



Vicente Sederberg, LLC
 VGR Law Firm, P.C.
 109 State Street, Suite 404
 Boston, MA 02109



March 22, 2016

Sandy Cincotta
 Board of Selectmen
 Town of Needham
 1471 Highland Ave.
 Needham, MA 02492

Re: Draft Community Benefit Agreement with Massachusetts Patient Foundation, Inc.

Dear Ms. Cincotta:

On behalf of the Massachusetts Patient Foundation, Inc. (“Foundation”), please find our initial comments on the Draft Community Benefit Agreement. We are prepared to elaborate on this topic at the meeting tonight before the Selectmen.

Financial Terms

The Foundation proposes the same financial terms to Needham that we offered to the Town of Arlington. The financial terms that we propose to the Town of Needham are summarized as follows:

Calendar Year	Minimum Payment	Percentage of Gross Sales
2016	\$100,000 ¹	3.00% of Gross Sales
2017	\$50,000	3.00% of Gross Sales
2018	\$75,000	3.00% of Gross Sales
2019	\$100,000	3.00% of Gross Sales
All Subsequent Years	2.5% more than the prior year’s Minimum Payment, on a cumulative basis	3.00% of Gross Sales

For your review, we attach the letter of non-opposition that the Foundation received from the Town of Arlington as well as the corresponding Community Host Agreement.

Finally, because giving back to the community is of utmost importance to the Foundation, please note that we will match or exceed any offer to the Town of Needham proposed by any other group seeking to site in Needham.

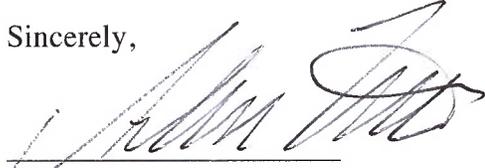
Comments Pertaining to Terms in the Agreement

Please find attached the Draft Community Benefit Agreement with our comments.

¹ Advanced payment credited against 3% of gross sales

The Foundation looks forward to appearing before the Selectmen this evening.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Fine', written over a horizontal line.

Adam Fine, Esq.
Vicente Sederberg, LLC

ADF/tc

Enclosures: Draft Community Benefit Agreement with MPF Comments
Letter of Non-Opposition from the Town of Arlington
Executed Community Host Agreement with Arlington

COMMUNITY BENEFIT AGREEMENT

THIS COMMUNITY BENEFIT AGREEMENT (this "Agreement") is entered into pursuant to M.G.L. 44, §53A this _____ day of _____ by and between the TOWN OF NEEDHAM, a Massachusetts municipal corporation with a principal address of 1471 Highland Avenue, Needham, MA 02492 (the "Town"), and _____, a Massachusetts nonprofit corporation with a principal address of _____ (the "Operator").

WHEREAS, the Operator wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD") at (LOCATION) (the "Facility") in accordance with regulations issued by the Massachusetts Department of Public Health ("DPH"); and

WHEREAS, the Operator intends to provide certain benefits to the Town by way of gift or grant in the event that it receives a Final Certificate of Registration to operate an RMD in Needham by DPH;

NOW THEREFORE, in consideration of the provisions of this Agreement, the Operator offers and the Town accepts this Agreement in accordance with G.L. c.44, §53A, and the Operator and the Town agree as follows:

1. Annual Payment

- (a) The Operator agrees to make a donation to the Town, in the amounts and under the terms provided herein. The Treasurer of the Town shall hold such donations in a separate gift account, to be expended by the Board of Selectmen without further appropriation pursuant to G.L. c.44, §53A, for the purposes of addressing any impacts of the RMD facility on the Town and on municipal programs, services, personnel, and facilities. The Funds shall be used at the Town's sole discretion, as determined by the Board of Selectmen.
- (b) The Operator shall pay to the Town an "Annual Payment", which shall be the greater of the "Minimum Payment" or the "Percentage of Gross Sales", as set forth below:

Calendar Year	Minimum Payment	Percentage of Gross Sales
2016	\$100,000	3.00% of Gross Sales
2017	\$50,000	3.00% of Gross Sales
2018	\$75,000	3.00% of Gross Sales
2019	\$100,000	3.00% of Gross Sales
All Subsequent Years	2.5% more than the prior year's Minimum Payment, on a cumulative basis	3.00% of Gross Sales

For the purposes of this Agreement, "gross sales" shall mean the total gross sales revenue from all products sold by the RMD.

Summary of Comments on COMMUNITY BENEFIT AGREEMENT Draft for Applicant Comment.v.3.22.16.1.pdf

Page: 1

 Number: 1 Author: VGR Subject: Sticky Note Date: 3/18/16, 3:31:19 PM
and all local approvals, permits and licenses.

 Number: 2 Author: tcalvs1 Subject: Sticky Note Date: 3/22/16, 3:36:13 PM
Please see proposed changes to financial terms in blue.

\$100,000 in 2016 will be an advanced payment credited against 3% of gross sales.

- (c) Each Annual Payment shall be paid to the Town not later than February 1 following the calendar year. For example, the payment for calendar year 2016 shall be due not later than February 1, 2017.
- (d) The Operator shall be bound by the Minimum Payment and the Percentage of gross sales attributable to each calendar year set forth above regardless of the year in which the RMD commences operations.
- (e) In the event that the Operator enters into a community benefit agreement with another municipality in the Commonwealth of Massachusetts that contains financial terms that are superior to what the Operator 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.
- (f) The provisions of this Agreement shall be applicable as long as the Operator operates a RMD dispensing facility in the Town, pursuant to a license issued by DPH.



2. Financial Records and Audit Rights of Town

- (a) The Operator shall submit financial records to the Town not later than January 15 of each calendar year, with a certification of the gross sales for the respective year.
- (b) The financial records provided on or before January 15 of each year shall include a certification of the gross sales from the RMD for the previous calendar year, for purposes of determining whether the Annual Payment shall be the applicable Minimum Payment or the Percentage of Gross Sales.
- (c) All financial records submitted to the Town shall be simultaneously submitted to DPH by the Operator. The Operator shall also submit to the Town copies of any additional financial records that the Operator must submit to DPH.
- (d) The Operator shall maintain its 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 DPH. All records shall be kept for a period of at least seven (7) years.
- (e) During the term of this Agreement and for three (3) years following termination of this Agreement, the Town shall have the right to examine, audit and copy (at its sole cost and expense) those parts of the Operator's books and financial records which relate to the determination of the required Annual Payment and to the Operator's compliance with this Agreement. Such examinations may be made upon not less than thirty (30) days prior written notice from the Town and shall occur only during normal business hours at such place where said books, financial records and accounts are maintained. The Town's

Number: 1 Author: VGR Subject: Sticky Note Date: 3/22/16, 1:47:22 PM

We would ask that this clause be mutually applied to the parties.

examination, copying or audit of such records shall be conducted in such manner as not to interfere with the Operator's normal business activities.

3. Purpose of Annual Payment

The Town may use the proceeds of each annual payment in its sole and absolute discretion.

4. Property Taxes

- (a) At all times during the term of this Agreement, property, both real and personal, owned or operated by the Operator shall be treated as taxable, and all applicable real estate and personal property taxes for that property shall be paid either directly by the Operator or by its landlord, and the Operator shall not challenge the taxability of such property and shall not submit an application for any statutory exemption from such taxes.
- (b) Notwithstanding Section 4(a): (i) if real or personal property owned or operated by the Operator is determined to be exempt for taxation or partially exempt, 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 full value, then the Operator 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 full assessed value and at the otherwise applicable tax rate, if there had been no abatement or exemption. The payment described in this Section 4(b) shall be in addition to the payments made by the Operator under Section 1 of this Agreement.

5. Sales Taxes

The Town reserves the right to collect sales taxes, or similar transactional taxes, from the Operator, in the event that such collections are authorized by law during the term of this Agreement. The payment of any such taxes described in this Section shall be in addition to the payments made by the Operator under Section 1 and Section 4 of this Agreement.

6. Security

The Operator shall maintain a cooperative relationship with the Needham Police Department, including but not limited to attending periodic meetings to review operational concerns, cooperation in investigations, and communication to the Needham Police Department of any suspicious activities on the RMD site.

7. Termination

This Agreement shall terminate at the time that either of the following occurs:

- (a) the Town notifies the Operator of the Town's termination of this Agreement; or

Number: 1 Author: VGR Subject: Sticky Note Date: 3/22/16, 1:49:43 PM

In addition, the Operator will make the same video feeds and records that are available to the DPH available to the Needham Police Department.

Number: 2 Author: VGR Subject: Sticky Note Date: 3/22/16, 2:59:27 PM

Operator proposes an additional paragraph that commits MPF to local hiring.

- (b) the Operator ceases to operate an RMD in Needham. In the case of any relocation out of the Town, an adjustment of funds due to the Town hereunder shall be calculated based upon the period of occupation of the RMD dispensing facility within the Town, but in no event shall the Town be responsible for the return of any funds already provided to it by the Operator.

8. Registration Contingency

The obligations of the Operator and the Town recited herein are specifically contingent upon the Operator's obtaining the DPH License for operation of a RMD dispensing facility in the Town, and the Operator's receipt of any and all necessary local approvals to locate, occupy, and operate a RMD dispensing facility in the Town.

9. Compliance with Legal Requirements

The Operator shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, including the bylaws and regulations of the Town, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD. 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 By-laws of the Town, or applicable regulations of those boards, commissions, and departments, or to enforce said statutes, By-laws, 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 the RMD dispensing facility to operate in the Town, or to refrain from enforcement action against the Operator and/or its RMD dispensing facility for violation of the terms of said permits and approvals or said statutes, By-laws, and regulations

10. Notices

Any and all notices, 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, to the parties at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence 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.

For the Town
Town Manager
1471 Highland Avenue
Needham, MA 02492

For the Operator

11. Binding Effect

This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the Town nor the Operator shall assign or transfer any interest in the Agreement without the written consent of the other.

12. Waiver

The obligations and conditions set forth in this Agreement may be waived only by a writing signed by the party waiving such obligation or condition. Forbearance or indulgence by a party shall not be construed as a waiver, nor limit the remedies that would otherwise be available to that party under this Agreement or applicable law. No waiver of any breach or default shall constitute or be deemed evidence of a waiver of any subsequent breach or default.

13. Amendment

This Agreement may only be amended by a written document duly executed by both of the Parties. No modification or waiver of any provision of this Agreement shall be valid unless duly authorized as an amendment hereof and duly executed by the Town and the Operator.

14. Headings

The article, section, and paragraph headings in this Agreement are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement.

15. Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, or affect the application of such provision to any other circumstances, and this Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained in this Agreement.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts, without regard to the conflicts of laws provisions thereof.

17. Entire Agreement

This Agreement, including all documents incorporated by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. 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.

18. Counterparts

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

IN WITNESS WHEREOF, the Parties to this Agreement have hereunto set their hands and seals on the day and year first above written.

TOWN OF NEEDHAM

OPERATOR

Board of Selectmen

Needham Town Manager

OFFICE OF THE BOARD OF SELECTMEN

KEVIN F. GREELEY, CHAIR
DIANE M. MAHON, VICE CHAIR
DANIEL J. DUNN
STEVEN M. BYRNE
JOSEPH A. CURRO, JR.



730 MASSACHUSETTS AVENUE
TELEPHONE
781-316-3020
781-316-3029 FAX

TOWN OF ARLINGTON
MASSACHUSETTS 02476-4908

March 2, 2016

Massachusetts Patient Foundation, Inc.
c/o Daniel Karten
36 Glen Avenue
Newton, MA 02459

Re: Letter of Non-Opposition for Massachusetts Patient Foundation, Inc.

Dear Mr. Karten,

The Board of Selectmen voted 4-0 at a duly posted public meeting on Monday, February 22, 2016, to provide this letter of non-opposition to operate a Registered Marijuana Dispensary ("RMD") in the Town of Arlington.

The Board of Selectmen has verified with the appropriate local officials that the proposed RMD is located in a zoning district that allows such use by right and or is pursuant to local permitting and review by all the applicable local regulatory boards, committees and or commissions.

Finally, this letter of non-opposition is contingent upon the execution of a Community Host Agreement between the Town of Arlington and Massachusetts Patient Foundation, Inc.

Very truly yours,
BOARD OF SELECTMEN

A handwritten signature in cursive script that reads "Kevin F. Greeley".

Kevin F. Greeley
Chairman

HOST COMMUNITY AGREEMENT
ARLINGTON, MA
MASSACHUSETTS PATIENT FOUNDATION, INC.

THIS HOST COMMUNITY AGREEMENT ("Agreement") is entered into pursuant to M.G.L. ch.44, §53A this 14 day of March 2016 by and between MASSACHUSETTS PATIENT FOUNDATION, INC. a Massachusetts not-for-profit corporation with a principal office address of 36 Glen Ave., Newton, MA 02059 ("OPERATOR") and the TOWN OF ARLINGTON, a Massachusetts municipal corporation with a principal address of 730 Mass Ave., Arlington, MA 02476 ("TOWN").

WHEREAS OPERATOR wishes to locate a Registered Marijuana Dispensary dispensing facility ("RMD") in the TOWN, in accordance with regulations issued by the Commonwealth of Massachusetts Department of Public Health ("DPH");

WHEREAS OPERATOR intends to provide certain benefits to the TOWN by way of gift or grant in the event that it receives a Final Certificate of Registration to operate a RMD in the TOWN by the DPH;

WHEREAS OPERATOR has applied for a certificate of registration from the DPH to operate the RMD in the TOWN at 5-11 Water St., Arlington, MA 02476 (the "Facility"); and

WHEREAS OPERATOR is seeking a letter of support/non-opposition from the TOWN for the siting and operation of an RMD in the TOWN.

NOW, THEREFORE, in consideration of the above, OPERATOR offers and the TOWN accepts the following Agreement terms in accordance with M.G.L. ch.44 §53A:

1. OPERATOR shall pay to the TOWN 3% of the gross revenue received by OPERATOR from retail sales at the Facility accruing from the date of commencement of sales by OPERATOR in the TOWN ("Sales Commencement Date"). The initial payment to the TOWN shall be made on the first day of the seventh month after the Sales Commencement Date ("Initial Payment Date"), and shall reflect gross revenue for the first quarter of sales. Thereafter payments shall be made every six months, and shall reflect the subsequent six month's sales,



with the final three months payment remaining unpaid until three months after the termination of this Agreement. OPERATOR shall notify the TOWN when OPERATOR commences dispensing within the TOWN. OPERATOR's records maintained pursuant to 105 CMR 725.105(I)(5) will be available to the TOWN upon request to verify OPERATOR's payment amounts. The TOWN may notify OPERATOR to delay the initial payment, in which case the initial payment shall be made as specified by the TOWN; however, the timing of subsequent payments shall be made as if the initial payment had been on the Initial Payment Date.

2. OPERATOR shall make a one-time payment to TOWN of \$100,000.00 within one week of the Sales Commencement Date, and the TOWN shall credit OPERATOR \$100,000.00 against OPERATOR's biannual payments.
3. OPERATOR shall work with the Arlington Police Department in determining the placement of exterior security cameras, so that at least two cameras are located to provide an unobstructed view in each direction of the public way(s) on which the RMD is located. OPERATOR will maintain a cooperative relationship with the Arlington Police Department, including but not limited to periodic meetings to review operational concerns, cooperation in investigations, and communication to Arlington Police Department of any suspicious activities on the site.
4. Except for senior management positions, OPERATOR commits to hiring local, qualified employees to the extent consistent with law. In addition to the direct hiring, OPERATOR will work in a good faith, legal and non-discriminatory manner to hire local vendors, suppliers, contractors and builders from the Arlington area where possible.
5. OPERATOR shall cooperate fully with the TOWN to prevent "Hardship Cultivation Registrations" as defined by 105 CMR 725.104 & 105 CMR 725.035, including but not limited to OPERATOR's commitment to delivering to residents of the TOWN unless such deliveries are prevented by circumstances outside of the OPERATOR's control.

6. The purpose of this Agreement is to assist the TOWN in addressing any public health, safety and other effects or impacts the RMD may have on the TOWN. The TOWN shall use the above-referenced payments in its sole discretion consistent with the purpose of the Agreement.
7. This Agreement shall terminate at the time that either of the following occur:
 - a. the TOWN notifies OPERATOR of the TOWN's termination of this Agreement;
 - b. OPERATOR ceases to operate a RMD in the TOWN
8. The obligations of OPERATOR and the TOWN recited herein are specifically contingent upon the issuance by DPH to OPERATOR of a Final Certificate of Registration for the operation of a RMD facility in the TOWN, and OPERATOR obtaining all required approvals from the TOWN for the OPERATOR to serve patients and caregivers from the Facility in Town.
9. OPERATOR shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN and shall not assign any of the moneys payable under this Agreement, except with the written consent of the TOWN, provided, however, that a pledge or assignment of assets, profits or receivables required in connection with financing the business by OPERATOR shall not be considered an assignment for the purposes of this paragraph.
10. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the TOWN nor OPERATOR shall assign or transfer any interest in the Agreement without the written consent of the other.
11. OPERATOR shall comply with all laws, rules, regulations and orders applicable to the operation of an RMD, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the operation of an RMD.



12. Any and all notices, 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, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence 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.
13. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by the 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 one or both parties would be substantially or materially prejudiced.
14. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and OPERATOR submits to the jurisdiction of the Trial Court for Middlesex County for the adjudication of disputes arising out of this Agreement.

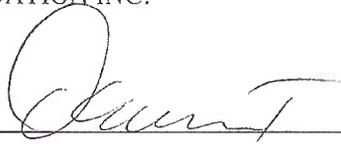
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15. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated Agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations,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

TOWN OF ARLINGTON, BOARD OF
SELECTMEN OR TOWN MANAGER:

MASSACHUSETTS PATIENT
FOUNDATION INC.

By:  _____

Title: COO - MASSACHUSETTS
PATIENT FOUNDATION