



Watertown Town Council

Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617-972-6470

ELECTED
OFFICIALS:

Report of the Committee on Economic Development and Planning Meeting Date: July 7, 2020

Mark S. Sideris,
Council President

Vincent J. Piccirilli, Jr.,
Vice President &
District C Councilor

Caroline Bays
Councilor At Large

Anthony J. Donato,
Councilor At Large

John G. Gannon,
Councilor At Large

Anthony Palomba,
Councilor At Large

Angeline B. Kounelis,
District A Councilor

Lisa J. Feltner,
District B Councilor

Kenneth M. Woodland,
District D Councilor

The Committee convened on Tuesday July 7, 2020 at 6:00 pm by Zoom, in accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A, §20, relating to the 2020 COVID-19 emergency. Present were Kenneth Woodland, chair; Lisa Feltner, vice chair; and Vincent Piccirilli, secretary. Staff present were Steven Magoon, Assistant Town Manager/Director of Community Development and Planning; and Gideon Schreiber, Senior Planner. Representing Bud's Goods & Provisions were Alex Mazin and Brian Grossman. Also present were Council President Mark Sideris and Councilor Anthony Donato.

The purpose of the meeting was to discuss and make recommendations on the Application and Review Process for Adult-Use Marijuana Institutions – Bud's Goods & Provisions 330-350 Pleasant Street.

Councilor Woodland provided a recap of the process with this application.

- The Community Meeting was held February 6, 2020 and the single biggest concern of the approximately 30 attendees was the potential traffic impact.
- The proposed Host Community Agreement (attached) was reviewed by the Department of Community Development and Planning as well as Town Attorney KP Law. It is a straightforward agreement with the 3% impact fee as allowed by state law, plus a voluntary \$10,000 annual charitable donation.

Mr. Mazin answered the Committee's questions. Key points included:

- Bud's would likely open in July 2021 if approved by the Town and the CCC.
- Bud's has a community outreach plan and will contact community organizations.
- The facility will have 100% camera coverage (excluding restrooms) and the security plan will be approved by Watertown Police Department and the Cannabis Control Commission.
- For traffic, Bud's will develop a 7 day and 30 day opening plan to insure the operation starts off smoothly and to give time to work out traffic and parking issues. Bud's will be responsible for hiring police details as needed to manage traffic.

Councilor Piccirilli noted that no members of the public submitted emails to be read.

→ Councilor Piccirilli made a motion, seconded by Councilor Feltner, to recommend the full Town Council authorize the Town Manager to execute the Host Community Agreement, as presented, for the Adult Use Marijuana applications for Bud's Goods and Provisions at 330-350 Pleasant St. Voted unanimously by roll call 3-0.

The meeting adjourned at 6:26 pm, following a unanimous roll call vote.

Report prepared by Vincent Piccirilli

Attachment: Proposed Host Community Agreement

TOWN OF WATERTOWN AND
BUD'S GOODS & PROVISIONS CORP.

HOST COMMUNITY AGREEMENT

THIS HOST COMMUNITY AGREEMENT (“AGREEMENT”) is entered into this [__] day of [MONTH], [YEAR] by and between BUD’S GOODS & PROVISIONS, CORP., a Massachusetts corporation, and any successor in interest, with a principal office address of 12 Pennsylvania Avenue, Newton, Massachusetts 02464 (“the Company”), and the TOWN OF WATERTOWN, a Massachusetts municipal corporation with a principal address of 149 Main Street, Watertown, MA, 02472 (“the Town”), acting by and through its Town Council in reliance upon all of the representations made herein.

WHEREAS, the Company wishes to locate a licensed Marijuana Establishment (the “Marijuana Establishment”) for an adult use marijuana storefront retailer establishment within approximately 5,000 square feet of an existing building (the “Facility”) at 330-350 Pleasant Street, Town of Watertown Assessor’s Parcel ID 219-10A-0, in accordance with and pursuant to applicable state laws and regulations, including, but not limited to 935 CMR 500.00 and such approvals as may be issued by the Town in accordance with its Zoning Ordinance and other applicable local regulations; and

WHEREAS, the Company intends to provide certain benefits to the Town in the event that it receives the requisite licenses from THE CANNABIS CONTROL COMMISSION (THE “CCC”)] or such other state licensing or monitoring authority, as the case may be, to operate the Marijuana Establishment and receives all required local permits and approvals from the Town; and

WHEREAS, the parties intend by this Agreement to satisfy the provisions of G.L. c.94G, §3(d), applicable to the operation of Marijuana Establishment, such activities to be only undertaken in accordance with the applicable state and local laws and regulations in the Town.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Town agree as follows:

1. Recitals

The Parties agree that the above Recitals are true and accurate and that they are incorporated herein and made a part hereof.

2. Annual Payments

In the event that the Company obtains the requisite licenses and/or approvals as may be required for the operation of a Marijuana Establishment, and receives any and all necessary and required permits and licenses of the Town, and at the expiration of any final appeal period related thereto,

said matter not being appealed further, which permits and/or licenses allow the Company to locate, occupy and operate the BUD'S GOODS & PROVISIONS, CORP. in the Town, then the Company agrees to provide the following Annual Payments: An amount equal to three (3%) of the gross sales from marijuana and marijuana product sales from the Marijuana Establishment. The term "gross sales" shall have the same meaning as defined in Paragraph 2.A.1 below.

Provided, however, if the Company fails to secure any such other license and/or approval as may be required, or any of the required municipal approvals, the Company shall reimburse the Town for its legal fees associated with the negotiation of this Agreement.

A. Community Impact Fee

The Company anticipates that the Town will incur additional expenses and impacts on the Town's road and other infrastructure systems, law enforcement, fire protection services, inspectional services, and permitting and consulting services, as well as unforeseen impacts on the Town. Accordingly, in order to mitigate the financial impact on the Town and use of Town resources, the Company agrees to pay an Annual Community Impact Fee to the Town, in the amount and under the terms provided herein.

1. Company shall annually pay an Annual Community Impact Fee in an amount equal to three percent (3%) of gross sales from marijuana and marijuana product sales at the Facility. The term "gross sales" shall mean the total of all sales transactions of the Facility without limitation, whether wholesale or retail, and shall include but not be limited to all sales occurring at the Facility, including the sale of marijuana, marijuana infused products, paraphernalia, and any other products sold by the Facility.
2. The Annual Community Impact Fee shall be made Annually within sixty (60) days following the end of each twelve (12) months of operation, and shall continue for a period of five (5) years. At the conclusion of each of the respective five year terms, the parties shall negotiate in good faith the terms of a new Annual Community Impact Fee as an Amendment to this Agreement; provided, however, that if the parties are unable to reach an agreement on a successor Community Impact Fee, the Annual Community Impact Fee specified in Paragraph 2.A.1 of this Agreement shall remain in effect and shall not be reduced below the amount set forth above until such time as the Parties negotiate a successor Community Impact Fee.
3. The Town shall use the above referenced payments in its sole discretion, but shall make a good faith effort to allocate said payments to offset costs related to road and other infrastructure systems, law enforcement, fire protection services, inspectional services, public health and addiction services and permitting and consulting services, as well as unforeseen impacts upon the Town.

B. Additional Costs, Payments and Reimbursements

1. Permit and Connection Fees: The Company hereby acknowledges and accepts, and waives all rights to challenge, contest or appeal, the Town's building permit fee and other permit application fees, sewer and water connection fees, and all other local charges and fees generally applicable to other commercial developments in the Town.
2. Facility Consulting Fees and Costs: The Company shall reimburse the Town for any and all reasonable consulting costs and fees related to any land use applications concerning the Facility, negotiation of this and any other related agreements, and any review concerning the Facility, including planning, engineering, legal and/or environmental professional consultants and any related reasonable disbursements at standard rates charged by the above-referenced consultants in relation to the Facility.
3. Other Costs: The Company shall reimburse the Town for the actual costs incurred by the Town in connection with holding public meetings and forums substantially devoted to discussing the Facility and/or reviewing the Facility and for any and all reasonable consulting costs and fees related to the monitoring and enforcement of the terms of this Agreement, including, but not limited to independent financial auditors and legal fees.
4. Late Payment Penalty: The Company acknowledges that time is of the essence with respect to their timely payment of all funds required under Section 2 of this Agreement. In the event that any such payments are not fully made with ten (10) days of the date they are due, the Town shall provide the Company with written notice of such failure to make a timely payment. The Company shall have a ten (10) day period to cure such failure to make timely payment from the date of receipt of such notice. If the Company fails to make full payment within such cure period, the Company shall be required to pay the Town a late payment penalty equal to five percent (5%) of such required payments.

C. Annual Charitable/Non-Profit Contributions

The Company, in addition to any funds specified herein, shall annually contribute to public local charities/non-profit organizations in the Town an amount no less than \$10,000.00, said charities/non-profit organizations to be determined by the Company in its reasonable discretion. The Annual Charitable Non/Profit Contribution shall be made annually beginning on the first anniversary following the commencement of the operations, and shall continue for the term of this Agreement.

D. Annual Reporting for Host Community Impact Fees and Benefit Payments

The Company shall submit annual financial statements to the Town within 30 days after the payment of its Annual Community Impact Fee with a certification of its annual sales. The Company shall maintain books, financial records, and other compilations of data pertaining to

the requirements of this Agreement in accordance with standard accounting practices and any applicable regulations or guidelines of the CCC. All records shall be kept for a period of at least seven (7) years. Upon request by the Town, the Company shall provide the Town with the same access to its financial records (to be treated as confidential, to the extent allowed by law) as it is required by the CCC and Department of Revenue for purposes of obtaining and maintaining a license for the Facility

During the term of this Agreement and for three years following the termination of this Agreement the Company shall agree, upon request of the Town to have its financial records examined, copied and audited by an Independent Financial Auditor, the expense of which shall be borne by the Company, such audits not to be conducted more than two times every five years without good cause. The Independent Financial Auditor shall review the Company's financial records for purposes of determining that the Annual Payments are in compliance with the terms of this Agreement. Such examination shall be made not less than thirty (30) days following written notice from the Town and shall occur only during normal business hours and at such place where said books, financial records and accounts are maintained. The Independent Financial Audit shall include those parts of the Company's books and financial records which relate to the payment, and shall include a certification of itemized gross sales for the previous calendar year, and all other information required to ascertain compliance with the terms of this Agreement. The independent audit of such records shall be conducted in such a manner as not to interfere with the Company's normal business activities.

3. Local Vendors and Employment

To the extent such practice and its implementation are consistent with federal, state, and municipal laws and regulations, the Company will make every effort in a legal and non-discriminatory manner to give priority to local businesses, suppliers, contractors, builders and vendors in the provision of goods and services called for in the construction, maintenance and continued operation of the BUD'S GOODS & PROVISIONS, CORP. when such contractors and suppliers are properly qualified and price competitive and shall use good faith efforts to hire Town residents.

4. Local Taxes

At all times during the Term of this Agreement, property, both real and personal, owned or operated by the Company shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Company or by its landlord and neither the Company nor its landlord shall object or otherwise challenge the taxability of such property and shall not seek a non-profit or agricultural exemption or reduction with respect to such taxes.

Notwithstanding the foregoing, (i) if real or personal property owned, leased or operated by the Company is determined to be non-taxable or partially non-taxable, or (ii) if the value of such property is abated with the effect of reducing or eliminating the tax which would otherwise be paid if assessed at fair cash value as defined in G.L. c. 59, §38, or (iii) if the Company is determined to be entitled or subject to exemption with the effect of reducing or eliminating the

tax which would otherwise be due if not so exempted, then the Company shall pay to the Town an amount which when added to the taxes, if any, paid on such property, shall be equal to the taxes which would have been payable on such property at fair cash value and at the otherwise applicable tax rate, if there had been no abatement or exemption; this payment shall be in addition to the payment made by the Company under Section 2 of this Agreement.

5. Security

To the extent requested by the Town's Police Department, and subject to the security and architectural review requirements of the CCC, or such other state licensing or monitoring authority, as the case may be, the Company shall work with the Town's Police Department in determining the placement of exterior security cameras.

The Company agrees to cooperate with the Police Department, including but not limited to periodic meetings to review operational concerns, security, delivery schedule and procedures, cooperation in investigations, and communications with the Police Department of any suspicious activities at or in the immediate vicinity of the BUD'S GOODS & PROVISIONS, CORP., and with regard to any anti-diversion procedures.

To the extent requested by the Town's Police Department, the Company shall work with the Police Department to implement a comprehensive diversion prevention plan to prevent diversion, such plan to be in place prior to the commencement of operations at the Establishment.

6. Community Impact Hearing Concerns

The Company agrees to employ its best efforts to work collaboratively and cooperatively with its neighboring businesses and residents to establish written policies and procedures to address mitigation of any concerns or issues that may arise through its operation of the Facility, including, but not limited to any and all concerns or issues raised at the Company's required Community Outreach Meeting relative to the operation of the Facility; said written policies and procedures, as may be amended from time to time, shall be reviewed and approved by the Town and shall be incorporated herein by reference and made a part of this Agreement, the same as if each were fully set forth herein.

7. Additional Obligations

The obligations of the Company and the Town recited herein are specifically contingent upon the Company obtaining a license for operation of BUD'S GOODS & PROVISIONS, CORP. in the Town, and the Company's receipt of any and all necessary local approvals to locate, occupy, and operate BUD'S GOODS & PROVISIONS, CORP. in the Town, provided, however, that if the Company fails to secure any such other license and/or approval as may be required, or any of required municipal approvals, the Company shall reimburse the Town for its legal fees associated with the negotiation of this agreement.

This agreement does not affect, limit, or control the authority of Town boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue, or deny,

applicable permits and other approvals under the statutes and regulations of the Commonwealth, the General and Zoning Ordinances of the Town of Watertown, or applicable regulations of those boards, commissions, and departments or to enforce said statutes, Ordinances, and regulations. The Town, by entering into this Agreement, is not thereby required or obligated to issue such permits and approvals as may be necessary for a BUD'S GOODS & PROVISIONS, CORP. to operate in the Town, or to refrain from enforcement action against the Company and/or its BUD'S GOODS & PROVISIONS, CORP. for violation of the terms of said permits and approvals or said statutes, Ordinances, and regulations.

8. Re-Opener/Review

The Company or any "controlling person" in the Company, as defined in 935 CMR 500.02, shall be required to provide to the Town notice and a copy of any other Host Community Agreement entered into for any establishment in which the Company, or any controlling person in the Company, has any interest and which is licensed by the CCC as the same type of establishment as the entity governed by this agreement.

In the event the Company or any controlling person enters into a Host Community Agreement for Marijuana Establishment with another municipality in the Commonwealth that contains financial terms resulting in payments of a Community Impact Fee or other payments totaling a higher percentage of gross sales for the same type of establishment than the Company agrees to provide the Town pursuant to this Agreement, then the parties shall reopen this Agreement and negotiate an amendment resulting in financial benefits to the Town equivalent or superior to those provided to the other municipality.

9. Support

The Town agrees to submit to the CCC, or such other state licensing or monitoring authority, as the case may be, the required certifications relating to the Company's application for a license to operate the Facility where such compliance has been properly met, but makes no representation or promise that it will act on any other license or permit request, including, but not limited to any zoning application submitted for the Facility, in any particular way other than by the Town normal and regular course of conduct and in accordance with its rules and regulations and any statutory guidelines governing them.

10. Term

Except as expressly provided herein, this Agreement shall take effect on the date set forth above, and shall be applicable for as long as the Company operates BUD'S GOODS & PROVISIONS, CORP. in the Town with the exception of the Community Impact Fee, which shall be subject to the five (5) year statutory limitations of G.L. c.94G, §3(d).

In the event the Company has not secured a final license from the CCC and all necessary local permits from the Town and commenced operations at the Facility within two years from the date this Agreement takes effect, this Agreement shall expire and the Company shall be required to negotiate a new Host Community Agreement in order to operate the Facility within the Town.

The Board of Selectmen, in its discretion, may agree to an extension of the two year expiration, for good cause, which shall include the time required to pursue or await the determination of an appeal of the special permit or other legal proceeding.

11. Successors/Assigns

The Company shall not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement, in whole or in part, without the prior written consent from the Town, and shall not assign or obligate any of the monies payable under this Agreement, except by and with the written consent of the Town, such consent not to be unreasonably withheld, conditioned or delayed. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Company shall assign, sublet, or otherwise transfer any interest in the Agreement without the written consent of the other.

Events deemed an assignment include, without limitation: (i) Company's final and adjudicated bankruptcy whether voluntary or involuntary; (ii) the Company's takeover or merger by or with any other entity; (iii) the Company's outright sale of assets and equity, majority stock sale to another organization or entity for which the Company does not maintain a controlling equity interest; (iv) or any other change in ownership or status of the Company; (v) any assignment for the benefit of creditors; and/or (vi) any other assignment not approved in advance in writing by the Town.

12. Notices

Any and all notices, consents, demands, requests, approvals or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, and shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service, or, if sent by private overnight or other delivery service, when deposited with such delivery service.

To Town: Michael J. Driscoll
Town Manager
Town Hall
149 Main Street
Watertown, MA 02472

To Company: Alexander Mazin, President
BUD'S GOODS & PROVISIONS, CORP.
12 Pennsylvania Avenue
Newton, MA 02464

With a copy to: Brian S. Grossman
Bowditch & Dewey, LLP
200 Crossing Boulevard, Suite 300
Framingham, MA 01702

13. Severability

If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless the Town would be substantially or materially prejudiced. Further, the Company agrees that it will not challenge, in any jurisdiction, the enforceability of any provision included in this Agreement; and to the extent the validity of this Agreement is challenged by the Company in a court of competent jurisdiction, the Company shall pay for all reasonable fees and costs incurred by the Town in enforcing this Agreement.

14. Governing Law

This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, and the Company submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

15. Entire Agreement

This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the Company and the Town with respect to the matters described herein. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

16. Amendments/Waiver:

Amendments, or waivers of any term, condition, covenant, duty or obligation contained in this Agreement may be made only by written amendment executed by authorized representatives of both parties to the original Agreement, prior to the effective date of the amendment.

17. Headings:

The article, section, and/or paragraph headings in this Agreement are for convenience of reference only, and shall in no way affect, modify, define or be used in interpreting the text of this Agreement.

18. Counterparts

This Agreement may be signed in any number of counterparts all of which taken together, each of which is an original, and all of which shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing one or more counterparts.

19. Signatures.

Facsimile signatures affixed to this Agreement shall have the same weight and authority as an original signature.

20. No Joint Venture:

The Parties hereto agree that nothing contained in this Agreement or any other documents executed in connection herewith is intended or shall be construed to establish the Town, or the Town and any other successor, affiliate or corporate entity as joint ventures or partners.

21. Nullity

This Agreement shall be null and void in the event that the Company does not locate a Marijuana Establishment in the Town or relocates the Marijuana Establishment out of the Town, provided, however, that if the Company decides not to locate a Marijuana Establishment in the Town, the Company shall reimburse the Town for its legal fees associated with the negotiation of this Agreement. Further, in the case of any relocation out of the Town, the Company agrees that an adjustment of Annual Payments due to the Town hereunder shall be calculated based upon the period of occupation of the Marijuana Establishment within the Town, but in no event shall the Town be responsible for the return of any funds provided to it by the Company.

22. Indemnification

The Company shall indemnify, defend, and hold the Town harmless from and against any and all claims, demands, liabilities, actions, causes of action, defenses, proceedings and/or costs and expenses, including attorney's fees, brought against the Town, its agents, departments, officials, employees, insurers and/or successors, by any third party arising from or relating to the development of the Property and/or Facility. Such indemnification shall include, but shall not be limited to, all reasonable fees and reasonable costs of attorneys and other reasonable consultant fees and all fees and costs (including but not limited to attorneys and consultant fees and costs) shall be at charged at regular and customary municipal rates, of the Town's choosing incurred in defending such claims, actions, proceedings or demands. The Company agrees, within thirty (30) days of written notice by the Town, to reimburse the Town for any and all costs and fees incurred in defending itself with respect to any such claim, action, proceeding or demand.

23. Third-Parties

Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Town or the Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

TOWN OF WATERTOWN

BUD'S GOODS & PROVISIONS,
CORP.

Michael J. Driscoll
Town Manager,
On behalf of the
TOWN OF WATERTOWN

Alexander Mazin, President
On behalf of BUD'S GOODS &
PROVISIONS, CORP.