

TOWN OF PLYMOUTH
PROCUREMENT DIVISION
11 LINCOLN STREET
PLYMOUTH, MASSACHUSETTS 02360

REQUEST FOR PROPOSAL 21525, LEASE OF CRANBERRY BOG

Issued:	July 23, 2015
Pre-Proposal Conference:	July 29, 2015, at 1:30 p.m.
Bids Due:	August 7, 2015 at 11:00 a.m.

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Price Forms

Disclosure of Beneficial Interest in Real Property Transaction

TOWN OF PLYMOUTH
11 Lincoln Street
Plymouth, Massachusetts 02360

Date

REQUEST FOR PROPOSALS 21525

A. INVITATION

Proposals are requested by the Town of Plymouth to lease an 18 acre parcel that includes a 5.5 acre commercial cranberry bog in the Ellisville section of Plymouth off Old Black Road between State Road and Center Hill Road.

Proposals are to be submitted by 11:00 a.m., Friday, August 7, 2015, Date, at which time they will be publicly opened and read. Postmarks will not be considered. Proposers must submit separate non-price (technical) and price proposals. One (1) original and six (6) copies of a non-price proposal must be submitted in a sealed envelope indicating the proposer's name and address and clearly marked in the lower left hand corner:

Cranberry Bog Lease
Non-Price Proposal 21525

One copy of the price proposal must be submitted in a sealed envelope which indicates the proposer's name and address and clearly marked in the lower left hand corner:

Cranberry Bog Lease
Price Proposal 21525

All proposals must be submitted as described above upon forms furnished by the Procurement Division Office. Proposals submitted on any other form will not be accepted as valid.

This procurement is subject to the provisions of the Uniform Procurement Act, General Laws, Chapter 30B, Section 16.

Any persons interested in submitting a proposal are encouraged to inspect the premises. Arrangements have been made for such inspections on Wednesday, July 29th, at 1:30 p.m. All inspections should be completed during that time.

B. GENERAL CONDITIONS

1. Bidders must satisfy themselves by personal examination of the site, and by such other means as they wish, as to the actual conditions there existing, the character and requirements of the work and the difficulties attendant upon its execution.
2. The Town of Plymouth makes no express or implied representations or warranties as to the accuracy and/or completeness of any of the

information provided as part of the Request for Proposals, including information that is available upon request. This information is provided subject to errors, omissions, change of cost, additional changes in and different interpretations of laws and regulations.

3. All materials submitted by the Proposer become the property of the Town. The Town is under no obligation to return or reimburse for the costs of any of the material submitted in response to this RFP.
4. The successful proposer shall comply with all applicable federal, state and local laws and regulations.
5. All words, signatures and figures submitted on the bid shall be in ink. Proposals that are incomplete, conditional, or obscure, or not responsive, or which are on a form not completely filled in, or contain additions not called for may be rejected.
6. The Proposer agrees that their Proposal shall be good any may not be withdrawn for a period of 90 days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.
7. The Town reserves the right to reject, at its sole discretion, any proposal not submitted in conformance with this RFP and any amendments hereto, or to reject any and all proposals, at its sole discretion, for any reason. The Town further reserves the right to waive or decline to waive irregularities in any proposal as permitted by law when it determines that it is in the Town's best interest to do so.
8. The Proposer agrees to be solely responsible for obtaining any and all permits, approvals, waivers, releases or any other requirements for the purchase and/or development of the property as proposed in this RFP.
9. The Lease Agreement has been drafted by the Town Counsel of the Town of the Plymouth in compliance with the terms of the RFP, and may incorporate the terms of the RFP and the proposal selected.
10. The Proposer must certify that no official or employee of the Town of Plymouth, Massachusetts, has a pecuniary interest in this proposal or in the contract which the Proposer offers to execute or in expected profits to arise there from, unless there has been compliance with the provisions of the Conflict of Interest Law, M.G.L. Chapter 268A, and that this proposal is made in good faith without fraud or collusion or connection with any other person submitting a proposal.
11. The Proposer must be current in taxes and all water and sewer liabilities on any and all real estate owned in the Town of Plymouth.
12. Violations of the Lease or of the Conservation Restriction on adjacent land may result in termination of the Lease.

C. CONTRACT PERIOD

The contract period shall be for fifteen (15) years from execution date of the Lease. The term shall be renewable for two (2) additional five (5) year periods subject to the mutual consent of the Lessee and Lessor. The Lessee's renewal shall not be unreasonably denied.

D. RULE FOR AWARD

The contract will be awarded to the responsive and responsible proposer offering the most highly advantageous proposal including all criteria as well as price.

E. BACKGROUND

Using Community Preservation Act funds, the Town of Plymouth recently purchased this 18 acre property consisting of ±12.5 acres of mostly wooded upland and ±5.5 acres of cranberry bog in production since 1885 in order to add to the surrounding Center Hill Preserve Conservation Area and generate an income from the cranberry bog to support conservation initiatives in the Town. The properties are described as Map 52, Lots 26, 27A, 9C, and 9F, Book 6924 pg. 84-85. The specific area available for lease is labeled as Agricultural Area on the map included in Attachment A.

F. SPECIFICATIONS

The Town of Plymouth is offering the lease, operation, and management of the referenced 18 acre property as further defined below:

1. Operation and Management

- a. The Lessee shall be expected to operate, maintain and improve the cranberry bog using normal agricultural management and improvement practice guidelines including Integrated Pest Management distributed by the University of Massachusetts in cooperation with the Cranberry Experiment Station in Wareham, Massachusetts.
- b. The Lessee shall have the right to access the Agricultural Land via that portion of Old Back Road leading to the site from State Road. Each spring and fall the Lessee shall maintain said portion of Old Back Road (herein referred to as Access Road) to current condition;
- c. The Lessee shall have exclusive control over and shall maintain in usable condition the existing bog, upland, waterways, dikes, flumes together with the buildings and other infrastructure within the Agricultural Area used directly for or incidental to the normal and ordinary functions in maintaining, improving, harvesting and removing cranberries from the Agricultural Area. The Lessee will be responsible for all utilities and refuse disposal;
- d. The main water line, laterals, and sprinklers will be installed

immediately upon execution of Lease. The Lessee will be responsible for all repairs necessary to maintain the safe condition of the buildings and equipment as of the date of the lease. The Lessee and a representative of the Department of Marine and Environmental Affairs shall survey the building and equipment together and make note of the condition when the Lease is signed. Any improvements must be approved by the Department of Marine and Environmental Affairs;

- e. The Town covenants and agrees that the Lessee paying the rent and performing and observing the covenants and agreements herein shall peaceably hold and enjoy the said premises above described without hindrance or interruption by the Town or any persons claiming under them. Any activity contemplated by the Lessee which is not part of "normal agricultural management or improvement practices" and specifically, any wildlife management actions deemed necessary to limit crop damage must be planned and implemented in consultation with Department of Marine and Environmental Affairs and, when applicable, the Massachusetts Department of Fish and Game;
- f. The Lessee may not subcontract all or a portion of the property without prior approval of the Town.
- g. If the Lessee fails to fulfill the yearly requirements to maintain the Pool A eligibility, the Town shall be notified in a timeframe that permits action to protect the eligibility.
- h. Violations of the Lease or of the Conservation Restriction on adjacent land may result in termination of the Lease.

2. Renovation and Improvement

- a. Sand and gravel may be removed for bog operations within the designated area only. No material is to be removed from the site but material may be brought into the site as necessary to support operations and rehabilitation of the bogs;
- b. If sand and gravel operations must be undertaken as part of regular bog operations, then the excavation shall be performed in a manner that protects groundwater quality. Excavation of sand and gravel shall not be deeper than 10' from existing ground surface elevations. Once farming operations have ceased, the Lessee will prepare and implement a restoration plan for areas impacted by the sand and gravel removal;
- c. If the Lessor and Lessee agree that the construction of a tailwater recovery pond is necessary or in the best interests of the operation, then the 10' limitation establish above shall not apply. In addition, the construction of a tailwater recovery pond and its infrastructure shall be in accordance with the USDA guidelines within designated area only. The Lessee shall have the right within the Agricultural Area to create a surface water supply and install any and all water control structures deemed necessary for normal cranberry production;

- d. The Lessee shall have the right to square-off the existing cranberry bog so long as the cranberry bog does not increase or decrease more than \pm 0.5 acres and all necessary permits are obtained;
- e. The Lessee covenants that all agricultural improvement work related to the above permitted renovation and improvement activities, including stockpiling overburden onsite, shall be done in accordance with cranberry industry Best Management Practices and all applicable Federal, State and local laws, rules or regulations. The Lessee agrees to take any and all reasonable measures during agricultural improvements to reduce and eliminate where possible off-site impacts including but not limited to erosion, dust and noise. The Lessee shall loam, stabilize and seed any bank or disturbed area resulting from any agricultural improvement work performed by Lessee within the Agricultural Area;
- f. Prior to any renovation or improvement work, Lessee shall provide a plan of work including approximate duration of project to the Department of Marine and Environmental Affairs for approval, which shall not be unreasonably conditioned or denied. It is understood by the parties that time is of the essence and any renovation or improvement work be conducted as efficiently as possible to minimize the duration of the project as much as practical. Invoices for all renovations or improvements shall be provided to the Department of Marine and Environmental Affairs.

3. Nature of Use

- a. During the term of the lease, the Lessee shall exercise all reasonable means to cranberry industry Best Management Practice standards to maintain ditches, water-ways, dikes, flumes, water supplies, pump houses, storage buildings, irrigation systems, bog roadways, equipment and other articles within the Agricultural associated with the operation of the bog in good operating condition and shall secure the same from vandalism. A report of maintenance or improvement performed by Lessee may be requested on an annual basis by the Department of Marine and Environmental Affairs. If requested, the Lessee shall detail compliance with the requirements of its bog management plan as submitted pursuant to this RFP.
- b. The Town agrees to allow Lessee's exploration of on-site material within the agricultural area suitable for the renovation of the existing cranberry bog and/or construction of a surface water supply. Should Lessee find suitable material in sufficient quantity for the cranberry bog renovation, Lessee is permitted to excavate and use up to 10,000 yards so long as none of this material is transported off site. Said renovation and/or excavation project will be carried out in an orderly fashion and in keeping with cranberry industry Best Management Practices. The Lessee shall loam, stabilize and seed any areas disturbed by Lessee's renovation or construction work.
- c. The cranberry bog proper and the land within the Agricultural Area will be under exclusive control of the Lessee. However, the Town reserves the right to make usage of the access roads, bog roads

and uplands in the Agricultural Area so as to retain the ability to utilize those areas and maintain access to those areas and adjacent Town lands for the continuation of conservation and recreational uses not inconsistent with the successful cultivation of the cranberry bog as contemplated herein. It is agreed that said usage will be exercised in a manner so as to not interfere with the Lessee's normal operation and improvement of the bog and Agricultural Area.

- d. The Town of Plymouth reserves the right to review and inspect the bog at any time during the term of this contract in order to monitor the condition of the bog. Such inspections may be conducted by the Department of Marine and Environmental Affairs or by designated agents of the Town. Inspection of the bog shall be done when deemed necessary by the Department of Marine and Environmental Affairs or its designee after notification to the Lessee.
- e. The recommendations of this review will be considered by the Department of Marine and Environmental Affairs or its designees and shall require the Lessee to address any deficiencies in the operation of, or departures from accepted cranberry growing operations within ~~30~~ 60 days of notice. Failure of the Lessee to reasonably address deficiencies or to accept reasonable suggestions for improved operation and implement them within thirty (30) days may result in the termination of the Lease agreement.

4. Cranberry Bog Management Plan

- a. The Department of Marine and Environmental Affairs places a premium on the approach and ability of the proposer to actively take the steps necessary to improve the agricultural viability and increase the productivity of the Town's cranberry bog. Each proposer should submit a Bog Management Plan that sets forth the steps the proposer will take to actively manage or improve cranberry production.
- b. As a condition of the lease, the Lessee shall be required to obtain and maintain a USDA/NRCS Conservation Farm Plan.

5. Public Relations

The Lessee will be expected to cooperate with the Department of Marine and Environmental Affairs in maintaining good public relations throughout the period of the Lease. The Lessee or Lessee's representative may be required to meet privately or publicly with Town personnel.

G. SELECTION PROCESS

An evaluation team will be established by the Chief Procurement Officer, or designee, and shall be comprised of representatives from the Department of Marine and Environmental Affairs and the Community Preservation Committee. This team will review and determine if the technical proposals meet the minimum criteria and then evaluate the

proposals according to the comparative criteria. After the proposals have been rated according to the comparative criteria a composite rating will be assigned to each proposal. The Town Manager will award to the most advantageous proposer taking into consideration the price and evaluation criteria set forth in this RFP.

All proposers meeting the minimum qualification may be given the opportunity to make an oral presentation and be interviewed.

H. EVALUATION CRITERIA

All non-price (technical) proposals will be evaluated based upon two sets of criteria - minimum and comparative plus an oral presentation/interview. Each proposal must address each of the points under the minimum and comparative evaluation criteria.

1. MINIMUM EVALUATION CRITERIA

Each proposer must meet all the following criteria in order to be considered for further evaluation:

- a. complete proposal response, signed, and all requested submittals provided;
- b. successfully managed and operated commercial bogs for the last five (5) years, submit evidence including the list of bogs with address, size (acres) of operation, number of years managed/operated, and whether the operation was as owner or contractor;
- c. experience using Integrated Pest Management (IPM) as an essential aspect of operating and management a commercial cranberry bog;
- d. a minimum of two (2) references for confirmation of quality performance standards in the operation and management of commercial cranberry bogs, submit name and valid contact information;
- e. demonstration through experience or pro-forma the financial ability to perform the necessary maintenance and/or potential improvement of the cranberry bogs.

2. COMPARATIVE EVALUATION CRITERIA

The following ratings will be used to measure the relative merits of each proposal, which has met the Minimum Evaluation Criteria established above. Those proposals that do not meet the Minimum Criteria will be judged Unacceptable.

Highly advantageous - proposal excels on a specific criterion;

Advantageous - proposal fully meets the evaluation standard, which has been specified;

Not advantageous - proposal does not fully meet the evaluation standard, is unclear and/or incomplete.

The criteria that will be used for comparative purposes are the following:

		Highly Advantageous	Advantageous	Not Advantageous
1	Nature of Proposer	Clearly demonstrates superior integrity and business sense	Adequately demonstrates integrity and experience	Does not demonstrate integrity and experience
2	Local Presence	Established in Town	Established in Southeast MA	Established in MA
3	Renovation of Cranberry Bog	Complete renovation to bog in 5 yrs	Some improvement to bog during 10 yrs	Maintain w/no planned renovations or improvements
4	Water Supply	Create additional water supply & irrigation automation unit(s)	Improve existing wells & install irrigation automation unit(s)	Maintain & use existing wells
5	Municipal Experience	Municipality as contractor for cranberry operation	Municipality as a contractor	No experience with municipality as a contractor
6	Proof of Financial Resources	Annual Report, Financial or Audit Statement	Letter of support from lending institution such as Farm Credit East or Farm Service Agency	Letter of Recommendation from Non-Related Cranberry Growers or Cranberry Industry Experts/Vendors
7	Price Proposal	\$3,000+/yr	\$2,000-\$2,999	Less than \$2,000

I. REQUIRED SUBMITTALS

Non-Price Proposal

1. The proposal addressing all specifications and criteria shall be typewritten with a signed cover page and organized as a response to this RFP.

2. Bog management plan.
3. Evidence of financial resources.
4. Timetable for renovation of:
Irrigation system
Wells/Pumps
Vines

Price Proposal

5. Bid surety.
6. Price forms.
7. Disclosure of Beneficial Interests.

J. MISCELLANEOUS ARTICLES

1. Questions regarding this RFP must be submitted in writing by mail, email, or fax. Telephoned queries will not result in a response. All questions must be submitted by Time, Day, Date.

Mail: Procurement Division, 11 Lincoln St., Plymouth, MA, 02360

Email: phagler@townhall.plymouth.ma.us

Fax: 508-830-4133

2. Bid surety is required in the amount of five percent (5%) of the approximate total value of the bid based upon the bid price. Such bid deposit shall be in the form of a Cashier's, Certified, or Bank Treasurer's check payable to the Town of Plymouth or a bid bond from a licensed surety company doing business in the Commonwealth of Massachusetts. Bid deposit of successful bidder will be returned upon contract execution. All others will be returned upon contract award.

3. The Lessee shall to the maximum extent permitted by law, indemnify and save harmless the Town of Plymouth, its officers, agents, volunteers, and employees from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs and expenses (including reasonable attorneys' fees) that may arise out of or in connection with Lessee's lease or use of 204 Long Pond Road for any damage to its real or personal property that occurs in conjunction with the lease or use, unless the damage is caused by the Town's gross negligence or willful misconduct.

4. The Lessee shall procure and maintain insurance against claims for injuries or losses to persons or property that are alleged to have arisen in connection with activities of the Lessee and any agents, representatives, subcontractors, or employees. The cost of such insurance shall be the sole responsibility of the Lessee.

- a) General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$2,000,000 Annual Aggregate Limit. The Town should be named as an "Additional Insured".
- b) Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per

accident. The Town should be named as an "Additional Insured".

- c) Workers' Compensation Insurance as required by law.
- d) Umbrella Liability of at least \$2,000,000 Occurrence, \$2,000,000 Aggregate. The Town should be named as an Additional Insured.

5. The Lessee shall deposit with the Town evidence of such insurance prior to the commencement of the contract. All policies shall require a thirty (30) day notice of cancellation to the Town of Plymouth and the Town shall be designated as a co-insured on all such policies.

6. Per Massachusetts General Law Chapter 7, Section 40J, all interested parties must file a **disclosure of beneficial interests** in real property acquired or disposed of by a public agency. The selected proposer's disclosure of beneficial interests must be filed with the Commissioner of the State Division of Capital Asset Management (DCAM). No contract is valid until the purchaser files this form with DCAM.

7. Except as hereinafter expressly provided, once a proposal is submitted and received by the town, the proposer agrees that he may not and will not withdraw it within thirty (30) calendar days after the actual date of the opening of proposals.

Upon proper written request and identification, proposals may be withdrawn only as follows:

- a. at any time prior to the designated time for the opening of proposals;
- b. provided the proposal has not been accepted by the town, at any time subsequent to thirty days following the actual date of proposal opening.

Unless a proposal is withdrawn as provided above, the proposer agrees that it shall be deemed open for acceptance until a contract has been executed by both sides or until the town notifies the proposer in writing that his proposal is rejected or that the town does not intend to accept it, or returns his bid surety. Notice of acceptance of a proposal shall not constitute rejection of any other proposal.

8. The successful proposer shall not discriminate against any person on the grounds of race, color, marital status, physical disability, age, sex, sexual orientation, religion, ancestry, or national origin in any manner prohibited by the laws of the United States, the Commonwealth, or the Town of Plymouth.

9. Bid Status Information

Addenda: If you received bid documents from the Town and provided the Town with an accurate email address or fax number for delivery of addenda, the Town intends to deliver notification of each addendum to you at such address or fax number, but the Town shall not be responsible for any failure of a bidder to receive any addenda for any reason. All addenda will be available on the Town's website at <http://www.plymouth-ma.gov/current-bids>.

Notwithstanding the foregoing, bidders are solely responsible to check for and confirm their receipt of any addenda in advance of the bid deadline.

A register of Proposals, when available, will be available on the Town's website at <http://www.plymouth-ma.gov/bid-results>. Bid results will not be provided over the phone.

Notification of award of contract will be mailed to all bidders and/or posted on the Town's website.

ATTACHMENT 1

Copy of Assessors' record of Map 52, Plot 26, 27A, 9C, and 9F

Town of Plymouth



PROPERTY LOCATION
 No: Alt No: Direction/Street/City
 CENTER HILL RD, PLYMOUTH

OWNERSHIP
 Owner 1: PLYMOUTH, TOWN OF
 Owner 2: CONSERVATION COMMISSION
 Owner 3:
 Street 1: 11 LINCOLN ST
 Street 2:

PREVIOUS OWNER
 Owner 1: WESTON - LARRY E
 Owner 2: WESTON - BRENDA L
 Street 1: 24 CANAL VIEW RD
 Town/City: BUZZARDS BAY
 State/Prov: MA
 Postal: 02532

NARRATIVE DESCRIPTION
 This Parcel contains 1.41 Acres of land mainly classified as Vacant

OTHER ASSESSMENTS
 Code Description/No Amount Com. Int.

PROPERTY FACTORS
 Item Code Descr % Item Code Descr
 Z IRR RR U t
 Census: Exempt
 Flood Haz: Topo Street Traffic

LAND SECTION (First 7 lines only)
 Use Code Description LUC No of Units Price/Units Depth / Acres
 932 Vacant 1.41

IN PROCESS APPRAISAL SUMMARY
 Use Code Building Value Yard Items Land Size Land Value Land Value Total Value
 932 1,400 28,200 1,410 28,200 29,600

LEGAL DESCRIPTION
 User Acct: 10018
 GIS Ref:
 GIS Ref:
 Insp Date:

PREVIOUS ASSESSMENT
 Parcel ID: 052-000-009C-000

TAX DISTRICT
 Granitor: WESTON, LARRY E
 Legal Ref: 42425-265
 Type: D
 Date: 12/20/2012
 Sale Code: INVOLVED GVT
 Sale Price: 350000
 V: Yes
 Tst: No
 Verif: No
 Assoc PCL Value: 0
 No: No

SALES INFORMATION
 Tax Yr: Use Cat Blg Value Yrd Items Land Size Land Value Total Value Asses'd Value Notes Date
 2014 932 FV 1400 1.41 28,200 29,600 29,600 12/22/2013
 2013 716 FV 1400 1.41 28,200 29,600 1,626 12/24/2012
 2012 716 FV 1400 1.41 28,200 29,600 1,626 Year End 3/25/2012
 2011 716 FV 1400 1.41 12,690 14,090 1,562 Year End 12/27/2010
 2010 716 FV 1400 1.41 12,690 14,090 1,562 Year End Roll 12/29/2009
 2009 720 FV 1400 1.41 12,690 14,090 1,562 Year End Roll 12/29/2008
 2008 720 FV 1400 1.41 12,690 14,090 1,562 Year End Roll 12/30/2007
 2007 720 FV 1400 1.41 12,373 13,773 1,562 Year End Roll 12/27/2006

ACTIVITY INFORMATION
 Date Description Amount CO Last Visit Fed Code F. Descr Comment
 1/1/1986 OTHER

BUILDING PERMITS
 Date Number Description Amount CO Last Visit Fed Code F. Descr Comment

LAND SECTION (First 7 lines only)
 Use Code Description LUC No of Units Price/Units Depth / Acres
 932 Vacant 1.41

LAND SECTION (First 7 lines only)
 Use Code Description LUC No of Units Price/Units Depth / Acres
 932 Vacant 1.41

USER DEFINED
 Prior id # 1: 19600
 Prior id # 2: C01
 Prior id # 3: 052*0078*
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 Prior id # 2:
 Prior id # 3:
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 Prior id # 2:
 Prior id # 3:
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 Reval Dist:
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 Land Reason:
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ATTACHMENT 2

Locus and Access Map



Entry Point to
Old Back Road

Center Hill
Bog

PILGRIM WAY

OLD BACK ROAD

CENTER HILL ROAD

BLACK FONDLE

BEREK-BER

0 200 400 800 Feet

Center Hill Bog
Locus and Access



ATTACHMENT 3

Agricultural Map



0 55 110 220 Feet

Center Hill Bog



ATTACHMENT 4

Standard Form Lease Agreement

LEASE AGREEMENT

This Lease Agreement was made and entered into on _____, 2015, between the Town of Plymouth, a Massachusetts municipal corporation, having its principal office at 11 Lincoln Street, Plymouth, Massachusetts 02360 ("Lessor") and _____, a (corporation, LLC, partnership, etc.), having its principal office at _____ ("Lessee").

In consideration of the mutual covenants contained in this Lease Agreement, the parties agree as follows:

1. **Subject and Purpose.** Lessor shall lease the 18-acre property known as the Center Hill Bog located on Map 52-26, Lots 27A, 9C, 26 and 9F in the Ellisville section of Plymouth off Old Black Road between State Road and Center Hill Road described on Exhibit A to this lease ("the Premises") to Lessee for Lessee's use to operate, maintain and improve the cranberry bog.
2. **Term and Rent.** This Lease shall be for an initial term of Fifteen (15) years from the execution date of the Lease. The term shall be renewable for two (2) additional Five (5) year periods, subject to the mutual consent of the Lessee and Lessor.

Rent shall consist of capital improvements, land management, and lease payments as described in Price Form.

3. **Alterations and Improvements.** Lessee shall maintain in usable condition the existing bog, upland, waterways, dikes, flumes, buildings, and other infrastructure within the Agricultural Area used directly for or incidental to the normal and ordinary functions in maintaining, improving, harvesting and removing cranberries from the Agricultural Area. All alterations and improvements shall require the prior written approval of the Lessor, which approval shall not unreasonably be withheld or delayed, and shall be performed in a first class, professional manner and shall not weaken or impair the structure's strength or lessen the value of the Premises. Lessee shall be responsible for obtaining all necessary permits and approvals associated with said work. All alterations and improvements performed on the Premises shall remain with the Premises upon the termination of this Lease Agreement, except that all moveable fixtures installed by Lessee shall remain property of Lessee and may be removed by the Lessee at the termination of the Lease if Lessee is not then in default under the Lease and they can be removed without damage to the premises.
4. **Repairs.** Lessee shall, during the term of this Lease Agreement and at its own cost and expense, repair and maintain the Premises in a safe condition and shall use all reasonable precautions to prevent waste or damage to the premises.
5. **Utilities.** All applications and connection for necessary utility services on the Premises shall be made by, and in the name of, Lessee. Lessee shall be solely responsible for all utility charges as they become due.
6. **Insurance.** During the term of this Lease Agreement, Lessee shall obtain and maintain at its own expense all necessary types of insurance, including the following:

- a) General Liability of at least \$1,000,000 Bodily Injury and Property Damage Liability, Combined Single Limit with a \$2,000,000 Annual Aggregate Limit. The Town should be named as an "Additional Insured".
- b) Automobile Liability (applicable for any contractor who has an automobile operating exposure) of at least \$1,000,000 Bodily Injury and Property Damage per accident. The Town should be named as an "Additional Insured".
- c) Workers' Compensation Insurance as required by law.
- e) Umbrella Liability of at least \$2,000,000 Occurrence, \$2,000,000 Aggregate. The Town should be named as an Additional Insured.

All insurance policies shall contain such limits of liability, additional coverages, deductibles, and other terms and conditions as the Lessor shall deem advisable. Lessee will provide Lessor with a certificate evidencing such coverage. All required insurance shall be written with such companies qualified to do business in Massachusetts, as the Lessee shall select and Lessor shall approve, which approval the Lessor agrees not unreasonably to withhold.

Throughout the term of this Lease, the Lessee shall furnish to the Lessor all policies of insurance or renewal policies or certificates of insurance, all as may be required by any of the foregoing provisions, not later than thirty (30) days prior to the date when other insurance coverage maintained in accordance with their terms of this Lease is scheduled to expire. Without limiting the Lessor's other rights under any other provisions of this Lease, if the Lessee shall fail to keep the Premises insured as provided herein, and if such failure shall continue to a period of five (5) days following written notice by the Lessor to the Lessee thereof, then the Lessor, without further notice to the lessee, may take out and pay for such insurance, and the amount of such payment shall become due and payable as additional Net Rent on demand.

Lessee hereby waives any and all rights of recovery which it might otherwise have against the Lessor and its agents and employees for any loss or damage to Lessee's property or improvements in the Premises which are either required to be insured under the terms of this lease or which Lessee, in the absence of any such requirement, elects to insure.

7. Unlawful and Dangerous Activity. Lessee shall not use the Premises for any unlawful or ultra-hazardous purpose or conduct its business in a manner constituting a nuisance.
8. Indemnity. Lessee shall indemnify Lessor against any and all expenses, liabilities and claims by or on behalf of any person or entity arising out of either (1) a failure by Lessee to perform any of the terms or conditions of this Lease Agreement; (2) any injury or damage happening on the Premises; (3) failure to comply with the laws of any governmental authority; or (4) any mechanic's lien or security interest filed against the Premises or any equipment or materials on the Premises.
9. Default. Each of the following events shall constitute a default of this Lease Agreement by Lessee:

- (1) If Lessee files a petition in bankruptcy under any bankruptcy act or shall make an assignment for the benefit of creditors.
 - (2) If involuntary proceedings under any bankruptcy law are initiated against Lessee or if a receiver or trustee is appointed for Lessee and such proceedings are not dismissed or the receivership or trusteeship vacated within thirty (30) days.
 - (3) If Lessee fails to comply with any of the conditions of this Lease Agreement and the Noncompliance Continues for more than ten (10) days after written notice thereof is made to Lessee by Lessor.
 - (4) If Lessee vacates or abandons the premises.
10. **Effect of Default.** In the event of any default under this Lease Agreement, the rights of Lessor shall be as follows;
- (1) Lessor shall have the right to cancel and terminate this Lease Agreement immediately in the same manner as if the lease were terminating at the end of the term originally set forth in this Lease Agreement.
 - (2) Lessor may elect, but shall not be obligated to make any payment required of Lessee under this Lease Agreement and enter the Premises for the purpose of correcting or remedying any such default. Any correction made by Lessor shall not be deemed to waive or release Lessee from any responsibility imposed by this Lease Agreement.
 - (3) Lessor may reenter the Premises and immediately remove the property and personnel of Lessee and store said property in a public warehouse, or at another suitable place selected by Lessor, at the expense of Lessee.
 - (4) Lessor may recover from Lessee all damages and expenses, including reasonable attorney fees, proximately resulting from any breach and any nonpayment of rent. In no case shall Lessor be entitled to collect rent for any lease term year in which Lessee has not occupied the Premises for at least one day.
 - (5) After reentry, Lessor may relet the Premises or any part thereof, and may make any alterations or repairs to the Premises.
11. **Access to Premises.** Lessee shall permit Lessor or its agents to enter the Premises at any reasonable time (1) to inspect the Premises; (2) to make any repairs that Lessee may neglect or refuse to make in accordance with this Lease Agreement; and (3) to show the Premises to prospective buyers, lessees, or Town Officials.
12. **Easement.** The parties shall be bound by all existing easements, agreements and encumbrances of record relating to the Premises. Lessor shall not be liable to Lessee for any damages resulting from any action taken by a holder of any such interest pursuant thereto.
13. **Quiet Enjoyment.** Lessor warrants that Lessee shall be granted peaceable and quiet enjoyment of the Premises if Lessee performs the terms and conditions imposed upon it by this Lease Agreement.
14. **Surrender of Possession.** Lessee shall, on the last day of the lease term, or upon earlier termination, peaceably and quietly surrender and deliver to Lessor the Premises, including all

- improvements or additions thereto, but excluding moveable fixtures installed by Lessee, in good condition and repair.
15. **Subleasing and Assignment.** Lessee shall not sublease or assign any rights obtained under this Lease Agreement without prior written consent of Lessor.
16. **Modifications.** Any modification to this Lease Agreement shall require a writing signed by each party.
17. **Applicable Law.** This Lease Agreement shall be governed by the laws of The Commonwealth of Massachusetts.
18. **Destruction or Condemnation of Premises.** In the event of a partial destruction or condemnation of the Premises which has the effect of making a significant portion of the Premises unusable by Lessee for more than ten (10) days, the Lessee shall have the option to either restore the Premises or terminate this lease without liability to the Lessor.
19. **Additional Provisions.**
- Lessee's Property.** During the continuance of this lease and thereafter, all property of any kind that may be on the Premises, as well as all property that may be brought to the said building by or for the Lessee, shall be at the sole risk of the Lessee and the Lessor shall not be liable to the Lessee or any other person for any injury, loss or damage, however caused, to any person or property on the Premises or elsewhere in the building, unless such injury or damage is caused solely by negligence of the Lessor.
- Compliance with Law.** Without limitation, the Lessee shall maintain and use the Premises in accordance with all laws in effect during the term of this lease, including fire safety and environmental requirements, and all directions, rules and regulations of the proper officers of governmental agencies having jurisdiction, and shall clear snow, ice and debris from the sidewalk, parking areas and other areas of the Premises and shall, at the Lessor's own expense, obtain all permits, licenses or the like and make all repairs to the Premises of any nature, required by the applicable law.
- In performing such repairs and maintenance and in constructing alterations and improvements as may be permitted under this Lease, the Lessee shall at all time comply with (i) all laws, rules, orders and regulations of governmental authorities having jurisdiction thereof, in effect at the time such work is permitted or, if a permit is not required, at the time such work is performed; (ii) orders, rules and regulations of any Board of Fire Underwriters, or any other body hereafter constituted exercising similar function, and governing insurance rating bureaus; (iii) any plans and specification which may have been approved by the Lessor. If the Lessee receives notice of any violation of any law, ordinance order or regulation applicable to the Premises or the use and maintenance thereof, it shall give prompt notice thereof to the Lessor.
- If repairs are required to be made by the Lessee pursuant to the terms hereof, the Lessor may demand that the Lessee make the same forthwith, and, if the Lessee refuses or neglects to commence and diligently pursue the completion of such repairs within ten (10) days after such demand, or forthwith in the case of emergency repairs, the Lessor may (but shall not be required to do so) make or cause such

repairs to be made and shall not be responsible to the Lessee for any loss or damage that may accrue to the Lessees' stock or business by reason thereof. If the Lessor makes or causes such repairs to be made, the Lessee agrees that the Lessee will forthwith, on demand, pay to the Lessor the cost thereof and, if the Lessee shall default in such payment, the Lessor shall have the remedies provided herein for the for the failure of the Lessee to pay the Rent.

Eminent Domain. If all the Premises shall be taken by the exercise of the power of eminent domain or condemnation by political entities other than the town of Plymouth, this Lease shall terminate as of the time when the Lessor is divested of the Lessor's interest in the Premises, the Rent and other charges payable under this Lease shall be apportioned to the date of such termination, and promptly paid by the Lessee, and any unearned Rent theretofore paid by the Lessee shall be refunded to the Lessee and the Lessor shall have, and hereby reserves and excepts, and the Lessee hereby grants and assigns to the Lessor, all rights to recover for damages to the Premises and the Leasehold interest hereby created from any taking by eminent domain, whether total or partial, and to compensation accrued or hereafter to accrue by reason of such taking or damage, as aforesaid. The Lessee covenants to deliver such further assignments and assurances thereof as the Lessor may from time to time request, hereby irrevocably designating and appointing the Lessor or its attorney-in-fact to execute and deliver in the Lessee's name and behalf all such further assignments thereof. Nothing contained herein shall be construed to prevent the Lessee from prosecuting in any condemnation proceedings a claim for the value of any of the Lessee's usual trade fixtures installed in the premises by the Lessee at the Lessee's expense and for relocation expenses, provided that such action shall not affect the amount of compensation otherwise recoverable hereunder by the Lessor from the taking authority.

Zoning and Other Laws. The Lessee has made such investigation as it considers sufficient to enable it to determine that the Premises are capable, under zoning and other applicable laws and regulations, of being used for such purposes as the Lessee desires consistent with the provisions of this lease. It is agreed that inability by the Lessee to use the Premises for its desired purposes at any time during the term of this Lease, where such inability it not caused by the Lessor, shall never give rise to a right in the Lessee to any claim against the Lessor.

Cost of Enforcement. Without limiting any of the Lessor's rights and remedies hereunder, and in addition to all other amounts the Lessee is otherwise obligated to pay, it is expressly agreed that the Lessor shall be entitled to recover from the Lessee all costs and expenses, including reasonable attorney's fees, incurred by the Lessor in enforcing this Lease from and after the Lessee's default.

Operation. Lessee shall be responsible for the operation and maintenance of the water delivery system and sewage disposal system on the Premises, including easements, if any. Lessee shall be responsible for refuse disposal and driveway

maintenance. Lessee agrees to operate and maintain the heating system for the Premises, including but not limited to the cost of fuel. Lessee agrees to maintain the temperature in the Premises at levels appropriate for the use thereof and at no time lower than fifty degrees Fahrenheit, except during repair of the system. The costs of Lessee of the operation, maintenance and provision of services shall be an operating cost of Lessee.

Occupancy at Lessee's Risk. To the maximum extent this agreement may be made effective according to law, the Lessee agrees to use and occupy the Premises at the Lessee's own risk, and the Lessor shall have no responsibility or liability for any loss or damage the fixtures or other personal property of the Lessee or any person claiming by, through or under the Lessee. Without limitation, the Lessee agrees that the Lessor shall not be responsible or liable to the Lessee, or those claiming by, through or under the Lessee, for any loss or damage resulting to the Lessee or those claiming by, through or under the Lessee, its or their property from the breaking, bursting, stopping or leaking of electric cables and wires, and water, gas or steam pipes.

No Waiver. No waiver by the Lessor of any breach of this lease by the Lessee shall be construed as a waiver of future breaches of such provision. Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be deemed to be a waiver by such party of any of its rights hereunder. Further, it is agreed that no waiver at any time of any of the provisions hereof by either party shall be construed as a waiver at any time of any of the provisions hereof by either party shall be construed as a waiver of subsequent time of the same provisions. The consent or approval to or of any action by either party requiring such consent or approval shall not be deemed to waive or render unnecessary such consent or approval to or of any subsequent similar act by such party. No payment of the Lessee or acceptance by the Lessor of a lesser amount than shall be due from Lessee to Lessor shall be treated otherwise than as payment on account. The acceptance by the Lessor of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check that such lesser amount is payment in full, shall be given no effect, and the Lessor may accept such without prejudice to any other rights or remedies which the Lessor may have against the Lessee.

Notice. Notice under this agreement shall, unless otherwise notified in writing, be given by mailing such notices, certified mail, return receipt requested, to the addresses set out on the first page of this Lease.

Saving Clause. If any provision of this Lease is adjudged or determined to be illegal or unenforceable, the remaining provisions shall not thereby be affected, but shall remain in effect.

20. Entire Agreement. Incorporated by reference and specifically made a part of this Lease are the terms and conditions contained in Request for Proposal #2104, Specifications, Bid Form, and said bid of the Lessor (Exhibit B). This Lease Agreement constitutes

the entire agreement between the parties. Any prior outstanding or representation of any kind preceding the date of this Lease Agreement shall not be binding upon either party, except to the extent incorporated herein.

IN WITNESS WHEREOF, each party has executed this Lease Agreement
on the date(s) indicated above.

LESSEE

TOWN OF PLYMOUTH, by its
Town Manager

Property Description
Exhibit A

The subject premises is located off Old Back Road between State Road and Center Hill Road, Plymouth, Massachusetts, and is shown as a portion of Plymouth Assessors Map 52-26, Lots 27A, 9C, 26, and 9F. The property consists of ± 12.5 acres of mostly wooded upland and ± 5.5 acres of cranberry bog.

SITE DESCRIPTION

Subdivision Plan	No subdivision plan
Total Land Area	17.94± acres 5± acres productive cranberry bog 12.94± acres supporting upland
Dimensions/Shape	The subject property comprises four contiguous parcels. Dimensions shown on the deed. The parcel is very irregularly shaped.
Road Frontage	500± LF on "Old Back Road"
Access	"Old Back Road" is a variable width dual track unpaved cart path – easement. "Old Back Road" runs in an east-west direction from Center Hill Road on the east to State Road on the west; both paved State or Town public roads which run roughly parallel to Cape Cod Bay. There are no sidewalks or curbs in subject neighborhood; some pole lighting.
Abutters	North: Conservation land and residential uses. East: Center Hill Road. South: residential uses, conservation land and Center Hill Road. West: State Road and residential uses. Easterly of the subject locus is conservation land fronting on Cape Cod Bay.
Terrain	Land is generally level to gently rolling as shown on the attached USGS map. The land meanders between 30 feet to 40 feet elevation above MSL and is at the top of Center Hill. Possible distant Bay view from highest point on the land.
Natural Habitat	Five acres of the site is a working cranberry bog with a perimeter of level to gently rolling upland which supports the bog outbuildings. Natural wooded habitat along the lot perimeter consisting of an understory of low brush, scrub oak, and pine woodlands, typical of the region.
Cranberry Varieties	One acre of Early Blacks: Discovered by N Robbins in 1852 in Harwich, Massachusetts, they are the first berries to market in September. Growers like them because they can be harvested before the fall frost season. The berries are smaller and yield less than new hybrids but have a sweeter taste and intense red color. This variety represents 43% of acreage in Massachusetts. Four acres of Howes Lateberries: Discovered by E Howes in 1843 in East Dennis, Massachusetts, Howes berries are harvested about three weeks after Early Blacks. Howes produce bigger, firmer, tart berries and they store well. Howes can be sliced and still hold their berry shape. This variety represents 36% of acreage in Massachusetts.
FEMA	Zone X FEMA Flood Map 250278156E dated 12/09/2006

Soils	The Plymouth County Soil Survey is currently being updated. The majority of the area is comprised of Plymouth Carver soils which are gently sloping to steep, excessively drained soils formed in loose sandy ice contact and glacial outwash deposits on moraines and outwash plains. The subject also has bog land, classified as Freetown soils, which are very deep, poorly drained soils on outwash plains in depressions and areas adjacent to streams, ponds, and lakes. Most Freetown soils are used for cranberry production.
Utilities	Electric, telephone, Cable TV, multi-media available along State and Center Hill Roads. Development in the area requires individual private wells and on-site septic systems; no municipal water or sewer available. The subject site has on-site wells operated by propane. No percolation tests known to the appraisers have been conducted on the property.
Habitat Maps	The Premises are identified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP) as part of a BioMap Core Habitat area which is delineated for native rare species and natural habitats.
Amenities	Proximate Center Hill Preserve and sandy beaches on Cape Cod Bay; abuts 50 acre "land side" of Center Hill Preserve; proximate Route 3 via State Road; convenient to shopping on Route 3A.
Hazardous Waste	There is no hazardous waste contamination known or suspected to exist on the subject site. The subject is not included in the <i>List of Confirmed Disposal Sites & Locations to be Investigated</i> of the Bureau of Waste Site Cleanup of the Department of Environmental Protection (DEP).
Commercial Value	There is no gravel, loam, timber, or known mineral deposits having a commercial value on this parcel of land.

COMMENTS: The outlying location of the site offers good rural appeal. Access is via "Old Back Road", an unpaved dual track cart-path from State Road and Center Hill Road. The locus is convenient to Route 3 for commuter access to employment. Proximity to the Center Hill Preserve enhances privacy and appeal. The subject is rural and is accessible only by "Old Back Road". The cart-path's status as a legal road of record is in dispute and could not be definitively determined by the appraisers. The owner has never applied for a building permit for a dwelling, and no percolation tests have been undertaken to the knowledge of the appraisers. The continued use of the property for agricultural purposes and/or conservation meets community goals.

NAME OF BIDDER

Prices must be submitted on this form and submitted in a sealed envelope. Prices submitted on any other form will not be considered valid. Please return this form to:

Procurement Division
ATTN: Procurement Officer
Town Office Building
11 Lincoln Street
Plymouth, MA 02360

Proposals must be received by 11:00 a.m., Friday, August 7, 2015. Postmarks will not be considered. All proposals will be publicly opened and recorded at the above address, date and time. All offers are subject to Specifications 21525.

PLEASE STATE EXCEPTIONS TO SPECIFICATIONS ON SEPARATE LETTERHEAD

The undersigned bidder hereby certifies the following:

That no official or employee of the Town of Plymouth, Massachusetts, has a pecuniary interest in this proposal or in the contract which the Proposer offers to execute or in expected profits to arise there from, unless there has been compliance with the provisions of the Conflict of Interest Law, M.G.L. Chapter 268A, and that this proposal is made in good faith without fraud or collusion or connection with any other person submitting a proposal.

The Proposer must be current in taxes and all water and sewer liabilities on any and all real estate owned in the Town of Plymouth.

The undersigned bidder hereby certifies, under the pains and penalties of perjury, the following:

This bid in all respects is bonafide, fair, and made without collusion or fraud with any other person. As used in this paragraph, the word PERSON shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

The Contracting Party has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support in accordance with MGL Chapter 62C, Section 49A.

In compliance with the above, the undersigned offers and agrees, if this offer is accepted within thirty (30) business days from date of receipt of offers specified above, to pay the Town the following sum.

PROPOSED BASE FEE TO THE TOWN FOR LEASE OF THE CRANBERRY BOG REFERENCED IN THIS RFP ON AN ANNUAL BASIS:

<u>Year</u>	<u>Proposed Base</u>	<u>3% Adjustment</u>	<u>Total Value</u>
1	\$		\$
2	\$		\$
3	\$		\$
4	\$		\$
5	\$		\$
6	\$		\$
7	\$		\$
8	\$		\$
9	\$		\$
10	\$		\$
11	\$		\$
12	\$		\$
13	\$		\$
14	\$		\$
15	\$		\$
TOTAL FOR 15 YEARS			\$
16	\$		\$
17	\$		\$
18	\$		\$
19	\$		\$
20	\$		\$
TOTAL FOR 20 YEARS			\$
21	\$		\$
22	\$		\$
23	\$		\$
24	\$		\$
25	\$		\$

TOTAL 25 YEAR LEASE FEE \$ _____

THIS PROPOSAL INCLUDES ADDENDA NUMBER _____ *

*to be filled in by bidder if addenda are issued

PROPOSER _____

AUTHORIZED SIGNATURE

Printed Name and Title

COUNTY _____

PHONE _____

Date Offered

FAX _____

EMAIL _____

TAX IDENTIFICATION NUMBER _____

STATE OF INCORPORATION _____

DELEGATION OF AUTHORITY

At a meeting of the Board of Directors of the _____
(Name of Corporation)

_____ duly called and held on _____
(Date)

at which a quorum was present, and acting throughout, the following vote

was duly adopted: VOTED: That _____
(Name of Individual)

the _____ of the Corporation, hereby is authorized
(Title)

to affix the Corporate Seal, sign and deliver in the name and on behalf of the Corporation, bids, proposals, contracts, bills of sale, conditional sale agreements, chattel mortgages, leases, bonds, applications, affidavits, certificates, and any other similar documents required in connection with the sale of the Corporation's products to any purchaser, including assignments and satisfactions of any such documents.

Any and all applications, affidavits, statements, certificates, and similar documents required by law in connection with the licensing of the Corporation or its representatives for the sale, distribution, and servicing of its commercial products.

The authority is hereby delegated and shall be exercised by the aforesaid person in connection with the duties as

_____ of _____
(Title) (Name of Corporation)

and not otherwise.

ATTEST: _____ DATE: _____

NOTE: This form must be completed if the contractor is a corporation.

DISCLOSURE OF BENEFICIAL INTEREST IN REAL PROPERTY TRANSACTION

This form contains a disclosure of the names and addresses of all persons with a direct or indirect beneficial interest in the real estate transaction described below. This form must be filed with the Massachusetts Division of Capital Asset Management, as required by M.G.L. c7, §40J, prior to the conveyance of or execution of a lease for the real property describe below. Attach additional sheets if necessary.

1. Public agency involved in this transaction:
Town of Plymouth
[Name of Jurisdiction]

2. Complete legal description of the property:
Map 52 Lots 9C, 9F, 26 & 27A

3. Type of transaction:
Sale _____ Lease or rental for 15 year term, with two additional 5 year extensions:

4. Seller(s) or Lessor(s): Town of Plymouth

5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above.

Note: If a corporation has, or will have a direct or indirect beneficial interest in the real property, the names of all stockholders must also be listed except that, if the stock of the corporation is listed for sale to the general public, the name of any person holding less than 10 percent of the outstanding voting shares need not be disclosed.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____

None of the persons listed in this section is an official elected to public office in the Commonwealth of Massachusetts, or is an employee of the Division of Capital Asset Management and Maintenance, except as noted below:

Name	Title or Position
_____	_____
_____	_____
_____	_____

6. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named in Item 1. If the form is signed on behalf of a corporation, it must be signed by a duly authorized officer of that corporation.

The undersigned acknowledges that any changes or additions to Item 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Planning and Operations within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____

Printed Name: _____

Title: _____

Date: _____