

FIRST AMENDED AND RESTATED
DEVELOPMENT AGREEMENT

This Agreement is entered into as of this first day of April, 2015 by and between Canton Holdings, LLC, an Illinois limited liability company having an address of One East Oak Hill Drive, Westmont, Illinois 60559, together with all its successors and assigns (collectively, the “Developer”) and the Board of Selectmen together with all its successors and assigns (collectively, the “Board”) of the Town of Canton, a Massachusetts municipal corporation having an address of Memorial Hall, 801 Washington Street, Canton, Massachusetts 02021 (the “Town”), with reference to the following facts and subject to the following conditions.

WHEREAS, the Developer is the owner of the Main Site, formerly owned by the Plymouth Rubber Company and located off Revere Street in Canton, Massachusetts and shown on Exhibit A and the Neponset Street Site located off Neponset Street in Canton, Massachusetts and shown on Exhibit B;

WHEREAS, the Developer is the owner of other property, water bodies, and improvements thereto not contiguous to the Site, including the Upper Forge Pond, Lower Forge Pond, a portion of the Neponset River, and the East Branch Neponset River Dam;

WHEREAS, the Main Site has been unused since 2006 and contains the remnants of former industrial production operations that have historically included the manufacture of copper, brass and, most recently, rubber products, that have rendered the Main Site subject to the jurisdiction of the MassDEP Bureau of Waste Site Cleanup pursuant to Release Tracking No. 4-3011520 and others referenced herein;

WHEREAS, the proximity of the Site to Canton Center makes its remediation and re-development of particular importance to the economy, health and welfare of the Town and its inhabitants and a priority for the Board;

WHEREAS, the Developer intends to re-develop the Site for the Project, which Project will include a mix of uses that will include Garden Style Units and Townhouse Units in multiple buildings, commercial space in a single or multiple buildings, offices, a school building for a private, non-municipal pre-school/kindergarten, public open spaces, and ancillary and accessory structures and uses as more particularly set forth herein, all as defined and set forth herein;

WHEREAS, the Main Site is currently located in an Industrial Zone zoning district in which residential uses are not allowed and the Neponset Street Site is located in a General Residence Zone zoning district;

WHEREAS, the Developer and the Board wish to cooperate to present to the Town’s voters all the Warrant Articles (attached hereto as Exhibit C) at a Town Meeting in 2015 and to create the Development District (attached as Exhibit D), Development Program (attached as Exhibit E) and Financial Plan (attached as Exhibit F) pursuant to G.L. c. 40Q to provide district improvement financing (DIF) in furtherance of the Project through the Town’s issuance of bonds pursuant to said G.L. c. 40Q and otherwise;

WHEREAS, the creation of the Development District and Development Program will afford the Developer an opportunity to proceed with its Project subject to the terms and conditions of this Agreement and to ensure that the Site is environmentally remediated and redeveloped for the public purposes of increased residential, industrial and commercial activity and to improve the quality of life, the physical facilities and structures at the Site and the quality of pedestrian and vehicular traffic and transportation; and

WHEREAS, the Board is willing to cooperate with the Developer in support of the Project subject to the terms and restrictions set forth by this Agreement and the completion of the Developer Work Obligations and Developer Conveyance Obligations, and the Developer is willing to impose such restrictions and to undertake and complete such obligations for the Project, all as set forth in this Agreement; and

WHEREAS, the parties have amended and restated this Agreement to implement modifications to the prior version of this Agreement to address the Town's Community Preservation Committee's vote at its meeting on March 30, 2015 to recommend the acquisition of additional property at the Site and to ratify and confirm all the exhibits to the Agreement.

NOW, THEREFORE, in consideration of the Board's cooperation and support of the Warrant Articles as set forth herein, the Developer performing the Developer Work Obligations and Developer Conveyance Obligations, the mutual promises and covenants stated herein and other good and valuable consideration each to the other paid, the receipt and sufficiency of which are hereby acknowledged by both parties, the parties hereto agree as follows.

1. **DEFINITIONS AND EXHIBITS**

All capitalized words in this Agreement shall have the meanings as set forth by this Section 1. All Exhibits attached hereto are hereby incorporated into this Agreement by reference.

"Age Restriction": A real property right to the Site to be held by the Board for the benefit of the Town and all owners of the Site as part of a common scheme and pursuant to this Agreement and the Declaration of Covenants attached hereto as Exhibit G to restrict Residential Units so that Residential Units affected by the Age Restriction are:

1. Owner units with at least one person over 55: Owner-occupied by Unit Owners not all of whom are fifty-five years of age or older, provided:
 - a. at least one of the Unit Owners of the Residential Unit:
 - i. is fifty-five years of age or older; and
 - ii. such Unit owner who is fifty-five years of age or older occupies the Residential Unit at least six (6) months per calendar year; and
 - b. all other occupants of the Residential Unit are Immediate Family Members of such record Unit Owner who is fifty-five years of age or older and who occupies the Residential Unit at least six (6) months per calendar year; or

2. Rented units with at least one tenant over 55: Rented to and occupied by tenants not all of whom are fifty-five years of age or older per a written lease executed with the Unit Owner provided:
 - a. at least one of the tenants of the Residential Unit executing such lease as a primary tenant satisfies each of the following criteria:
 - i. such primary tenant is fifty-five years of age or older;
 - ii. such primary tenant and the Unit Owner both duly execute a written lease for the Residential Unit that contains an acknowledgment initialed by all tenants that the Residential Unit is subject to the Rental Restriction;
 - iii. such primary tenant is responsible pursuant to the executed lease to pay the rent and in fact pays such rent; and
 - iv. such primary tenant occupies the Residential Unit at least six (6) months per calendar year; and
 - b. all other tenants and occupants of the Residential Unit are Immediate Family Members of such primary tenant.

“Agreement”: This Amended and Restated Development Agreement between the Developer and the Board of Selectmen.

“ANR Plan”: A plan that does not require approval under the Subdivision Control Law (G.L. c. 41, §§ 81K-81GG) pursuant to Section 81P of the Subdivision Control Law.

“Appropriations Article”: The Warrant Article seeking Town Meeting action to authorize the Board of Selectmen to fund, by raising, appropriating, borrowing or transferring, the Town’s acquisition of the Developer Property in the form of Exhibit C-1 attached hereto.

“Attorney General”: The Attorney General of the Commonwealth of Massachusetts.

“Barn”: The so-called Revere Barn.

“Barn Improvements”: That part of Developer Work Obligations consisting of the remediation, restoration and rehabilitation of the Barn as set forth by Section 5.1.13.

“Board”: The Town of Canton Board of Selectmen, together with all its successors and assigns.

“Chapter 21E/MCP”: Massachusetts General Law chapter 21E and the Massachusetts Contingency Plan (310 CMR § 40.0000), collectively.

“Community Land”: The separate lot containing approximately 2.2 acres on which the so-called Barn, Rolling Mill, Mill Pond and all parking areas and access-ways appurtenant thereto shall be located, as shown on the Site Plan attached hereto as

Exhibit A, as “Community Land” and other property, easements and rights, to be created by the Developer and granted to the Town pursuant to Section 5.1.13.

“Community Open Space”: The separate lot of land containing approximately 6.85 acres as shown on the Site Plan attached hereto as Exhibit A-1 as “Community Open Space” to be created by Developer and granted to the Town pursuant to Section 5.2.5.

“Community Property”: The Community Land, the Community Open Space and all other easements, rights and property, collectively, to be granted to the Town pursuant to this Agreement.

“Community Property Improvements”: That part of Developer Work Obligations to consist of the remediation, restoration and rehabilitation of the Community Property as set forth by Section 5.1.13.

“CPC Article”: A Warrant Article seeking Town Meeting action to adopt recommendations by the Town Community Preservation Committee to authorize the use of Community Preservation Fund money to acquire the Community Open Space as set forth by Section 5.2.5.

“Dam Safety Regulations”: The regulations promulgated by the Office of Dam Safety as set forth by 302 CMR § 10.00, et seq.

“Declaration of Covenants”: The Declaration of Covenants, Easements and Restrictions attached hereto as Exhibit G.

“Default”: Any default by Developer as set forth in Section 6.3.

“Demolition and Remediation Work”: That part of Developer Work Obligations to consist of the demolition of the existing structures on the Site and the remediation of the Site as set forth in Section 5.1.17.

“Developer”: Canton Holdings, LLC (formerly known as Canton Development Properties, LLC), together with all its successors and assigns, collectively.

“Developer Conveyance Obligations”: The Developer’s obligation pursuant to Section 5.2 to undertake and complete conveyances and transfers to the Town of certain water bodies and real property together with all improvements thereto, including but not limited to dams, fixtures and equipment, and other property and property interests.

“Developer Property”: Such real property, water bodies, dams, fixtures and equipment to be conveyed by the Developer to the Town (in fee or by easement) pursuant to Section 5.2 below, together with the appurtenances and improvements thereto.

“Developer’s Mortgage”: Any institutional mortgage lender providing construction and/or permanent financing for the Project or any part thereof for the benefit of the Developer or its successors or assigns.

“Developer Work Obligations”: The Developer’s obligation to undertake and complete certain work, improvements and other actions pursuant to Sections 5.1.1 through 5.1.19 (inclusive).

“Development District”: That area of Canton shown on the plan entitled “Proposed Revere DIF Boundary” and dated January 30, 2015, including portions of Revere Street, Neponset Street and Washington Street, and Upper Forge Pond and Lower Forge Pond as shown on said plan. A copy of such plan is attached hereto as Exhibit D.

“Development Program”: The statement of means and objectives for the improvement of the Development District pursuant to G.L. c. 40Q attached hereto as Exhibit E.

“DHCD”: Massachusetts’ Department of Housing and Community Development and/or its successor agency.

“DIF Authorization Article”: The Warrant Article seeking Town Meeting action to adopt a Development Program, Development District, Financial Plan, and Invested Revenue District, as such terms are defined by and pursuant to G.L. c. 40Q, in the form of Exhibit C-2 attached hereto.

“District Improvement Financing”: Such funds obtained by the Town by the Town’s issuance and sale of bonds to help to finance the Development Program and the Project.

“Diversion Channel”: The river channel constructed by the USACE as shown on the Site Plan that accepts water from the East Branch of the Neponset River at the East Branch Neponset River Dam and directs the river flow around the western border of the Main Site to Factory Pond and beyond.

“Diversion Channel Bridge Improvements”: That part of Developer Work Obligations consisting of the design and construction of a bridge over the Diversion Channel as set forth by Section 5.1.7.

“Diversion Channel Improvements”: That part of Developer Work Obligations consisting of the improvement of the Diversion Channel as set forth by Section 5.1.2.

“DPW”: The Board of Public Works of the Town of Canton.

“East Branch Neponset River Dam”: The East Branch Neponset River Dam (sometimes known as the Revere Dam) that consists of two sections as shown on the Site Plan and that dams the East Branch of the Neponset River in Canton, Massachusetts, together with all related equipment, fixtures and appurtenances thereto.

“Estimated Costs”: The agreed-upon estimated cost of each improvement and work item as set forth on the Schedule of Allocated Values/Costs attached hereto as Exhibit H.

“Existing Net Tax Revenues”: Revenues from real estate taxes levied and collected by the Town for the Site for the first year of the Project, minus the amount of Town Operating Costs and School Operating Costs allocated thereto. For purposes of

determining Existing Net Tax Revenues, the phrase “first year of the Project,” shall mean the sooner of: (a) the first tax fiscal year during which the first Residential Unit at any part of the Site for which any certificate of occupancy has been issued, or (b) fiscal year 2017.

“Factory Pond”: That certain water body located on the Main Site and shown on the Site Plan as Factory Pond.

“Financial Plan”: The costs and sources of revenue required to accomplish the Development Program, including: (1) cost estimates for the Development Program; (2) the amount of indebtedness to be incurred; and (3) sources of anticipated capital. A copy of the Financial Plan is attached hereto as Exhibit F.

“Fire Station Roof Improvements”: That part of Developer Work Obligations consisting of the installation of a new roof on the Fire Station on Revere Street as set forth by Section 5.1.8.

“Fire Station Signal Improvements”: That part of Developer Work Obligations consisting of the installation of warning signals in front of the Fire Station on Revere Street as set forth by Section 5.1.9.

“Force Majeure Event”: Requirements of statutes or regulations not yet adopted as of the date of this Agreement, acts of God, fire, earthquake, hurricane, tornado, lightning, floods, explosion, war, terrorism, riots, mob violence, inability to procure due to a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, or actions of labor unions.

“Garden Style Units”: The garden-style residential dwelling units located in a single or multiple buildings as set forth by Section 2.1.

“Immediate Family Members”: A natural person’s wife, husband, mother, father, daughter, son, step-child, sister, brother, grandmother, grandfather or grandchild by birth and/or by law, and no others.

“Inspection”: Without limiting the generality of the provisions of section 11.10, the inspection, investigation, assessment, monitoring, survey and/or review of real property and the buildings thereon and improvements and appurtenances thereto and any aspects thereof located on the Developer Property or located on other portions of the Site to the extent reasonably related to the Town’s acquisition of the any Developer Property.

“Junction Walkway Improvements”: That part of Developer Work Obligations consisting of the design and construction of a pedestrian sidewalk, connection and light fixtures from the Site to Canton Junction Commuter Rail Station as set forth by Section 5.1.11.

“Land Court”: The Norfolk County Registry District of the Land Court.

“Lease”: That certain lease agreement between the Developer and the Town for the Rolling Mill and Barn, together with access and parking pursuant to Section 8.2.

“Local Contractors”: Contractors that (1) have a usual place of business in the Town of Canton, and/or (2) are owned or operated by individuals who (prior to bid submission to Developer) have principal residences in the Town of Canton.

“Lower Forge Pond”: That certain body of water and adjacent upland, together with the dam and all improvements and water rights thereto, shown as Lot 5 on Land Court Plan 23714-B attached hereto as Exhibit I.

“LSP”: A Licensed Site Professional as defined by Chapter 21E/MCP.

“Main Site”: That part of the Site containing approximately 33.9 acres of land and wetlands and water bodies, including the Mill Pond and Factory Pond, located on the westerly side of Revere Street in Canton, Massachusetts, being commonly known as and numbered 104 Revere Street, all of which property is shown on the Site Plan and is more particularly described by Land Court Certificate of Title No. 173248 and Land Court Plan 23714-A (sheets 6 and 7) as Lot 4, together with all the buildings thereon and improvements thereto. A copy of Land Court Plan 23714-A showing the boundaries of the Main Site is attached hereto as Exhibit I for reference.

“Massachusetts Contingency Plan” or “MCP”: 310 CMR 40.0000, et seq.

“MassDEP”: The Massachusetts Department of Environmental Protection.

“Master Condominium”: The condominium to be created by the Developer pursuant to G.L. c. 183A and Section 10.8 below.

“Master Deed”: The master deed for the Master Condominium to be prepared by the Developer to establish and govern the Master Condominium pursuant to G.L. c. 183A.

“MBTA Signal Improvements”: That part of Developer Work Obligations consisting of the installation of traffic signals at the MBTA bridge located on Revere Street as set forth in Section 5.1.10.

“Mill Pond”: That certain water body located on the Main Site and shown on the Site Plan as Mill Pond.

“Moderate Income Units”: Those Residential Units that the Developer shall designate as affordable units for individuals and families whose annual income is equal to or less than eighty percent (80%) of the area median income as determined by the United States Department of Housing and Urban Development for the Metropolitan Statistical Area (or MSMA) which includes Canton, Massachusetts, pursuant to Section 2.8.

“Neponset Street Site”: That part of the Site containing approximately 2.9 acres with all the buildings thereon and the improvements thereto fronting on Neponset Street in

Canton, Massachusetts. The Neponset Street Site is shown on the plan attached hereto as Exhibit B.

“Neponset/Norfolk Street Improvements”: That part of Developer Work Obligations consisting of the design, construction and installation of roadway and pedestrian access improvements and traffic signals on Neponset Street and Norfolk Street as set forth in Section 5.1.12, provided that such improvements are deemed necessary by the DPW.

“Net Increased Tax Revenues”: The difference measured annually on June 30 each year between (a) the New Net Tax Revenues, minus (b) the Existing Net Tax Revenues.

“New Net Tax Revenues”: Annual revenues from real estate taxes levied and collected by the Town each fiscal year for all land and improvements at the Site, minus the Town Operating Costs and School Operating Costs for the Site for that year.

“Non-Residential Properties”: The land and improvements thereon that are part of the Site that are used for commercial purposes as set forth by Section 2.2.

“Office of Dam Safety”: The Massachusetts Department of Conservation and Recreation Office of Dam Safety.

“Personal Representative”: The personal representative (as that term is defined by Massachusetts’ Uniform Probate Code, G.L. c. 190B, § 1-201(37)) of a Unit Owner’s estate.

“Phasing Plan”: The schedule for the Developer to complete the Developer Work Obligations and Developer Conveyance Obligations attached hereto as Exhibit J.

“Project”: The Developer’s project to permit, develop and improve the Site and the Developer Property as set forth by Section 2 of this Agreement and in conformance with the Development Program, Financial Plan and Phasing Plan.

“Project Cost Account”: The DIF development program fund project cost account within the Town’s treasury held by the Town’s Treasurer and pledged to and charged with the payment of project costs within the Development District pursuant to G.L. c. 40Q as outlined by the Financial Plan.

“Registry”: The Norfolk County Registry of Deeds.

“Remedial Implementation Plan”: The Phase IV Remedial Implementation Plan dated August 1, 2014, prepared by GeoInsight, Inc. with respect to MADEP RTN 4-3011520.

“Rental Restriction”: A real property right to the Site to be held by the Board for the benefit of the Town and all the owners of the Site as part of a common scheme and as set forth by this Agreement, the Master Deed and the Declaration of Covenants attached hereto as Exhibit G, all of which will restrict the Site:

- (a) such that all Residential Units are owner-occupied by one or more of their Unit Owners at least six (6) months per calendar year, and

(b) to prohibit any temporary or permanent tenancy or occupancy of any Residential Unit by any person other than the Unit Owners of such Residential Unit, unless such tenancy or occupancy is expressly exempted from the Rental Restriction:

- (1) as one of the sixty (60) rental units identified by a Special Permit pursuant to Section 10.2.1, or
- (2) for an Immediate Family Member of such Unit Owner for that Unit Owner's Residential Unit pursuant to Section 10.2.2, or
- (3) pursuant to a Temporary Hardship Waiver granted pursuant to Section 10.2.3.

“Residential Units”: Those certain residential dwelling units as set forth by Section 2.1.

Revere Street Improvements”: That part of Developer Work Obligations consisting of the re-pavement of Revere Street as set forth by Section 5.1.6.

“Revere Street Sidewalks and Bike Lane Improvements”: That part of Developer Work Obligations consisting of the design and construction of sidewalks and a bike lane on Revere Street as set forth by Section 5.1.5.

“Rezoning Amendment”: The adoption by Town Meeting of the Re-Zoning Article to amend the Town of Canton's Zoning By-Law and Zoning Map to place the Site within the Canton Center Economic Opportunity District Priority Revitalization Area "C" overlay district and approval by Massachusetts' Attorney General thereof such that Town Meeting's adoption of the Rezoning Article effectuates an amendment to the Town of Canton's Zoning By-Law and Zoning Map.

“Rezoning Article”: The Warrant Article seeking Town Meeting action to amend the Town of Canton's Zoning By-Law and Zoning Map to place the Site within the Canton Center Economic Opportunity District Priority Revitalization Area "C" overlay district in the form of Exhibit C-3 attached hereto, as submitted to the Town by petition of registered voters on January 9, 2015.

“Rolling Mill”: The building known as the Revere Rolling Mill located as shown on the Site Plan.

“Rolling Mill Improvements”: That part of Developer Work Obligations consisting of the remediation, restoration and rehabilitation of the Rolling Mill as set forth by Section 5.1.13.

“School Operating Costs”: The amount allocated for school costs related to the development of the Site and the Town acquisition obligations set forth in Section 7.2 determined as follows. If the Town acquires the Community Open Space as herein provided and the Developer constructs 272 Residential Units on the Site, then the School Operating Costs for the first year of the Project shall equal \$275,000 and every tax fiscal year thereafter shall escalate annually, as of July 1 of each such year, by four percent

(4%) (e.g., year one- \$275,000, year two - \$286,000, year three – \$297,440, etc.). If the Town does not acquire the Community Open Space and the Developer constructs 295 Residential Units on the Site, then the School Operating Costs for the first year of the Project shall equal \$295,000 and every tax fiscal year thereafter shall escalate annually, as of July 1 each such year, by four percent (4%) (e.g., year one- \$295,000, year two - \$306,800, year three – \$319,072, etc.). For purposes of determining School Operating Costs, the phrase “first year of the Project,” shall mean the sooner of: (a) the first tax fiscal year during which the first Residential Unit at any part of the Site for which any certificate of occupancy has been issued, or (b) fiscal year 2017.

“Security.” The bond, letter of credit or such other security given by the Developer to the Town as the Developer and Board may agree as provided by Section 6.1.

“Sinking Fund Account”: The DIF development program fund project cost account within the Town’s treasury held by the Town’s Treasurer and pledged to and charged with the payment of principal and interest on bonds issued by the Town as required by G.L. c. 40Q.

“Site”: The Main Site and the Neponset Street Site, collectively.

“Site Plan”: In the event that Town Meeting adopts the CPC Article or the Board elects to acquire the Community Open Space as set forth by Section 5.2.5, the Site Plan shall be that certain plan containing one (1) sheet entitled “Exhibit A-1: Site Plan for Revere Street and attached hereto as Exhibit A-1.” In the event that Town Meeting fails to acquire the Community Open Space, the Site Plan shall be that certain plan containing one (1) sheet entitled “Exhibit A-2: Site Plan for Revere Street and attached hereto as Exhibit A-2.”

“Site Water Feature Improvements”: That part of Developer Work Obligations consisting of the replacement, restoration and improvement of certain water features on the Site as set forth by Section 5.1.3.

“Solution Outcome”: A remedial outcome as defined by the Massachusetts Contingency Plan, 310 CMR 40.0000, et seq. as either a “Permanent Solution without Conditions”, a “Permanent Solution with Conditions” or a “Temporary Solution”.

“Special Permit”: Any special permit for any project in the Canton Center Economic Opportunity District Priority Revitalization Area "C" overlay zoning district as may be issued by the SPGA pursuant to the Rezoning Amendment and with this Agreement.

“Special Permit Application”: Developer’s proposed application to the SPGA to obtain the Special Permit, together with all plans, specifications, schedules and reports required to be submitted therewith pursuant to the Rezoning Amendment, collectively, as any of the same may be amended.

“SPGA”: The Special Permit Granting Authority of the Town responsible for granting the Special Permit pursuant to the Town’s Zoning Bylaws.

“Subdivision Plan”: A definitive subdivision plan that requires approval under the Subdivision Control Law (G.L. c. 41, §§ 81K-81GG).

“Temporary Hardship Waiver”: A temporary waiver of the Rental Restriction due to hardship granted pursuant to Section 10.

“Three Channel Culvert”: That certain culvert containing three channels and beginning on the East Branch of the Neponset River and crossing the Main Site approximately as shown on the Site Plan, together with all appurtenances and improvements thereto.

“Town”: The Town of Canton, together with all its successors and assigns, collectively.

“Town Acquisition Article”: The Warrant Article seeking Town Meeting action to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain all or any portions of the Site, Developer Property and improvements thereto and interests therein in the form of Exhibit C-4 attached hereto.

“Town Disposable Property”: That certain property located off Revere Street and the East Branch of the Neponset River known as Lot A, Lot B, Lot 5, Lot 6 and Lot 8 as shown on the plan entitled “Plan of Land in Canton, Mass.,” dated February 17, 1962 and recorded at the Registry in Plan Book 213 as Plan No. 624, to the extent such property is owned by the Town as of the date of this Agreement.

“Town Disposition Article”: The Warrant Article seeking Town Meeting action to authorize the Board to grant to the Developer or otherwise dispose of the Town Disposable Property in the form of Exhibit C-5 attached hereto.

“Townhouse Units”: The townhouse-style residential dwelling units described by Section 2.1.

“Town Meeting”: The 2015 annual town meeting of the of voters of the Town of Canton to be held by the Town of Canton or such other annual or special town meeting at which the Warrant Articles are considered by the Town’s voters.

“Town Operating Costs”: The amount allocated for public works and public safety services costs related to the development of the Site and the Town acquisition obligations set forth in Section 7.2 determined as follows. If the Town acquires the Community Open Space as herein provided, then the Town Operating Costs for the first year of the Project shall equal \$235,000 and every tax fiscal year thereafter shall escalate annually, as of July 1 each such year, by three percent (3%) (e.g., year one- \$235,000, year two - \$242,050, year three – \$249,311.50, etc.). If the Town fails to acquire the Community Open Space, then the Town Operating Costs for the first year of the Project shall equal \$260,000 and every tax fiscal year thereafter shall escalate annually, as of July 1 each year, by three percent (3%) (e.g., year one- \$260,000, year two - \$267,800, year three – \$275,834, etc.). For purposes of determining Town Operating Costs, the phrase “first year of the Project,” shall mean the sooner of: (a) the first tax fiscal year during which the first Residential Unit at any part of the Site for which any certificate of occupancy has been issued, or (b) fiscal year 2017.

“Town Residential Unit”: The Residential Unit to be conveyed to the Town pursuant to Section 5.2.23.

“Unit Owner” or “Unit Owners”: The natural person or persons or trustees who are the record legal owner or owners of a Residential Unit at the Site pursuant to a deed duly filed with the Land Court or recorded at the Registry, as applicable.

“Upper Forge Pond”: That certain body of water and adjacent upland, together with the dam and all improvements and water rights thereto, shown as Lot 2 on Land Court Plan 23714-A attached hereto as Exhibit I.

“USACE”: United States Army Corps of Engineers.

“Walkway Improvements”: That part of Developer Work Obligations consisting of the design and installation of six-foot (6') wide walking trails at the Site as set forth by Section 5.1.4.

“Warrant Articles”: The Appropriations Article, DIF Authorization Article, Rezoning Article, Town Acquisition Article, Town Disposition Article and Zoning Map Amendment Article, collectively, attached hereto as Exhibits C-1, C-2, C-3, C-4, C-5 and C-6 for submission to the voters of the Town of Canton at Town Meeting.

“Water Control Improvements”: That part of Developer Work Obligations consisting of the repair, restoration, replacement and improvement of dams, water control mechanisms and culverts as set forth by Section 5.1.15.

“Water Line Connection”: That part of Developer Work Obligations consisting of the installation of a new water line within the Main Site to connect the water mains in Revere Street and Neponset Street as set forth by Section 5.1.1.

“Water Main Improvements”: That part of Developer Work Obligations consisting of the installation of new water mains in Revere Street and Neponset Street as set forth by Section 5.1.16.

“ZBA”: The Town of Canton Zoning Board of Appeals.

“Zoning Map Amendment Article”: The Warrant Article seeking Town Meeting action to amend the Town’s Zoning Map to include the Site within the Canton Center Economic Opportunity District (Revitalization Area C) Zoning District in the form of Exhibit C-6 attached hereto.

2. SCOPE OF PROJECT

The parties agree that the term “Project” as used in this Agreement shall mean the development of the Site pursuant to a Special Permit, which shall include all the following as set forth by this Section 2.

2.1 Residential Units: Developer shall be permitted, pursuant to such Special Permit, to construct and equip residential dwelling units as follows.

2.1.1 272 Residential Units with Town Acquisition of Community Open Space. In the event that the Town acquires the Community Open Space as herein provided, then Developer shall be permitted by such Special Permit to construct and equip two hundred seventy two (272) residential dwelling units consisting of:

- a. 19 Townhouse Units. Nineteen (19) townhouse-style residential dwelling units in multiple buildings, all of which units shall be owned by a Unit Owner and subject to the Rental Restriction, but not subject to the Age Restriction;
- b. 253 Garden-Style Units. Two hundred fifty three (253) garden-style residential dwelling units located in a single or multiple buildings of which:
 1. 193 Non-Rentals. One hundred ninety three (193) garden-style residential dwelling units, all of which units shall be owned by a Unit Owner and subject to the Rental Restriction, but not subject to the Age Restriction, and
 2. 60 Rentals. Up to sixty (60) garden-style residential dwelling units, all of which units shall be subject to the Age Restriction but exempt from the Rental Restriction pursuant to Section 10.2.1; and
- c. Public Open Space: Developer shall develop and restore the Community Open Space pursuant to Section 5.1.13 as open space predominantly in its natural condition as open space and for conservation and passive recreational purposes.

2.1.2 295 Residential Units without Town Acquisition of the Community Open Space. In the event that the Town does not acquire the Community Open Space as herein provided, then Developer shall be permitted by such Special Permit to construct and equip two hundred ninety five (295) residential dwelling units consisting of:

- a. 49 Townhouse Units. Forty nine (49) townhouse-style residential dwelling units in multiple buildings, all of which units shall be owner-occupied by a Unit Owner subject to the Rental Restriction but shall not be subject to the Age Restriction;

- b. 246 Garden-Style Units. Two hundred forty six (246) garden-style residential dwelling units located in a single or multiple buildings of which:
 1. 186 Non-Rentals. One hundred eighty six (186) garden-style residential dwelling units, all of which shall be owned by a Unit Owner and subject to the Rental Restriction, but not subject to the Age Restriction, and
 2. 60 Rentals. Up to sixty (60) garden-style residential dwelling units, all of which units shall be subject to the Age Restriction but exempt from the Rental Restriction pursuant to Section 10.2.1.

2.1.3 Residential Units Subject to Age Restriction. The Board shall hold and shall have the right and power to enforce the Age Restriction pursuant to this Agreement and the Declaration of Covenants. The Board may from time to time elect by vote of the Board (a) to delegate such power to enforce the Age Restriction to another Town board or official for such board or official to exercise; or (b) to recapture and retain such power for the Board to exercise.

2.1.4 Residential Units Subject to Rental Restriction. Unless expressly exempted by Section 10.2, all Residential Units shall be subject to the Rental Restriction at all times pursuant to this Agreement and the Declaration of Covenants.

2.1.5 Accessibility of Residential Units. All Residential Units shall be designed such that such units are accessible by persons with disabilities pursuant to the Americans with Disabilities Act (as amended), the Americans with Disabilities Act Accessibility Guidelines and the rules and regulations of Massachusetts' Architectural Access Board. In the event of any conflict between the Americans With Disabilities Act Accessibility Guidelines and the rules and regulations of Massachusetts' Architectural Access Board, the requirements that provide for the design most accommodating to persons with disabilities shall be followed.

2.2 Commercial Uses: Developer shall have the right to develop from a minimum of approximately 14,000 square feet of Gross Floor Area of commercial (but not industrial) space up to a maximum of 38,000 square feet of Gross Floor Area of such commercial space as may be allowed by the Special Permit, which may include, without limitation, a facility of approximately 10,000 square feet of Gross Floor Area for use as a private, non-municipal kindergarten or pre-school and a retail, office or restaurant building along Revere Street of approximately 4,000 square feet of Gross Floor Area.

2.3 Public Community Uses: Developer shall remediate and renovate the Rolling Mill and Barn to contain a total of not less than 16,000 square feet for public community uses designated by the Board, as set forth by Section 5.1.13 of this Agreement.

2.4 Pedestrian Access: Developer shall develop public walking trails and pedestrian walkways and access as set forth in Section 5.1 and shall reserve for and grant to the

Town (by permanent easement), such trails, walkways and access, it being the intent that the same be approximately as shown by the Site Plan.

2.5 Private Facilities: Developer shall develop ancillary private facilities and amenities, which shall include, without limitation, a private community building approximately as shown on the Site Plan and as the Board and the Developer shall further agree upon, and may include other amenities, including without limitation, a swimming pool and child play area for residents of the Project.

2.6 Special Permit Application. Any Special Permit Application submitted to the SPGA shall propose a Project consistent with Sections 2.1 through 2.5, inclusive and this Agreement. At the request of the Developer, with prior written consent by the Board, which consent may be withheld for any reason, and subject to Section 11.6 and modification of any Special Permit and other permits and approvals, the maximum number of Townhouse Units and Garden-Style Units may be modified if financing or marketing conditions reasonably require a different mix and number of the types of Residential Units for the Project, provided that in no event shall (a) the aggregate number of Residential Units in the Project exceed (i) 272 Residential Units consistent with Section 2.1.1 or (ii) 295 Residential Units consistent with Section 2.1.2, as applicable, or (b) the total number of Residential Units exempt from the Rental Restriction pursuant to Section 2.1.1, Section 2.1.2 or Section 10.2.1 exceed sixty (60) Residential Units.

2.7 Subdivision of the Site. The Developer shall divide or subdivide the Site into separate lots pursuant to the Subdivision Control Law and the Rules and Regulations of the Planning Board. In doing so, the Developer shall at a minimum create (a) a separate lot for the Community Land, or (b) a separate lot for the Community Land and Community Open Space if the Town acquires the Community Open Space as herein provided. Each lot may be developed as part of a separate phase or phases of the Project in accordance with the Phasing Plan, which shall be made a part of all Special Permits granted pursuant to the Rezoning Amendment; provided that the development of each lot within each phase of the Project shall be subject in all respects to the terms and conditions of the Special Permit applicable thereto and this Agreement. The purchaser of any lot within the Site other than the Town shall, at the time of acquisition of such lot, execute and deliver to the Developer and the Town an agreement acceptable to the Developer and the Board by which such purchaser agrees, for the direct benefit of the Developer and the Town, to comply with all of the terms and conditions, and to assume, subject to Section 11.2, all of Developer's obligations under the applicable Special Permit and this Agreement, as they relate to such lot.

2.8 Moderate Income Units. Approximately ten percent (10%) of all Residential Units at the Site shall be designated by the Developer to be Moderate Income Units and restricted in perpetuity as such as follows.

2.8.1 27 Moderate Income Units with Town Acquisition of the Community Open Space. In the event the Town acquires the Community Open Space as herein provided, then the Developer shall be required, as a condition of

any Special Permit, to designate twenty seven (27) Garden-Style Units at the Site as Moderate Income Units.

- 2.8.2 30 Moderate Income Units absent Town Acquisition of the Community Open Space. In the event the Town does not acquire the Community Open Space as herein provided, then the Developer shall be required, as a condition of any Special Permit, to designate thirty (30) Garden-Style Units at the Site as Moderate Income Units.
- 2.8.3 25 Percent of Rental Units as Moderate Income Units. As part of (and not in addition to) the Moderate Income Units required by Sections 2.8.1 and/or Section 2.8.2, as applicable, the Developer shall, as a condition of any Special Permit, designate at least twenty five percent (25%) of the sixty (60) rental Garden-Style Units that may be permitted pursuant to Section 2.1.1(b)(2) and/or Section 2.1.2(b)(2) as Moderate Income Units, it being the intent of both parties that such units so designated are part of the Project that shall qualify as a rental development such that DHCD may consider all rental Garden-Style Units permitted pursuant to Section 2.1.1(b)(2) and/or Section 2.1.2(b)(2) as counting toward the Town's Subsidized Housing Inventory.
- 2.8.4 DHCD Approval. Developer shall cause, at Developer's expense, all Moderate Income Units to be approved by the DHCD as such and counted as part of the Town's Subsidized Housing Inventory maintained by the DHCD pursuant to DHCD's regulations, guidelines and requirements, including but not limited to (a) executing and filing with the Land Court and/or Registry, as applicable, a DHCD Local Initiative Program Regulatory Agreement, and (b) completing all marketing of the Moderate Income Units as required by DHCD. To the extent the Board may be required by DHCD to execute the DHCD Local Initiative Program Regulatory Agreement for the Project, the Board agrees not to unreasonably withhold its execution of such DHCD standard form Local Initiative Program Regulatory Agreement, provided that it is consistent with the terms of this Agreement. No Moderate Income Unit shall be sold, leased or otherwise transferred until a fully executed and approved DHCD standard form Local Initiative Program Regulatory Agreement encumbering all Moderate Income Units designated by Developer pursuant to Section 2.8.1 or Section 2.8.2, as applicable, is filed at the Land Court and/or Registry, as applicable. Other than the Residential Units being designated and restricted as Moderate Income Units pursuant to this Section 2.8, the Town shall not require any of the Residential Units to be designated or otherwise to qualify as Low and/or Moderate Income Housing under any applicable federal or state law and accordingly, and all other Residential Units may be "market rate" Residential Units consistent with Section 2.1.

3. **BOARD COOPERATION AND SUPPORT**

3.1 The Board acting through a majority of its members shall reasonably cooperate with the Developer to achieve the adoption of the Warrant Articles at the Town Meeting by formally voting by majority vote to authorize the Board's Chair or his/her designee to (a) recommend to Town Meeting that Town Meeting approve the Warrant Articles, and (b) advocate the same to the Planning Board and the Town's Finance Committee.

3.2 If (a) Town Meeting adopts the Appropriations Article, the Rezoning Article, the Town Acquisition Article and the Zoning Map Amendment Article, and (b) either (i) Town Meeting adopts the Town Disposition Article or (ii) the Town does not own all the Town Disposable Property, and (c) the Attorney General approves the Rezoning Article, then the Developer shall, with reasonable diligence and within one hundred eighty (180) days from the date the Attorney General approves Town Meeting's adoption of the Rezoning Article, prepare and submit a Special Permit Application that shall include all work for the first phase of the Project pursuant to the Phasing Plan (except as otherwise provided in Section 8.2, including but not limited to the work for the Barn, Rolling Mill and Community Land and if the Town elects to acquire the Community Open Space as herein provided, the Community Open Space) and seek the issuance by the SPGA of the Special Permit for the first phase of the Project pursuant to the Rezoning Amendment and an endorsement of an ANR Plan or Subdivision Plan, as applicable, pursuant to the Subdivision Control Law and all other applicable bylaws, rules and regulations. The Board, through its Chair or his/her designee, will reasonably publicly support the issuance by the SPGA of the Special Permit and approval thereby of any proposed ANR Plan and Subdivision Plans for the Project, provided the same are consistent with the terms and conditions of this Agreement.

3.3 If Town Meeting adopts the DIF Authorization Article, the Rezoning Article, the Town Acquisition Article and the Zoning Map Amendment Article and the Attorney General approves the Rezoning Article, the Board will undertake reasonably necessary actions in connection with the Development Program and Project: (a) to establish a separate Town account in the treasury of the Town; (b) to create a Sinking Fund Account for the Development District that is pledged to and charged with the payment of the interest and principal as the interest and principal fall due and the necessary charges of paying interest and principal on any notes, bonds or other evidences of indebtedness that were issued to fund or refund the costs of the Development Program fund; (c) to create a Project Cost Account for the Development District that is pledged to and charged with the payment of project costs as outlined in the Financial Plan and consistent with any Town Meeting votes on the Warrant Articles and otherwise subject to and in accordance with G.L. c. 40Q and this Agreement, and (d) to deposit collected tax revenue from the Development District into the Sinking Fund Account and the Project Cost Account as required by G.L. c. 40Q and thereafter, as the Board may elect.

3.4 If Town Meeting adopts the Appropriations Article, the Rezoning Article, the Town Acquisition Article and the Zoning Map Amendment Article and the Attorney General approves the Rezoning Article, the Board will undertake reasonably necessary actions to cause the Town: (a) to obtain funds for the Town acquisitions of the Developer

Property pursuant to Section 7 by issuing and selling municipal bonds and/or by making appropriations, borrowings or transfers pursuant to any applicable law, as the Board may elect, and (b) to establish a separate Town account or accounts in the treasury of the Town and to deposit such funds into such account(s) for the Town acquisitions of the Developer Property pursuant to Section 7 and to pay for project costs as outlined in the Financial Plan and consistent with any Town Meeting votes on the Warrant Articles and otherwise subject to and in accordance with this Agreement.

3.5 If Town Meeting adopts the Town Acquisition Article, the Board will, subject to all the provisions of Section 7, undertake all reasonably necessary actions to acquire the Developer Property. If Town Meeting adopts the Town Disposition Article, the Board will, subject to Section 7 and the Town's ownership of the Town Disposable Property as of the date of this Agreement, undertake all reasonably necessary actions to dispose of the Town Disposable Property. Nothing in this Agreement shall require the Town to purchase, take by eminent domain or otherwise acquire any interests in the Town Disposable Property to the extent the Town does not own the Town Disposable Property as of the date of this Agreement.

3.6 At least sixty (60) days prior to Developer filing an application for the Special Permit for the Project pursuant to this Agreement, Developer shall submit to the Board a copy of its Special Permit Application. The Board shall have the right to review the Special Permit Application to determine if it is consistent with the terms and conditions of this Agreement. Unless the Board provides a written notice to the Developer within twenty one (21) days after receipt of the Special Permit Application specifying any inconsistencies with this Agreement, the Developer shall be free to file the Special Permit Application with the SPGA; however, in no event shall the Board to be deemed to have waived, or be required to waive, and the Board hereby reserves, its rights to determine from time to time whether the Special Permit Application is consistent with the terms and conditions of this Agreement and to rebut any presumption arising from any failure by the Board to provide the Developer with such written notice within such 21-day period or otherwise. If the Board delivers to the Developer such written notice within such 21-day period or thereafter specifying inconsistencies with this Agreement, then (a) the Developer shall reasonably promptly address such inconsistencies, and (b) the Board shall be entitled to notify the SPGA that the Special Permit Application is inconsistent with the terms and conditions of this Agreement, which notification will specify the alleged inconsistencies. Notwithstanding any provision in this Agreement to the contrary, nothing in this Agreement shall prohibit the Board from appealing or contesting (a) any decision by the SPGA to issue a Special Permit or any conditions therein for any portion of the Site to the extent that such decision is inconsistent with this Agreement, or (b) any building permit or decision issued by the Town's Building Commissioner with respect to the Site to the extent either of the same are inconsistent with this Agreement.

3.7 To the extent any other permits, licenses or approvals of any kind or nature are required from Town Meeting or any governmental authority for the development, construction or use of the Project, the Board shall reasonably cooperate with Developer in its efforts to obtain issuance of the same by the Chair of the Board or his/her designee publicly supporting the Developer's applications for the same, provided such applications

are consistent with this Agreement and applicable laws, regulations and bylaws and provided further that the Town shall not be required to incur or bear any costs in connection with such support.

3.8 Prior to the issuance of all building permits required for the Project, the Board, acting as such, shall not sponsor or support any changes to the Zoning By-Laws, General By-Laws or Rules and Regulations of any Town boards or committees, which would prohibit or reduce the number of Residential Units for the Project or otherwise be materially inconsistent with this Agreement. Subject to the foregoing and to the extent permitted by law, the Board and the Developer will reasonably cooperate together in good faith to coordinate an integrated approach to permitting and Inspections for the Project.

3.9 The parties intend for the Board and the Developer to reasonably cooperate with each other in good faith toward the carrying out of this Agreement, but it is understood and agreed that the Board cannot require Town Meeting or any Town board, committee, board or committee member, or official to act or vote favorably with respect to the Project. Therefore, notwithstanding any provision herein to the contrary, nothing contained in this Agreement shall be deemed to be a guaranty of the adoption of any of the Warrant Articles or other Town Meeting vote, the issuance of the Special Permit or endorsement by the SPGA of any permit or plan, or the issuance by any other governmental authority of any permit, license or approval for the Project.

4. **CONSTRUCTION PHASE OBLIGATIONS**

4.1 If the Developer proceeds under any Special Permit issued pursuant to the Rezoning Amendment, all construction activities at the Site shall be in compliance with this Agreement. All construction activities at the Site shall comply with all applicable laws, codes, regulations and bylaws, except as may be expressly varied or waived pursuant to the provisions thereof, and with all permits and Subdivision Plans and all conditions therein.

4.2 The Developer agrees that, to the extent allowed by applicable law, when considering bids for contracts for the construction of the Project, the Developer shall give preferential consideration to Local Contractors. Notwithstanding the foregoing, the Developer shall not be obligated to accept the bid of any Local Contractor whose bid is higher than that of any other contractor or which contains unacceptable conditions, nor shall the Developer be obligated to accept the bid of any Local Contractor that the Developer, in its sole and absolute discretion, does not believe is capable of performing the scope of the work upon which the bid was submitted in a timely, good and workmanlike manner. At least twenty one (21) days prior to awarding any bids for contracts totaling \$500,000 or more to a contractor that is not a Local Contractor, the Developer shall provide to the Board written notice specifying in reasonable detail the criteria used to award such bids and the reasons why the Developer elected not to award such bids to a Local Contractor.

5. DEVELOPER'S WORK AND CONVEYANCE OBLIGATIONS

Together with and in addition to the Developer's other obligations hereunder, provided the Developer obtains and proceeds under any Special Permit pursuant to the Rezoning Amendment, the Developer shall use best and diligent efforts to obtain all necessary approvals and permits for and to undertake and complete all the following Developer Work Obligations pursuant to the Phasing Plan and all applicable law, regulations, codes and bylaws, all at the sole cost of the Developer.

5.1 Developer Work Obligations:

5.1.1 Water Line Connection. The Developer shall install within the Main Site in the location approximately as shown on Exhibit K a new eight-inch (8") diameter water line that connects the existing water main in Neponset to the existing water main in Revere Street in accordance with all applicable bylaws, regulations and other legal requirements; and

5.1.2 Diversion Channel Improvements: The Developer shall undertake and complete all work to correct deficiencies in the Diversion Channel identified by the USACE in its August 4, 2014 letter and report as "Unacceptable"; and

5.1.3 Site Water Feature Improvements: The Developer shall replace, restore and improve as reasonably necessary the water flow and control mechanisms and appurtenances thereto, retaining walls and safety fence and shall improve the appearance of the canal, Factory Pond and Mill Pond per the specifications attached hereto as Exhibit L; and

5.1.4 Walkway Improvements: The Developer shall design and install walking trails at least six feet (6') wide as shown on the Site Plan. Such walking trails shall be designed (i) with asphalt pavement materials or the equivalent, as the Board may elect, and (ii) pursuant to the rules and regulations of Massachusetts' Architectural Access Board, such that pedestrians and persons with disabilities shall have reasonable access to and from the open space and other natural resource areas at the Site (including water bodies, wetlands, East Branch of the Neponset River Dam and Diversion Channel, canal, Factory Pond and Mill Pond) within an area or areas to be designated by the Developer in accordance with applicable law and subject to Board approval, which approval shall not be unreasonably withheld, conditioned or delayed, and shown on the Site Plan, such trails to be completed on a phase-by-phase basis as set forth in the Phasing Plan and shall grant to the Town a permanent easement to allow public access to said walking trails in perpetuity pursuant to the Declaration of Covenants; and

5.1.5 Revere Street Sidewalks and Bike Lane Improvements: The Developer shall (a) rehabilitate existing sidewalks on Revere Street to their present width; (b) design and install new five-foot (5') wide sidewalks on Revere Street at the locations shown and in accordance with the specifications attached hereto as Exhibit M and pursuant to all applicable legal requirements, including but not

limited to the Americans with Disabilities Act Accessibility Guidelines and the rules and regulations of the Town's Planning Board; and (c) create a five-foot (5') wide bike lane on Revere Street by painting the existing paved lane (and not by widening the street), all in the locations shown on Exhibit M attached hereto; and

5.1.6 Revere Street Improvements: The Developer shall coldplane and install an asphalt overlay on Revere Street and make curb and drain improvements along and in Revere Street in the locations and in accordance with the specifications set forth in Exhibit N attached hereto; and

5.1.7 Diversion Channel Bridge Improvements: The Developer shall (a) design and install a bridge over the Diversion Channel with two travel lanes (with one (1) lane in each direction) and one sidewalk in accordance with the Town's Subdivision Rules and Regulations and as shown on Exhibit O attached hereto, and (b) apply for and obtain USACE approval and any other necessary rights and approvals therefor; and

5.1.8 Fire Station Roof Improvements: The Developer shall install a new roof on the Revere Street fire station in accordance with the specifications attached hereto as Exhibit P; and

5.1.9 Fire Station Signal Improvements: The Developer shall install warning signals and associated signage and pavement markings in front of the Fire Station on Revere Street pursuant to Exhibit Q attached hereto; and

5.1.10 MBTA Signal Improvements: If supported by the traffic study to be prepared by the Developer per Section 5.1.19 or otherwise reasonably deemed necessary by the DPW, pursuant to plans to be prepared by the Developer and approved by the DPW, the Developer shall, no later than one hundred eighty (180) days after the determination by the DPW, design and install signal improvements at the MBTA bridge as shown on Exhibit R attached hereto; and

5.1.11 Junction Walkway Improvements: The Developer shall design and install a pedestrian sidewalk connection (with lighting) from the Site to Canton Junction Commuter Rail Station per specifications and in the location shown on Exhibit S attached hereto; and

5.1.12 Neponset/Norfolk Improvements: If supported by the traffic study to be prepared by the Developer per Section 5.1.19 or otherwise reasonably deemed necessary by the DPW, pursuant to plans to be prepared by the Developer and approved by the DPW, the Developer shall: (a) design and install roadway and pedestrian access improvements on Neponset Street and Norfolk Street to accommodate pedestrian and vehicular safety and access at such streets and the Site approximately as shown on Exhibit T; and (b) install traffic signals on Neponset Street and at the Neponset Street/Norfolk Street intersection; and

5.1.13 Barn, Rolling Mill and Community Property Improvements: The Developer shall, as part of the first phase of the Project at the Site, use best efforts

to apply for and obtain all required permits and approvals under applicable law to undertake and complete during the first phase of the Project all actions:

a. Barn: (i) to remediate the Barn pursuant to the Remedial Implementation Plan to achieve a Permanent Solution with Conditions as set forth therein and otherwise acceptable to the Board and/or the Board's LSP, provided, however, in no event shall any Solution Outcome have, in the opinion of the Board and/or its LSP, any material conditions other than a condition requiring the use of best management practices for vegetable growing and gardening, (ii) to rehabilitate and adapt the Barn for public community use in accordance with the plans and specifications set forth on Exhibit U attached hereto or as otherwise set forth by Section 8.2 and the Lease, and (iii) to either (a) relocate the Barn from its present location on the Main Site to the Community Land in the location shown on the Site Plan, or (b) in the event Town Meeting adopts the CPC Article or the Board otherwise elects to appropriate other funds for the acquisition of the Community Open Space by written notice to the Developer by September 30, 2015, to relocate the Barn from its present location on the Main Site to the Community Land in the location shown on the Site Plan or keep the Barn in its current location, as the Board may elect by written notice to the Developer by September 30, 2015; and

b. Rolling Mill: (i) to remediate the Rolling Mill pursuant to the Remedial Implementation Plan to achieve a Permanent Solution with Conditions as set forth therein and otherwise acceptable to the Board and/or the Board's LSP, provided, however, in no event shall any Solution Outcome have any conditions other than a condition requiring the use of best management practices for vegetable growing and gardening, and (ii) to rehabilitate and adapt the Rolling Mill for public community use in accordance with the plans and specifications set forth on Exhibit V attached hereto or as otherwise set forth by Section 8.2 and the Lease; and

c. Community Land and Mill Pond: (i) to restore, landscape, improve and adapt the Community Land and Walkway Improvements for public community use in accordance with the plans and specifications set forth by Exhibit W attached hereto; (ii) to establish the Community Land as its own separate lot as shown on the Site Plan; and (iii) to remediate the Community Land and Mill Pond pursuant to the Remedial Implementation Plan to achieve a Permanent Solution with Conditions as set forth therein and otherwise acceptable to the Board and/or the Board's LSP, provided, however, in no event shall any Solution Outcome have any conditions other than a condition requiring the use of best management practices for vegetable growing and gardening; and

d. Community Open Space: to remediate the Community Open Space pursuant to the Remedial Implementation Plan and otherwise pursuant to Exhibit X to achieve a Permanent Solution with Conditions as

set forth therein and otherwise acceptable to the Board and/or the Board's LSP, provided, however, in no event shall any Solution Outcome have any conditions other than a condition requiring the use of best management practices for vegetable growing and gardening; and

- 5.1.14 Factory Pond: The Developer shall, commencing with the first phase of the Project at the Site, use diligent efforts (a) to restore, improve and adapt Factory Pond for public community use in accordance with the plans and specifications attached hereto as Exhibit Y; and (b) to remediate Factory Pond pursuant to the Remedial Implementation Plan as set forth therein; and
- 5.1.15 Water Control Improvements. The Developer shall repair, restore, replace and improve as reasonably necessary all water control mechanisms and culverts for the Site (including but not limited to the triple culvert bisecting the Main Site located as shown on the Site Plan) pursuant to the specifications attached hereto as Exhibit Z and such that all the same are in good working order and condition and in full compliance with Dam Safety Regulations, any and all Chapter 253 Dam Safety Permits (as defined by the Dam Safety Regulations) and such other orders and requirements by the Office of Dam Safety related to such dams and mechanisms; and
- 5.1.16 Water Main Improvements: Immediately upon the completion of the installation of the Water Line Connection, the Developer shall promptly undertake and complete water flow testing at the Site and otherwise as may be deemed necessary by the DPW to ensure appropriate water pressure in the Town's water system for the Project. If and to the extent deemed by the DPW, in its sole discretion, to be necessary after the results of such testing, the Developer shall, at the election of the DPW, install new 8-inch diameter and/or 12-inch diameter water mains in Revere Street; and
- 5.1.17 Demolition and Remediation Work. In addition to the foregoing, the Developer shall demolish all the existing buildings and improvements on the Site (except for the Rolling Mill and Barn) and undertake and complete all inspection, monitoring, remediation and containment measures to achieve the Solution Outcome as set forth in the Remedial Implementation Plan for the entire Site and buildings thereon with respect to all releases and threats of release of oil and hazardous material, as such terms are defined by Chapter 21E/MCP, at, on or under the Site or in any structures thereon, as required to allow the development, construction and use of the Project pursuant to this Agreement and in compliance with Chapter 21E/MCP, CERCLA (42 U.S.C. §9601 et seq.), RCRA (42 U.S.C. § 6901, et seq.) and such other similar laws and the regulations promulgated thereunder, provided, however, in no event shall (a) any Solution Outcome for the Community Property have any conditions other than a condition requiring the use of best management practices for vegetable growing and gardening, or (b) there be any Activity and Use Limitations (as defined by the MCP) on the Site except for that portion of the Site identified by the Site Plan as "AUL Area." In addition, as to the Factory

Pond, the Developer will achieve a Temporary Solution subject to a monitoring and evaluation program at five-year intervals pursuant to the Remedial Implementation Plan and as otherwise required by MassDEP. All the foregoing shall be performed by properly licensed contractors and supervised by a duly licensed LSP. Within three (3) days of submission to MassDEP or receipt from MassDEP of any reports, transmittals and other written communication with respect to the Site, the remediation thereof or the presence, release or threat of release of oil or hazardous material with respect to the Project, including but not limited to any of the same submitted or received by the Developer, the Developer's LSP and/or Developer's agents, employees and/or contractors, the Developer shall provide to the Board a full copy of same. There shall be no modification of the Remedial Implementation Plan with respect to any of the Community Property without prior written consent by the Board and, at the Board's election, by the Board's LSP, which consent may be withheld for any reason. There shall be no modification of the Remedial Implementation Plan with respect to any other portion of the Site without prior written consent by the Board, which consent shall not be unreasonably withheld, conditioned or delayed; and

- 5.1.18 Upper Forge Pond and Lower Forge Pond. At the Board's sole election, to be made by the Board by written notice to the Developer by September 30, 2015, the Developer shall either: (a) repair the dams, sluices, and all related appurtenances and water control mechanisms for Upper Forge Pond and the Lower Forge Pond such that all the same are in good working order and condition and in full compliance with Dam Safety Regulations, any and all Chapter 253 Dam Safety Permits (as defined by the Dam Safety Regulations) and such other orders and requirements by the Office of Dam Safety for a cost to be agreed upon by Developer and the Board, in which case the Developer shall, subject to Section 7 and the payment to the Developer by the Town of such mutually-agreed cost, convey to the Town Upper Forge Pond, Lower Forge Pond and all the improvements thereto; or (b) retain ownership of Upper Forge Pond and/or the Lower Forge Pond without any obligations to repair, improve or convey the same to the Town pursuant to this Agreement; and
- 5.1.19 Traffic Study. The Developer shall, at its expense, within ninety (90) days of the issuance of the Certificate of Occupancy for the one hundred fortieth (140th) Residential Unit, prepare and deliver to the DPW, with a copy to the Board, a traffic study for the Site, Revere Street and Neponset Street and such other locations reasonably deemed necessary by the DPW.

5.2 Developer Conveyance Obligations

After the Developer's full completion of particular Developer Work Obligations to specific Developer Property, the Developer shall, per Section 7, convey to the Town, acting by and through the Board, such specific Developer Property, as follows:

- 5.2.1 by deed, all waterways and wetlands, including but not limited to the Mill Pond, all as shown on the Site Plan;
- 5.2.2 by deed, that part of the Neponset Street Site shown on Exhibit B attached hereto as "Town Property";
- 5.2.3 by deed, the Barn;
- 5.2.4 by deed, the Community Land, together with the Barn (after relocation), the Rolling Mill and Mill Pond;
- 5.2.5 by deed, the Community Open Space, provided that:
 - 5.2.5.1 Town Meeting adopts the CPC Article and recommendations to authorize the Board to use \$1,740,000 of Community Preservation Fund money to purchase the Community Open Space; or
 - 5.2.5.2 Town Meeting adopts the Appropriations Article and the Board (a) elects to purchase the Community Open Space, and (b) delivers written notice of such election to the Developer by September 30, 2015; and

in either case, the total price to purchase the Community Open Space shall be \$1,740,000 (the appraised value of \$1,380,000 for the original 5.2-acre portion of the Community Open Space plus \$360,000 for the additional 1.65-acre portion of the Community Open Space);
- 5.2.6 by deed, the Diversion Channel Bridge Improvements, which shall include the roadway from Revere Street to Neponset Street as shown on the Site Plan to be built by Developer pursuant to all legal requirements, including but not limited to the Town's Planning Board's rules and regulations, it being expressly understood, however, that the Board shall not be obligated to accept any ownership of such improvements or to layout any roadway as a public way until such time as the Project is fully completed;
- 5.2.7 by deed, the Diversion Channel, Diversion Channel Improvements and adjacent land with such Diversion Channel;
- 5.2.8 by easement (for public recreation and open space), Factory Pond;
- 5.2.9 by bill of sale, the Fire Station Roof Improvements;

- 5.2.10 by bill of sale, the Fire Station Signal Improvements;
- 5.2.11 by bill of sale (and by easement to the extent not located within the bounds of an existing public way), the Junction Walkway Improvements;
- 5.2.12 by deed, Lower Forge Pond and the dams, sluices and all related appurtenances and water control mechanisms related thereto, provided the Town elects to have the Developer to perform the Developer Work Obligations for same pursuant to Section 5.1.18;
- 5.2.13 by bill of sale, the MBTA Signal Improvements;
- 5.2.14 by deed, the Neponset/Norfolk Street Improvements;
- 5.2.15 by bill of sale (and by easement to the extent not located within the bounds of an existing public way) the Revere Street Sidewalks and Bike Lane Improvements;
- 5.2.16 by easement (for access to the Community Property and for all purposes for which public ways may be used), the roadways at the Site;
- 5.2.17 by deed, the Rolling Mill;
- 5.2.18 by bill of sale, the Site Water Feature Improvements;
- 5.2.19 by deed, Upper Forge Pond and the dams, sluices and all related appurtenances and water control mechanisms related thereto, provided the Town elects to have the Developer to perform the Developer Work Obligations for same pursuant to Section 5.1.18;
- 5.2.20 by easement, the Walkway Improvements;
- 5.2.21 by easement, the Water Control Improvements on the Site;
- 5.2.22 by bill of sale, the Water Main Improvements; and
- 5.2.23 by deed, one (1) Garden Style Unit as designated by the Developer and with approval by the Board, which approval will not be unreasonably withheld, conditioned or delayed, which Garden Style Unit may be a Moderate Income Unit to be provided by Developer hereunder. Notwithstanding any provision in this Agreement to the contrary, such Garden Style Unit: (a) shall be exempt from the Rental Restriction, and (b) may be a unit that is part of a condominium established for the Site, provided that such unit's condominium fees are no greater than the condominium fees for other Moderate Income Units.

5.3 The Developer shall, at its expense, apply for and obtain the Planning Board's endorsement of any subdivision plans and ANR Plans pursuant to G.L. c. 41 and obtain

approval by the Land Court as may be required to effectuate the foregoing conveyances by the Developer.

6. **DEVELOPER SECURITY OBLIGATIONS AND DEFAULT**

6.1 **Security.** Simultaneously with the issuance of any building permit for any residential use of the Site pursuant to a Special Permit issued under the Rezoning Amendment, and prior to any construction activities at the Site pursuant to any such Special Permit, the Developer shall, at Developer's cost, obtain and provide to the Town the full amount of the Security for all the Developer Work Obligations as set forth on the Schedule of Allocated Values attached hereto as Exhibit H to provide security to the Town in the event of a Default. The Developer shall maintain and replace the Security until all Developer Work Obligations are fully completed or until partially released pursuant to Section 6.6 or fully released pursuant to Section 6.7.

6.2 **Form of Security.** The Security shall, in the discretion of the Developer, be in the form of any of the following:

- a. a performance bond issued by a surety licensed to conduct business in the Commonwealth of Massachusetts and having a BEST Rating of at least A+, naming the Town as obligee and otherwise in a form reasonably acceptable to the Board;
- b. a standard form Letter of Credit naming the Town as beneficiary and substantially in the form as the pro forma letter of credit attached hereto as Exhibit AA or in a form otherwise acceptable to the Board, issued by an institutional lender mutually acceptable to the Board and Developer; and/or
- c. any other form of assurance mutually acceptable to the Board and the Developer.

6.3 **Default.** The Developer shall be deemed to be in Default of its obligations under this Agreement upon the occurrence of any one or more of the following events:

6.3.1 Any default by Developer or any of its employees, agents, contractors or subcontractors of any of Developer's material obligations under this Agreement. Without limiting the generality of the foregoing, each of the following shall be considered a default of a material obligation:

6.3.1.1 after commencement of construction activities for any phase of the Project, the Developer ceases such activities for such phase for more than: (a) thirty (30) consecutive calendar days, or (b) one hundred fifty (150) non-consecutive calendar days, in either case for any reason other than a Force Majeure Event as set forth by Section 6.5.1; or

6.3.1.2 any material representation or warranty made by Developer herein is false or inaccurate in any material respect; or

6.3.1.3 any failure to perform any of the Developer Work Obligations in accordance with the Phasing Plan or as otherwise required by this Agreement; or

6.3.1.4 the failure to perform any Developer Conveyance Obligations pursuant to this Agreement; or

6.3.1.5 the violation by the Developer of the Age Restriction or Rental restriction; or

6.3.1.6 prior to the full completion of all the Developer Work Obligations as required by this Agreement, any failure of the Town to receive from the Development District or from the Developer any Net Increased Tax Revenues sufficient to pay any principal and/or interest due arising from the Town's issuance and sale of any bonds as part of the District Improvement Financing or otherwise; or

6.3.1.7 any failure by Developer to provide any Security as required by Section 6.1 or to replace any Security pursuant to Section 6.4; or

6.3.1.8 any failure by the Developer to cause the Declaration of Covenants to be filed with the Land Court and/or Registry, as applicable, when and as required by Section 9.2; or

6.3.1.9 any failure by Developer to cure a non-material Default pursuant to Section 6.3.2.

6.3.2 Non-Material Default. Any default by the Developer or any of its employees, agents, contractors, or subcontractors of any of Developer's non-material obligations under this Agreement, if any. The Developer shall not be deemed to be in default of such non-material obligation as long as developer uses diligent efforts to cure such default of the non-material obligation as promptly as possible after the sooner of (a) oral or written notice from the Town to Developer of such default, or (b) actual knowledge of such default.

6.4 Use and Replacement of Security. In the event of any Default as set forth by Section 6.3.1, the Town may immediately, without notice to the Developer, access, draw upon and use the Security as the Board deems necessary to cure such Default. In the case of any Default of a non-material obligation as set forth by Section 6.3.2, the Town shall not so withdraw and use the Security for the Default of such non-material obligation provided the Developer continues to use diligent efforts to cure such Default of such non-material obligation as promptly as possible. If the Town withdraws and uses the Security or any portion thereof at any time or from time to time, then the Developer shall promptly, and no later than seven (7) days thereafter replenish and/or replace such Security such that the full Security amount is restored for the benefit of the Town.

6.5 Town Right to Cure Material Default. In addition to and without limitation of the Board's right to access, draw upon and use the Security as set forth in Section 6.4 and all

other available remedies as may be set forth herein or available at law or in equity, if the Developer defaults in the performance of any of its material obligations under this Agreement, and such Default continues for more than twenty one (21) days after written notice from the Town to the Developer or beyond such other applicable notice and cure period (if any), then the Board shall be entitled to enforce this Agreement by undertaking all reasonably necessary actions, at Developer's expense, and/or seeking an order from a court of competent jurisdiction ordering the Developer, its employees and agents, and any contractors and subcontractors performing work at the Site to cease all such work immediately, until all such material Defaults are completely cured.

6.5.1 Force Majeure Event. The Developer shall not be considered to be in Default of a material obligation under this Agreement as long as such Default is caused by a Force Majeure Event, but only during such Force Majeure Event and for such period of time as such Force Majeure Event persisted.

6.6 Partial Release of Security. Provided that the Developer is not then in Default of any of its material obligations pursuant to Section 6.3.1, after written application and certification to the Board that the Developer is not in Default of Section 6.3.1 and that a particular Developer Work Obligation is fully completed, the Board shall release a portion of the Security securing any particular Developer Work Obligation within twenty one (21) days of the later of:

- a. the full completion of a particular Developer Work Obligation, which shall be evidenced by (i) the issuance of a Certificate of Occupancy, where applicable, or (ii) a certification to the Town from a licensed Massachusetts architect or engineer mutually acceptable to the Developer and the Board that such Developer Work Obligation is fully complete in accordance with this Agreement and free from all defects as to the work performed, or
- b. the completion by the Board of all Inspections pursuant to Section 7.3 of any particular Developer Work Obligation or particular portion of Developer Property, the results of which Inspections are deemed by the Board, in its sole discretion, to be satisfactory.

6.6.1 Any portions of the Security to be released by the Board shall be equal to the amounts for particular Developer Work Obligations as identified by the Schedule of Allocated Values attached hereto as Exhibit H; except however, in no event shall the Board be required to reduce the total amount of Security held by the Town to be less than one hundred thirty percent (130%) of the estimated cost for the Developer to complete any of the Developer Work Obligations that the Developer has not fully completed.

6.7 Release of all Security. Provided that all Developer Work Obligations and Developer Conveyance Obligations are all fully completed pursuant to this Agreement (such that final Certificates of Occupancy for all portions of the Project have been obtained and all punch-list items, if any, are fully completed as well) and Developer is not then in Default per Section 6.3.1, after written application and certification to the

Board that the Developer is not in Default of Section 6.3.1 and that all the Developer Work Obligations are fully completed, the Board shall release the Security in full within thirty (30) days of the date of the full completion of all: (a) the Developer Work Obligations, and (b) the Developer Conveyance Obligations as required by this Agreement.

7. **TOWN FINANCING, ACQUISITIONS AND DISPOSITIONS**

7.1 **Town Funding**. Subject to and contingent upon Town Meeting approval of the Warrant Articles (but not the Town Disposition Article), and subject to the Attorney General approval of the Rezoning Article and all applicable law, the Town, acting at the Board's direction, shall, as the Board may elect, issue and sell municipal bonds and/or borrow, transfer or appropriate funds from other sources and (a) deposit those funds to the Sinking Fund Account and Project Cost Account as may be required by G.L. c. 40Q or such other accounts as the Board may elect for the Board to use to purchase from the Developer the Developer Property as herein provided, or (b) use such funds to purchase from the Developer the Developer Property as herein provided. Any such funding by bonding, borrowing, transferring or appropriating funds shall only be mandatory at the times and in the amounts provided by Section 7.1.1.

7.1.1 **Town Funding Trigger before All Developer Work Obligations Are Completed**. This Agreement shall only require the Town to fund the purchase of a particular portion of Developer Property after: (a) the Developer obtains a Special Permit pursuant to Section 2 and a building permit for the construction of Residential Units on the Site, and (b) Net Increased Tax Revenues equal to one-year's debt service payments (calculated using the lowest general obligation bond rate then available to the Town for a twenty-year term bond) can be made from an amount equal to thirty percent (30%) of the Net Increased Tax Revenues collected by the Town for the Site. By way of example, if Net Increased Tax Revenues collected by the Town for the Site equaled \$100,000, then the Town would be obligated to borrow, transfer or appropriate such funds for the purchase of a particular portion of the Developer Property as the Town could borrow having an annual debt service payment requirement of \$30,000 (e.g., 30% of \$100,000) and the proceeds therefrom would be used to acquire such Development Property pursuant to Section 7.2.

7.1.1.1 **Town Funding Trigger after All Developer Work Is Completed**. Notwithstanding Section 7.1.1, provided that the Developer has fully completed all Developer Work Obligations in accordance with the Phasing Plan of the Project and otherwise pursuant to this Agreement, and has further completed all phases of the Project in accordance with this Agreement, the Town shall at that time be obligated to borrow, transfer or appropriate such funds for the purchase of any remaining portions of the Developer Property to be acquired by the Town, so long as the annual Net Increased Tax Revenue collected by the Town for the Site is sufficient for the Town to completely cover the payment of all principal and interest due, arising from the Town's issuance and sale of any bonds, as part of the

District Improvement Financing or otherwise, as reasonably necessary for the Town to pay for the Town's acquisition of any remaining portions of the Developer Property to be acquired by the Town pursuant to Section 7.2.

7.2 Town Acquisition and Payment Obligation: Subject to Sections 7.3, 7.4 and 7.5, the Town shall be obligated to pay for and acquire a specific Developer Property when: (a) the Developer has fully completed all Developer Work Obligations as to the specific Developer Property pursuant to Sections 4 and 5 and otherwise pursuant to this Agreement, and (b) the Developer is not in Default per Section 6.3.1, and (c) either (i) the Town has collected sufficient Net Increased Tax Revenue from the Site pursuant to Section 7.1.1 or (ii) otherwise if all the conditions set forth by Section 7.1.1.1 have been fully satisfied. Within forty five (45) days thereafter, the Board and Developer shall effectuate the Town's payment for and acquisition of the specific Developer Property for which Developer has so completed its Developer Work Obligations. The consideration to be paid to the Developer shall be equal to the values ascribed to such Developer Property pursuant to the Schedule of Allocated Values/Costs attached hereto as Exhibit H. The acquisition shall be by deed, easement and/or bill of sale pursuant to Section 5.2, as appropriate. Deeds and easements shall be delivered to the Town with quitclaim covenants and without any reservations of rights or restrictions made by the Developer or restrictions, covenants or obligations imposed upon the Town except as expressly set forth by Section 7.4 and Section 11.19. Bills of sale shall be standard form warranty bills of sale. Developer shall obtain from its contractors and subcontractors appropriate warranties in a form reasonably acceptable to the Board for all Developer Work Obligations assignable to the Town and shall, at the time of the delivery of a deed or bill of sale for a particular Developer Property, assign to the Town all such warranties for such particular Developer Property.

7.3 Inspections. Notwithstanding any provision in this Agreement to the contrary, in connection with, but prior to, any acquisition by the Town of any Developer Property by deed, easement or bill of sale pursuant to Section 5.2 (regardless as to whether the Town has had any right, use or occupancy of same prior to the delivery of such deed, easement or bill of sale), the Town and its agents and employees shall have the right, at the Board's election, to enter and to perform Inspections of all aspects of any parts of the Developer Property to determine compliance of such Developer Property with the terms of this Agreement and otherwise, including but not limited to inspecting physical condition, compliance with laws, title, compliance with the Remedial Implementation Plan and any Activity and Use Limitation required thereby, and the presence of any release or threat of release of any oil or hazardous material, as such terms are defined by Chapter 21E/MCP, from time to time as deemed necessary by the Board. If any Inspection is not, in the Board's sole judgment, satisfactory to the Board, then the Board may, in its sole discretion, elect to (i) reject the transfer to the Town of any portions of or interests in the Developer Property, or (ii) require the Developer to repair, restore, rehabilitate and/or remediate such Developer Property such that such Developer Property or portions thereof are in compliance with the Remediation Implementation Plan and this Agreement and in good working order and condition for the Board to accept the grant of any of same.

7.4 Title. Notwithstanding any provision in this Agreement to the contrary, there shall be no mortgages, liens, encumbrances, easements, leases, rights or restrictions reserved by or for Developer or granted by Developer to any third party with respect to any of the Developer Property to be granted to the Town other than such easements, rights and restrictions expressly set forth herein or by the Declaration of Covenants, it being agreed that the Developer is to grant to the Town the Developer Property with good and clear record and marketable title thereto by a good and sufficient quitclaim deed running to the Town, subject only to (a) such rights as may be set forth by the Declaration of Covenants and subject to easements on file with the Land Court as of the date hereof (if any) that do not interfere with the Town's use of the Community Property for recreational use, open space, access and other general municipal purposes, and (b) such easements and restrictions expressly specified by Section 11.19.

7.5 Maximum Acquisition Costs: Notwithstanding any provision in this Agreement to the contrary, in no event shall (i) any increases in costs or charges for labor or materials incurred by Developer to complete any Developer Work Obligations or any other change in circumstances alter the Estimated Costs or the costs for the Town to acquire any Developer Property or be reason for delay of or failure to consummate a transfer of any Developer Property for such acquisition costs as set forth by Schedule of Allocated Values/Costs attached hereto as Exhibit H, or (ii) the Town be obligated to pay to the Developer or any other party more than the acquisition costs for any portion of the Developer Property as set forth by the Schedule of Allocated Values/Costs attached hereto as Exhibit H for the acquisition of any Developer Property, it being intended and agreed that the acquisition costs set forth by such Schedule of Allocated Values/Costs shall be the maximum costs to the Town to acquire the Developer Property and the Town shall have the right to acquire the Developer Property for the Estimated Costs.

7.6 Town Disposition Obligation: Subject to all applicable federal, state and local laws and regulations, rights of the USACE and others, if any, and approval by Town Meeting of the Warrant Articles, the Town shall, for \$1.00 consideration, convey to the Developer as is, where is and with all faults all of the Town's right, title and interest in and to the Town Disposable Property to the extent the Town may own the Town Disposable Property, if any, in which case such conveyance shall be made by good and sufficient quitclaim deed with title to such property to be good and clear record and marketable and with a reservation to the Town of permanent easements as may be reasonably necessary for the Town to access, maintain and otherwise improve the east branch of the Neponset River, and any dams, levees, embankments and other improvements and appurtenances thereto. Prior to acceptance of the deed to such property, Developer shall be entitled to inspect the same to determine its compliance with all applicable laws and Developer shall not be obligated to acquire the same if such property or any portion thereof is not in compliance with such laws.

8. **USE OF DEVELOPER PROPERTY PRIOR TO TOWN ACQUISITION**

8.1 Use of Developer Property Other than Rolling Mill and Barn Before Acquisition. It is anticipated that the Town may desire that some or all of the Developer Property (other than the Rolling Mill and Barn) be used by the Town and members of the public prior to the satisfaction of all conditions for payment and the conveyance thereof to the Town pursuant to Section 7. Prior to the Town's acquisition of any particular Developer Property pursuant to Section 7, the Town and the general public shall have the right, without charge and at their sole risk, to use such Developer Property for their intended purposes, upon the formal grant by Developer to the Town and acceptance by the Board of such rights and obligations pursuant to a duly executed temporary license, easement or lease to continue only through such time as the conveyance by the Developer to the Town of such particular Developer Property is completed pursuant to Section 7.

8.2 Use of Rolling Mill and Barn Before Acquisition. Notwithstanding Section 5.1.13, the parties agree that the Town and general public may use the Rolling Mill and Barn pursuant to a Lease prior to the satisfaction of all conditions for payment and the conveyance thereof to the Town by deed pursuant to Section 7, provided that the Board elects by written notice to the Developer to lease the Barn and the Rolling Mill by January 31, 2016. In the event the Board so elects, the Board and the Developer shall in good faith negotiate, execute and deliver the Lease within thirty (30) days after the Developer receives the written notice from the Board that the Board has elected to lease the Rolling Mill and Barn upon the following terms:

- i. the leased premises for the Lease shall include the Rolling Mill and Barn, together with reasonably necessary access and parking; and
- ii. the leased premises shall be used by the Town and the general public for their intended purposes as set forth in this Agreement; and
- iii. the Developer shall, at Developer's cost, promptly secure the Rolling Mill and the Barn from the elements and weather and otherwise improve the Rolling Mill and Barn to a reasonably safe condition; and
- iv. the lease term for the Lease shall (a) commence on the first day of the calendar month following the Developer's completion of all work described by Section 5.1.13 or as otherwise required by the lease, and (b) terminate upon the date that the Developer and the Town consummate the closing on the Town's acquisition of the Rolling Mill and the Barn pursuant to Section 5.2 and Section 7.2; and
- v. the annual rent during the lease term for both the Rolling Mill and the Barn shall be \$27,000; and
- vi. the annual rent shall be paid in monthly installments on the first of each month for the duration of the lease term of the Lease, and

- vii. the Town shall be responsible to pay utilities for the Rolling Mill and the Barn (either by separate meter or agreed-upon pro rata share).

Any failure by the Board to provide the Developer with such notice by January 31, 2016 shall not relieve the Developer of any obligations to perform the Developer Work Obligations for the Barn and the Rolling Mill pursuant to Section 5.1.13, Exhibit U, Exhibit V and the Phasing Plan, or as the parties may otherwise agree pursuant to the Lease; except, however, any failure by the Developer to perform such Developer Work Obligations for the Barn and Rolling Mill until after the Developer receives written notice from the Board by or after January 31, 2016, which may be after the first phase of the Project, shall not constitute a Default under this Agreement (unless and until the Developer fails to perform such Developer Work Obligations for the Barn and Rolling Mill within a reasonable period of time after receiving such notice from the Board).

9. **CONDOMINIUM, DECLARATION OF COVENANTS AND NOTICE OF AGREEMENT**

9.1 The Developer shall establish a Master Condominium pursuant to Section 10.8. Except for the Town Residential Unit, no lots, buildings or other property on the Site to be transferred to the Town pursuant to this Agreement shall be part of any condominium or ownership association or subject to any common set of regulations, rights or restrictions, running with the land or otherwise, except for those which may be set forth by the Declaration of Covenants. Nothing herein shall prohibit the Developer from establishing one or more additional condominiums or ownership associations with respect to the lots, buildings or other property at the Site that is not to be conveyed to the Town pursuant to this Agreement.

9.2 Within fourteen (14) days of the full execution of this Agreement, the Developer shall execute, seal, acknowledge and deliver to the Town the Declaration of Covenants to be held in the Town by escrow until such time as the Declaration of Covenants is to be filed with the Land Court and Registry, as applicable. Simultaneously with the filing with the Land Court or Registry, as applicable, of any Special Permit granted by the SPGA under the Rezoning Amendment for any development or construction activities at any portion of the Site, and prior to the filing with the Land Court or Registry of any ANR Plan or Subdivision Plan for any portion of the Site related to the Project or any Special Permit issued pursuant to the Rezoning Amendment, the Developer shall cause the Declaration of Covenants to be filed with the Land Court and recorded at the Registry, as applicable, in the chains of title of all the properties comprising the Site. The Developer shall use best efforts to cause the Declaration of Covenants to be so filed pursuant to this Section 9.2, including but not limited to re-executing the Declaration of Covenants by the time for filing with the Land Court and unless the Site has been formally withdrawn from the land registration system, having the Land Court formally recognize Canton Holdings, LLC as the owner of the Site pursuant to a certificate of title. It is the specific intent of the parties that all covenants and restrictions set forth in the Declaration of Covenants shall run with the land in perpetuity.

9.3 In addition, Developer, at Developer's sole expense, shall promptly (and no later than fourteen (14) days after the full execution of this Agreement and prior to any sale or transfer of any portion of or interest in the Site) cause a Notice of Agreement that informs prospective purchasers of any portions of or interests in the Site of the existence of this Agreement to be filed with the Land Court and Registry, as applicable, in the chains of title for all properties comprising the Site. Such notice shall be in a form reasonably acceptable to the Board, the Developer and their respective counsel. The Developer shall make copies of the full Agreement (with all exhibits) reasonably available to any prospective purchasers of any portions of and interests in the Site.

10. **RENTAL RESTRICTIONS**

10.1 Developer agrees that if a building permit for any residential construction on or residential use of the Site is issued pursuant to a Special Permit under the Rezoning Amendment, the Site and all Residential Units shall be subject to the Rental Restriction, such that no Residential Units or other buildings at the Site temporarily or permanently used for residential purposes shall be leased or rented to any persons of any age unless specifically exempted pursuant to Section 10.2 and the Declaration of Covenants. The Board and the ZBA, as the Board's delegate, shall hold and shall have the right and power to enforce the Rental Restriction pursuant to this Agreement and the Declaration of Covenants. By its execution of this Agreement, the Board hereby delegates to the ZBA the power to enforce the Rental Restriction.

10.2 The sole exemptions to the Rental Restriction shall be limited to:

10.2.1 Rentals of Age-Restricted Units. Up to sixty (60) of the Residential Units may be rented pursuant to the Declaration of Covenants and consistent with this Agreement, provided all such Residential Units are concurrently subject to the Age Restriction and identified within and restricted by the Special Permit as such;

10.2.2 Immediate Family Members. A Unit Owner may, subject to the terms of the Master Deed and with prior written notice to any condominium association or board of trustees and to the ZBA, lease his or her Residential Unit to his or her Immediate Family Members, provided that only such Unit Owner and/or Unit Owner's Immediate Family Members (and no others) temporarily or permanently occupy such Residential Unit; or

10.2.3 Temporary Hardship Waivers. With respect to a specific Residential Unit, a Unit Owner (or his or her estate's Personal Representative) may apply for a non-assignable Temporary Hardship Waiver by requesting a public hearing before the ZBA for a Temporary Hardship Waiver of the Rental Restriction in the event of: (a) death of a Unit Owner, (b) physical incapacitation of a Unit Owner, requiring such Unit Owner to relocate for a minimum of ninety (90) consecutive days for the incapacitated Unit Owner to receive medical treatment and care (and in such case any Unit Owner(s) who are not incapacitated are required to be the primary caregiver(s) of such incapacitated Unit Owner), or (c) relocation of a Unit Owner beyond forty (40) miles from the Residential Unit only for reasons related

to employment, or (d) relocation of one of the Unit Owners beyond forty (40) miles from the Residential Unit only for reasons related to service in the armed services, by filing a signed petition with the ZBA, together with a copy to the Board, requesting a Temporary Hardship Waiver for the Rental Restriction and the reasons therefor, which Temporary Hardship Waiver shall not be assignable and shall only be only be granted by the ZBA to the Unit Owner for that Unit Owner's Residential Unit if the Unit Owner of the Residential Unit (or his or her estate's Personal Representative) clearly establishes to the ZBA at the hearing by documented proof satisfactory to the ZBA that:

- (i) one of the four events stated in this Section 10.2.3 above has occurred or is imminently to occur within thirty (30) days of the date of the petition; and
- (ii) the Unit Owner (or his or her estate's Personal Representative) has made a "good-faith effort" to actively market the Residential Unit for sale at fair market value (subject to any affordability restrictions affecting Moderate Income Units) for a period of no less than ninety (90) consecutive days prior to the filing of the petition but has been unsuccessful; and
- (iii) if the Unit Owner is a trust, the existence of such trust for reasonable estate planning or other purposes, and not to circumvent the Rental Restriction or any limitations on such Unit Owner from owning and/or renting more than one (1) Residential Unit; and
- (iv) the existence of an undue and unsustainable hardship to be suffered by the Unit Owner.

Grants of Temporary Hardship Waivers shall only be made consistent with this Section 10.2.3 and pursuant to the provisions of Sections 10.3-10.7.

In addition, an institutional lender that is a Unit Owner as a result of a foreclosure of its first mortgage on a Residential Unit may apply to the ZBA to request a Temporary Hardship Waiver by filing a signed petition with the ZBA, together with a copy to the Board, requesting a Temporary Hardship Waiver for the Rental Restriction and the reasons therefor, which Temporary Hardship Waiver shall only be granted by the ZBA provided such lender clearly establishes to the ZBA at the hearing by documented proof satisfactory to the ZBA that such lender (i) is, at the time of filing, the Unit Owner of such Residential Unit by deed or final court decree filed with the Land Court or Registry, as applicable, and (ii) has made a "good-faith effort" to actively market the Residential Unit for sale at fair market value (subject to any affordability restrictions affecting Moderate Income Units) for a period of no less than ninety (90) consecutive days immediately prior to the filing of the petition but has been unsuccessful.

Notwithstanding the foregoing, it is agreed that other than the Developer and Developer's Mortgagee as provided above, no Unit Owner owning more than one (1) Residential Unit or interest therein shall be entitled to any Temporary Hardship Waiver, it being the intent that no Temporary Hardship Waiver be issued to such Unit Owner owning more than one (1) Residential Unit unless such Unit Owner is acting as a developer of the Site pursuant to a Special Permit issued pursuant to Section 2 (and not as an investor or in any other capacity).

10.3 The ZBA shall hold the public hearing for the Temporary Hardship Waiver within forty five (45) days of the ZBA's receipt of a petition as required by this Agreement. Upon conclusion of a public hearing at which sufficient testimony is provided to the ZBA as set forth above, the ZBA may, in the ZBA's discretion in each instance:

10.3.1 grant a Temporary Hardship Waiver, with or without conditions, to permit the Unit Owner (or his or her estate's Personal Representative) to rent temporarily the subject Residential Unit to an individual who is fifty-five (55) years of age or older, provided: (a) each of the Temporary Hardship Waiver requirements set forth by Section 10.2.3 have been satisfied; and (b) the ZBA sets a date upon which the Temporary Hardship Waiver shall automatically expire, which date shall not be less than six (6) months from the grant of the Temporary Hardship Waiver or more than one (1) year from the grant of the Temporary Hardship Waiver; or

10.3.2 grant a Temporary Hardship Waiver, with or without conditions, to permit the Unit Owner (or his or her estate's Personal Representative) to rent temporarily the subject Residential Unit to an individual who is less than fifty-five (55) years of age, provided: (a) each of the Temporary Hardship Waiver requirements set forth by Section 10.2.3 have been satisfied; (b) the Unit Owner (or his or her estate's Personal Representative) has additionally made a "good-faith effort" to actively market for rent the Residential Unit by written lease to a qualifying individual aged fifty-five (55) or older pursuant to G.L. c. 151B (and in accordance with any and all other federal or state housing laws) for a period of no less than ninety (90) consecutive days immediately prior to the filing of the petition but has been unsuccessful; and (c) the ZBA sets a date upon which the Temporary Hardship Waiver shall automatically expire, which date shall not be less than six (6) months from the grant of the Temporary Hardship Waiver or more than one (1) year from the grant of the Temporary Hardship Waiver; or

10.3.3 deny the Temporary Hardship Waiver request if any of the Temporary Hardship Waiver requirements have not been satisfied; or

10.3.4 if any of the Temporary Hardship Waiver requirements have not been satisfied, continue the hearing and require the Unit Owner (or his or her estate's Personal Representative) to continue marketing efforts for up to an additional one hundred eighty (180) days and thereafter to reappear before the ZBA for reconsideration of his or her petition.

10.4 Any Temporary Hardship Waiver granted by the ZBA shall be deemed to be a temporary waiver in each instance for the duration of a lease term to be approved by the ZBA, which such Temporary Hardship Waiver and lease term (and all renewals and extensions thereof) shall not exceed a total of twelve (12) months without the Unit Owner re-applying to the ZBA and obtaining a subsequent Temporary Hardship Waiver pursuant to Sections 10.2.3 and 10.3. Any Temporary Hardship Waiver granted by the ZBA shall be deemed to have automatically expired upon the date stated in the Temporary Hardship Waiver without further action by the ZBA, the Unit Owner or any other Town board or official. In no event shall a Temporary Hardship Waiver be deemed to have been constructively approved by act or omission of the ZBA, it being expressly required that all Temporary Hardship Waivers be expressly granted by the ZBA per an express vote by the ZBA and per written instrument executed by the ZBA or its Chair.

10.5 Additionally, there shall be no assigning of Temporary Hardship Waivers and the Unit Owners (or his or her estate's Personal Representative) of the Residential Unit receiving a Temporary Hardship Waiver shall remain responsible together with any tenants and occupants of the Residential Unit that such Residential Unit and all tenants and occupants thereof remain in compliance with the Temporary Hardship Waiver, any affordability restrictions affecting Moderate Income Units, and the Declaration of Covenants. There shall be no more than a total of twenty five (25) Temporary Hardship Waivers issued or in effect at any one time.

10.6 If a Unit Owner to whom the ZBA has previously granted a Temporary Hardship Waiver (or his or her estate's Personal Representative) petitions the ZBA in writing within forty-five (45) days prior to the expiration of the previously granted Temporary Hardship Waiver, and at such hearing establishes to the ZBA that such Unit Owner: (a) meets all the requirements of Section 10.2.3, (b) has used diligent and "good-faith efforts" to sell the subject Residential Unit as required by Section 10.5, and (c) is in compliance with the previously granted a Temporary Hardship Waiver, then the ZBA may grant a subsequent Temporary Hardship Waiver pursuant to Section 10.3 for a period not to exceed twelve (12) additional months. Notwithstanding any provision herein to the contrary, no Residential Unit and no Unit Owner(s) or his, her or their estate(s)' Personal Representative shall be granted more than two Temporary Hardship Waivers exceeding a total of twenty four (24) months.

10.7 Notwithstanding any provision herein to the contrary, no Temporary Hardship Waiver granted by the ZBA shall (a) be filed with the Land Court or recorded at the Registry, or (b) be deemed to be a permanent release of the Rental Restriction, Age Restriction or any other right or restriction held by or for the benefit of the Town, it being agreed that (i) such Rental Restriction, Age Restriction and other rights and restrictions shall be interests in real property held by the Town acting by and through the Board; (ii) the ZBA has no power or authority to release any such Rental Restriction, Age Restriction and such other rights and restrictions; (iii) only the Board may release any such Rental Restriction, Age Restriction and other rights and restrictions upon being duly authorized by a Town of Canton Town Meeting vote; and (iv) any such release shall only be evidenced by a written instrument duly executed by the Board for filing with the Land Court and/or Registry, as applicable.

10.8 Developer agrees that Developer will create the Master Condominium for the Site and all lots therein (but excluding the Community Land, Rolling Mill and Barn and also excluding the Community Open Space until such time the Board can no longer elect to acquire the Community Open Space pursuant to Section 5.2.5) by submitting the Site (excluding such portion) to G.L. c. 183A and executing and filing a Master Deed for the Master Condominium with the Land Court and Registry.

10.8.1 Developer shall cause all Residential Units and non-residential units at the Site (but not any property to be granted to the Town pursuant to this Agreement other than the Town Residential Unit) to be subject to the Master Deed for the Master Condominium.

10.8.2 The Master Deed for the Master Condominium shall further implement the Age Restriction and Rental Restriction, with the only exceptions to the Rental Restriction being such exceptions as expressly set forth by this Agreement.

10.8.3 Developer shall create a condominium association or board of trustees for the Master Condominium with all reasonable authority to enforce the terms of the Master Deed and such other rules, regulations and bylaws of the Master Condominium.

10.8.4 Developer shall cause, per the Master Deed for the Master Condominium and any other condominiums related to the Site and all unit deeds, all Residential Units to be subject to the Rental Restriction and all Residential Units exempt from the Rental Restriction pursuant to Section 10.2.1 (and no more than sixty (60) of the Residential Units) to be subject to the Age Restriction.

10.8.5 Developer shall require, per the Master Deed for the Master Condominium and for any other condominiums related to the Site, all Unit Owners to provide (a) the condominium's association and/or board of trustees, and (b) the Board with a prior written notice of any rental or lease of any Residential Unit of such rental or lease at least twenty one (21) days prior to the commencement of any lease term or other occupancy, together with the names and ages of all tenants and occupants of such Residential Unit and the relationship of such tenants and occupants to one another and to the owner of the Residential Unit.

10.8.6 Developer shall establish, per the Master Deed, and grant to the Town, the right to enforce the Rental Restriction and Age Restriction.

10.9 The Board shall have the right to approve the form and substance of the Master Deed for the Master Condominium prior to filing the Master Deed with the Land Court or Registry solely to ensure compliance with this Agreement, including but not limited to such portions of the Master Deed implementing (a) the Age Restriction, (b) Rental Restriction, (c) restrictions on any gardening and agricultural uses or other uses of any portions of the Site required by the Solution Outcome, the Remediation Implementation Plan or MassDEP, and (d) any other rights or restrictions otherwise required by this Agreement. Such portions of the Master Deed shall not be amended without prior written

approval of the Board, which approval may be withheld for any reason. If so approved, such written approval by the Board shall be filed with such amendment at the Land Court and/or Registry, as applicable.

10.10 Developer (or successor as applicable, including but not limited to an association or board of trustees for the Master Condominium) shall annually submit to the Board by February 1 of each year a sworn statement certifying to the Town: (a) all the Residential Units that are subject to the Age Restriction, (b) the names and ages of all tenants and occupants occupying the Residential Units by rental or lease and the relationship of such tenants and occupants to one another, (c) the Residential Units and Unit Owners that are in compliance with the Age Restriction and Rental Restriction, and (d) the Residential Units and Unit Owners that are not in compliance with the Age Restriction and Rental Restriction and what actions are being undertaken by the Developer, the non-compliant Unit Owners and the board of trustees or association for the Master Condominium to cause compliance as required by Section 10.11, the Declaration of Covenants and the master deed for the Master Condominium. In addition, the Board may from time to time make a written request upon any Residential Unit Owner or tenant or occupant of a Residential Unit to certify by sworn statement to the Board any factual matters related to the ownership and occupancy of such Residential Unit, including but not limited to who all the beneficial owners of the Residential Units are and their percentage interests of ownership interest, the age of all such owners and occupants, and their relationships with the Residential Unit Owners and each other, in which case all such Residential Unit Owners, tenants and occupants shall return to the Board their complete written sworn statements within thirty (30) days of the date the Board issues its request. Failure by any such Residential Unit Owners, tenants or occupants to do so shall automatically be deemed to constitute a violation of the Rental Restriction, requiring such violation to be addressed pursuant to Section 10.11 and entitling the Town to enforce its rights arising from this Agreement and the Declaration of Covenants.

10.11 The Developer, the board of trustees or association for the Master Condominium, the Unit Owners and their tenants and occupants shall all be responsible to ensure that the Rental Restriction and Age Restriction are fully complied with at all times. In the event of any violations of the Rental Restriction, the Age Restriction or any provisions of Section 10 or similar provisions in the Declaration of Covenants or master deed, the Developer, the subject Unit Owner and the board of trustees or association for the Master Condominium (as shall be required by the Declaration of Covenants and master deed) shall all promptly and with their best efforts undertake and complete all actions necessary to remedy such violations such that the Rental Restriction, the Age Restriction and the provisions of Section 10 and similar provisions in the Declaration of Covenants are all fully complied with. The Developer, the board of trustees or association for the Master Condominium and such Unit Owner shall be liable to and promptly pay to the Town all damages and expenses incurred by the Town to enforce the Rental Restriction, Age Restriction, the provisions of Section 10 and any similar provisions in the Declaration of Covenants and master deed including but not limited to all court costs and reasonable attorney fees, and in addition to and not in limitation of any remedies the Town may have at law and in equity, specifically including but not limited to the termination of any lease, rental or other occupancy agreement and orders for occupants to quit the premises, said

Unit Owner shall pay to the Town upon demand for each month or portion thereof that the Unit Owner is in violation of the Rental Restriction and as the Board may elect, damages equal to the greater of (i) 150 percent of fair market rental value of the Unit Owner's Residential Unit, or (ii) the gross monthly rent for the Residential Unit. Notwithstanding the foregoing, nothing in this Agreement shall waive, bar or otherwise affect any legal or equitable right or remedy the Town may have to seek from any and all parties that have failed to comply with the Rental Restriction or Age Restriction (including but not limited to the board of trustees or association for the Master Condominium, the Unit Owners and/or their tenants and occupants) payment of additional damages in connection with any violation of the Rental Restriction, the Age Restriction or such other rights or restrictions held by or for the benefit of the Town, including without limitation, specific performance, termination of leases and agreements or other equitable or injunctive relief, or the Town from assessing any penalties pursuant to any duly adopted regulation.

10.12 In the event there is any inconsistency or conflict between the Declaration of Covenants and this Agreement or the Declaration of Covenants and any master deed or condominium documents pertaining to the Site, the terms and provisions of the Declaration of Covenants shall prevail, it being the intent that once filed with the Land Court and Registry, as applicable, in the chains of title to all properties comprising the Site, the Rental Restriction and Age Restriction as set forth by the Declaration of Covenants shall run with the Site for the benefit of the Town and the other owners of the Site in perpetuity.

10.13 The Age Restriction, Rental Restriction and the Temporary Hardship Waiver provisions in this Agreement and as set forth by the Declaration of Covenants (a) shall automatically be effective upon the grant of any Special Permit pursuant to the Rezoning Amendment for any project at the Site, and (b) shall remain effective and survive any termination of this Agreement until such time as the Rezoning Amendment is repealed by the Town pursuant to Section 11.3.

11. **MISCELLANEOUS**

11.1 The terms of this Agreement shall apply to and be binding upon and inure to the benefit of the Developer and its successors and assigns as to the development rights of the Developer hereunder and under any Special Permits.

11.2 Notwithstanding any provision in this Agreement to the contrary, this Agreement shall be jointly and severally binding upon the Developer and all of its successors and assigns with respect to all the Developer Work Obligations as set forth by Section 5. Such joint and several liability shall continue until such time as the Developer Work Obligations are fully completed, as determined by the Board after any Inspections as the Board may elect to undertake, all the conveyances to the Town of the Developer Property are completed, and the full release of all Security pursuant to Section 6.7. All assignments or delegations of rights or obligations arising from this Agreement, in whole or in part, shall be in writing and duly executed, with a copy thereof delivered to the Board within fourteen (14) days of full execution and shall not be effective until so

executed and delivered. In addition, as a condition of the effectiveness of such written instrument, the Developer and such successor or assign shall agree in such instrument (a) to be jointly and severally obligated, consistent with this Section 11.2, to perform all of the Developer Work Obligations until the same are fully completed as provided herein, and (b) that such joint and several obligation shall survive any delivery of any deeds, further assignments, assumptions, releases and transfers and any termination of such written instruments. In addition, subject to Section 7.4, the Developer may collaterally assign its rights under this Agreement to Developer's Mortgagee as security for performance of its loan obligations given to such Developer's Mortgagee in exchange for Developer's Mortgagee financing the Project. Except as to the Developer Work Obligations, neither the Developer nor any successor or assign shall have any joint or several liability for any obligations under this Agreement other than those incurred during the period of their respective ownership of the applicable portions of the Site.

11.3 In the event that the Developer determines that it does not intend to proceed with the Project after the adoption of the Warrant Articles, or Developer fails to obtain any permits for the Project, then the Developer shall promptly notify the Board of such event in writing. Within twenty one (21) days after either (i) the Board receives such notice, or (ii) the Attorney General's Office rejects the Rezoning Article, the parties hereto shall in good faith negotiate to modify this Agreement to address proposed changes to the Project and any required changes to the Rezoning Article pursuant to which the Developer and the Town may be amenable to proceed. If after such good-faith negotiation, the parties cannot mutually agree upon proposed modifications to this Agreement and any proposed modifications to the Town's Zoning Bylaws, and provided (a) Town Meeting has voted to amend the Town's Zoning Bylaw to repeal the Rezoning Amendment in its entirety or to modify the Rezoning Amendment in a manner materially conflicting with this Agreement, and (b) the Attorney General has approved such vote by Town Meeting to repeal or modify the Rezoning Amendment, the Board shall cause to be executed and delivered to Developer a suitable notice for filing with the Land Court and/or recording in the Registry, as applicable, which notice shall state that the parties have terminated this Agreement. Until the Board has delivered such notice, this Agreement (and the Declaration of Covenants, if filed with the Land Court and/or Registry) shall remain in full force and effect.

11.3.1 If the Rezoning Amendment is approved by the Town Meeting and the Attorney General, and the Developer elects to develop the Site pursuant to any Special Permit issued pursuant to the Rezoning Amendment, the Developer shall only develop the Site as may be allowed by the Rezoning Amendment in accordance with this Agreement and the Declaration of Covenants, as the same may be amended from time to time. This Agreement and the Declaration of Covenants shall not prohibit the Developer from developing the Site pursuant to any provisions of the Town Zoning Bylaw for the underlying zoning district. Notwithstanding any provision herein to the contrary, in no event shall the Developer or any of its successors or assigns develop any portion of the Site, or be entitled to develop any portion of the Site, pursuant to any permit issued pursuant to the Rezoning Amendment in any manner inconsistent with the terms of this Agreement and the Developer hereby releases any rights the Developer

may have to develop any portion of the Site pursuant to the Rezoning Amendment in any manner inconsistent with the terms of this Agreement. The Developer shall immediately cease all development of the Site and related construction activities inconsistent with this Agreement. In the event of any breach by Developer of this Section 11.3.1, the Town shall, in addition to all other remedies available to the Town at law, be immediately entitled to equitable and injunctive relief to enforce this Agreement and, until Developer fully cures the breach of this Agreement, to stop development of the Site, it being agreed that the Town would be irreparably harmed if such development were to proceed or continue and that monetary damages would be insufficient relief to redress the Town. The provisions of this section 11.3.1 shall survive any termination of this Agreement.

11.4 As and when requested by the Developer, the Board, acting through a majority of its members, will reasonably cooperate with the Developer and its successors and assigns with regard to the status of the Developer's obligations or satisfaction thereof under this Agreement for the benefit of Developer's Mortgagee and institutional lenders to whom Developer has applied for financing with respect to all or any portions of the Project; provided however, in no event shall the Town be required to bear any costs or liabilities with respect to such cooperation nor to provide any legal opinions with respect to the Site, zoning, the Project, or Developer's obligations or satisfaction of this Agreement.

11.5 This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. This Agreement may be signed in multiple counterparts. The parties hereby consent to non-exclusive jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the Counties of Norfolk or Suffolk. No party shall be deemed this Agreement's drafter and no inferences concerning its terms shall be drawn against any party on that ground.

11.6 Any modifications or amendments to this Agreement related to the Development District, Development Program, DIF Warrant Article, District Improvement Financing, Financing Plan or any Town Meeting vote on any of the same, shall be subject to G.L. c. 40Q, if applicable. In addition, any modifications or amendments to this Agreement must be in writing executed by the Board and the duly authorized representative of the Developer and/or its successors and assigns, as applicable. The parties acknowledge and agree that no modifications or amendments to this Agreement shall be made unless and until a duly noticed public hearing has been held by the Board regarding such proposed modification or amendment, which proposed modification or amendment shall require (a) if occurring before the 2015 Annual Town Meeting, a majority vote of the members of the Board at a meeting at which a quorum is present for its passage, or (b) if occurring after the 2015 Annual Town Meeting, (i) a supermajority (4/5's) vote by the Board at a meeting at which all members are present for passage and (ii) a subsequent approval by Town Meeting.

11.7 Notwithstanding any provision herein to the contrary, if (a) the Appropriations Article, Rezoning Article, Town Acquisition Article or Zoning Map Amendment Article are not adopted by a Town Meeting, (b) if any of such warrant articles are adopted by Town Meeting with material modification not agreed to in writing by the Board and the

Developer, or (c) the Town's adoption of any of such warrant articles is determined by Massachusetts' Attorney General or by a court of competent jurisdiction to be invalid, illegal, or unconstitutional, then (i) this Agreement and each of the agreements and documents referenced herein shall be voidable by either the Developer or the Town at any time thereafter by written notice to the other (unless both the Developer and Board otherwise agree in writing to waive the right to void this Agreement), in which case, the Developer and the Board shall cooperate in good faith to have a notice of termination promptly prepared, executed by the Board and Developer and delivered to the Developer for filing with the Land Court and/or recording in the Registry, as applicable, which notice shall state that the Developer's and Town's rights and obligations under this Agreement and the Declaration of Covenants have been terminated except for such provisions expressly set forth by this Agreement that are to survive termination, including but not limited to all the provisions of Sections 11.3 and 11.3.1. Upon delivery and recording of a notice of termination fully executed by the Board and the Developer, this Agreement and the Declaration of Covenants shall be void and of no further force and without recourse to either party hereto, with neither party having any further rights or obligations under this Agreement except for such provisions expressly set forth by this Agreement that are to survive termination, including but not limited to Section 11.3 and 11.3.1. The Developer agrees, for itself and for all its successors and assigns (including but not limited to any subsequent owners of any portions of the Site or Developer's Property), which agreement shall survive any termination of this Agreement, not to proceed with any development of the Main Site pursuant to the Rezoning Amendment except under the terms of this Agreement.

11.8 In the event any provision of this Agreement is deemed to be invalid, illegal or unenforceable, the remainder of the Agreement shall be valid and enforceable to the full extent permitted by law. The parties agree to ratify and/or re-execute this Agreement as may be necessary for compliance with G.L. c. 30B and other public procurement legal requirements.

11.9 Notwithstanding any provision herein to the contrary, no provision of this Agreement or any activity at or use of the Site (a) shall relieve the Developer from any other legal or contractual obligations or compliance with any applicable laws, rules, regulations or bylaws regarding the Site, including without limitation bylaws and regulations of the Town, or (b) waive, bar, diminish or in any way affect: (i) any legal or equitable right of the Town to regulate or issue any order with respect to any portion of the Site pursuant to any applicable statute, code, regulation or bylaw or to pursue any other claim, action, suit, damages or demand related thereto, or (ii) any limitations on liability afforded a body politic of the Commonwealth of Massachusetts.

11.10 In the event that the Attorney General's Office approves the Rezoning Amendment, or the same is deemed approved, but a third party commences legal proceedings claiming invalidity of the Rezoning Amendment as approved and as a result of such proceeding the Rezoning Article is finally adjudicated to be invalid, either in whole or in part, by a decision of a court of competent jurisdiction (and all appeal periods with respect to such decision have lapsed), then this Agreement, at the option of the Developer, may be terminated by written notice to the Town and shall thereupon be of no

further force or effect, without recourse to either party. It is expressly agreed that the Agreement and the Declaration of Covenants may only be so terminated if the Developer abandons all efforts to develop the Site pursuant to the Rezoning Amendment and certifies same to the Town by like written notice to the Town. In the event this Agreement is so terminated, the Board and the Developer shall, within thirty (30) days of the Board's receipt of such notice, execute, acknowledge and deliver to the Developer for filing with the Land Court and/or the Registry, as applicable, that confirms the termination of this Agreement and Declaration of Covenants and the abandonment of the Project pursuant to the Special Permit or otherwise.

11.11 The Town acknowledges that in the event that the Developer does not apply to the Town for a Special Permit under the provisions of the Rezoning Amendment that the Developer shall be prohibited from using or developing the Site pursuant to the Rezoning Amendment but shall not be prohibited from developing or using the Site for any uses allowed pursuant to the Town's Zoning By-Law for the underlying zoning district of the Site, subject to all applicable laws, rules and regulations and bylaws but without any obligations under this Agreement or the Declaration of Covenants.

11.12 The parties hereto agree to hereafter execute and deliver in good faith all documents in reasonable form, provide all information and take or refrain from taking action as may be reasonably necessary or appropriate to achieve the purposes of this Agreement.

11.13 Each of the parties hereto represents and warrants to the other that: (a) all actions, votes and consents (except for votes on the Warrant Articles and votes required by G.L. c. 40Q) have been taken or obtained thereby so as to enable it to validly execute, deliver and perform its obligations under this Agreement; (b) this Agreement has been duly executed and delivered by an authorized representative of such party; and (c) this Agreement constitutes a valid and legally binding obligation enforceable against such party in accordance with its terms.

11.14 Developer warrants and represents to the Town that the only release tracking numbers related to the Site are MADEP RTN 4-3011520, which is the primary release tracking number for the Site and the release tracking numbers and areas of concern as listed on page 2 of the Remedial Implementation Plan as follows: RTN 4-3025379, RTN 4-3015347, RTN 4-3019744, RTN 4-3024531, RTN 4-3019407, RTN 4-3024840 and RTN 4-20412.

11.15 This Agreement sets forth the entire agreement between the parties hereto with respect to the subject matter herein, and shall supersede any and all prior agreements or understandings, whether written or oral, between said parties, with respect to such matter. The parties hereto acknowledge that they have not relied on any representations, promises or agreements of any kind made to them in connection with their decision to execute and deliver this Agreement except as otherwise set forth herein.

11.16 The terms and provisions of this Agreement may be incorporated in any Special Permit granted by the SPGA under the Rezoning Amendment as both a reference and as a condition of such Special Permit.

11.17 Notwithstanding anything to the contrary contained in this Agreement, it is understood and agreed, that even if the Warrant Articles are adopted by Town Meeting and the Rezoning Article is approved by the Attorney General, the Developer shall be under no legal obligation to obtain a Special Permit under the Rezoning Amendment or a building permit to commence construction of any portion of the Project pursuant to such Special Permit, and until such time, neither the Town nor the Developer shall have any obligations under this Agreement except for those that expressly survive termination of the Agreement; however, in the event that the Developer obtains a building permit for the construction of any residential project on the Site pursuant to a Special Permit issued pursuant to the Rezoning Amendment, the Developer shall be obligated to undertake and complete all its obligations under this Agreement, including but not limited to completing all the Developer Work Obligations and providing the Security.

11.18 Developer acknowledges that this Agreement may constitute a public record pursuant to applicable Massachusetts law, and as such, the Town may be required by law to provide copies of this Agreement to third parties. The Town's providing third parties with a copy of this Agreement shall not be deemed a violation of any implied or express duties or obligations of the Town to keep this Agreement confidential.

11.19 The deed or deeds to the Town for the Community Land and Community Open Space shall include a restriction reserved by the Developer that the Town (a) shall maintain such properties in the Town's usual manner at the Town's expense, and (b) shall not use such properties for municipal public works storage. The easement to the Town for the Walkway Improvements shall include restriction reserved by the Developer that the Town shall maintain the Walkway Improvements in the Town's usual manner at the Town's expense. Additionally, the deed to the Town for the Community Land (but not for the Community Open Space) shall include two (2) easements reserved to the Developer and its successor and assigns and appurtenant to other portions of the Site, as follows.

a. Permanent Utility Easement. The Developer may reserve a perpetual easement for the installation and maintenance of underground utilities to service other portions of the Site, provided the easement area for same is located entirely within roadways located on the Community Land as shown on the Site Plan; and

b. Temporary Construction Easement. The Developer may reserve a temporary easement for construction purposes, including the use of construction vehicles and equipment, in locations on the Community Land as determined by the Board from time to time in its sole and reasonable discretion. The term of such temporary construction easement shall automatically terminate within the sooner of: (i) the date that all Developer Work Obligations are completed, and (ii) three (3) years from the date the deed to the Town for the Community Land is filed with the Land Court and/or Registry, as applicable; and

c. Restoration Obligations. As a condition to the reservation of such easements, the Developer shall, at its sole cost, promptly restore in a good and workmanlike manner all portions of the Community Property damaged or disturbed by the Developer or any of its employees, agents, contractors, subcontractors, agents or invitees to a condition as near as practicable to the condition that existed immediately prior to such damage or disturbance; and

d. Insurance and Indemnification Obligations. As a condition to the reservation of such easements, the Developer shall, at its sole cost, promptly obtain appropriate insurance in appropriate amounts naming the Town as an additional insured in connection with any use by Developer of the easement areas as evidenced by a certificate of insurance delivered to the Board and shall indemnify and hold the Town harmless against all claims, losses, injuries, damages, actions, proceedings, demands and liabilities arising from such easements and/or the Developer's use of the easement areas.

11.20 Unless otherwise specified herein, all notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms hereunder shall be in writing and deemed properly given if sent by hand delivery, nationally recognized overnight mail carrier or registered mail, return receipt requested, to the parties at the following addresses:

Town: Town of Canton
Town Hall
801 Washington Street
Canton, MA 02021
Attn: Board of Selectmen

with a copy to: Paul R. DeRensis, Town Counsel
Deutsch Williams Brooks DeRensis & Holland, P.C.
One Design Center Place, Suite 600
Boston, MA 02210

Developer: Canton Holdings, LLC
c/o North American Real Estate Management
1E Oak Hill Center, Suite 100
Westmont, IL 60559
Attn: Richard Brandstatter and Edward Napleton

with a copy to: Bernard Plante
Melton Associates, LLC
179 Amherst Street
Nashua, NH 03064

and

Richard S. Mann, Esq.
196 Bridle Trail Road
Needham, MA 02492

For the purposes of this section, the date of receipt shall be deemed to be the date of delivery by hand if hand delivered, one (1) day after mailing if sent by overnight mail and three (3) days after mailing if sent by registered mail.

[Schedule of exhibits follows on next page. Remainder of page intentionally left blank.]

Schedule of Exhibits:

- Exhibit A. Site Plans for Revere Street
 - Exhibit A-1: Site Plan with Community Open Space Acquisition
 - Exhibit A-2: Site Plan without Community Open Space Acquisition
- Exhibit B. Site Plan for Neponset Street
- Exhibit C. Warrant Articles
 - Exhibit C-1: Appropriations Article
 - Exhibit C-2: DIF Authorization Article
 - Exhibit C-3: Rezoning Article
 - Exhibit C-4: Town Acquisition Article
 - Exhibit C-5: Town Disposition Article
 - Exhibit C-6: Zoning Map Amendment Article
- Exhibit D. Development District Plan
- Exhibit E. Development Program
- Exhibit F. Financial Plan
- Exhibit G. Declaration of Covenants, Restrictions and Easements
- Exhibit H. Schedule of Allocated Values/Costs
- Exhibit I. Copy of Land Court Plan 23714-A
- Exhibit J. Construction Phasing Plan
 - Exhibit J-1: Construction Phasing Plan with Community Open Space Acquisition
 - Exhibit J-2: Construction Phasing Plan without Community Open Space Acquisition
- Exhibit K. Water Line Connection
- Exhibit L. Site Water Feature Improvements
- Exhibit M. Revere Street Sidewalks and Bike Lane Improvements
- Exhibit N. Revere Street Improvements
- Exhibit O. Diversion Channel Bridge Improvements
- Exhibit P. Fire Station Roof Improvements
- Exhibit Q. Fire Station Signal Improvements
- Exhibit R. MBTA Signals Improvements
- Exhibit S. Junction Walkway Improvements
- Exhibit T. Neponset/Norfolk Street Improvements
- Exhibit U. Barn Improvements
- Exhibit V. Rolling Mill Improvements
- Exhibit W. Community Property Improvements
- Exhibit X. Community Open Space Improvements
- Exhibit Y. Factory Pond Improvements
- Exhibit Z. Water Control Improvements
- Exhibit AA. Form of Letter of Credit
- Exhibit BB. Maximum Number of Bedrooms

EXECUTED under seal as of the date and year first above written.

CANTON HOLDINGS, LLC

By: _____
Name:
Its:
Hereunto Duly Authorized

TOWN OF CANTON,
BY ITS BOARD OF SELECTMEN

Victor D. Del Vecchio, Chair

Avril T. Elkort, Vice Chair

John J. Connolly, Clerk

Robert E. Burr, Jr., Member

Gerald A. Salvatori, Jr., Member

COMMONWEALTH OF MASSACHUSETTS

County of _____, ss.

On this ____ day of _____, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, as _____ of Canton Holdings, LLC.

Notary Public
My Commission Expires:
Seal:

COMMONWEALTH OF MASSACHUSETTS

County of Norfolk, ss.

On this _____ of _____, before me, the undersigned notary public, personally appeared Victor D. Del Vecchio, Avril T. Elkort, John J. Connolly, Robert E. Burr, Jr. and Gerald A. Salvatori, Jr., as the Board of Selectmen of the Town of Canton, a Massachusetts municipal corporation, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the Board of Selectmen of the Town of Canton.

Notary Public
My commission expires:
Seal: