 2019.

It is expected that objectors will review the application and associates plans thoroughly. Comments that pertain to this Joint Notice must be submitted in writing and must be addressed to Rhode Island Coastal Resources Management Council and Rhode Island Dept of Environmental Management at the above referenced addresses.

lat



NOT FOR CONSTRUCTION
FOR REGULATORY REVIEW ONLY

RACE
COASTAL ENGINEERING

611 Access Road Stratford, CT 06615
Tel: 203-377-0663 www.racecoastal.com

DRAWING NO. 5 of 8

PROJECT: MARINE FACILITY IMPROVEMENT
JAMESTOWN BOAT YARD
JAMESTOWN, RI 02835

APPLICANT: JAMESTOWN BOAT YARD
60 DUMPLING DRIVE
JAMESTOWN, RI 02835

SEAL: DEVIN JON SANTA

REGISTERED PROFESSIONAL ENGINEER
NOT VALID WITHOUT ENGINEER'S SEAL

DRAWN BY:	CEBK
CHECKED BY:	MRR
DATUM:	MLW
SCALE:	1"=100'-0"
DATE:	3/26/2019
REV:	
PROJECT #	20180006

NOTES:

- PROPOSED DREDGE AREA
- DREDGE DEPTH -10 MLW
- ALL RIGHTS RESERVED
- ©2019 RACE COASTAL ENGINEERING, LLC.

COASTAL RESOURCES MANAGEMENT COUNCIL

- Legend**
- Approx. Project Location*
 - Approx. Transect Location
 - Approx. Sample Location: No SAV Observed (0% cover)
 - Approx. Sample Location: SAV Observed
 - Approx. Limits of Observed SAV Bed
 - Approx. Low Tide Shoreline (10:52am 7/12/19)
 - Approx. Bathymetric Contours*
 - Approx. Existing Docks, Piers, Rails*
 - Approx. Proposed Dock Location*

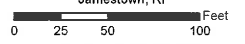
SAV = Submerged Aquatic Vegetation (Eelgrass: *Zostera marina*)
 *Locations referenced from plans by Race Coastal Engineering
 "Marine Facility Improvement Jamestown Boatyard" 3/11/19



Location of Eelgrass Bed along Transects		
Transect	Distance to Start of Bed (ft)	Distance to End of Bed (ft)
A	102	198
B	94	206
C	89	207
D	93	176
E	n/a	n/a
F	95	99
G	82	112
H	85	178
I	89	184
J	92	167
K	89	189
L	88	195
M	94	200
N	100	261
O	101	266
P	103	278
Q	104	272

FOR ILLUSTRATIVE PURPOSES ONLY
 NOT A SURVEY PLAN

Sheet 1 of 2:
Submerged Aquatic Vegetation Survey
Dumping Drive, Jamestown Boat Yard
A.P. 10, Lots 17 & 18
 Jamestown, RI










Performed July 12, 2019
 By Carolyn Decker and Sabrina Charron
 Using hand-held Trimble Geo7X



April 2018 aerial
 RI DEM Mapping
Natural Resource Services, Inc.
 100 WATER LANE
 SUITE 100
 WESTPORT, MA 01886
 (978) 335-0000

Legend

-  Approx. Project Location* (limit of proposed dredging)
-  Approx. Shellfish Transect Locations (see data tables)
-  Approx. Limits of Observed SAV Bed (see Sheet 1)
-  Approx. Low Tide Shoreline (10:52am 7/12/19)
-  Approx. Bathymetric Contours*
-  Approx. Existing Docks, Piers, Rails*
-  Approx. Proposed Dock Location*

*Locations referenced from plans by Race Coastal Engineering
 "Marine Facility Improvement Jamestown Boatyard" 3/11/19




FOR ILLUSTRATIVE PURPOSES ONLY
 NOT A SURVEY PLAN

Sheet 2 of 2:
Shellfish Survey
Dumping Drive, Jamestown Boat Yard
A.P. 10, Lots 17 & 18
 Jamestown, RI

0 25 50 100 Feet

Performed July 12, 2019
 By Edward J. Avizinis, CPSS, PWS
 Using hand-held Trimble GeoXT

 April 2018 aerial
 RI DEM Mapping
 Natural Resource Services, Inc.
 100 Veterans Ave. # 200
 Westfield, MA 01095
 (413) 564-1100
 (c) RGIS

Town of Jamestown as an abutter.

Town Property: Plat 16, Lots 36, 54, 66, 37, 88, 52, 35, 59, & 60.

TOWN OF JAMESTOWN
ZONING BOARD OF REVIEW
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE JAMESTOWN ZONING BOARD OF REVIEW WILL HOLD A PUBLIC HEARING September 24, 2019, AT THE JAMESTOWN TOWN HALL 93 NARRAGANSETT AVENUE, JAMESTOWN, RHODE ISLAND AT **7:00** P.M. UPON THE FOLLOWING:

Application of William & Glenna Mccaffrey, whose property is located at 232 Beacon Ave., and further identified as Assessor's Plat 16, Lot 70 for a variance/special use permit from Article 6, Section 82-600-602 Special permits pursuant Article 3, Section 82-314 High groundwater district subdistrict A. Also seeks Article 6, Section 82-600-605 variances for Article 3, section 82-302, table 3-2 setbacks. To demolish dwelling and reconstruct on existing foundation with a side yard setback of 17.36' where 20' is required. Proposal includes minor additions. Said property is located in a R40 zone and contains 21,600 sq. ft.

BY ORDER OF THE ZONING BOARD OF REVIEW
RICHARD BOREN, CHAIRMAN
CHRIS COSTA, ZONING OFFICER

This meeting location is accessible to the physically challenged. Hearing or speech impaired individuals requiring the services of an interpreter should call 1-800-745-5555 not less than 3 business days prior to the meeting.

Town of Jamestown as abutter.

Town Property: Plat 8, Lots 173 & 573 and Plat 9, Lots 355, 356, 595 & 252.

TOWN OF JAMESTOWN
ZONING BOARD OF REVIEW
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT THE JAMESTOWN ZONING BOARD OF REVIEW WILL HOLD A PUBLIC HEARING September 24, 2019, AT THE JAMESTOWN TOWN HALL 93 NARRAGANSETT AVENUE, JAMESTOWN, RHODE ISLAND AT **7:00** P.M. UPON THE FOLLOWING:

Application of ESJ Inc/JTN LLC/Simpatico Jamestown, whose property is located at 13 Narragansett Ave., and further identified as Assessor's Plat 9, Lot 603 for a variance from Article 12, Section 82-1203 to eliminate off-site shared parking requirement. Said property is located in a CD zone and contains 13,195 sq. ft.

BY ORDER OF THE ZONING BOARD OF REVIEW
RICHARD BOREN, CHAIRMAN
CHRIS COSTA, ZONING OFFICER

This meeting location is accessible to the physically challenged. Hearing or speech impaired individuals requiring the services of an interpreter should call 1-800-745-5555 not less than 3 business days prior to the meeting.



**Town of Jamestown
Tax Assessor**

**93 Narragansett Avenue
Jamestown, RI 02835**

**Phone: 401-423-9802
Email: cbrochu@jamestownri.net**

To: COUNCIL PRESIDENT WHITE, JAMESTOWN TOWN COUNCIL

From: CHRISTINE BROCHU, JAMESTOWN TAX ASSESSOR

Subject: ABATEMENT OF TAXES FOR THE **SEPTEMBER 16, 2019** MEETING

MOTOR VEHICLE ABATEMENTS TO 1998 TAX ROLL

06-0379-50 Fox, James V.	Uncollectable/ taxpayer is deceased.	\$235.27
-----------------------------	--------------------------------------	----------

MOTOR VEHICLE ABATEMENTS TO 1999 TAX ROLL

06-0379-50M Fox, James V.	Uncollectable/ taxpayer is deceased.	\$251.27
------------------------------	--------------------------------------	----------

MOTOR VEHICLE ABATEMENTS TO 2000 TAX ROLL

06-0379-50M Fox, James V.	Uncollectable/ taxpayer is deceased.	\$179.91
------------------------------	--------------------------------------	----------

MOTOR VEHICLE ABATEMENTS TO 2019 TAX ROLL

07-0367-00M Gillerin, Edward & Carol	Motor Vehicle – 2013 Kia – Reg# UQ559, registered in Florida on 11/15/2018.	\$2.84
08-1081-80M Hyundai Lease Title Trust	Motor Vehicle – 2014 Hyundai – Reg.# 355369, returned leased vehicle on 8/9/2017	\$60.56
11-0133-97M Keller, Bradley	Motor Vehicle- soldier / sailor exempt	\$131.78
19-0029-87M Salm, Dane	Motor Vehicle- soldier / sailor exempt	\$235.21
19-0762-06M Shipman, Joy	Motor Vehicle – 2011 Toyota – Reg# 065731, registered in Wyoming on 7/25/2018.	\$44.93
19-0980-13M Theiss, Rachel Anne Smigelski,	Motor Vehicle- soldier / sailor exempt	\$77.82

ADDENDA TO 2019 TAX ROLL

18-0604-82 Robin, Loretta	Plat 11, Lot 60 – New Construction – Prorated 166 days – New Value \$1,303,400	\$868.78
22-0186-00 Vieira, Daniel & Lisa	Did not qualify for elderly exemption	\$547.88
23-0453-28 Welch, Gregory & Deborah	Removed Veteran’s exemption. Texas resident	\$250.00

TOTAL ABATEMENTS	\$ 1,219.59
TOTAL ADDENDA	\$ 1,666.66

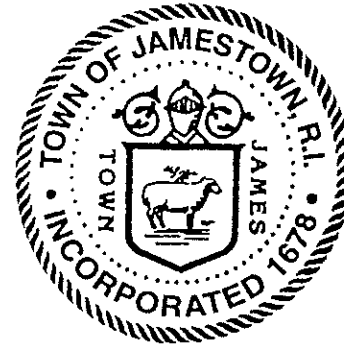
RESPECTFULLY SUBMITTED,

Christine Brochu

CHRISTINE BROCHU
TAX ASSESSOR

**Town of
Jamestown, Rhode Island**

PO Box 377
Jamestown, RI 02835- 1509
Phone: (401) 423-7220
Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
Interim Town Administrator

From: Michael Gray
Public Works Director

RE: Bid Award
New 2019 Four Wheel Drive Utility Truck
Public Works Department

The FY19/20 annual budget for the sewer department included capital funding to purchase a New 2019 Four Wheel Drive Utility Truck.

Bids were advertised and received August 27, 2019 where they were opened and read in public. Six bids were received for a **new 2020 four-wheel utility truck** from the following:

- Tasca Ford \$51,592
- Gervais Inc \$53,055
- Flood Ford of East Greenwich \$54,825
- Minuteman Truck – Bid A \$57,187.90
- Minuteman Truck-Bid B \$58,907.90
- Doering Equipment \$64,991

I have reviewed the bids and recommend that the **New four-wheel drive utility truck, be awarded to the lowest responsive bidder, Gervais Inc for an amount not to exceed \$53,055.**

Tasca Ford specified an alternative utility body manufacturer then specified. After review it was determined not to be of "Equal" specification then what was required in our bid.

**Town of
Jamestown, Rhode Island**

PO Box 377
Jamestown, RI 02835- 1509
Phone: (401) 423-7220
Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
Interim Town Administrator

From: Michael Gray
Public Works Director

RE: Bid Award
New 2019 Four Wheel Drive Extended Cab Pickup Truck and Plow
Public Works Department

The FY19/20 annual budget included capital funding to purchase equipment for the highway department which includes a new 2019 Four Wheel Drive Extended Cab Pickup and Plow.

Bids were advertised and received August 27, 2019 where they were opened and read in public. Three bids were received for a **new 2020 four-wheel drive extended cab pickup truck and plow** from the following:

- Tasca Ford \$41,966
- Gervais Inc. \$42,901
- Flood Ford of East Greenwich \$46,360

I have reviewed the bids and recommend that the **New four-wheel drive extended cab pickup truck and plow be awarded to the lowest responsive bidder, Flood Ford of East Greenwich for an amount not to exceed \$46,360.**

Tasca Ford and Gervais did not meet the minimum specifications in our bid advertisement for the truck and therefore not recommended.

**Town of
Jamestown, Rhode Island**

PO Box 377
Jamestown, RI 02835- 1509
Phone: (401) 423-7220
Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
Interim Town Administrator

From: Michael Gray
Public Works Director

RE: Bid Award
New 2019 Four Wheel Drive Dump Truck and Plow with sander
Public Works Department

The FY19/20 annual budget included capital funding to purchase equipment for the highway department which includes a new 2019 Four Wheel Dump Truck and Plow.

Bids were advertised and received August 27, 2019 where they were opened and read in public. Five bids were received for a **new 2020 four-wheel drive dump truck and plow with a sander option** from the following:

- Flood Ford of East Greenwich \$74,250 with sander
- Tasca Ford \$75,595 with sander
- Minuteman Truck – Bid A \$75,627.90 with sander
- Minuteman Truck-Bid B \$71,746.90 no sander
- Gervais Inc \$71,425 no sander

I have reviewed the bids and recommend that the **New four-wheel drive dump truck, plow and sander be awarded to the lowest responsive bidder, Flood Ford of East Greenwich for an amount not to exceed \$74,250.**

**Town of
Jamestown, Rhode Island**

PO Box 377
Jamestown, RI 02835- 1509
Phone: (401) 423-7220
Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
Interim Town Administrator

From: Michael Gray
Public Works Director

RE: Bid Award
New 7x14 Enclosed Trailer
Public Works Department

The FY19/20 annual budget included capital funding to purchase a new 7x14 trailer for the highway department.

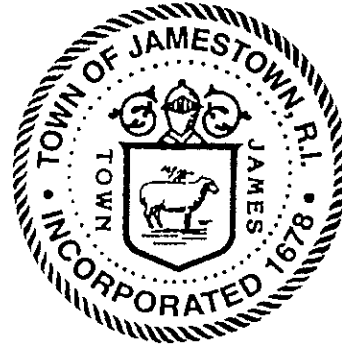
Bids were advertised and received August 27, 2019 where they were opened and read in public. Four bids were received for a **new 7x14 trailer** from the following:

- | | |
|-------------------------|------------|
| • Wright Trailers, Inc | \$6,242 |
| • Carey Auto | \$6,995 |
| • JC Madigan | \$7,882 |
| • Steven Green Trailers | \$8,123.45 |

I have reviewed the bids received and recommend that the **New 7x14 Trailer, be awarded to the lowest responsive bidder, Wright Trailers, Inc. for an amount not to exceed \$6,242.**

**Town of
Jamestown, Rhode Island**

PO Box 377
Jamestown, RI 02835- 1509
Phone: (401) 423-7220
Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
Interim Town Administrator

From: Michael Gray
Public Works Director

RE: Bid Award
New 44,000 GVW Dump Truck and Plow
Public Works Department

The FY19/20 annual budget included capital funding to purchase a new 44,000 GVW Dump Truck and Plow for the highway department.

Bids were advertised and received August 27, 2019 where they were opened and read in public. 13 bids were received for a **44,000 GVW Dump Truck and Plow** from the following:

- RI Truck Center \$141,000
- Freightliner of Hartford – Bid 2 \$141,364
- Freightliner of Hartford – Bid 1 \$143,380
- Coastal International \$143,840
- Tristate Truck Center – Bid 1 \$144,984
- Minuteman Bid B \$146,163.41
- Ballard Truck -Bid 1 \$147,946
- Tristate Truck Center – Bid 2 \$148,772
- Minuteman Bid A \$153,121.41
- Ballard Truck - Bid 2 \$157,792
- Tristate Truck Center Bid 3 \$157,958
- Tristate Truck Center Bid 4 \$165,746
- Ballard Truck Center Bid 3 \$165,746

I have reviewed the bids received and recommend that the bid be awarded for the **New 44,000 GVW Dump Truck and Plow to Tristate Truck Center for an amount not to exceed \$144,984.**

Each Bid proposal was reviewed for the minimum specifications as advertised and components and options that were presented for the truck to be manufactured and delivered to the Town. Bids from Coastal, Ballard, and Minuteman did not meet the minimum requirements and were found not responsive. Bids were narrowed down between RI Truck Center, Freightliner of Hartford, and Tristate Truck Center and the proposals were reviewed. Each specification in their proposals were evaluated to determine which is in the best interest of the Town for the cost proposed.

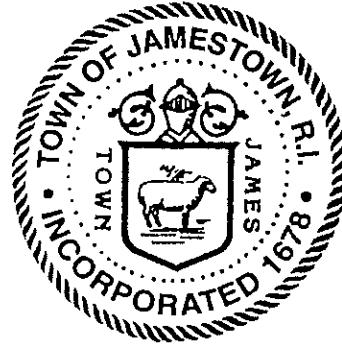
The Tristate proposal specified features that will protect equipment and enhance the longevity of the truck by providing brake dust shields, stainless steel clevis pins, stainless steel aftertreatment device/muffler/tailpipe, shocks, and polished rims with Dura-bright finishes to protect from salt.

Tristate proposed features within the cab that will provide driver comfort, operation, and safety that include a wing dash to operate controls, PTO controls on the dash, switches for plow lights, cloth seats, an air ride passenger seat, and roof storage console. Tristate will also provide a frame reinforcement for the plow where RI Truck did not and Front Tow Hooks where RI Truck and Freightliner of Hartford did not. The spare tire rating specified by Freightliner of Hartford does not meet the weight requirement for the vehicle.

Tristate Truck Center was recommended for bid award for the additional cost of \$3,980 over RI Truck Center's proposal and \$3,620 and \$1,604 over the proposals from Freightliner of Hartford for components and options that will provide the best overall value in the truck for the cost.

**Town of
Jamestown, Rhode Island**

PO Box 377
 Jamestown, RI 02835- 1509
 Phone: (401) 423-7220
 Fax: (401) 423-7229



Date: September 11, 2019

To: Christina Collins
 Interim Town Administrator

From: Michael Gray
 Public Works Director

RE: Bid Award
 New 44,000 GVW Hook Lift Truck, Plow, and Body Options
 Public Works Department

The FY19/20 annual budget included capital funding to purchase a new 44,000 GVW Hook Lift Truck, Plow, and Body options for the highway department.

Bids were advertised and received August 27, 2019 where they were opened and read in public. 15 bids were received for a **44,000 GVW Hook Lift Truck, Plow, and the following body options- #1 New Hook Lift Skid; #2 New 12' Platform Body; #3 New 10' Dump Body; #4 New Hydraulic Stainless-Steel Spreader; #5 New Chip Box** from the following Vendors:

- RI Truck Center Truck&Plow \$149,600
 #1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Minute Man Bid "A" Truck&Plow \$159,724.41
 #1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Minute Man Bid "B" Truck&Plow \$148,563.41
 #1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Coastal International Truck&Plow \$152,443
 #1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Tristate Truck Center – Bid 1 Truck&Plow \$166,561
 #1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879

- Tristate Truck Center – Bid 2 Truck&Plow \$153,687
#1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Tristate Truck Center – Bid 3 Truck&Plow \$151,061
#1-\$1,737; #2-\$4,360; #3-\$6,436; #4-\$13,879; #5-\$6,064
- Tristate Truck Center – Bid 3 Truck&Plow \$163,935
#1-\$1,737; #2-\$4,360; #3-\$6,436; #4-\$13,879; #5-\$6,064
- Ballard Truck -Bid 1 Truck&Plow \$160,081
#1-\$1,737; #2-\$4,360; #3-\$6,436; #4-\$13,879; #5-\$6,064
- Ballard Truck -Bid 2 Truck&Plow \$174,696
#1-\$2,400; #2-\$6,000; #3-\$15,300; #4-\$23,680; #5-\$12,500
- Ballard Truck -Bid 3 Truck&Plow \$151,546
#1-\$3,500; #2-\$4,500; #3-\$5,800; #4-\$14,500; #5-\$5,900
- Freightliner of Hartford – Bid 1 Truck&Plow \$151,983
#1-\$2,451; #2-\$4,920; #3-\$8,849; #4-\$18,946; #5-\$6,879
- Freightliner of Hartford – Bid 2 Truck&Plow \$147,064
#1-\$1,400; #2-\$5,980; #3-\$9,000; #4-\$14,750; #5-\$8,250
- Freightliner of Hartford – Bid 3 Truck&Plow \$160,702
#1-\$1,400; #2-\$5,980; #3-\$9,000; #4-\$14,750; #5-\$8,250

Each Bid proposal was reviewed for the minimum specifications as advertised and components and options that were presented for the truck to be manufactured and delivered to the Town. Bids from Coastal, Ballard, and Minuteman and Bid #2 from Freightliner of Hartford did not meet the minimum requirements and were found not responsive. Bids were narrowed down between RI Truck Center, Freightliner of Hartford, and Tristate Truck Center and the proposals were reviewed. Each specification in their proposals were evaluated to determine which is in the best interest of the Town for the cost proposed.

The Tristate proposal specified features that will protect equipment and enhance the longevity of the truck by providing brake dust shields, stainless steel clevis pins, stainless steel aftertreatment device/muffler/tailpipe, shocks, and polished rims with Dura-bright finishes to protect from salt.

Tristate proposed features within the cab that will provide driver comfort, operation, and safety that include a wing dash to operate controls, PTO controls on the dash, switches for plow lights, cloth seats, an air ride passenger seat, and roof storage console. Tristate will also provide a frame reinforcement for the plow where RI Truck did not and Front Tow Hooks where RI Truck and Freightliner of Hartford did not. The spare tire rating specified by Freightliner of Hartford does not meet the weight requirement for the vehicle.

I have reviewed the bids received and recommend that the bid be awarded to Tristate Truck Center (Bid #2) for the following:

- New 44,000 GVW Hook Lift Truck and Plow for \$153,687
- New Hook Lift Skid for \$2,451
- New 12' Platform Body for \$4,920
- New 10' Dump Body for \$8,849
- New chip box for \$6,879.

The total bid award to Tristate Truck Center shall not exceed \$176,786.

The hydraulic stainless-steel spreader is not recommended to be purchased at this time.

Tristate Truck Center was recommended for bid award for the additional cost of \$4,087 over RI Truck Center's proposal and \$1,704 over the proposal from Freightliner of Hartford for components and options that will provide the best overall value in the truck for the cost.



PowerOptions Participant Agreement for the Sale and Purchase of Electricity (REAP)

This Participant Agreement for the Sale and Purchase of Electricity (“Participant Agreement” and/or “Agreement”) is made and entered into as of this _____ day of _____, 2019 (“Contract Date”) by and between (“Supplier”) with offices located at 545 Boylston Street, Suite 700, Boston, MA 02116, and _____, (“Participant”) with offices located at _____. Supplier and Participant are individually referred to herein as a “Party” and collectively as the “Parties”.

Background

- A. PowerOptions, Inc. (“PowerOptions”) is a non-profit corporation organized under the laws of the Commonwealth of Massachusetts and Section 501(c)(4) of the Internal Revenue Code. PowerOptions organized and administers the PowerOptions program to help its members purchase energy products and energy-related services for one or more facilities they own and/or operate.
- B. The Rhode Island League of Cities and Towns (the “League”) operates an electricity aggregation program in Rhode Island known as the Rhode Island Energy Aggregation Program (“REAP”).
- C. Supplier, PowerOptions and the League have entered into an agreement dated October 12, 2018, governing the terms and conditions by which Supplier and PowerOptions will provide electricity supply and other energy-related services to members of REAP (the “Master Agreement”). This Agreement is a part of that Master Agreement and cannot be modified without the express written consent of PowerOptions, the League and Supplier.
- D. Participant is a member of PowerOptions pursuant to the terms of the Master Agreement and desires to procure Electricity from Supplier and Supplier desires to sell Electricity on the terms and conditions described herein.

The Parties, intending to be legally bound, agree as follows:

- 1. Definitions.** These terms have the following meaning in this Agreement and/or in the Transaction Confirmation.

“**Account**” means the “Account” defined by the relevant LDC and identified in the Account Schedule set forth in the Pricing Confirmation and Transaction Confirmation (including any successor Account to such Account), and any mutually agreed upon amendments thereto, including adding new accounts to this Agreement in accordance with Section 27.

“Ancillary Services and Other ISO Costs” means for any billing period the applicable charges regarding ancillary services associated with the electric industry’s services and products, and/or as otherwise required by ISO-NE rules (including the applicable ISO Open Access Transmission Tariff and for other ISO-NE costs not otherwise included in any of the defined Cost Components set forth in the Transaction Confirmation), required to supplement wholesale Energy transactions in preparing for and facilitating delivery of Electricity to the Delivery Point as a full, firm requirements product meeting the full load requirements of the Participant, Supplier will reasonably determine an Account’s monthly Ancillary Services and Other ISO Costs based on the Account’s \$/kWh share of cost for Ancillary Services and Other ISO Costs or otherwise reasonable allocation method as Supplier may determine from time to time based on how Ancillary Services and Other ISO Costs are assessed by the ISO.

“Auction Revenue Rights” means revenue credits resulting from the annual financial transmission rights auction conducted by the ISO that are applicable with respect to transmission peak load contribution. If Auction Revenue Rights Credits are “Passed Through”, such credits shall be reasonably calculated by Supplier as the monthly product of the (i) total Auction Revenue Rights Credits expressed in dollars per planning year for the applicable zone, as published by the ISO; divided by (ii) the total Network Service Peak Load for such zone, as published by the ISO; divided by (iii) the number of days in the applicable planning year; multiplied by (iv) by an Account’s applicable Network Service Peak Load; multiplied by (v) the number of days in the billing period or such other reasonable calculation method applied by Supplier.

“Basic Service” means the provision of electric generation service by an LDC to a customer not electing to have its electricity provided by a Competitive Supplier. As used herein the term “Basic Service” shall include, but not be limited to, programs such as “Default Service”, “Standard Service”, “Standard Offer,” “Last Resort Service” and the like as those and similar terms are used in the state in which the Participant’s Facility is located.

“Business Day” means any weekday other than (a) a day which is a bank holiday throughout the state where the Facility is located, (b) which is defined as a holiday by the North American Electric Reliability Council (“NERC”), the “NERC Additional Off-Peak days”, (“NERC Holidays”) or any successor organization thereto, or (c) such other day defined in writing by Participant as a holiday and provided to Supplier.

“Capacity Pass-through Option” means the option to fix or pass-through Capacity Costs as set forth in the attachments to the Pricing Confirmation and Transaction Confirmations (Exhibit B, Exhibit F, or Exhibit G, other exhibits as applicable).

“Capacity Costs” means a charge for fulfilling the capacity requirements for the Account(s) imposed by the ISO or otherwise.

“Competitive Supplier” means any entity licensed by the State Public Utility Authority to sell Electricity to retail customers in the state in which the Participant’s Facility is located.

“Confirm Date” means the date on which a Participant enters into a Pricing

Confirmation or a Transaction Confirmation in accordance with Section 5.

“Contract Date” means the first Business Day after Supplier counter-signs the executed documents received from Participant as follows: 1) by telecopy, email or otherwise, a complete copy of the fully executed Agreement, including executed Exhibits such as, a signed Exhibit C and a Transaction Confirmation complete with respect to at least one Account, including with respect to such Account a copy of a LDC invoice dated within forty-five (45) days and any other usage data reasonably required by Supplier, and 2) any credit assurance as requested in Section 11. The Contract Date shall be inserted by the Supplier upon counter-signing the Agreement in the preamble to this Agreement as the date hereof.

“Contract Price” means the price for Electricity supplied hereunder as determined in accordance with Section 5 of this Agreement and Transaction Confirmation.

“Day-Ahead LMP” means the hourly integrated market clearing marginal price for the ISO zone applicable to each Account (expressed in \$/kWh) for Energy for the next operating day as determined by ISO-NE.

“Day-Ahead Purchase” means the Day-Ahead LMP purchase commitment made on behalf of the Participant of a certain quantity of Energy (hourly in MWs) on the day preceding the day in which the Electricity (which includes the Energy component) for Accounts is to be delivered to the Delivery Point, representing the difference between forecasted load for the hour and Forward Purchases applicable to the hour as further defined in the Transaction Confirmation.

“Delivery Charges” means LDC tariff-based charges for transmission, distribution, and other LDC functions, required to deliver Electricity from the Delivery Point to the Receipt Point at the Participant’s Facility(ies).

“Delivery Point” means the point of interconnection between: (1) Pool Transmission Facilities (“PTF”) as designated by the ISO-NE tariff or superseding tariff as in effect from time to time; and (2) the facilities of the relevant LDC, at which point such LDC assumes the obligation associated with delivering electricity to customers within its territory.

“Due Date” means for (i) Standard Billing Services (LDC issued invoices), the last date on which a LDC bill to Participant for LDC services for any period may be paid by Participant without incurring a late fee by the LDC; or (ii) Supplier direct billing, 30th day after the invoice date subject to adjustment under Section 7.2.

“Electric Block Forward Purchase” means, as set forth in Transaction Confirmation (Exhibit G), the priced purchase commitment made on behalf of Participant of a certain quantity of Energy (expressed in MWs hourly or in “blocks” of hours) for a specific and identified period of time greater than one day, which will be a part of the Electricity which is to be delivered to the Delivery Point for such period of time.

“Electricity” means electric energy, capacity, ancillary services and all other products required to fulfill completely a retail electric transaction for firm full requirements retail electric service.

“End Date” means with respect to an Account, the Purchase Period ends (unless extended onto a Holdover Term) on or about the meter read date set forth in the Account Schedule set forth in the Transaction Confirmation. The applicable meter read dates set forth in Transaction Confirmation shall be determined in accordance with State Public Utility Authority and LDC rules and reflects LDC information available at that time or as otherwise estimated by Supplier. The actual meter read dates may occur on or about the dates set forth in Transaction Confirmation.

“Energy” means electrical energy, as measured in kilowatts (kW) per hour or kilowatt-hours (kWh), or megawatts (MW) per hour or megawatt-hours (MWh).

“Energy Costs” means a charge for the cost items included in the Locational Marginal Price for the ISO zone identified in the Account Schedule in the Transaction Confirmation,

“Facility” means the premises or device that is provided electric service under an Account listed in Transaction Confirmation and in the Account Schedule set forth in the Transaction Confirmation. As used herein, Facility shall also mean Facilities, as applicable.

“FERC Order 745 Costs” means any costs or charges imposed by the ISO-NE in accordance with complying with the provisions of Federal Energy Regulatory Commission (“FERC”) in Order No. 745 18 CFR Part 35 (March 15, 2011).

“ICAP Tag” means the individual Participant’s actual Peak Load Contribution (“PLC”) on the ISO-NE Coincident Peak (“CP”) hour days. The tag is updated annually per the ISO-NE Power Year schedule and the value is measured in kilowatts (kW).

“Interval Account” means an Account for which hourly or more frequent consumption data is generally available.

“ISO-NE” and/or **“ISO”** means the Independent System Operator-New England, or any successor or replacement entity or other entity, public or private, administering transmission reliability and control of the electricity grid.

“Law” means any law, rule, regulation, ordinance, statute, judicial decision, administrative order, ISO business practices or protocol, LDC or ISO tariff, rule of any commission or agency with jurisdiction in the state in which the Accounts are located.

“Line Loss Costs” means the costs (to the extent not already captured in the applicable Energy Costs) applicable to each Account based on the kW/h difference between the LDC metered usage and the ISO settlement volumes. If Line Loss Costs are “Fixed,” the Line Loss Costs are included in the Energy Costs and will not be invoiced as a separate line item. If Line Loss Costs are “Passed Through,” the Line Loss Costs will be invoiced as a separate line item and calculated based on the applicable fixed price or locational marginal price for the corresponding usage.

“Load Following Forward Purchase” means a fixed price for a stated percentage amount of Energy in lieu of a corresponding amount of Energy purchased at the Day-Ahead LMP Index as further described in the Transaction Confirmation (Exhibit F-1 and

Exhibit F-2).

“Locational Marginal Price” (“LMP”) means the hourly marginal market clearing price for Energy in a Load Zone as determined by the ISO-NE.

“Local Distribution Company” (“LDC”) or “Utility” means an entity that owns the power distribution lines and equipment which is required to deliver purchased Electricity to the Participant, also known as an electric distribution company. The relevant LDC shall be the LDC within whose service area the Facility resides and that delivers electricity to the Account.

“Market Supply Cost” means the cost of the following ISO-NE products: energy, capacity, net commitment period compensation (“NCPC”), forward reserves, ISO-NE administrative fee, auction revenue rights (“ARR”), renewable portfolio standards requirements (“RPS”) and operating reserves and such other products as ISO-NE or a State Public Utility Authority from time to time determines are required components of full requirements retail Electricity service.

“Master Agreement” has the meaning set forth in the preamble to this Agreement.

“Members” means REAP members that have joined the PowerOptions consortium.

“Non-Time Of Use” or “NTOU” means all hours of each day.

“Non-Interval Account” means an Account for which hourly or more frequent consumption data is not generally available.

“Off-Peak” means all hours other than Peak hours

“On-Peak” or “Peak” means the hours designated as peak from time to time by the ISO-NE.

“Participants” means all Members entering into electric supply contracts with the Supplier under REAP and the PowerOptions program.

“Power Year” means the contract period between June 1 and May 31 of the following year.

“Pricing Confirmation” means the confirmation in the form of Exhibit B and the Pricing Attachment, used by the Parties to effect a transaction based on the Fixed Pricing Option.

“Price Options” means the pricing alternatives with respect to Contract Prices available in accordance with Section 5 and as set forth in the Transaction Confirmation.

“Purchase Period” means, with respect to an Account, the period selected by Participant on the Pricing Confirmation or Transaction Confirmation, during which a Contract Price is effective. The term of the Purchase Period becomes effective on the Start Date and will continue until the next meter read on or about the End Date of

Purchase Period.

“Real-Time LMP” means the hourly integrated market clearing marginal price for the ISO zone applicable to each Account (expressed in \$/kWh) for Energy on a real-time basis as determined by ISO-NE.

“Receipt Point” means, with respect to an Account, the relevant LDC’s metering point(s) or a point(s) designated by the LDC and located at the Facility.

“Reference Pricing” means the binding pricing options and indicative prices provided by Supplier to the League as a part of the competitive solicitation conducted by the League in connection with the execution of the Master Agreement.

“Start Date” means, with respect to an Account, the Purchase Period begins on or about the meter read date set forth in Transaction Confirmation, subject to the time period required by the LDC and Supplier to transfer Accounts in a timely manner. The Start Date shall be the date upon which prices are to become implemented. The applicable meter read dates set forth in Transaction Confirmation shall be determined in accordance with State Public Utility Authority and LDC rules. The actual meter read dates may occur on or about the dates set forth in Transaction Confirmation.

“State Public Utility Authority” means the applicable public utility authority for the state where the Facility is located. By way of example, the Massachusetts Department of Public Utilities (MDPU), the Connecticut Public Utilities Regulatory Authority (PURA), the Rhode Island Public Utilities Commission (RIPUC), or any successor agencies thereto.

“Submission Date” means the date on which a Participant enters into a Pricing Confirmation or a Transaction Confirmation in accordance with Section 5.

“Term” means the term of this Agreement as determined in accordance with Section 2.

“Transaction Confirmation” means the confirmation in the Form of in Exhibit B, Exhibit F-1, Exhibit F-2, Exhibit G, Exhibit H and Exhibit K (K-1, K-2, K-3 and K-4) as applicable, used to confirm transactions entered into under this Agreement

“Transmission” means high voltage interconnecting electric lines, equipment and systems that move Electricity from the point of generation to Delivery Points.

“Transmission Loss Credits” means Participant’s share of amounts credited to Supplier by the ISO under the ISO’s marginal loss construct

2. Term.

This Agreement shall commence as of the Contract Date with respect to Accounts listed on the Account Schedule set forth in Transaction Confirmation for which the conditions required prior to the Contract Date have been satisfied, and shall remain in effect until May 31, 2022, subject to the Purchase Period selected by Participant. The Parties intend that they are legally bound by the terms of Pricing Confirmation or Transaction Confirmation whether entered into via (i) electronic (including e-mail) transmission solely by designated authorized persons listed in Section 34 or (ii) a duly

executed, written Pricing Confirmation or Transaction Confirmation. Termination shall not affect the obligations of either Party that arise prior to termination. Supplier shall be the supplier for all Electricity supplied from external sources for each Account for the Term. Notwithstanding the above, prior to entering into a Participant Agreement and/or Pricing Confirmations, Supplier must have received all required information from Participant and valid pricing/usage data for each of the Accounts from the LDC in accordance with requirements set forth below.

2.1 Holdover. Sixty (60) days prior to the End Date, Supplier will notify Participant, with copies to the League and PowerOptions of the upcoming end to the Purchase Period. The notice will include the End Date and a request to contact the Supplier with contact information. If the Participant fails to respond to the Supplier or PowerOptions within thirty (30) days of the End Date, then Supplier will return the Account(s) to the LDC. If the Participant does respond but does not agree to a new Contract Price within thirty (30) days of the End Date, Participant shall go on a month-to-month holdover term. Further, if, following termination or expiration of a Pricing Confirmation or Transaction Confirmation (whether in whole or in part), for any reason, some or all of the Accounts remain designated by the LDC as being supplied by Supplier, Supplier may continue to serve such Account(s) on a month-to-month holdover basis. During such holdover term, Supplier will calculate Participant's invoice as follows: (Each Account's metered usage, as adjusted by the applicable line loss factor) *times* (the applicable ISO-published LMP) + the \$/kWh Holdover Fee set forth in each Pricing Confirmation or Transaction Confirmation) + (a pass through of all actual costs and charges incurred by Supplier for the retail supply of electricity to Participant) + Taxes. This Agreement will continue to govern the service of such Accounts during such holdover term. Either Party may terminate the holdover term at any time within its discretion at which time Supplier will drop each Account as of the next possible meter read date to the then applicable tariff service, whether default service or otherwise.

3. Account Enrollment.

3.1 Supplier shall work with the relevant LDC to enroll Accounts listed on Transaction Confirmation in a timely manner within the Purchase Period. The Purchase Period shall commence on or about the date set forth under "Start Date", and end on or about the date set forth under "End Date" in Transaction Confirmation in accordance with the terms of this Agreement. The actual Start Date is dependent on the LDC successfully enrolling the Account(s) and furnishing Supplier with all necessary information regarding the Account(s) meter read cycle and meter read date(s). The dates set forth in the Transaction Confirmation reflect LDC information available at that time or as otherwise estimated by Supplier. The actual meter read dates may occur on or about the dates set forth in the Transaction Confirmation. Supplier will use commercially reasonable efforts to begin service to each Account(s) on the actual meter read date on or about the Start Date set forth in Transaction Confirmation. If Supplier is unable to timely enroll an Account, the Start Date will commence on the next regularly scheduled LDC meter read cycle date following successful enrollment. The End Date will remain the same unless extended for a holdover term pursuant to Section 2.1. Supplier shall not be liable for any failure to enroll or drop an Account by the Start and End Date due to circumstances reasonably beyond its control. If Supplier fails to timely effect an enrollment after a grace period of two billing cycles consistent with this Agreement, the Parties shall implement a true-up reimbursing Participant for any increase in costs associated with a positive difference between the rate for such Basic Service actually paid by Participant and the relevant Contract Price each as in effect during the affected period; provided, however, a true-up will not be owed in cases where such delay is attributable to circumstances reasonably beyond Suppliers control such as LDC error or inaccuracy of

Participant provided information, not corrected in time to meet enrollment schedules herein, notwithstanding a good faith effort by Supplier to meet such deadlines.

3.2 Supplier shall, subject to Section 5.2, timely take such actions within its reasonable control, including without limitation filing a complete and accurate drop transaction notice with the relevant LDC, necessary and convenient for Participant to receive Basic Service with respect to an Account during any period in which no Contract Price is in effect. If Supplier through its own fault fails to timely effect any such drop, the Parties shall reasonably implement a true-up reimbursing the Participant for any increase in costs associated with a positive difference between the rate for such Basic Service and the relevant Contract Price, each as in effect during the affected period.

3.3 Supplier shall notify Participant within five (5) Business Days (with a copy to the League) if Supplier learns that an LDC has removed an Account from supply and placed it on Basic Service, other than in connection with the expiration of a Pricing Confirmation or Transaction Confirmation in the form of Exhibits B, F, or G, as applicable. In addition, unless promptly instructed otherwise by Participant upon learning of such change in supply status, Supplier shall use reasonable efforts to obtain reinstatement of such Account's enrollment and observe the terms applicable to the remainder of its Pricing Confirmation or Transaction Confirmation in the form of Exhibits B, F, or G, as applicable. If a gap in Supplier's enrollment extends more than the second billing cycle due to a failure of Supplier, the Parties shall reasonably implement a true-up reimbursing the Participant for any increase in costs associated with a positive difference between the rate for such Basic Service and the relevant Contract Price each as in effect during the affected period. Notwithstanding the above, if Account(s) are moved to the Basic Service due to changes reasonably beyond Supplier's control, including without limitation (i) any change to the name or assignments associated with the Account(s); (ii) the closing of an Account; and (iii) an assignment by the LDC and/or ISO-NE of a new account number to any existing service addresses listed in Transaction Confirmation, then Participant shall be obligated to pay the Basic Service rate until the Account(s) are successfully re-enrolled with the LDC to receive service from Supplier. To the extent possible, Participant shall notify Supplier as soon as possible of any changes to their Accounts associated with assignment or names changes. In such event where such gap in enrollment extends for more than two billing cycles and where such gap is attributable to Participant, then Participant may owe Supplier a true up in an amount (if any) calculated in accordance with Section 10.2.1(A) for the period of time in which the Account(s) was not enrolled under this Agreement.

4. Full Requirements.

4.1 For each Account, beginning on the Start Date, Participant agrees to purchase and Supplier agrees to supply, by delivery to the Delivery Point, electric energy, capacity, ancillary services and all other products required to provide firm, full requirements retail Electricity (Full Requirements Electricity) for each Account during each Purchase Period. Supplier shall provide Participant's total Electricity requirements at each Receipt Point. Supplier shall be responsible, only to the extent specifically accepted by Participant in a Pricing Confirmation or Transaction Confirmation, for all requirements and associated costs imposed on Competitive Suppliers by a relevant LDC or ISO-NE, or their successors, associated with the provision and delivery of such firm full requirements Electricity, except as provided in Section 4.3.

4.2 Supplier shall deliver the Electricity to Participant through its LDC(s).

Although the Electricity supplied hereunder shall be firm, Supplier shall not be responsible for operation of the electric lines and systems or for any service interruptions, loss of service or deterioration of electric services caused by the LDC(s) and/or ISO-NE and/or transmission lines, equipment and systems.

4.3 Supplier shall be responsible for all nominations, balancing and any penalties and charges related thereto. For Accounts subject to any applicable Section 5.5 Price Options, Energy needed to balance Participant's hourly loads will be subject to such pricing as described therein. Supplier shall also be responsible for all transmission, distribution and other charges required to deliver Electricity up to the Delivery Point. Participant shall be responsible for Delivery Charges imposed by the LDC at and after the Delivery Point.

5. Contract Price.

5.1 Supplier shall supply and Participant shall pay for Electricity at the prices set forth in the relevant Pricing Confirmation or Transaction Confirmation hereto, including attachments, applicable to the calendar month of delivery, the classification of the relevant Account by the LDC, and options regarding "pass-through" costs, if any ("Contract Price") (which price, calculated to five significant figures, includes electric energy, capacity, ancillary services and all other products required to provide firm, full requirements retail Electricity for each Account and losses, to the extent not included in the applicable LDC's unbundled transmission and distribution tariffs). Participant understands and acknowledges that Supplier has no obligation to offer binding pricing until it has been provided all required credit information and valid Account pricing/usage data from the LDC in accordance with the terms set forth in this Agreement.

5.2 Participant shall enter into a Pricing Confirmation (Exhibit B) or Transaction Confirmation (Exhibit F for the Layered Usage Price Option or Exhibit G for the Portfolio Price Option) to begin the Purchase Period for Accounts selected by Participant on the applicable Confirmation form. Supplier's responsibility for supply of Electricity and the effectiveness of a Contract Price with respect to each such Account shall begin on the Start Date applicable to such Account. Following the Start Date, the start and end of each Contract Price, and the succession between Contract Prices shall be determined by separate Pricing Confirmations or Transaction Confirmations, identifying the applicable Purchase Period(s). In accordance with Section 3.2, Supplier shall timely take such actions within its reasonable control, including without limitation filing a complete and accurate drop transaction notice with the relevant LDC, necessary and convenient for Participant to receive Basic Service with respect to an Account during any period for which there is not effective pricing under a Pricing Confirmation or Transaction Confirmation with respect to such Account.

5.3 Fixed Pricing Options.

For purposes of clarification, this Section shall not apply to the Price Options described in Sections 5.5.3 and 5.5.4.

(a) Routine Pricing Offers. On any Business Day following the Contract Date, if Participant (or PowerOptions on behalf of Participant) has by 11:00 a.m. ET the previous Business Day provided Supplier with (1) a request for pricing for one or

more Accounts and (2) with respect to any such Accounts, Supplier has data for a twelve (12) month period of pricing/usage data available from the LDC ending no more than six (6) months prior to the date of such request, Supplier shall, prior to 10:30 a.m. ET on the Business Day, provide Participant (with a copies to the League and PowerOptions) with the corresponding prices at which Supplier offers to sell Electricity with respect to such Accounts pursuant to each of the Price Options applicable to such Accounts for which the Supplier provided Reference Pricing (unless a subset of such prices is requested). Such pricing shall include each of the Price Options for the immediately following period or periods of Basic Service pricing (currently only successive 3 or 6 month periods) and for annual periods ending May 31 of 2020, 2021 and 2022 (or such other periods as requested by the League, PowerOptions or Participant ending not later than May 31, 2022). Such prices shall remain open for acceptance by such Participants by entering into a Pricing Confirmation at or before 5:00 p.m. ET on the Business Day such pricing is provided.

(b) Overnight Pricing Offers. In addition to the pricing request and delivery times set forth in Section 5.3(a), on any Business Day following the Contract Date, if Participant (or PowerOptions on behalf of Participant) has by 3:00 p.m. ET on such Business Day requested pricing otherwise in the manner set forth in Section 5.3(a), Supplier shall, prior to 4:00 p.m. ET on such Business Day provide Participant (with copies to the League and PowerOptions) with the corresponding prices at which Supplier offers to sell Electricity with respect to such Accounts pursuant to each of the Price Options applicable to such Accounts for which Supplier provided Reference Pricing (unless a subset of such prices is requested). Such pricing shall include each of the Price Options for the immediately following period or periods of Basic Service pricing and for annual periods ending May 31 of 2020, 2021 and 2022 (or such other periods as requested by the League, PowerOptions or Participant ending not later than May 31, 2022). Contingent upon notice provided to Supplier prior to issuing Pricing Offers, in cases where the Participant requires approval by its governing body in a meeting after 5:00 p.m. ET on such Business Day, such prices shall remain open for acceptance by such Participant by entering into a Pricing Confirmation at or before 10:00 a.m. ET on the Business Day following the Business Day such pricing is provided. Notwithstanding the foregoing, Supplier shall have the right to revoke overnight pricing offers in accordance with Section 5.3(f) below.

(c) Converting to Fixed Price. If Participant has previously exercised the Capacity Pass-Through Option, or has elected other Cost Components to be Passed Through for any current or future period with respect to one or more Accounts, then Participant may request that such pricing be made fixed pursuant to Section 5.3(a) so that the price is inclusive of Capacity Costs or other Passed-Through Cost Components. To the extent available on commercially reasonable terms in the New England wholesale electric market, Supplier shall offer such replacement or supplement Price Option which shall be determined on the same basis as the Reference Pricing, including adjustment to reflect specific individual Participant factors and over the term of the replacement Price Option, without interest or similar charges, the cost or benefit resulting from any termination of the previous Price Option, taking into account only the change in applicable New England capacity costs since the initial exercise of such Price Option and the prior sourcing of such previous Price Option.

(d) All pricing offered by Supplier hereunder shall be determined on the same basis as the Reference Pricing and shall vary from such pricing for differences (including but not limited to) in Market Supply Cost, LDC rate class to the extent not provided in the Reference Pricing, individual Participant load shape, voltage level, administrative costs associated with the number of accounts, start and end dates (to the extent different from the start and end dates set forth in the Reference Pricing), creditworthiness, and the zone and/or any node, if applicable, established by ISO-NE.

(e) All price quotes will exclude taxes applicable to the Participant.

(f) Prices offered by Supplier under this Section 5.3 shall remain open for acceptance by Participant entering into a Pricing Confirmation, at or before 5 p.m. on the day such pricing is offered; provided, that prices offered under Section 5.3(b) shall remain open for acceptance by Participant entering into a Pricing Confirmation at or before 10:00 a.m. on the Business Day following the Business Day such pricing is provided. Participant shall be deemed to have entered into a Pricing Confirmation with Supplier with respect to one or more Accounts when it has executed and caused Supplier to receive, by telecopy, email or otherwise, a fully completed Pricing Confirmation with respect to such Accounts and Supplier has counter-signed the Pricing Confirmation. As set forth in Section 5 hereof, no Contract Price shall go into effect less than five (5) Business Days following the Submission Date of the associated Pricing Confirmation.

Notwithstanding the foregoing provisions of this Section 5.3(f):

(i) If, after 10:30 am ET on any day during the summer months of April-October an offer by Supplier pursuant to Section 5.3(a) is effective, the price of natural gas (measured as the unweighted forward 12 month strip, Henry Hub location, beginning with the month next following the current month (the prompt month)) increases by \$0.10 per dekatherm, then Supplier may revoke such offer by providing notice (to Participant, the League and PowerOptions) and a replacement offer shall be made as soon as possible following such notice to revoke the offer; and

If, after 10:30 am ET on any day during the summer months of April-October an offer by Supplier pursuant to Section 5.3(a) is effective, the price of natural gas (measured as described above) decreases by \$0.10 per dekatherm, then Supplier shall revoke offered pricing not yet accepted by Participant and replace it as soon as possible following notice of such revocation (to Participant, the League and PowerOptions).

(ii) If, after 10:30 am ET on any day during the winter months of November-March an offer by Supplier pursuant to Section 5.3(a) is effective, the price of energy in ISO-NE (measured as the unweighted forward 12 month strip) increases by \$1.00 per MWh or more from the same strip on such day, then Supplier may revoke such offer by providing notice (to Participant, the League and PowerOptions) and a replacement offer shall be made as soon as possible following such notice to revoke the offer; and

If, after 10:30 am ET on any day during the winter months of November-

March an offer by Supplier pursuant to Section 5.3(a) is effective, the price of energy in ISO-NE (measured as the unweighted forward 12 month strip) decreases by \$1.00 per MWh or more from the same strip on such day, then Supplier shall revoke offered pricing not yet accepted by Participant and replace it as soon as possible following notice of such revocation (to Participant, the League and PowerOptions).

5.4 Optional Programs. Supplier offers a variety of optional programs Participant may elect to include as part of this Agreement. The additional options are set forth as checkbox elections in Exhibit B (or under other exhibits as may be provided under this Agreement) and include additional terms and conditions that become part of the Transaction Confirmation. Participation in these programs is voluntary and if interested, Participant must check the box in Exhibit B and execute a Transaction Confirmation. The optional programs include the following:

5.4.1 Peak Response Program (Exhibit L). Participants who elect a Fixed Pricing option without Capacity Pass-Through option and elect a term for 24 months or longer can elect to participate in the Peak Response Program. Supplier's wholesale market expertise and team of meteorologists work to predict the New England peak summer hour to help Participant manage their installed capacity ("ICap") tags. Upon review of the terms and conditions set forth in Exhibit L, Participant will automatically be enrolled in the Peak Response Program and will receive a Day-before and Day-of notifications alerting them of a possible peak day. Participants with interval meters (at a maximum interval of one hour) on a Fixed Capacity product (as defined in the Transaction Confirmation) benefit from a credit, based on curtailment performance against a baseline value. A Participant with interval meters (at a maximum interval of one hour) on a Fixed Capacity product can benefit from a reduced peak load contribution (PLC, as defined in Attachment 2 to Exhibit B) and therefore a lower monthly Capacity charge when a new Purchase Period is priced.

5.4.2 Information to Implementation (i2i) Reporting Service (Exhibit H). A complimentary, value-added reporting service is available to Participants who elect a Layered or Portfolio Price Option upon Participant's review of the terms and conditions in Exhibit H. The i2i Reporting Service has two main components. The first is a series of reports (Key Performance Indicators (KPI), Cost/Budget, Net Open Position) for Participants who have executed a Transaction Confirmation. These reports provide Participant with detailed information about their expected versus actual monthly/annual usage, unit cost and spend. A Participant may receive KPI reports regardless of what product they employ to secure their electricity requirements. The second component, the Energy Strategy Planner (ESP) helps Participant considering either a Layering (Percent of Requirements-FIS Product) or Portfolio (Index plus Block Product) strategy to better understand future budgets and formulate their prospective hedging strategies. It includes a projected budget with high and low cost case scenarios for five purchasing strategies of 0%, 25%, 50%, 75%, 100% of the existing open load position. It is also possible to run custom strategies with specific purchase scenarios by month, for both on and off-peak load.

5.4.3 Fixed Price Option with Green-e Renewable Energy Certificates "RECs" Product (Attachment 3 to Exhibit B). Upon entering into a Fixed Price Transaction Confirmation, Participant can check the box on Exhibit B to include the purchase of Green-e RECs in an amount equal to a certain percentage of Participant's load

(between 1%-100%) as part of the Contract Price. Also, at any time during the term of the Transaction Confirmation, Participant may purchase RECs by entering into one or more Retail Trade Transactions (“RTTs”, as set forth in Exhibit K-2 and K-3) and such purchase will be included as a separate line item on the Participant’s invoice. With the purchase of RECs, that are not included in the Contract Price, the only billing option allowed is a Supplier issued invoice; LDC issued invoice is prohibited.

5.5 Additional Pricing Alternatives. (capitalized terms used herein but not defined will have the meanings ascribed to them in the Exhibits, Pricing Confirmations and Transaction Confirmations).

5.5.1 Fixed Price with Capacity Passed Through. This product is the same structure as Fixed Price whereby Participant will secure the same fixed rate-per-kWh at a single point in time including all Cost Components except Capacity Costs. Participant may elect to have Capacity Costs “Passed-Through,” according to the following formula for each LDC Account: capacity obligation (as reported by the LDC to ISO-NE) ISO-NE x ISO-NE capacity price x ISONE reserve margin). Capacity Costs will be shown as a separate line item on a Participant’s bill issued by the Supplier. Participant’s capacity tags change June 1st each year and may be modified by the LDC; capacity prices determined by ISO-NE are known for three years in advance and are periodically adjusted through reconfiguration auctions; reserve margin percentages determined by ISO-NE change modestly from month to month with each capability year (June 1 – May 31).

5.5.2 Fixed Price with Other Cost Components Passed-Through. In addition to electing to pass through Capacity Costs, Participant may also elect to have any individual or combination of the following Cost Components “Passed-Through”: renewable portfolio standard (“RPS”); MA Clean Energy Standards (“CES”), FERC 745; Ancillary Services and ISO Costs bundle (cannot be separated and includes RMR, forward reserves, day ahead operating reserves, real time operating reserves, regulation, TR schedule 2 and 3, GIS). All Cost Components that are Passed-Through will be shown as a separate line items on a Participant’s bill issued by Supplier. All Cost Components that Participant elects to pass through are determined as the Participant’s share of those costs as billed to the Supplier. In all Transaction Confirmations, even full pass-through contracts, both Transmission Loss Credits (TLC) and Auction Revenue Rights (ARR) must be locked.

5.5.3 Portfolio (Index plus Block (IPBS)- Exhibit G). Participant may secure kW blocks of energy monthly for specified terms (one to 48 months). Block purchases may be made for service ATC (around the clock), Peak, Off Peak, and in combinations either on a monthly or meter-read basis. Participant will request to make a purchase of blocks at least ten (10) Business Days prior to Participant’s Start Date for such purchase and Supplier will make block amounts available to the Participant in a commercially reasonable time frame to effectuate the transaction. Purchases will be made by execution of Retail Trade Transaction Confirmation (in a form similar to Exhibit K-1), which will include the details of the purchase. The block size purchased will be limited to a quantity that is below Participant’s anticipated usage. Participant may be charged for usage above or below the blocks (“balancing energy”) purchased at locational marginal prices (LMPs) on either the Day Ahead or Real-Time index

market on a monthly basis as set forth in the Transaction Confirmation. Line losses are billed at each Account's known line loss %. Participant may also elect to lock or pass through the non-energy Cost Components listed under Section 5.5.2 above in their "Retail Service Price". The Retail Service Price includes, at a minimum, TLC, ARR, and Supplier margin. All Passed-Through Cost Components will be shown as separate line items on a Participant's bill issued by Supplier. The Transaction Confirmation (Exhibit G) will include Participant's elections to fix or pass through Cost Components. If Participant elects to pass through any Cost Components, then the only billing option would to receive a Supplier issued invoice.

Prior to initial initiation of this Agreement, Supplier and Participant shall confer about the mechanics of the Portfolio Price Option, the then current outlook for forward and Day Ahead LMP, and opportunities for the Portfolio Option to address the Participant's expectations for pricing. The Supplier and Participant may confer up to 12 times annually to discuss strategy for purchasing.

If Participant elects to receive i2i Services Reports (as described above in Section 5.4.2 and in Exhibit H), then they will receive the following reports: Key Performance Indicators, Cost/Budget, Net Open Position. These reports provide Participant with detailed information about their expected versus actual monthly/annual usage, unit cost and spend.

5.5.4 Layering Price Option (Percent-of-Requirements (FIS) - Exhibit F-1).

Rather than kW blocks, Participant may secure future electricity requirements over time through load-following "layers" in minimum increments of 5% per purchase via a Retail Trade Transaction ("RTT", Exhibit K-1). Should 100% of energy be secured forty-five (45) days before power flow for a given term, Participant may "flip" to a weighted fixed price by executing a FIS-to-Fixed RTT, Exhibit K-4. As a result, a Fixed Price is still achieved, but through multiple purchases over time as opposed to a single purchase. Layers may be secured for specified terms (one to 48 months). If Participant has a remaining percentage of energy not secured for a given service period ("balancing energy"), then the price of energy shall be the locational marginal prices (LMPs) on either the Day Ahead or Real-Time index market on a monthly basis as set forth in the Transaction Confirmation. Line losses are billed at each Account's known line loss %. Participant may also lock or pass through the non-energy Cost Components listed under Section 5.5.2 above in their "Retail Service Price." The Retail Service Price includes, at a minimum, TLC, ARR, and supplier margin x kWh usage each month. All Passed-Through Cost Components will be shown as separate line items on a Participant's bill issued by Supplier. Identification of the Cost Components and Participant's election for each of the Cost Components shall be set forth in the Cost Components Table in Transaction Confirmation.

Prior to initial initiation of this Agreement, Supplier and Participant shall confer about the mechanics of the Layering Price Option, the then current outlook for forward and Day Ahead LMP, and opportunities for the Layering Option to address the Participant's expectations for locking in pricing for a percentage of Participant's usage.

The Supplier and Participant may confer up to 12 times annually to discuss strategy for purchasing.

Load-following *layers* can be secured as follows:

1. Transitionally – Participant may secure a certain % of a future term on a given day, executing a Retail Trade Transaction (“RTT”, in a form similar to Exhibit K-1). The RTT will list the % of load to be secured, for what delivery (ATC, On Peak, Off Peak) and for what timeframe (RTT Start Date/RTT End Dates). Participant will request to make a purchase of a load-following layer at least ten (10) Business Days prior to Participant’s Start Date for each Account and Supplier will make load-following layer purchase amounts available to Participant in a commercially reasonable time frame to effectuate the transaction.

2. MVPe “smart buying” Program (Exhibit F-2) – Participant elects to buy all or a certain percentage of their future load for a given term through automated *smart buying*. Volumes purchased can be:

- the same each month (straight dollar-cost averaging) or
- vary each month based on Supplier’s proprietary algorithm (current prices relative to past two-years)
- automatic purchases are made on the 6th of each month, unless the 6th falls on a weekend or holiday, in which case the purchase is made the next available business day.

The details for the Participant’s MVPe buying strategy will be contained in Exhibit F-2.

If Participant elects to receive i2i Services Reports (as described above in Section 5.4.2 and in Exhibit H), then they will receive the following reports: Key Performance Indicators, Cost/Budget, Net Open Position. These reports provide Participant with detailed information about their expected versus actual monthly/annual usage, unit cost and spend.

5.5.5 Purchase of Green-e RECs. All electricity products may be “greened up” through the purchase of Green-e Renewable Energy Certificates (RECs), separate from any RPS requirements. Green-e REC purchases can be shown as a separate line item on a Participant’s bill issued by Supplier or bundled into the cost of their Fixed Price electricity supply. Participant can incorporate percentages of green (from 1% to 100%) into any product in this Section 5.5. Executed agreements to purchase RECs will include the Green E terms and conditions and a Green-E certified REC certificate. In the event that Participant is interested in purchasing RECs from specific states and/or different classes, then Supplier may consider offering such RECs at agreed upon terms and conditions.

5.6 Contract Price Adjustments.

(a) If the LDC changes any Account subject to a Price Option from primary voltage to secondary voltage, or vice versa, Supplier may, following notice to Participant, prospectively adjust the Contract Price to reflect the resulting change in the applicable LDC loss factors.

(b) If the LDC reduces the Non-PTF loss factors applicable to any Account, Supplier may, within thirty (30) days, prospectively downwardly adjust the Contract Price applicable to such Account for the duration of the Contract Price.

5.7 Accounts without Usage History.

Notwithstanding the above provisions of Section 5, if an Account included on a Pricing Confirmation or Transaction Confirmation has, at the time of request for a quotation of a Contract Price, been then-recently established and is without sufficient consumption history or other information needed to develop a reasonable usage profile for quotation for the requested period of a Pricing Confirmation or Transaction Confirmation, as applicable, the Supplier and Participant shall develop an acceptable pattern of usage for purposes of pricing the Account, including hourly usage, if needed. Such Account's Contract Price will, unless otherwise agreed by the Parties, use the Capacity Pass-through Option, and the fixed prices will be applicable to the agreed usage amounts, subject to a 10% bandwidth allowance applicable to each relevant period of pricing, e.g., hourly or monthly. To the extent Participant's usage levels exceed the bandwidth, the Energy component of such excess requirements may be billed at the Day-Ahead LMP and/or Real-Time LMP applicable to the Load Zone of the Facility and will also be subject to applicable line losses and a fixed adder, excluding capacity costs from the fixed adder. The retail service fee (fixed adder) applicable to the Account shall be detailed on such Exhibit G or Exhibit F.

6. Losses.

Contract Price shall include all transmission and distribution losses associated with the delivery of Electricity supplied under this Agreement to Participant's meters, and not included in the LDCs retail distribution tariffs. Specifically, all billing quantities shall be equal to the applicable meter reading quantities and shall not be adjusted or grossed up for losses.

7. Billing and Payment.

7.1 Under Standard Billing Service (LDC issued invoices, including Supplier charges), for Fixed Price Option products only, as provided under applicable laws and State Public Utility Authority regulations (*i.e.*, the LDC bills both Delivery and Supplier Charges), Supplier shall cause the Participant's LDC(s) to bill Participant monthly with respect to such Accounts for Electricity provided hereunder, contemporaneously with such LDC's billing for services with respect to the same period, with payment for both Delivery and Supplier charges due to the LDC on the Due Date. Any LDC fees for said billing service shall be the responsibility of Supplier. Participant will be responsible for LDC Delivery Charges applicable to

retail customers being served by competitive suppliers. Participant will remit all payments directly to said LDC. Receipt of payment by the LDC from Participant with respect to a bill shall be deemed to be receipt by Supplier. The right of Participant to offset, and the rate and calculation of interest on overdue amounts, shall be the same as those that would be applicable, were Participant taking Electricity supply from the applicable LDC.

In the event there are monies which are the subject of a properly effectuated good faith dispute with Supplier which cannot be withheld from payments to the Supplier via the LDC, Supplier shall promptly refund or credit Participant with any agreed-to refund upon resolution of such dispute.

7.2 Standard Billing Service is only available for Fixed Price Options. All other Price Options must be separately billed directly from the Supplier to the Participant. Upon notice to the Supplier and the relevant LDC, a Participant with a Fixed Price may switch to direct billing by the Supplier. For all other Pricing Options, Supplier's invoices will be sent to Participant in accordance with Supplier's normal billing cycle, as adjusted from time to time consistent with the applicable LDC meter read dates. The Supplier issued invoices are due and payable on the Due Date and, unless otherwise provided for herein, are due without offset or reduction of any kind.

If Participant in good faith disputes any invoice amount (or Supplier issued invoices), then Participant shall continue to pay any undisputed amount and withhold such disputed amount from payment to Supplier so long as Participant provides written notice to Supplier of the nature and extent of the dispute on or before the Due Date. Upon resolution of a dispute, Supplier shall pay any agreed-to refund to Participant or Participant shall pay to Supplier the agreed-to resolution amount, as the case may be. Invoices not paid on or before the Due Date will accrue interest daily on outstanding amounts (other than any disputed amounts) from the Due Date until paid in full.

If Participant enters into a Pricing Confirmation or Transaction Confirmation with respect to an Account then not subject to a Contract Price and the Start Date is less than twelve (12) Business Days from the day after the Submission Date of the Pricing Confirmation or Transaction Confirmation, as applicable, Supplier may at its option elect direct billing for all charges hereunder with respect to such Account during the first billing cycle (and only such first billing cycle) such Pricing Confirmation or Transaction Confirmation, as applicable, is in effect.

To the extent that the relevant LDC does not provide accurate usage information with respect to one or more Accounts in a timely manner, or ISO-NE does not supply in a timely manner relevant data needed to determine the Contract Price, Supplier may use reasonable estimates of usage or ISO-NE data during the relevant month in preparing bills, provided that Supplier shall perform a corresponding true-up to actual usage and data in connection with the bill with respect to the following month or the next month following availability of actual usage or data. Notwithstanding anything to the contrary in this Agreement, no situation or state of affairs, including any action or inaction by either Party, arising from or relating to any failure of the LDC or ISO-NE to provide accurate information to either Party may constitute or give rise to a default by Participant.

7.3 Summary Billing. In the event Supplier has initiated delivery of Electricity and direct billing is implemented, at Participant's option Supplier shall, to the extent it has the technical capability, consolidate on a single bill format ("Summary Billing"): (1) multiple Accounts with a common meter reading date within any LDC; or (2) for each monthly billing period multiple Accounts within any LDC.

7.4 Participant acknowledges that any costs assessed by the LDC or any third party as a result of Participant's switch to or from Supplier, including but not limited to switching costs, are not included in the Contract Price and shall be the responsibility of the Participant.

7.5 All invoices (including adjustments thereto) are conclusively presumed final and accurate unless such invoices are objected to by either party in writing, including adequate explanation and/or documentation, within 24 months after the date such invoice was rendered; provided, however, Supplier may rebill based on post-period audits or adjustments made by the NE-ISO, LDC, or other governmental authority, commission or agency with jurisdiction in the state in which the Accounts are located.

8. Failure to Pay.

If Participant has not paid in full for Electricity on the Due Date, then Supplier may:

8.1 After advance written notice to Participant, the League and PowerOptions, accrue a late payment charge on any overdue amount at the lesser of 1.5% per month or the highest rate permitted by law.

8.2 If any overdue amount continues to be unpaid following the thirty (30) days written notice to cure provided in Section 10.1.1 below, Supplier may continue to apply a late payment charge on the overdue amount as provided above and, following ten (10) days written notice (which written notice shall be issued separately from any bill and only after the expiration of such thirty (30) days' notice to cure provided in Section 10.1.1 below), if Participant has failed to pay such overdue amounts, Supplier may, in accordance with Section 10, elect to terminate this Agreement as to the Accounts so overdue, collect an amount calculated in accordance with Section 10.2.1(A) and transfer service to the LDC in accordance with the procedures set forth in Section 10.3.

9. Guarantee/Financial Assurance.

In connection with the execution and delivery of this Agreement by the Parties, Supplier shall provide to PowerOptions (for its benefit and the benefit of certain participants) an executed Parent Guaranty of Exelon Generation Company, LLC, the parent corporation of Constellation NewEnergy, Inc. in the form attached hereto as Exhibit A.

10. Default and Termination.

10.1 Event of Default. Except with respect to the failure of Participant to pay, which is addressed exclusively in Section 8 above, an event of default (an "Event of Default") shall be deemed to exist upon the occurrence of any one or more of the following events:

- 10.1.1** failure by either Party to meet any payment obligation hereunder, if such failure continues for a period of thirty (30) days following written notice of such failure;
- 10.1.2** failure by either Party to perform fully any other material obligation hereunder if such failure continues for a period of thirty (30) days following written notice of such failure, provided that if such failure cannot be cured within thirty (30) days, as long as the defaulting party diligently pursues a cure, such period shall be extended to ninety (90) days, unless such failure is as to an obligation to pay amounts due;
- 10.1.3** if by order of a court of competent jurisdiction, a receiver or liquidator or trustee of either Party, or of any of the property of either Party, shall be appointed, and such receiver or liquidator or trustee shall not have been discharged within a period of sixty (60) days; or if by decree of such a court, either Party shall be adjudicated bankrupt or insolvent, or any substantial part of the property of such Party shall have been sequestered, and such decree shall have continued undischarged and unstayed for a period of sixty (60) days after the entry thereof, or if a petition to declare bankruptcy or to reorganize either Party pursuant to any of the provisions of the federal bankruptcy code, as it exists from time to time, or pursuant to any other similar state statute applicable to such Party in effect from time to time, shall be filed against such Party and shall not be dismissed within sixty (60) days after such filing; or
- 10.1.4** if either Party shall file a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law or consent to the filing of any bankruptcy or reorganization petition against it under any similar law, or, without limitation to the generality of the foregoing, if either Party shall file a petition or answer or consent seeking relief or assisting in seeking relief in a proceeding under any of the provisions of the federal bankruptcy code as it exists from time to time, or pursuant to any similar state statute applicable to such Party in effect from time to time, or an answer admitting the material allegations of a petition filed against it in such a proceeding, or if either Party shall make an assignment for the benefit of its creditors, or if either Party shall admit in writing its inability to pay its debts generally as they become due, or if either Party shall consent to the appointment of a receiver or receivers, or trustee or trustees, or liquidator or liquidators of it or all or any part of its property.
- 10.1.5** failure by either Party to maintain in effect at all times the Financial Assurance in accordance with the terms of Section 9 above and terms of Credit Assurance Section 11 below; and.
- 10.1.6** any representation or warranty made by a Party in the Agreement is false or misleading in any material respect when made or ceases to remain true in all material respects during the term of the Agreement, if not cured within thirty (30) days after written notice from the other Party.

10.2 Remedies. Upon the occurrence and during the continuation of any Event of Default hereunder, the Party not in default shall have the right:

10.2.1 following all applicable notice and cure periods, to terminate this Agreement in whole or with respect to the Account(s) which is the subject of the Event of Default, if less than all, upon thirty (30) days written notice to the defaulting Party if the Event of Default is then continuing. In such event, the defaulting party shall be obligated to pay, and shall pay to the non-defaulting party Actual Damages, if any, resulting from such early termination; For purposes of this Agreement, "Actual Damages" means the total amount of the loss that the non-defaulting party (or, in the event of a termination without cause, the non-terminating party) (as applicable, the "Damaged Party") would experience as a result of early termination. As to a terminated Account, Actual Damages shall be deemed to equal: (A) where Supplier is the Damaged Party, the positive difference, if any, between the Contract Price of the electricity for the remaining Purchase Period of such terminated Account and the market price of the electricity and services for the remaining Purchase Period of such terminated Account, in each case as determined by Supplier in a commercially reasonable manner plus any unpaid amounts due from Participant to Supplier; and (B) where Participant is the Damaged Party, the positive difference, if any, between the purchase price at which Participant obtains alternative electricity supply to cover the remaining Purchase Period of such terminated Account and the Contract Price of the electricity for the remaining Purchase Period of such terminated Account, minus any unpaid amounts due from Participant to Supplier. The price paid hereunder by Participant to its LDC(s) for alternative electricity supply shall be deemed "commercially reasonable." The defaulting Party shall pay such early termination payment together with any other amounts due to the Damaged Party within thirty (30) days of receipt of written notice of such early termination. The Parties acknowledge and agree that the early termination payment under this Agreement constitutes a reasonable approximation of harm or loss, and is not a penalty or punitive in any respect. Except as otherwise set forth in Section 13, if Participant's Facility associated with an Account receiving Electricity hereunder is closed, vacated, sold or otherwise disposed of by Participant, then either Party may terminate the Agreement with respect to such Account upon thirty (30) days written notice to the other Party, in which event Participant may owe an early termination payment to Supplier calculated in accordance with the Section 10.2.1.(B).

10.2.2 to pursue any other remedy under this Agreement or now or hereafter existing at law or in equity or otherwise.

10.2.3 If Supplier is the defaulting Party and an undisputed early termination payment has not been paid to Participant pursuant to Section 10.2.1 above, then Participant shall be entitled to request that such payment be issued pursuant to the terms of Financial Assurance (see Section 9 above). If Participant is the defaulting party and an undisputed early termination payment has not been paid to Supplier pursuant to Section 10.2.1., then Supplier shall be entitled to request that such payment be issued pursuant to the terms of any Credit Assurance provided in accordance with Section 11.

10.3 Regarding each covered Account, termination shall be effective on the date

of the next scheduled meter reading for said Account, unless

10.3.1 Supplier does not submit the required “drop customer” transaction to the LDC prior to the next meter reading date in accordance with the LDC’s protocols, in which case the effective date of termination shall be the next subsequent meter reading date after the “drop customer” transaction has been properly submitted; or

10.3.2 In the event of a default by Supplier, Participant does not either inform the LDC of the termination or initiate generation service with another supplier prior to the next meter read date or the next scheduled meter reading date of such Account in accordance with the LDC’s protocols, whichever is earlier, in which case the effective date of termination shall be the next subsequent meter reading date after the Participant has either informed the LDC of the termination or initiated supply with another supplier with respect to such Account.

11. Provision of Data; Credit Review; Posting Credit Assurance.

By executing this Agreement and a letter in the form attached hereto as Exhibit C (or any such data subscription forms or any other authorizations as required by the LDC), Participant authorizes its LDC(s) to provide Supplier, and through Supplier, PowerOptions and the League, the following data (as reasonably required by Supplier) with respect to Participant: historical consumption and interval load data, payment and credit history, types of service, meter readings and any other information relevant to Participant’s current LDC(s) Account(s), which is to be available to Participant by law or regulation. Any such subscription or LDC provided hourly profiled or interval usage data will (i) include the last 12 months of data for each Account and (ii) will expire within 90 days of it being received by Supplier. Participant may be required to submit updated usage information for each Account before Supplier is obligated to enter into this Agreement and/or issue a Transaction Confirmation. If necessary, Participant shall directly request such information from its LDC(s) and shall promptly relay to Supplier all such data received. Participant shall not be responsible for fees, if any, charged by its LDC(s) for the LDC’s provision of such data.

Within five (5) Business Days of receipt of Participant’s interest in entering into this Agreement, if the credit of Participant does not meet reasonable standards and the most recent aggregate annual usage of Participant’s Accounts is greater than 5,000MWh, Supplier may at its option, exercised by written notice within such five (5) day period (which may be made by confirmed e-mail), request Participant to provide Supplier with commercially reasonable credit assurance as a condition of effectuating the Agreement, which may consist of the provision of an interest bearing deposit, letter of credit, or other means acceptable to both parties, in an amount not to exceed estimated amounts payable by Participant for sixty (60) days of service by Supplier, or Supplier shall have the option to decline service to the Participant. The interest rate applicable to such deposits shall be equal to the customer deposit interest rate for LDCs approved by the applicable State Public Utility Authority or by law from time to time. If Participant does not agree within two (2) Business Days to provide properly requested credit assurance to Supplier in effectuation of the Contract Date, Supplier may decline to enter into the

Agreement until the request for credit assurance is resolved.

Further, where the credit of Participant does not meet reasonable standards and the most recent aggregate annual usage of Participant's Accounts is greater than 5,000MWh, then (i) If Participant is rated by either S&P or Moody's, in the event that Participant's S&P or Moody's Sr. Unsecured or Underlying rating were to fall below BBB- or Baa3, respectively, Supplier may request Participant to provide commercially reasonable credit assurance(s) in an amount not to exceed estimated amounts payable by Participant for four (4) months of service by Supplier and Participant shall provide such credit assurances within ten (10) Business Days of such request; or (ii) if Participant is not rated by either S&P or Moody's – if at any time, Supplier has Good Faith Credit Concerns regarding the Participant, the Parties' representatives shall meet within ten (10) Business Days and Participant shall promptly provide to Supplier all reasonably requested documentation necessary for Supplier to obtain an accurate overview of Participant's ability to continue to perform under this Agreement. If Supplier is not reasonably satisfied regarding Participant's continued ability to perform following such meeting and review, Supplier may request that Participant provide reasonable credit assurance(s) in an amount not to exceed estimated amounts payable by Participant for four (4) months of service by Supplier, with respect to the Account(s) for which the Good Faith Credit Concerns arose and Participant shall provide such commercially reasonable credit assurance(s) within ten (10) Business Days, failing which, with respect to such Account(s), the Supplier may terminate this Agreement in accordance with Sections 8.2 and 10.1.5. Upon termination of this Agreement for any reason, any amounts paid as credit assurance by Participant pursuant to this Section with respect to affected Accounts, including any accrued interest thereon, shall be returned to Participant within thirty (30) days of the date of termination to the extent such amounts have not been properly drawn upon by Supplier in respect of amounts owed by Participant to Supplier pursuant to this Agreement.

For purposes of this Agreement, "Good Faith Credit Concerns" shall mean that Participant has failed, to maintain a S&P or Moody's ratings as provided above (if applicable) and/or has failed to remit payment in full, other than with respect to amounts withheld by Participant in connection with a good faith billing dispute, and Supplier has provided Participant, with respect to such Account, the written notice addressing "failure to pay" described in Section 8.2.

Upon termination of this Agreement for any reason, any amounts paid by Participant pursuant to this Section, including any accrued interest thereon, shall be returned to Participant within thirty (30) days of the date of termination to the extent such amounts have not been properly drawn upon by Supplier pursuant to this Agreement.

12. Confidentiality of Participant's Data.

12.1 Participant Data. Supplier may rely upon the authorization of Participant in Exhibit C (or any such data subscription forms or any other authorizations required by the LDC) to obtain relevant usage (hourly or interval data as reasonably required by Supplier) that is provided to Supplier within a 90 day expiration period and other data as reasonably required by Supplier to effectuate this Agreement. All costs of obtaining data shall be the responsibility of Supplier. All of Participant's data that Supplier obtains through this Agreement belongs to Participant and shall be

provided as requested to Participant in electronic format, if available and so requested, without cost, upon fifteen (15) Business Days' notice. Supplier further agrees to keep confidential both Participant's data so obtained and all other confidential information relating to Participant as required by federal and state laws, and to restrict access to such information to only the League, PowerOptions and to those employees of Supplier and/or third parties who need such access to enable Supplier, the League or PowerOptions to perform its services under this Agreement. Furthermore, Supplier may make such other disclosures to third parties, including aggregate consumption data, provided they cannot be reasonably expected to specifically identify Participant.

12.2 Price Options. Participant acknowledges that the pricing under the Price Options and the terms of this Agreement are proprietary to Supplier and PowerOptions and reflect certain trade secrets and other competitive information that would irreparably harm Supplier and PowerOptions if disclosed to others. Participant agrees, subject to the requirements of applicable laws, regulations, ordinances, and judicial and administrative process and order, and the like, to keep confidential all pricing information so obtained and to restrict access to such information to only the League, PowerOptions and to those employees of Participant and/or third parties (subject to confidentiality agreements) who need such access to enable Participant to make an informed decision with respect to a Price Option.

12.3 If disclosure of confidential information is sought through a court, or a state or federal regulatory agency or other legal compulsion, the Party receiving such request will notify the other Party immediately to afford it the opportunity to oppose such disclosure via a protective order or other relief as may be available and will provide reasonable support.

13. Material Change in Use.

This Section 13 applies only to Participants with an estimated annual usage of 5,000MWh or more ("**MC Threshold**"). Participant understands and acknowledges that the Contract Prices set forth in this Agreement have been established based on its Participant Baseline (defined below). For purposes of this Section 13, "**Participant Baseline**" shall mean a Participant's historical usage for Enrolled Account(s) during the twelve (12) calendar months prior to the Contract Date or in the case of Enrolled Account(s) that did not receive Electricity in the prior year period, Supplier's good-faith estimate of the anticipated monthly consumption for such Enrolled Account(s), adjusted for variations relating to weather; and "**Program Baseline**" shall mean the total historical monthly usage for all Enrolled Accounts of all participants in the PowerOptions program for the corresponding month in the immediately preceding year adjusted for variations relating to weather.

For the purposes hereof, "**Enrolled Accounts**" shall mean all Accounts with respect to which the applicable LDC has accepted the enrollment transaction for Electricity supply from Supplier under this Agreement, excluding Accounts while subject to the Section 5.5 Price Option. The circumstances under Sections 13.1 and 13.2 are referred to as a "**Material Change in Use**".

13.1 Participant (above the MC Threshold) shall provide Supplier with a ninety (90) days' advance written notice of:

- (1) closure of any Enrolled Account; provided that such closure is within the ordinary course of Participant's business and does not include taking supply from the LDC or another energy supplier;
- (2) a reduction of usage under any Enrolled Account to zero consumption without closure of the Enrolled Account;
- (3) any change in use within Participant's control, such as Facility closings, planned equipment outages or replacements, new buildings under Enrolled Accounts or other similar circumstances, including without limitation participation in one or more load response programs from time to time; or
- (4) any installation of any behind the meter co-generation that has not previously been disclosed by Participant to Supplier on Exhibit D (attached hereto, which includes any installed or plans to install any type of behind the meter co-generation during the Term).

13.2 Participant (above the MC Threshold) shall provide prompt written notice (but no later than two (2) Business Days) of any circumstances that become known to Participant outside Participant's control, such as Participant's equipment failure.

13.3

(a) In the event that a Material Change in Use by Participant (above the MC Threshold) causes a usage variation in the Program Baseline by more than plus or minus five percent (+/-5%), then, unless Participant has provided the notice required by Sections 13.1 and 13.2 above, such Participant may be liable to Supplier for the incremental costs Supplier actually incurs to supply Electricity as a result of Participant's Material Change in Use. For the avoidance of doubt, if Participant provides notice as prescribed by Sections 13.1 and 13.2 above, Participant shall have no liability under this Section for any Material Change in Use unless Participant is otherwise subject to the Participant Baseline provision in Section 13.3(b) below.

(b) In the event that a Material Change in Use by Participant with an estimated annual usage of 20,000MWh or more causes a usage variation in its Participant Baseline by more than plus or minus thirty percent (+/-30%) , then such Participant may be liable to Supplier for the incremental costs Supplier actually incurs to supply Electricity as a result of Participant's Material Change in Use whether or not Participant has provided notice under this Section as prescribed by Sections 13.1 and 13.2. above. For the avoidance of doubt, if Participant has an estimated annual usage of less than 20,000MWh (and, if necessary, has provided the required Program Baseline notice), Participant shall have no liability under this Section for any Material Change in Use.

13.4 All billing of such costs under this Section 13 shall: (i) occur with regular billing with respect to the subject Enrolled Accounts; (ii) be accompanied by documentation reasonably demonstrating that billed costs were incurred by Supplier, are eligible to be passed through hereunder and are properly calculated. Supplier's documentation shall include a report, showing, at a minimum Participant's actual usage for the current month for Enrolled Accounts and Participant's Baseline for Enrolled Accounts prior to the Material Change in Use.

13.5 For avoidance of doubt, Section 13 is intended to permit usage fluctuations across the Enrolled Accounts and does not permit a Participant (either under or above the MC Threshold) to: (i) terminate the Agreement early or to reduce to zero consumption usage for all Enrolled Accounts; or (ii) add new accounts to this Agreement without the execution of an amendment agreed to by the Parties (including a Pricing Confirmation or Transaction Confirmation with a new Contract Price) as further described in Section 27 below.

14. Change in Law.

Supplier agrees that compliance with any Change in Law resulting in a material increase or decrease in Supplier's costs to supply Electricity to Account(s) during the Purchase Period requires approval by PowerOptions (such approval shall not be unreasonably withheld and shall not impact Supplier's right to make an adjustment as set forth below) prior to recovering or providing credit of such costs to Participant. At least 30 days prior to charging or crediting Participant for the material increase or decrease in costs resulting from the Change in Law, Supplier shall submit to Participant, the League and PowerOptions for review a written notice setting forth in detail: (i) the applicable Change in Law; (ii) the manner in which such change in law increases or decreases Supplier's costs to supply Electricity to the Account(s); and (iii) Supplier's proposed adjustment to the Contract Price for Electricity in this Agreement to reflect such increases or decreases in costs to the Accounts during the Purchase Period. PowerOptions shall notify Supplier if it accepts the changes contained in the notice within 30 days, provided that Supplier promptly responds to any questions received from PowerOptions regarding the notice. If such changes are accepted by PowerOptions, Supplier may make an adjustment such that the new Contract Price compensates Supplier for the material increase arising from the Change in Law, and said adjustment will remain in effect during the Purchase Period for as long as the costs arising from the Change in Law continue to be incurred by Supplier. If such changes are not accepted by PowerOptions, Supplier may opt to make such adjustment, but Participant may dispute such charges under the Participant Agreement in accordance with state law. For the avoidance of doubt, such increase or decrease in costs must be actual and material as reasonably determined by Supplier.

Change in Law means (i) a new charge or cost imposed on and payable by Supplier after the Contract Date by ISO-NE or its successor, the LDC in which Participant is located, or an applicable governmental or regulatory authority; (ii) an increase in an existing charge or cost imposed by ISO-NE or its successor, the LDC, or an applicable governmental or regulatory authority, which was not anticipated at the time of the Agreement; or (iii) a new element of retail full requirements service imposed through law or regulation by a State Public Utility Authority, the United States, or other applicable governmental or regulatory authority, including, but not limited to, a retail portfolio standard in addition to the existing Renewable Portfolio Standard or a tax on the carbon content of fuel used to produce electricity, provided that such change does not constitute a Force Majeure pursuant to this Agreement.

All billing related to the Change in Law with respect to Accounts that are the subject of a Pricing Confirmation or Transaction Confirmation shall (i) occur with regular billing with respect to the subject Accounts, (ii) be accompanied by documentation

reasonably demonstrating that billed costs are eligible to be passed through hereunder and are properly calculated, and (iii) be completed with the final regular bill with respect to such Account under such Pricing Confirmation or Transaction Confirmation.

15. Warranty.

Supplier warrants good title free and clear of all encumbrances and the right to deliver title to all Electricity sold hereunder. Supplier shall indemnify, defend and hold Participant harmless against all suits, actions, debits, accounts, costs, loss, damage and expense arising out of or relating to adverse claims on the Electricity delivered up to the Delivery Point. All Electricity delivered hereunder shall meet the quality standards of the ISO-NE, the Participant's LDC and any other competent authority. **THE WARRANTIES SET FORTH IN THIS PARAGRAPH ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ARISING OUT OF ANY COURSE OF DEALING OR USAGE OR TRADE.**

16. Measurement.

Quantities of Electricity shall be measured in accordance with the tariff of the applicable LDC in effect from time to time.

17. Risk of Loss.

Title to Electricity sold by Supplier and purchased hereunder shall pass to Participant at the Delivery Point(s). Control, possession and risk of loss of the Electricity and responsibility for any loss, damage or injury occasioned thereby shall transfer at the Delivery Point(s). Each Party will indemnify and hold the other harmless from third party claims of any nature attributable to such Electricity while said Party has control and possession, excluding loss, injury or damage caused by the Party not in control and possession.

18. Taxes.

Supplier shall apply all appropriate Taxes relating to or arising out of this Agreement unless and until Participant provides Supplier all required valid exemption certificates. If valid exemption certificates are not provided, Participant shall pay all federal, state, municipal and local taxes, duties, fees, levies, premiums or other charges imposed by any governmental authority, directly or indirectly, on or with respect to the electricity and related products and services provided under the Agreement, including any taxes enacted after the Contract Date (collectively, "Taxes"). Each Party shall indemnify, defend and hold harmless the other party from and against any Taxes for which the indemnifying Party is responsible. All Taxes invoiced to Participant under the Agreement will be included on the invoice separate from the Contract Price (unless required by law to be included in the Contract Price).

19. Representations and Warranties.

Each Party warrants and represents to the other (now and deemed repeated by each Party on each date on which this Agreement is executed and delivered) that: (i) it is

duly organized, validly operating and in good standing under the laws of the jurisdiction of its formation; (ii) it is authorized and qualified to do business in the jurisdictions necessary to perform under the Agreement; (iii) execution, delivery and performance of the Agreement are duly authorized and do not violate any governing documents or any of its contracts or any applicable law; (iv) there is no material event(s) or agreement(s) which would impair that Party's right, authority or ability to execute the Agreement and otherwise perform under the Agreement; and (v) it has the knowledge and experience to evaluate the merits and risks associated with the Agreement.

Furthermore, Participant warrants, represents and covenants that: (i) the data given and representations made concerning its Account(s) are true and correct to the best of Participant's knowledge; (ii) it is entering into the Agreement to purchase its energy requirements only and not for speculative or resale purposes; and that the energy purchased under the Agreement will be consumed at the facilities to which the Account(s) relate; (iii) it is the party of record of the Account(s), or if it is not the party of record, it has the authority to enter into and bind the party of record to the Agreement; and (iv) if Participant is a Governmental Entity, (i) it will not claim immunity on the grounds of sovereignty or similar grounds from enforcement of the Agreement; and (ii) it will use commercially reasonable efforts to obtain all necessary budgetary approvals, appropriations and funding for all of its obligations under the Agreement and if sufficient funds have not been appropriated for the next fiscal year, Participant shall provide written notice to Supplier who shall have the right to terminate this Agreement at the end of the then current fiscal year by giving the Participant not less than thirty (30) days prior written notice of termination.

Participant acknowledges that Supplier is paying a fee to PowerOptions and the League in connection with their efforts to facilitate the parties entering into this Agreement, for the League's role in conducting the competitive solicitation from which this Agreement was negotiated and made available to REAP members, and for ongoing administration of REAP and the PowerOptions program.

20. No Participation in Municipal Aggregation.

Participant agrees that it shall not participate in any municipal aggregation for purchase of Electricity with respect to the Accounts set forth in Pricing Confirmation or Transaction Confirmation, for the term of the Purchase Period. Participant represents that it shall take all steps necessary to "opt out" of any municipal or municipally-sponsored Electricity purchasing program with respect to such Accounts.

21. Limitation of Liability.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER DAMAGES OR REMEDIES HEREBY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, DIRECTLY OR INDIRECTLY, INCLUDING WITHOUT

LIMITATION THROUGH OBLIGATIONS TO INDEMNIFY THIRD PARTIES, FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, DOWNTIME COSTS OR OTHER BUSINESS INTERRUPTION DAMAGES, LOSS OF USE OF ANY PROPERTY, COST OF SUBSTITUTE EQUIPMENT OR FACILITIES, WHETHER ARISING BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE. The Parties hereby release PowerOptions from any liability arising from or relating to this Agreement or the relationship between the Parties. This provision shall survive the expiration or early termination of this Agreement.

Notwithstanding anything to the contrary contained herein, Participant is not waiving any right to assert claims and liability limits of applicable state laws pertaining to liability of governmental entities or subdivisions, including without limitation, municipalities and municipal subdivisions (hereinafter referred to as the "governmental entity").

22. Force Majeure.

Either Party shall be excused from performance hereunder, other than either Party's obligation to make payments of amounts already due hereunder, and, shall not be liable for damages or otherwise if, and to the extent that, the Party shall be unable to perform fully or is prevented from performing fully by an event of Force Majeure. For such purposes, Force Majeure shall mean any act, event, cause or condition that is beyond the Party's reasonable control, including without limitation any hurricane, tornado, flood, labor disputes, lightning, earthquake, fire, civil disturbance, or act of God or public enemy, that in each case prevents physical delivery of Electricity and is not caused by the Party's fault or negligence, and that by the exercise of reasonable diligence the Party is unable to prevent, avoid, mitigate or overcome. The Party affected by an event of Force Majeure shall provide the other Party, as soon as reasonably practicable, with written notice of the event of Force Majeure and shall make all reasonable efforts to mitigate the effect of such event. If the event of Force Majeure is not corrected within seventy-five (75) days, the non-affected Party may terminate the Agreement. Notwithstanding the foregoing, Force Majeure shall not include a failure or inability to perform or comply with any of the covenants or obligations imposed upon the Party claiming Force Majeure under this Agreement that is caused by lack of funds or other financial problems affecting, or would result in an economic hardship for, said Party.

23. Equal Employment Opportunity Clause.

The Equal Employment Opportunity clause required under Federal Executive Order No. 11246, the affirmative action commitment for veterans, set forth in 41 CFR 60-250.4, the affirmative action clause for handicapped workers, set forth in 41 CFR 650-741.4, the related regulations of the Secretary of Labor, 41 CFR Chapter 60, and applicable state laws and regulations are included by reference in this Agreement, and Supplier certifies, warrant and covenants that it has and shall at all times comply with the requirements contained therein to the extent required thereby.

24. Government Regulations.

This Agreement and all rights and obligations of the Parties hereunder are

subject to all applicable federal, state and local laws and all duly promulgated orders and duly authorized actions of governmental authorities. Supplier shall obtain and maintain at its expense all permits and licenses necessary to perform the services under this Agreement.

25. Independent Contractor and License.

Supplier is and shall perform as an independent contractor under this Agreement. Neither Party has the authority to bind the other, and nothing herein shall be construed to constitute a joint venture, fiduciary relationship, partnership or other joint undertaking.

26. Public Disclosure.

Without first obtaining written consent of the other Party in its reasonable discretion, neither Party shall make any press release, or other public announcement relating to or arising out of this Agreement.

27. Waiver and Amendment.

Any waiver by either Party of any of the provisions of this Agreement must be made in writing, and shall apply only to the instance referred to in the writing, and shall not, on any other occasion, be construed as a bar to, or a waiver of, any right either Party has under this Agreement. The Parties may not modify, amend, or supplement this Agreement except by a writing signed by the Parties hereto. Unless an Event of Default with respect to Participant exists, Participant may request adding additional Accounts to this Agreement from time to time at the then current market prices. Supplier shall provide Participant with an additional Transaction Confirmation or Pricing Confirmation for execution by the Parties (which is condition upon satisfying the credit of Participant in accordance with Section 11). This provision shall in no way affect or create any condition on the continued service to Participant's then-existing Accounts at the time of submission of such additional Confirmations.

28. Acknowledgements.

Participant is acting for its own account, and it has made its own independent decisions to enter into this Agreement based solely upon its own judgment and upon advice from such advisers as it has deemed necessary. It is not relying on any communication (written or oral) of the other Party or any of its affiliates (or its respective representatives) as investment advice or as a recommendation to enter into the Agreement, it being understood that information and explanations related to the terms and conditions of any Agreement will not be considered investment advice or a recommendation to enter into the Agreement. No communication (written or oral) received from the other party or any of its affiliates (or its respective representatives) will be deemed to be an assurance or guarantee as to the expected economic results of the Agreement. This Agreement (including Transaction Confirmations and Pricing Confirmations) entered into hereunder will constitute "forward contracts" and/or "swap agreements" under the U.S. Bankruptcy Code, as amended, the rights of the Parties under Section 10 above will constitute contractual rights to liquidate them, and the Parties are entitled to the rights and protections afforded to "forward contracts"

and “swap agreements” by the U.S. Bankruptcy Code.

29. Point of Contact and Notice.

Participant shall designate an authorized representative who shall act as Supplier’s single point of contact concerning services under this Agreement. Supplier shall, to the extent permitted under applicable rules and regulations, act as the principal point of contact for Participant’s Electricity needs. Accordingly, Supplier shall designate and provide Participant the address and phone number of both a business contact and a technical contact who shall act as Participant’s primary points of contact for their respective areas of expertise. All notices under this Agreement shall be in writing and shall be provided by hand, overnight commercial courier service, certified mail (return receipt requested), fax or electronic transmission (including e-mail). If given by electronic transmission (including telephone, fax or email), notice shall be deemed given on the date sent by 4:00 p.m. ET and shall be confirmed the next Business Day by a written copy sent by first class mail. If given by email, notice shall be deemed given at the time received on the date sent if received by 4:00 p.m. ET on a Business Day and, if given otherwise, shall be deemed given at 9:00 a.m. ET on the following Business Day. If sent by same-day or overnight delivery service, or certified or registered mail, notice shall be deemed given on the day of delivery.

CONFIDENTIAL

Supplier Notices shall be sent to:

Constellation NewEnergy, Inc.
1001 Louisiana St. Suite 2300
Houston, Texas 77002
Attention: Contracts Administration
Facsimile: (888) 829-8738
Phone: (866) 4-ENERGY

Copy sent to:

Constellation NewEnergy, Inc.
545 Boylston Street, Suite 700
Boston, Massachusetts 02116
Attention: Stephen Fabiani, Executive Director
Phone: (617) 717-3037
Fax: (617) 717-3040
Electronic mail: Stephen.Fabiani@constellation.com

Notices to Participant shall be sent to:

Phone: (____)____-____
Fax: (____)____-____
Electronic mail:

Notices to the League shall be sent to:

Brian M. Daniels
Executive Director
Rhode Island League of Cities and Towns
One State Street, Suite 502
Providence, RI 02908
Phone (401) 272-3434
Electronic mail: bdaniels@rileague.org

Notices to PowerOptions shall be sent to:

Meg Lusardi
Executive Vice-President
PowerOptions, Inc.
129 South Street, 5th floor
Boston, Massachusetts 02111
Phone: (617) 737-8480
Fax: (617) 456-3001
Electronic mail: mlusardi@poweroptions.org

30. Assignment.

This Agreement may not be assigned without the prior written consent of the non-assigning Party which consent shall not be unreasonably withheld; provided, that Supplier may assign its rights under this Agreement without the consent of Participant to (i) an affiliate if the Supplier agrees to guarantee the obligations hereunder, including specifically maintaining the Financial Assurance as provided in Section 9 above, or (ii) a third party purchaser of all or substantially all of the assets of the business to which this Agreement relates provided that such purchaser has comparable or superior ability to perform the obligations of Supplier and creditworthiness equal to or better than Supplier and maintains the Financial Assurance as provided in Section 9 from a guarantor having creditworthiness equal to or better than Supplier's, or Supplier otherwise has the wherewithal and agrees to remain liable for performance of Suppliers' obligations hereunder including maintaining the Financial Assurance as provided in Section 9 above. Participant may assign its rights under this Agreement to a successor or to a purchaser of all or substantially all of Participant's assets without the consent of Supplier provided that such purchaser has creditworthiness equal to or better than Participant and agrees to undertake the obligations of Participant hereunder including maintaining credit assurances as provided in Section 11.

31. Binding Effect.

This Agreement is binding on, and entered into solely for the benefit of Supplier and Participant and their respective successors and permitted assigns.

32. Complete Agreement; Miscellaneous Provisions.

This Agreement (together with any exhibits incorporated herein by reference) contains the complete and exclusive agreement and understanding between the Parties as to its subject matter and supersedes any other agreement, discussions or understanding (whether written or oral) and may not be contradicted by any prior or contemporaneous oral or written agreement. If any of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out the mutual intent of the Parties as expressed in this Agreement. A facsimile or PDF copy with Participant's signature will be considered an original for all purposes, and Supplier will provide original signed copies upon request. Any conflict between the terms and conditions of this Agreement and any Pricing Confirmation and/or Transaction Confirmation shall be resolved in favor of the Pricing Confirmation and/or Transaction Confirmation.

33. Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the state where the Facility is located, other than those relating to choice or conflict of law. Any action at law, suit in equity or judicial proceeding arising from or in connection with, out of or relating to this Agreement shall be litigated only in the Courts of the state where the Facility is located. The Parties waive any right they may have to transfer or change the venue of any litigation resulting hereunder. TO

THE EXTENT ALLOWED BY APPLICABLE LAW, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THE AGREEMENT. Nothing in this Agreement shall displace the applicability of any federal law or the jurisdiction of State Public Utility Authorities, the Federal Energy Regulatory Commission, or any other regulatory agency or body.

34 Signatory's Authority/Counterparts.

The undersigned certify that they are authorized to execute this Agreement (via electronic transmission or written copy) on behalf of their respective organizations. This Agreement may be executed in two or more counterparts, each of which shall be an original. It shall not be necessary in making proof of the contents of this Agreement to produce or account for more than one such counterpart. In addition, the following individual(s) is the sole representative of Participant authorized to execute Pricing Confirmation(s) effectuating the Fixed Price Option described in Section 5.3 and/or Transaction Confirmations effectuating the Price Options described in Section 5.5:

Name: _____
Title: _____
Email: _____
Address: _____

Phone: () -
Fax: () -
Electronic mail:

Additional persons may be named by duly authorized written notification provided to Supplier under this Agreement.

Participant's Authorized Persons:

Name: _____
Title: _____
Email: _____
Address: _____

Phone: () -
Fax: () -
Electronic mail:

Supplier Authorized Persons:

Commodities Management Group: 1-800-243-2113; cmg@constellation.com
[Transaction Group: #emailtransactions@constellation.com](mailto:#emailtransactions@constellation.com)

35. Special Provisions and Disclosure Labels.

Exhibits E-1, E-2 and E-3 set forth state specific provisions that are applicable to this Agreement. If the Facility is located in Massachusetts refer to Exhibit E-1 for additional terms and conditions. If the Facility is located in Connecticut refer to Exhibit E-2 for additional terms and conditions. If the Facility is located in Rhode Island refer to Exhibit E-3 for additional terms and conditions.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement.

**Constellation NewEnergy, Inc.
{Supplier}**

Participant Name {Participant}

Signature: _____

Signature: _____

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:

CONFIDENTIAL

Exhibit B

Form of Fixed Pricing Confirmation

FIXED PRICING CONFIRMATION

NO.

POWEROPTIONS® PARTICIPANT
AGREEMENT FOR THE SALE
AND PURCHASE OF
ELECTRICITY
BETWEEN PARTICIPANT AND
SUPPLIER

This Pricing Confirmation No. _____, dated as _____, 2017, under the PowerOptions® Participant Agreement for the Sale and Purchase of Electricity (collectively, the "Agreement") currently in effect between _____ ("Participant") and Constellation NewEnergy, Inc. ("Supplier") effects Participant's exercise of the Fixed Pricing Option in accordance with the terms of the Fixed Price Transaction Confirmation set forth in Attachment 1. Participant may elect to participate in other alternative programs as set forth below.

Participant and Supplier agree and confirm as follows:

1. Definitions. Unless otherwise defined herein, initially capitalized terms used herein shall have the meanings ascribed to them in the Agreement.
2. Fixed Price Confirmation. The Contract Price under the Agreement shall be determined in accordance with term and conditions set forth in Attachment 1 hereto, effective during the Purchase Period indicated on Attachment 1.
3. Purchasing Green-e Renewable Energy Credits (RECS): [] By checking the box, Participant is agreeing to the terms and conditions set forth on Attachment 2.
4. Full Force and Effect. All terms and provisions of the Agreement shall remain unchanged and in full force and effect, and nothing herein contained shall operate to release either party from its obligations under the Agreement.
5. Binding Effect. This Pricing Confirmation shall be binding upon and inure to the Parties and their respective successors and assigns. This Pricing Confirmation may be executed in counterpart.
6. Right to Rescind:
 - **Massachusetts Accounts:** In accordance with Massachusetts General Laws c. 164, Section 1F(8)(a)(ix), Participant has until midnight of the third (3rd) calendar day following the date that Participant executes this Agreement to contact Supplier and cancel (rescind) this Agreement.

- **Connecticut Accounts**: If the aggregate demand at all of Participant's Facility(ies) in Connecticut is less than five hundred (500)kW, Participant has until midnight of the third (3rd) business day following the date that the Participant executes this Agreement to cancel (rescind) this Agreement.
- **Rhode Island Accounts**: Participant has until midnight of the third (3rd) business day following the date that the Participant executes this Agreement to notify Supplier and cancel (rescind) this Agreement.

Dated as of the date first set forth above.

**Constellation NewEnergy, Inc.
{Supplier}**

Participant Name {Participant}

Signature: _____

Signature: _____

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:

Telephone: (713) 222-6080

Email Address: <Insert email>

CONFIDENTIAL

ATTACHMENT 1 TO EXHIBIT B- FIXED PRICE OPTION

(Transaction Confirmation)

This Transaction Confirmation (“TC”) is entered into pursuant to and in accordance with a Participant Agreement executed by and between Supplier and <Participant Name> (“Participant”), and is subject to all of the provisions, terms and conditions of such Participant Agreement. Notwithstanding anything to the contrary, any conflict between this TC and the Participant Agreement will be resolved in favor of this TC, but only with respect to the Account(s) listed on this TC. This TC supersedes all prior agreements and understandings with respect to the Account(s), and may not be contradicted by any prior or contemporaneous oral or written agreement. Capitalized terms used herein but not defined will have the meanings ascribed to them in the Participant Agreement.

Price Terms. The electricity rate Participant is paying is stated in the Account Schedule below. The Contract Prices contained in the Account Schedule include all the costs listed below as “Fixed”, meaning that they will remain constant for the existing term of this TC and may only be subject to change as a result of a Change in Law as described in the Participant Agreement, provided, **however, Participant’s** overall electricity bill may fluctuate monthly depending on **Participant’s** usage variations, and whether certain cost components are being Passed Through (as defined below). Costs listed below as “Passed Through” means that charges for these costs will change during the existing term of this TC to the extent the related charges assessed or charged vary for any reason. At any time during the term of this TC, Participant may request the purchase of renewable energy certificates in an amount equal to a prescribed percentage of **Participant’s** load volume by entering into one or more Retail Trade Transactions (“RTTs”), which shall be evidence by a fully executed RTT Confirmation and be incorporated herein.

Cost Components. Each of the items listed as “Fixed” below is included in **Participant’s Contract Prices** as set forth in the Account Schedule. For each of the items listed as “Passed Through” below, Participant will be charged the costs associated with the line item in accordance with the definitions of each item in Section 1.1, Definitions or as defined in the Participant Agreement.

Energy Costs	Fixed
Ancillary Services And Other ISO Costs	Fixed
Capacity Costs	Fixed
Line Loss Costs	Fixed
FERC Order 745 Costs	Fixed
Renewable Portfolio Standard Costs	Fixed
CES Costs	Fixed

The Contract Prices contained in the Account Schedule have been reduced to reflect a Fixed credit to Participant for the Auction Revenue Rights and Transmission Loss Credits associated with the Account(s). The Contract Prices also include any credit costs and margin.

Section 1.1. Definitions. “Holdover Fee” means a cost of \$<Insert Holdover Rate> per kWh in the holdover rate.

“LMP” or “Holdover Market Price” means the ISO-published [Day Ahead LMP] for the ISO zone applicable to each Account expressed in \$/kWh. Such prices are published hourly or sub-hourly depending on the ISO.

“Massachusetts Clean Energy Standards Costs” (“CES Costs”) means any costs or charges related to procuring renewable energy certificates or making alternative compliance payments to comply with the Massachusetts Clean Energy Standard (310 CMR 7.75), approved by the Massachusetts Department of Energy Resources, effective on August 11, 2017.

“Renewable Portfolio Standards Costs” means the costs or charges associated with meeting renewable portfolio standards costs (including MA Solar Carve-Out Program Costs) at the levels required by currently applicable Law. If Renewable Portfolio Standards Costs are not included in the contract price, such costs for a particular month will be the product of (i) the Monthly RPS Price; and (ii) an **Account’s** monthly kWh usage. The Monthly RPS Price is the price of renewable portfolio standards compliance for the Account, for a particular month, fixed by reference to the renewable portfolio standards forward price curve for the state where the Account is located.

“MA Solar Carve-Out Program Costs” means the costs or charges related to procuring solar renewable energy certificates or making alternative compliance payments to comply with currently applicable Law for various solar carve-out programs set by the Massachusetts Department of Energy Resources. MA Solar Carve-Out Program Costs are included in Renewable Portfolio Standards Costs.

Section 2.1. Initial Term. With respect to each Account set forth in the Account Schedule below, electricity supply shall commence on or about the date set forth under “Start Date”, and end on or about the date set forth under “End Date” in accordance with the

terms of the Agreement. This TC shall not automatically renew, provided, however, service may be extended for a holdover term as described in the Participant Agreement.

Section 2.2. Miscellaneous. Additional state required rules, Laws and regulations shall apply to the Account(s) as follows:

See Exhibit E-1: for Massachusetts Accounts

See Exhibit E-2: Connecticut Accounts

See Exhibit E-3: Rhode Island Accounts

Section 2.3. Supplier and LDC Contact Information. **Supplier's** website address is www.constellation.com. Participant may contact Supplier regarding its invoice or other matters concerning this TC at **Supplier's** Customer Service Department by toll-free telephone at 800-536-1349, or email at customer@constellation.com.

PARTICIPANT AGREES TO CONTACT ITS LDC IN THE EVENT OF A POWER OUTAGE OR OTHER ELECTRICITY RELATED EMERGENCY AT THE FOLLOWING TELEPHONE NUMBERS:

LDC Name	LDC Abbreviation	Contact Numbers

Section 2.4. Right To Rescind.

Massachusetts Accounts: In accordance with Massachusetts General Laws c. 164, Section 1F(8)(a)(ix), Participant has until midnight of the third (3rd) calendar day following the date that Participant executes this TC to contact Supplier and cancel (rescind) this TC.

Connecticut Accounts: If the aggregate demand at all of **Participant's** Facility(ies) in Connecticut is less than five hundred (500)kW, Participant has until midnight of the third (3rd) business day following the date that the Participant executes this TC to cancel (rescind) this TC.

Rhode Island Accounts: Participant has until midnight of the third (3rd) business day following the date that the Participant executes this TC to notify Supplier and cancel (rescind) this TC.

Section 2.5. Additional Terms For Accounts located in Rhode Island.

Rhode Island Division of Public Utilities: Additional information, including information on consumer rights, may be obtained by contacting the Rhode Island Division of Public Utilities and Carriers ("**PUC**") at (401) 941-4500 or the Consumer Section of PUC at (401) 780-9700.

Price Term Comparison: Customer may compare the price terms in this TC to **Customer's** current electricity supplier listed on your electric bill by going to <http://www.ri.gov/empowerri> and entering your information into the price compare tool. If you are currently receiving standard offer or default electric generation service then your existing rate may be subject to change every six (6) months on April 1 and October 1. If you are currently receiving competitive electric generation service, your price and term are governed by your agreement with your current electricity supplier.

ACCOUNT SCHEDULE:

For: <Participant Name>

The pricing set forth below is only valid until 5:00 PM Eastern Prevailing Time on <Insert Date>

Supplier shall have no obligation to enroll or supply electricity to any account(s) that are not identified on the Account Schedule below.

Please verify that your specific information is COMPLETE and ACCURATE.

Your review and acceptance of this information will help ensure accurate future invoices

Notes: Accounts and Service Addresses listed in the Account(s) Schedule may be updated or replaced with a new account number issued by the LDC, ISO or other entity.

No. Of Service Accounts:

LDC	LDC Account Number	Service Address	Start Date	End Date	Energy Price Non TOU (\$/kWh)

TO ACCEPT THE PRICING ABOVE, PLEASE FAX A SIGNED COPY OF THIS AGREEMENT TO SUPPLIER AT (888) 829-8738

CONFIDENTIAL

CONFIDENTIAL

Mr. Michael White
President
Jamestown Town Council
93 Narragansett Ave
Jamestown, RI 02835

Mark Baker
2 Baldwin Ct.
PO Box 128
Jamestown, RI 02835
mbaker@naturetours.com

RE: Continued Disregard of State Law and Responsible Public Policy in Beavertail State Park

August 30, 2019

Dear Mr. White:

Please find enclosed a copy of a letter sent today to Mr. Nicholas A. Mattiello, Speaker of the House Rhode Island House of Representatives.

Despite repeated attempts to draw attention of various levels of state government, there continue to be serious mis-management and unwillingness to accept necessary responsibility at Beavertail State Park.

I respectfully request that this matter be given due attention.

Sincerely,



Mark Baker

The Honorable Representative Nicholas A. Mattiello
Speaker of the House
Rhode Island House of Representatives
State House, Room 323
Providence, RI 02903

Mark Baker
2 Baldwin Ct.
PO Box 128
Jamestown, RI 02835
mbaker@naturetours.com

RE: Continued Disregard of State Law and Responsible Public Policy in Beavertail State Park

August 30, 2019

Dear Mr. Mattiello:

I am a resident of Jamestown. In each of the last three years I have attempted through various contacts with the RIDEM, the Beavertail State Park Advisory Committee, and the Jamestown Conservation Commission to draw attention to very serious management issues Beavertail State Park, but without positive result. There is a nearly catastrophic problem of soil erosion throughout the park which is being exacerbated by actions which are not only contrary to the RIDEM Management Plan, but in lacking proper assents from CRMC appear to constitute a violation of RI law.

Erosion at Beavertail State Park is not only seriously threatening the viability of the park as a natural resource but has reached a point where there is now an immediate and urgent risk of a dangerous accident to cars and pedestrians. The problem worsens dramatically every single day. It is not now a question of if, but of when, a car or pedestrian will fall into one of the craters and tumble into the ocean. This will most certainly take place.

Below are summarized three ways in which various levels of state government of the State of Rhode Island, despite their mandate as defined by state law, are allowing severe damage to be inflicted on one of the most iconic natural sites in the state. Attached with this letter are recent photographs of some, but by no means all, of parts of the park being compromised by poor management.

1) Not permitted road building - According to the RIDEM "Rules and Regulations for the Development and Operation of Beavertail State Park, Jamestown, Rhode Island", "roads and bikeways at the Park shall be constructed only on roadways existing at the time of the State's acquisition of the land."

Contrary to these "Rules and Regulations" The RIDEM has for the third year in a row sent in heavy equipment to create new roads along the western side of the park, seriously damaging the few existing trails. This poorly planned action has severely damaged the root base of the vegetation making the trails all but impassable. These years of ill conceived clearing has created in many parts of these trails an ever worsening erosive morass of mud that will be very expensive to return to any kind of walk able trail. Not only is this clearing contrary to the RIDEM's own use regulations and recommendations, it clearly and fully negates the very purpose of the park itself.

Much of this clearing is with 200 feet of a coastal feature which, with no assents from CMRC, is clearly in violation of RI law. Despite this having been brought to the attention of the RIDEM through correspondence and the "Beavertail State Park Advisory Committee", this clearing continues, and continues to destroy the natural environment of the area. There appears to be no accountability or assumption of responsibility.

2) Failure to take steps to reduce erosion in the developed sections of the park: All along the developed portion of Beavertail State Park, especially along the entire southern tip of the peninsula, there are very serious erosive craters. These worsen weekly. No steps whatsoever are being taken to reduce this erosion. In fact, the RIDEM with no consideration of soil preservation and apparently no thought of the consequences, continually removes vegetation to the edge of these erosive zones. Responses to previous correspondence has been along the lines that nothing can be done because the erosion is caused to frequent storms. Unfortunately, that is not the case. This erosion is directly related to ill-considered removal of vegetation and especially neglecting to take obvious, necessary and urgent remedial action. This erosive process is now so advanced that it threatens the viability of the park itself as a safe and environmentally sustainable space.

3) Road collapse at Beavertail State Park: Obvious to every and all visitors to this park is that the asphalt roadway at the tip of Beavertail State Park is eroding into the ocean. As noted above, with the continued removal of vegetation in erosive areas as well as neglect to take remedial action, the road is being undermined. The roadway surface crumbles some every day. The guardrails are being undermined and the roadway substrate is being undermined. Again, it is only a matter of time until a car falls into one of these craters and rolls into the ocean.

When this condition was brought to the attention of the RIDEM in previous correspondence and in meeting with the "Beavertail State Park Advisory Committee" the concern was dismissed with the assertion that responsibility belonged to the US Coast Guard. Unfortunately, this really cannot be regarded as anything more than an avoidance of responsibility and a lack of willingness to address a very serious problem that most certainly is within the responsibility of the State of Rhode Island and the RIDEM. The complexity of the land ownership does not absolve the State of Rhode Island from the responsibility to protect this important environmental and historical resource and provide a safe place for visitors.

I request that Enforcement Division of the CMRC investigate the serious flaws in management of Beavertail State Park and require that these be corrected.

Sincerely,

Mark Baker

CC: Gov. Gina M. Raimondo, Mr. Grover Fugate CMRC, Ms. Anne Kuhn-Hines, Jamestown Conservation Commission, Mr. Michael White, Jamestown Town Council.















State of Rhode Island and Providence Plantations

OFFICE OF THE ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400

Peter F. Neronha
Attorney General

VIA EMAIL ONLY

September 05, 2019

OM 19-18

Mr. Blake Dickinson
blakedickinson@gmail.com

Mr. Hugh Murphy
Hamurphy37@cox.net

Peter D. Ruggiero, Esquire,
Town Solicitor, Town of Jamestown
peter@rubroc.com

David R. Petrarca, Jr., Esquire,
Assistant Town Solicitor, Town of Jamestown
david@rubroc.com

RE: Dickinson v. Jamestown Board of Canvassers
Murphy v. Jamestown Board of Canvassers

Dear Messrs. Dickinson and Murphy and Attorneys Ruggiero and Petrarca:

The investigation into the Open Meetings Act (“OMA”) complaints filed by Mr. Blake Dickinson and Mr. Hugh Murphy (collectively, “Complainants,” individually “Mr. Dickinson” and “Mr. Murphy”) against the Jamestown Board of Canvassers (“Board”) are complete. Since both complaints were submitted against the same entity and contain similar allegations, this Office will address both complaints in a single finding. For the reasons set forth herein, we find that the Board violated the OMA.

Background

By email correspondences sent to this Office in March 2019, the Complainants allege that the Board violated the OMA when it met outside the public purview to discuss instructing Conanicut

Sanctuary¹ to “cure” signatures submitted in a petition drive.² Along with his Complaint, Mr. Murphy submitted a transcript excerpt from the Board’s February 27, 2019, meeting at which the following exchange occurred:

MR. MURPHY: Well, I would just like to say in your letter you said that the Jamestown Board of Canvassers requested that Conanicut Sanctuary obtain signatures for printed names on the petitions as well as additional new signatures.

I would like to say that any new information solicited outside noticed meetings, . . . business and agenda is considered a violation of the Open Meetings Act.

MR. NEWMAN: I would like to respond to that. I was also concerned about this in the complaint [filed by Conanicut Sanctuary]. The complaint states that the Board of Canvassers asked for cured signatures and additional signatures. As I mentioned in the previous Town Council meeting, that is not the case.

I passed on a suggestion to the Petitioners from the Executive Director of the Board of Elections. Prior to doing that, I spoke with all of the members of the Board of Canvassers with the exception of Hugh Murphy. I left two messages for him, but he did not call me back.

I did speak with Melissa Burrows, and I was very clear in those conversations that this was a suggestion on the part of Bob Raposa [sic], the Executive Director [of the Board of Elections], but it was not an action of the Board of Canvassers. If the Board of Canvassers had made that action, they would have taken a vote and then contacted the Petitioners. . .

¹ The record in this case indicates that “Conanicut Sanctuary” is a group of Jamestown residents concerned with enacting measures to protect immigrants.

² The Complainants also alleged that an individual Board member, Mr. Ken Newman, took actions on his own related to this issue involving Conanicut Sanctuary. As this Office already explained to the Complainants, the OMA is only implicated when a “quorum” of a “public body” has a “meeting[.]” as those terms are defined in the OMA. *See* R.I. Gen. Laws § 42-46-2. A single member is not a “public body” under the OMA. *See* R.I. Gen. Laws § 42-46-2(3) (defining “public body” as “any department, agency, commission, committee, board, council, bureau or authority or any subdivisions thereof of state or municipal government”). Accordingly, the Complainants’ allegations about a Board member’s individual actions do not implicate the OMA.

The Board's legal counsel, David R. Petrarca, Jr., Esquire, submitted a substantive response on behalf of the Board, which includes an affidavit from Board member Kenneth Newman and a transcript of the February 27, 2019 Board meeting. Attorney Petrarca concedes that "this string of conversations [referenced in the February 27, 2019 transcript] constitutes a 'rolling quorum' of the Board," however, he disputes that these conversations constituted a "meeting" as defined in the OMA. Attorney Petrarca asserts that the Board did not collectively discuss or act upon a matter over which it had jurisdiction.

Essentially, the Board argues that Mr. Newman's suggestion that Conanicut Sanctuary cure the signatures was an individual action and that his conversation with other Board members about that topic did not constitute a discussion about a matter over which the Board had authority. Specifically, Attorney Petrarca states, in pertinent part:

"Here, the conversations between Mr. Newman and other members of the Board concerned a suggestion from the Board of Elections Executive Director that a group of petitioners, known as the 'Conanicut Sanctuary,' should attempt to 'cure' alleged defective signatures and obtain more signatures on a Town Charter Initiative Petition that was being appealed to the Board of Elections. *See* Aff. ¶ 5. In these conversations, Mr. Newman merely informed the other members of the Board of his intention to pass along this advice of the Board of Elections Executive Director. *Id.* ¶ 6. Further, at the time of these conversations, that particular issue was not before the Board of Canvassers. Ultimately, however, at its meeting of February 8, 2019 and again at its February 27, 2019 meeting, the Board of Canvassers was asked to rule on the admission of 'cured' and new signatures obtained by Conanicut Sanctuary."

The Board informed this Office that after it determined that it would not accept any new or cured signatures offered by Conanicut Sanctuary, the matter was appealed to the Board of Elections. Research by this Office indicates that the appeal was subsequently withdrawn.

The Board further argues that at the time when the rolling quorum occurred, neither Mr. Newman nor the Board "reasonably suspect[ed] that they would be asked to rule on whether it would have to accept such 'cured' and new signatures . . . At that point in time, the matter was out of their hands and with the Board of Elections. . . Circumstances changed, but it was not reasonably foreseeable to Mr. Newman or the Board."

The affidavit provided by Mr. Newman specifically reveals that on January 18, 2019, he called Board Chair Carol Nelson Lee and alternate members Kitty Wineberg and Melissa Burrows to "state my intent to contact the Conanicut Sanctuary group with this suggestion from [Board of Elections Executive Director] Mr. Rapoza. I stated that I would be doing this as an individual not on behalf of the" Board. Mr. Newman also attested that he "left two messages for full member

Hugh Murphy but did not hear back from him.”³ The Board did not describe the conversations in detail or provide affidavits from Ms. Nelson Lee, Ms. Wineberg or Ms. Burrows.

The extended transcript of the February 27, 2019 meeting provided by the Board also contains a statement from Mr. Newman that although his suggestion to Conanicut Sanctuary to “cure” the signatures had been characterized “as having been an action of the Board of Canvassers . . . it was not with the exception of having passed that suggestion on . . .”

We also note that minutes from the Board’s December 11, 2018 meeting reveal that the Town Administrator spoke at the meeting, at which Mr. Newman, Chair Nelson Lee, and Board members Wineberg and Burrows were present, and stated that the petition process and determining whether to accept the signatures presented by the petitioners is under the discretion of the Board.

We acknowledge both Complainants’ rebuttals.⁴ Mr. Dickinson’s rebuttal disputes Attorney Petrarca’s contention that “at the time of these conversations, that particular issue was not before the” Board, by stating that, “[t]he petition matters were indeed open and before the” Board due to a related complaint filed by Mr. Dickinson with the Board of Elections initiated on January 16, 2019 that was “remanded back to the [Board] on February 5, 2019” and heard before the Board on February 8, 2019. Mr. Dickinson’s rebuttal also provided a copy of a letter dated February 20, 2019 from Helen O’Grady in her capacity as “Facilitator” for Conanicut Sanctuary. That letter states, in pertinent part, “[t]he Jamestown BOC requested that CS obtain ‘signatures’ for printed names on the petition as well as additional new signatures.” Mr. Murphy likewise argues that there is evidence that Conanicut Sanctuary understood Mr. Newman’s suggestion about curing the signatures to constitute an action of the Board.

With that background in place, we turn to the relevant law and substantive arguments that support our findings.

³ This Office has not been provided with information regarding the total number of Board members or the distinction between a full member and an alternate member, but that information is immaterial because the Board concedes that a rolling quorum occurred.

⁴ The Complainants’ rebuttals proffer additional allegations beyond the scope of the initial Complaints, including the allegation that the Board failed to timely file minutes with the Secretary of State for its February 8, 2019 meeting and that the Board met outside the public purview in an unnoticed, unrecorded “meeting” with the Board of Elections and/or the Board of Elections Executive Director regarding the issue of curing signatures. The acknowledgment letters sent by this Office to the Complainants at the start of this matter expressly provided that the Complainant’s rebuttal should be limited to the matters addressed in the Board’s response and should not raise new issues that were not presented in this complaint or addressed in the Board’s response. In accordance with our usual practice and precedent, this Office declines to review issues which are raised for the first time in a rebuttal since the public body does not have an opportunity to respond. *See Mudge v. North Kingstown School Committee*, OM 12-35. Complainants are free to submit a new complaint(s) based on additional facts provided that the statute of limitations has not expired.

Relevant Law and Findings

When we examine an OMA complaint, our authority is to determine whether a violation of the OMA has occurred. *See* R.I. Gen. Laws § 42-46-8. In doing so, we must begin with the plain language of the OMA and relevant caselaw interpreting this statute. We also note that our decision in this matter is limited to considering whether the OMA was violated and that we do not opine on any substantive issues pertaining to election law or the petition signatures.

For the OMA to apply, a “quorum” of a “public body” must convene for a “meeting” as these terms are defined by the OMA. *See Fischer v. Zoning Board of the Town of Charlestown*, 723 A.2d 294 (R.I. 1999). For purposes of the OMA, a “meeting” is defined as “the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.” R.I. Gen. Laws § 42-46-2(1). All three of these elements—a quorum, a meeting, and a public body—must be present in order for the OMA to apply; the OMA is not applicable when one or more of these elements is absent. *See Ahlquist v. Energy Facilities Siting Board*, OM 17-25.

Although the definitions under R.I. Gen. Laws § 42-46-2 are seemingly straightforward, a quorum may be created, and a meeting “convened,” by unconventional means. In particular, this Office has previously recognized the “rolling” or “walking” quorum, where a majority of the members of a public body attain a quorum by a series of one-on-one conversations or interactions, including communications via email. *See In Re: Pawtucket City Council*, ADV OM 05-01 (warning against the “walking quorum,” where public business is conducted in a series of individual encounters that may not constitute a quorum, but which collectively do so); *In Re: South Kingstown School Committee Electronic Mail Policy*, ADV OM 04-01 (series of email communications among a quorum of a Committee would satisfy the quorum requirement and implicate the OMA).

Here, there is no question that the Board is a “public body” and it is undisputed that a “rolling quorum” of the Board, facilitated by Mr. Newman, had discussions via telephone on or about January 18, 2019. We now turn to a consideration of whether this “rolling quorum” of the Board convened a “meeting” outside the public purview. Several cases from this Office have reviewed the “meeting” requirement and determined that either “action” or a “collective discussion” by a quorum of a public body on matters over which the public body has “supervision, control, jurisdiction, or advisory power” satisfies the “meeting” element and triggers the OMA and its attendant requirements. *See, e.g., The Valley Breeze v. Cumberland Fire Committee*, OM 15-04. *See also Caldwell v. East Greenwich Town Council*, OM 18-01. Conversely, if a “quorum” of a “public body” convenes, but does not collectively discuss and/or act upon matters over which they have “supervision, control, jurisdiction, or advisory power,” a “meeting” has not convened. *Id.*

The Board represents that Mr. Newman had individual “conversations” with a quorum of the Board concerning “a suggestion from the Board of Elections Executive Director that a group of

petitioners, known as ‘Conanicut Sanctuary,’ should attempt to ‘cure’ alleged defective signatures and obtain more signatures on a Town Charter Initiative Petition.” The Board contends that these conversations were only for Mr. Newman to “inform” the other members about his intended course of action, but the Board does not expressly argue that these conversations did not constitute a “discussion” (as opposed to a one-way unilateral communication by Mr. Newman). Despite this Office’s request that the Board provide “detailed affidavits from the Board members indicating any conversations they engaged in with any other Board members outside of a public meeting about” this topic, the Board only provided this Office with one affidavit from Mr. Newman and did not provide a detailed account of what was said by whom in each individual conversation that took place between Board members about this topic. In light of that failure and the lack of evidence to the contrary, the evidence will be construed against the Board and this Office concludes that the Board members engaged in a “discussion.”

There is also no question that the Board had authority over the topic of the petition signatures since the Board ultimately determined that it would not accept the “cured” signatures. Although Mr. Newman contends that he reached out to Conanicut Sanctuary in his individual capacity, it is telling that before doing so, he discussed this course of action with other Board members before proceeding. Indeed, during the February 27, 2019 Board meeting, Mr. Newman stated that his conversation with Conanicut Sanctuary was not an action of the Board “*with the exception of having passed that suggestion on . . .*” (Emphasis added.). Additionally, during the December 11, 2018 Board meeting, it was discussed how the petition process is under the discretion of the Board and how the Board has authority to accept the signatures presented by the petitioners. Moreover, the undisputed evidence demonstrates that the issue of the Conanicut Sanctuary petition was pending before the Board well before the rolling quorum occurred. *See also Murphy v. Jamestown Board of Canvassers*, OM 19-09 (referencing January 9, 2019 Board meeting that included an agenda item related to an objection filed by Mr. Murphy pertaining to Board’s certification of signatures on the Conanicut Sanctuary petition). The Board’s contention that it did not anticipate being asked to review the signature issue after the time when the rolling quorum occurred is irrelevant. This was clearly a topic over which the Board exercised authority at the time the rolling quorum occurred. In light of this information, we find that the January 18, 2019 individual communications collectively formed a rolling quorum of the Board, wherein they discussed a matter over which the Board has “supervision, control, jurisdiction, or advisory power.” Accordingly, we find the Board violated the OMA.

Conclusion

Upon a finding that a complaint brought pursuant to the OMA is meritorious, the Attorney General may initiate suit in the Superior Court. R.I. Gen. Laws § 42-46-8(a). There are two remedies in suits filed under the OMA: (1) “[t]he court may issue injunctive relief and declare null and void any actions of a public body found to be in violation of [the OMA];” or (2) “[t]he court may impose a civil fine not exceeding five thousand (\$5,000) dollars against a public body or any of its members found to have committed a willful or knowing violation of [the OMA].” R.I. Gen. Laws § 42-46-8(d).

Dickinson v. Jamestown Board of Canvassers

Murphy v. Jamestown Board of Canvassers

OM 19-18

Page 7

In the instant case, insufficient evidence has been presented that the Board knowingly or willfully violated the OMA. Although the Board should have been cognizant of the fact that it was discussing a matter within its authority, we credit the uncontested assertion of the Board that it believed the matter was with the Board of Elections. It appears based on the undisputed evidence presented that Mr. Newman and the other members involved in the rolling quorum were acting on a good faith belief that Mr. Newman's suggestion to Conanicut Sanctuary about curing signatures was not intended to be an official action of the Board. We also note that there are no findings regarding any recent similar violations by the Board.

We also do not believe that injunctive relief is appropriate. The Board did not take any action pursuant to the rolling quorum with the exception of suggesting that Conanicut Sanctuary attempt to "cure" the signatures, but the Board ultimately voted to not accept the cured signatures and the matter was appealed to the Board of Elections and then later withdrawn. As such, injunctive relief is not appropriate in this case.

This finding serves as notice that the conduct discussed herein is violative of the OMA and could in the future serve as evidence of a willful or a knowing violation.

Although the Attorney General will not file suit in this matter, nothing in the OMA precludes an individual from pursuing a complaint in the Superior Court as specified in the OMA. The Complainant may pursue an OMA complaint within "ninety (90) days of the attorney general's closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later." R.I. Gen. Laws § 42-46-8. We consider this matter closed as of the date of this decision.

We thank you for your interest in keeping government open and accountable to the public.

Sincerely,

By: /s/ Kayla E. O'Rourke

Kayla E. O'Rourke

Special Assistant Attorney General

korourke@riag.ri.gov

KO/dg

Erin,

My wife, Susan, and I have a summer cottage at 1031 East Shore Rd. This summer, the property across the road from us (1026) has been the site of an extensive landscaping project. When we have been in residence during the summer, the project work has been continuous. This has involved multiple pieces of construction equipment (back hoe, excavator, skid steer, etc.), multiple dump and other trucks, and miscellaneous other equipment – blowers, mixers, compactors, jack-hammers, pump trucks, rock saws. There were typically many workers on-site, I would guess 10-12, with many activities going on at once.

The biggest impact that the project has had on us has been the noise. On the loudest days, it has been impossible for my wife and I to converse normally with each other on our side porch, while eating breakfast and lunch, or in our living room. On most days throughout the summer the combined noise level often reached near this level. Work often began shortly after 7AM and lasted until after 5PM. Going into the summer we had entertained hope of renting out our cottage; this plan did not come to fruition, but if it had, any renters would have surely been distressed by the noise.

Previously, houses have been built adjacent to us at 1021 and 1026 East Shore Road, taking, respectively, 1 and 2 years. These projects involved all of the noise associated with building construction, including generators that they opted to run constantly rather than connecting to the power grid. In each case, while annoying, the noise impact of these projects was far less than the current project at 1026. The same can be said about the equipment used by landscapers and firms doing tree work, which we hear frequently.

I am surprised to learn that there is currently only limited regulation in Jamestown of this type of noise. Based upon our experience, I suggest that this is sorely needed. The issues as I see them are:

- | | |
|------------------|---|
| Duration | The longer noise continues, the more disruptive it becomes |
| Season | Summer is clearly the construction season. This is also the time of year when residents hope to keep their doors and windows open and to enjoy the out-of-doors. Jamestown by its nature would seem to have a particular obligation to support its residents' outdoor enjoyment. |
| Proximity | Where the noise originates on a property has a clear impact on how loud it is when it reaches a neighbor. |
| Notification | Knowing about noise in advance is a good thing. But, frankly, even when we were told that the project would be "loud", we did not really comprehend how loud "loud" would be and the extent to which it would impact us. The uncertainty about which hours/days would be impacted by noise was a constant question. |
| Use of town road | Loaders, trucks, and excavators made intensive use of East Shore Road. Our cottage, built in 1873, is located very close to the road. In addition to noise generated by this traffic, there are issues of safety, pollution, dust, and impact on the road surface. |
| dB limits | There has to be some point at which a sound is too loud. |

I recognize that creating a regulation that is fair to all is a challenge. However, I urge that any new regulations include provisions that consider and regulate the impacts of noise on adjacent and near neighbors.

Thank you for your attention. Please feel free to contact me regarding this issue.

Al McKibben