

February 22, 2013

BY HAND

Gregory P. Watson
Manager of Comprehensive Permit Programs
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

Re: New England Fund Site Approval (Project Eligibility) Application –
Milton Mews, Brush Hill Road, Milton, MA

Dear Greg:

Enclosed please find a Site Approval (Project Eligibility) Application on behalf of Milton Mews Venture LLC, an affiliate of Mill Creek Residential (formerly known as Trammell Crow Residential). As we described in our pre-filing meeting with MassHousing, the proposed development includes two hundred seventy-six (276) rental units off of Brush Hill Road in Milton. The application materials enclosed include the following, as required by the Rental Development Site Approval Application Completeness Checklist:

1. Check in the amount of \$13,280 (\$2,500/Application Processing Fee, \$2,500 Base Technical Assistance/Mediation Fee and \$8,280 (\$30 per unit));
2. Application and Supporting Materials (1 original and 3 copies); and
3. Plans and Specifications (2 full sized and 2 reduced copies).

In addition, pursuant to the enclosed letters, we have simultaneously sent notice of this Application to DHCD and a complete copy of this Application to the Milton Board of Selectmen and Interim Town Administrator. We will provide you with evidence of delivery of the same when we receive the return receipts for them.

The Applicant anticipates filing the corresponding application for a comprehensive permit under M.G.L. c. 40B within ten (10) days after receipt of Site Approval (Project Eligibility).

Please go ahead and start the process of ordering the required Land Value Appraisal. The Applicant understands that MassHousing will send out a request for bids to multiple pre-

Gregory P. Watson
February 22, 2013
Page 2

approved appraisers and, upon selection of an appraiser, will require the Applicant to provide payment for the appraisal.

Please let either me or Robb Hewitt of Mill Creek (rhewitt@mcctrust.com or 781-685-4698) know if you have any questions about the enclosed materials.

\ Sincerely,

A handwritten signature in black ink, appearing to be 'D. Horwitz', with a large loop at the bottom.

Deborah S. Horwitz

GSDOCS\2181834.3

"BEB5806207" "960000E40E" "b22900E"

SUSTAINABLE DEVELOPMENT SCORECARD



Revised: 12/7/12

SUSTAINABLE DEVELOPMENT CRITERIA SCORECARD

Project Name:	Milton Mews
Project Number:	
Program Name:	New England Fund
Date:	2/22/2013

MassHousing encourages housing development that is consistent with sustainable development designs and green building practices. Prior to completing this form, please refer to the Commonwealth's Sustainable Development Principles (adopted May 2007) available at: [Sustainable Development Principles](#)

DEVELOPER SELF-ASSESSMENT (for consistency with the Sustainable Development Principles)

Method 1:

Redevelop First

Check "X" Below		
Yes	No	NA
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If Rehabilitation:

- Rehabilitation/Redevelopment/Improvements to Structure
- Rehabilitation/Redevelopment/Improvements to Infrastructure

Check "X" below if applicable		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If New Construction:

- Contributes to revitalization of town center or neighborhood
- Walkable to:
 - (a) transit
 - (b) downtown or village center
 - (c) school
 - (d) library
 - (e) retail, services or employment center
- Located in municipally-approved growth center

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Explanation (Required)

--

Optional - Demonstration of Municipal Support:

- Letter of Support from the Chief Elected Official of the municipality*
- Housing development involves municipal funding
- Housing development involves land owned or donated by the municipality

Check "X" below if applicable

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

*Other acceptable evidence: Zoning variance issued by ZBA for project; Minutes from Board of Selectman meeting showing that project was discussed and approved, etc.

Explanation (Required)

Method 2: Development meets a minimum of five (5) of the Commonwealth's *Sustainable Development Principles*, as shown in the next section below.

If the development involves strong **municipal support** (evidence of such support must be submitted as an attachment), the development must meet only **four (4)** of the *Sustainable Development Principles*. However, one (1) of the Principles met must be **Protect Land and Ecosystems**.

Please explain at the end of each category how the development follows the relevant *Sustainable Development Principle(s)* and explain how the development demonstrates each of the checked "X" statements listed under the *Sustainable Development Principle(s)*.

(1) Concentrate Development and Mix Uses

Yes	No	NA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Support the revitalization of city and town centers and neighborhoods by promoting development that is compact, conserves land, protects historic resources, and integrates uses. Encourage remediation and reuse of existing sites, structures, and infrastructure rather than new construction in undeveloped areas. Create pedestrian friendly districts and neighborhoods that mix commercial, civic, cultural, educational, and recreational activities with open spaces and homes.

- Higher density than surrounding area
- Mixes uses or adds new uses to an existing neighborhood
- Includes multi-family housing
- Utilizes existing water/sewer infrastructure
- Compact and/or clustered so as to preserve undeveloped land
- Reuse existing sites, structures, or infrastructure
- Pedestrian friendly
- Other (discuss below)

Check "X" below if applicable

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Explanation (Required)

The proposed development will provide 276 units of new housing on approximately 20 acres. The surrounding area consists primarily of single family homes, with the exception of Fuller Village, thus the development will be of higher density than that of the majority of the surrounding area. The property will tap into the existing water and sewer infrastructure serving the existing uses in the area. The site has been designed such that the majority of the units are condensed to three buildings, strategically located to preserve the existing wetlands while providing access to existing conservation areas in the vicinity of the site.

Check "X" Below

Yes	No	NA
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(2) Advance Equity & Make Efficient Decisions

☒ ☐ ☐

Promote equitable sharing of the benefits and burdens of development. Provide technical and strategic support for inclusive community planning and decision making to ensure social, economic, and environmental justice. Ensure that the interests of future generations are not compromised by today's decisions.

Promote development in accordance with smart growth and environmental stewardship.

- Concerted public participation effort (beyond the minimally required public hearings)
- Streamlined permitting process, such as 40B or 40R
- Universal Design and/or visitability
- Creates affordable housing in middle to upper income area and/or meets regional need
- Creates affordable housing in high poverty area
- Promotes diversity and social equity and improves the neighborhood
- Includes environmental cleanup and/or neighborhood improvement in an Environmental Justice Community
- Other (discuss below)

Check "X" below if applicable

☒

☒

☒

☐

☒

☐

☐

Explanation (Required)

The applicant has had several meetings with elected officials, department heads and neighbors regarding the proposed development. The proposed development will be developed under Chapter 40B and will include 25% affordable rental homes. The Town of Milton currently only has 4.4% of its stock considered affordable housing, well below the state threshold of 10%. Mixed-income housing will increase the diversity of both the direct surrounding area and the town as a whole.

(3) Protect Land and Ecosystems

Check "X" Below

Yes

No

NA

☒

☐

☐

Protect and restore environmentally sensitive lands, natural resources, agricultural lands, critical habitats, wetlands and water resources, and cultural and historic landscapes. Increase the quantity, quality and accessibility of open spaces and recreational opportunities.

- Creation or preservation of open space or passive recreational facilities
- Protection of sensitive land, including prime agricultural land, critical habitats, and wetlands
- Environmental remediation or clean up
- Responds to state or federal mandate (e.g., clean drinking water, drainage, etc.)
- Eliminates or reduces neighborhood blight
- Addresses public health and safety risk
- Cultural or Historic landscape/existing neighborhood enhancement
- Other (discuss below)

Check "X" below if applicable

☒

☒

☐

☐

☐

☐

☐

☐

Explanation (Required)

The development is in close proximity to the Fowl Meadow, Neponset River Reservation and the Blue Hills Reservation. The design has been created to limit the impacts to any of environmentally sensitive lands, natural resources and wetlands. The site will provide access for its residents to the existing walking trails on the adjacent conservation area for recreational use.

(4) Use Natural Resources Wisely

Check "X" Below

Yes	No	NA
X		

Construct and promote developments, buildings, and infrastructure that conserve natural resources by reducing waste and pollution through efficient use of land, energy, water, and materials.

- Uses alternative technologies for water and/or wastewater treatment
- Uses low impact development (LID) or other innovative techniques
- Other (discuss below)

Check "X" below if applicable

X

Explanation (Required)

The proposed development will be built to comply with the MA Stretch Energy Code, as adopted by the Town of Milton, and will provide approximately 20% greater building efficiency than the base building code. The design will meet Energy Star guidelines as well.

(5) Expand Housing Opportunities

Check "X" Below

Yes	No	NA
X		

Support the construction and rehabilitation of homes to meet the needs of people of all abilities, income levels and household types. Build homes near jobs, transit, and where services are available. Foster the development of housing, particularly multifamily and single-family homes, in a way that is compatible with a community's character and vision and with providing new housing choices for people of all means.

- Includes rental units, including for low/mod households
- Includes homeownership units, including for low/mod households
- Includes housing options for special needs and disabled population
- Expands the term of affordability
- Homes are near jobs, transit, and other services
- Other (discuss below)

Check "X" below if applicable

X
X
X

Explanation (Required)

The proposed development will provide a variety of new housing options for a diverse group of renters, both renters by necessity and by choice. The development will provide 69 affordable homes, as well as ADA compliant units. The unit mix consists of one-bedroom, two-bedroom and three-bedroom (10%) homes with the option of a traditional apartment "flat" or a townhome style units. The site is conveniently located near employment centers, retail and commercial centers and civic/cultural destinations throughout the Greater Boston area.

(6) Provide Transportation Choice

Check "X" Below

Yes	No	NA
X		

Maintain and expand transportation options that maximize mobility, reduce congestion, conserve fuel and improve air quality. Prioritize rail, bus, boat, rapid and surface transit, shared-vehicle and shared-ride services, bicycling, and walking. Invest strategically in existing and new passenger and freight transportation infrastructure that supports sound economic development consistent with smart growth objectives.

- Walkable to public transportation
- Reduces dependence on private automobiles (e.g., provides previously unavailable shared transportation, such as Zip Car or shuttle buses)
- Increased bike & ped access
- For rural areas, located in close proximity (i.e., approximately one mile) to a transportation corridor that provides access to employment centers, retail/commercial centers, civic or cultural destinations
- Other (discuss below)

Check "X" below if applicable

☒
☒
☐

Explanation (Required)

The proposed development is located just over 1-mile to the Readville MBTA Commuter Rail station. The site location is convenient to the corporate offices of Dunkin Brands, Reebok, Baskin Robbins, Meditech, among other businesses. There is easy access to I-95 and I-93, as well as other major thoroughfares such as Rt. 24 and Rt. 138 providing access to other employment centers in the area. Bicycle use will be encouraged by providing bike storage in buildings.

Check "X" Below

Yes	No	NA
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(7) Increase Job and Business Opportunities

Attract businesses and jobs to locations near housing, infrastructure, and transportation options. Promote economic development in industry clusters. Expand access to education, training, and entrepreneurial opportunities. Support growth of local businesses, including sustainable natural resource-based businesses, such as agriculture, forestry, clean energy technology, and fisheries.

- Permanent jobs
- Permanent jobs for low- or moderate-income persons
- Jobs near housing, service or transit
- Housing near an employment center
- Expand access to education, training, or entrepreneurial opportunities
- Support local businesses
- Support natural resource-based businesses (i.e., farming, forestry, or aquaculture)
- Re-uses or recycles materials from a local or regional industry's waste stream
- Support manufacture of resource-efficient materials, such as recycled or low-toxicity materials
- Support businesses that utilize locally produced resources such as locally harvested wood or agricultural products
- Other (discuss below)

Check "X" below if applicable

☒
☒
☒
☐
☐
☐

Explanation (Required)

Construction and operation of the property will add local construction and management jobs. In addition, the location of the property near commercial and retail centers in Milton, Boston and the surrounding region will help to promote economic development and support the growth of local and regional businesses. The proximity of I-95, I-93, Rt. 24 and Rt. 138, as well as the Readville MBTA Commuter Rail station, will facilitate the employment options of the residents.

(8) Promote Clean Energy*Check "X" Below*

X		
---	--	--

Maximize energy efficiency and renewable energy opportunities. Support energy conservation strategies, local clean power generation, distributed generation technologies, and innovative industries. Reduce greenhouse gas emissions and consumption of fossil fuels.

Check "X" below if applicable

- Energy Star or equivalent*
- Uses renewable energy source, recycled and/or non-/low-toxic materials, exceeds the state energy code, is configured to optimize solar access, and/or otherwise results in waste reduction and conservation of resources
- Other (discuss below)

X
X

* All units are required by MassHousing to be Energy Star Efficient. Please include in your explanation a description of how the development will meet Energy Star criteria.

Explanation (Required)

The Development will be designed to comply with the Massachusetts Stretch Energy Code, as adopted by the Town of Milton, and will provide approximately 20% greater building efficiency than the base Energy Code.

(9) Plan Regionally*Check "X" Below*

Yes	No	NA
X		

Support the development and implementation of local and regional, state and interstate plans that have broad public support and are consistent with these principles. Foster development projects, land and water conservation, transportation and housing that have a regional or multi-community benefit. Consider the long-term costs and benefits to the Commonwealth.

Check "X" below if applicable

- Consistent with a municipally supported regional plan
- Addresses barriers identified in a Regional Analysis of Impediments to Fair Housing
- Measurable public benefit beyond the applicant community
- Other (discuss below)

X

Explanation (Required)

Due to its location near major highways, roadways and the Readville MBTA Commuter Rail station, residents of the Development will work and shop not only in Milton, but throughout the region, which will provide an economic "boost" to businesses throughout the region.

For further information regarding 40B applications, please contact Greg Watson, Manager, Comprehensive Permit Programs, at (617) 854-1880 or gwatson@masshousing.com

EVIDENCE OF SITE CONTROL

- A. Purchase Agreement (1259 Brush Hill Road, Milton, MA)
- B. Purchase Agreement (1375 Brush Hill Road, Milton, MA)
- C. Purchase Agreement (1381-1383 Brush Hill Road, Milton, MA)

**PURCHASE AGREEMENT
(1259 BRUSH HILL ROAD, MILTON, MA)**

THIS PURCHASE AGREEMENT (this "Agreement") is entered into by ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER ("Seller"), and ~~MEL CREEK RESIDENTIAL TRUST LLC~~, a Delaware limited liability company, or its assigns ("Purchaser") as of the Effective Date (as defined in Section 34 below).

*MCR
Investments*

RECITALS:

Seller is currently the owner of that certain property located in Milton, Norfolk County, Commonwealth of Massachusetts, containing approximately Thirteen and 748/1000 (13.748) acres of land more particularly described in Exhibit A attached hereto and made a part hereof (the "Property") commonly known as and numbered 1259 Brush Hill Road, Milton, Massachusetts. The parties to this Agreement have agreed to the sale and purchase of the Property on terms and conditions more particularly set forth in this Agreement.

AGREEMENT:

1. **Purchase and Sale.** Subject to all of the terms and conditions of this Agreement, Seller will sell to Purchaser and Purchaser will purchase from Seller the Property, together with all appurtenances, rights, easements, and rights of way incident thereto.

2. **Purchase Price and Deposit.**

(a) The purchase price (the "Purchase Price") for the Property shall be Three Million Three Hundred Twenty Five Thousand and 00/100 Dollars (\$3,325,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing (as defined in Section 7 below), by wire transfer of funds less the Deposit (as defined in Section 2(b) below), and as further adjusted for prorations and adjustments as set forth in this Agreement.

(b) Within five (5) business days following the Effective Date, Purchaser shall deposit with Commonwealth Land Title Insurance Company, at 265 Franklin Street, 8th Floor, Boston, Massachusetts 02110, attention Patricia Carlson, Esq.; telephone (617) 619-4813; fax (617) 619-4849 (the "Title Company") the sum of Twenty Two Thousand Six Hundred Seventy and 45/100 Dollars (\$22,670.45) (the "Initial Deposit"). Within five (5) business days after expiration of the Investigation Period (as defined in Section 3(a) below), and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Thirty Seven Thousand Seven Hundred Eighty Four and 09/100 Dollars (\$37,784.09) with the Title Company (the "Second Deposit"). Within five (5) business days after Purchaser's receipt of the Project Eligibility (Site Approval) letter (the "Site Eligibility Letter") from the Massachusetts Housing Finance Agency ("Mass Housing") acceptable to Purchaser in the exercise of its reasonable discretion, and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Thirty Thousand Two Hundred Twenty Seven and 27/100 Dollars (\$30,227.27) with the Title Company (the "Third Deposit"). The

Initial Deposit, the Second Deposit and the Third Deposit, together with all interest earned thereon and including the Option Payments (as defined in Section 2(c) below), are hereinafter sometimes collectively referred to as the "**Deposit**." The Deposit shall be invested by the Title Company in an interest bearing account in an institution selected by Purchaser and acceptable to Seller and shall be held in accordance with the terms of Section 14 below. The disposition of the Deposit shall be in accordance with the terms and conditions of this Agreement. All interest on the Deposit shall be paid to the party entitled to receive the Deposit.

(c) Beginning on the Option Payment Commencement Date (as defined herein) and continuing on each monthly anniversary thereof until the earlier of: (i) the Closing; (ii) termination of this Agreement; (iii) payment to Seller of the Extension Payments (as defined in Section 7(a)(ii) below); or (iv) depletion of the Deposit (any event in clauses (i) through (iv) above, an "**Option Payment Termination Event**"), the Title Company shall withdraw from the Deposit an amount equal to the Option Payment (as hereinafter defined) and deliver the Option Payment to Seller. As used herein the term "**Option Payment**" shall mean the sum of One Thousand Eight Hundred Eighty Nine and 20/100 Dollars (\$1,889.20). If the Option Payment Termination Event occurs on a date other than the last day of the monthly anniversary of the Option Payment Commencement Date then the Option Payment shall be prorated for such month, and if Closing occurs in a month when an Option Payment has been made and the Closing occurs on a date other than the monthly anniversary of the Option Payment Commencement Date, Purchaser shall receive a credit against the Purchase Price of Sixty Two and 97/100 Dollars (\$62.97) for each day that lapses between the Closing Date and the expiration of the then-current Option Payment period; or if this Agreement terminates, Seller shall return to Purchaser Sixty Two and 97/100 Dollars (\$62.97) for each day that lapses between the termination date and the expiration of the then-current Option Payment period. The "**Option Payment Commencement Date**" shall be either: (a) the seven (7) month anniversary of the Effective Date, if Purchaser receives the Site Eligibility Letter prior to the seven (7) month anniversary of the Effective Date or if Purchaser does not submit its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date; or (b) the eight (8) month anniversary of the Effective Date, if Purchaser does not receive the Site Eligibility Letter prior to the seven (7) month anniversary of the Effective Date and Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date. In no event shall the Option Payment Commencement Date be later than the eight (8) month anniversary of the Effective Date, and in no event shall the Option Payment Commencement Date be extended from the seven (7) month anniversary of the Effective Date to the eight (8) month anniversary of the Effective Date unless Purchaser has provided Seller with reasonable evidence that Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date.

(d) Notwithstanding any other provision in this Agreement, the Option Payments, once delivered to Seller, shall be non-refundable to Purchaser unless this Agreement terminates pursuant to Section 6(c) below or due to a Seller default, in which case the Deposit, including any Option Payments paid or owing to Seller as of said date, shall be refunded to Purchaser; or, if this Agreement proceeds to Closing, the Deposit (including interest earned on

the Deposit) shall be applied as a credit to the Purchase Price, without any deduction for Option Payments.

3. **Investigation Period.**

(a) Commencing on the first (1st) business day following the Effective Date, Purchaser shall have ninety (90) days, subject to extension as provided herein (the "Investigation Period") during which to perform, or have performed, at Purchaser's sole cost and expense and option, such studies and investigations of the Property as Purchaser deems desirable, in the exercise of its sole and absolute discretion. During the Investigation Period Purchaser may investigate: (i) whether telephone, gas, electric, potable water, sanitary sewer, septic, storm water, drainage, cable television, and other utilities are available at the lot lines of the Development Tract (as defined in Section 5(a) below) through publicly dedicated streets or easements appurtenant to the Development Tract with sufficient capacity to serve the Intended Improvements (as defined in Section 5(a) below); (ii) whether any moratorium on service by any utility serving the Development Tract has occurred or any is threatened; and (iii) whether any moratorium on development on the Development Tract has been imposed by any governmental authority or any is threatened. Notwithstanding anything herein to the contrary, Purchaser may extend the Investigation Period beyond the initial ninety (90) days for two (2) periods of thirty (30) days each by Notice (as defined in Section 21 below) to Seller given at least five (5) business days prior to the expiration of the then-current period (including the initial ninety (90) day period) if Purchaser is unable to complete its studies and investigations of the Property for reasons or events outside of Purchaser's control. The Investigation Period shall automatically terminate at the end of the initial ninety (90) day period unless Purchaser extends the Investigation Period as provided herein, in which case the Investigation Period shall terminate at the end of the applicable extension period.

(b) Subject to the requirement to maintain insurance as set forth in Section 3(c) below, during the Investigation Period and continuing until Closing, Seller shall provide Purchaser and its agents with reasonable access to the Property, and all structures located thereon, upon reasonable prior Notice to Seller. Purchaser shall be permitted to access all structures as necessary for survey purposes, soil borings and test pits, provided that any damage to the Property shall be restored.

(c) Purchaser agrees to maintain in full force and effect during any period that Purchaser is making any entry onto the Property pursuant to this Agreement commercial general liability insurance insuring Purchaser and Seller against any and all claims for bodily injury and property damage occurring in or about the Property as a result of any such entry by Purchaser, which insurance: (i) shall be obtained from an insurer authorized to conduct business in the state in which the Property is located; (ii) shall have a combined single limit of not less than Two Million and 00/100 Dollars (\$2,000,000.00); and (iii) shall include a contractual liability endorsement insuring Purchaser's indemnity obligations hereunder. Purchaser shall provide reasonable evidence of such insurance to Seller prior to Purchaser's initial entry onto the Property and thereafter upon request of Seller. Purchaser shall also indemnify and hold Seller harmless from any loss, cost or expense incurred by Seller as a result of the negligence, recklessness or willful misconduct of Purchaser or any of Purchaser's

agents, employees or representatives who enter the Property and for any Hazardous Substance (as defined below) brought on the Property by Purchaser or any of Purchaser's agents. Until the Closing Purchaser shall have no indemnification obligation or other liability for, or in connection with, any claims arising from pre-existing conditions on or under the Property, or those arising from the presence or discovery of any Hazardous Substance previously existing on the Property, except to the extent due to the negligence, recklessness or willful misconduct of Purchaser or any of Purchaser's agents, employees or representatives who enter the Property. The foregoing indemnification shall survive Closing or termination of this Agreement. The term "**Hazardous Substance**" means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, radioactive materials, explosives, known carcinogens, petroleum products and by products (including crude oil or any fraction thereof), and any pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or a contaminant in, or the use, manufacture, generation, storage, treatment, transportation, release or disposal of which is regulated by, any Environmental Law. The term "**Environmental Law**" means all applicable federal, state, and municipal laws, by-laws, rules, regulations, codes and ordinances, and the requirements of any governmental agency or authority having or claiming jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of persons and property and all other environmental matters relating to Hazardous Substances or the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment applicable to the Property and relating to Hazardous Substances, or to the existence, use, discharge, release or disposal thereof.

(d) Not later than thirty (30) days before the Closing Date, Seller and Purchaser shall meet at the Property, and Seller shall provide to Purchaser a list of appliances and lighting and plumbing fixtures that Seller shall remove from the Property prior to Closing.

(e) Prior to the expiration of the Investigation Period, Purchaser, in its sole and absolute discretion, may elect to terminate this Agreement by notifying Seller in writing of such election to terminate not later than 6:00 p.m. on the last day of the Investigation Period. If Purchaser fails to deliver to Seller such Notice of Purchaser's election to terminate this Agreement, Purchaser shall be deemed to have waived such right to terminate this Agreement. Purchaser reserves the right to terminate this Agreement prior to the expiration of the Investigation Period pursuant to this Section 3(e), for any reason whatsoever. Upon such termination, the Deposit shall be returned to Purchaser and the parties hereto shall be relieved of all liabilities and obligations under this Agreement, except as specifically set forth in this Agreement; provided, however, that Purchaser shall promptly restore any damage to the Property caused by Purchaser's activities on the Property during the Investigation Period. Purchaser shall deliver to Seller without any representation or warranty of any nature, copies of any studies, findings and reports (collectively, the "**Studies**") of the Property completed by Purchaser, at no cost to Seller; provided, however, the Studies shall include only such Studies created by or at Purchaser's direction and shall in no event include any proprietary materials of Purchaser, except to the extent such work product pertains to the Development Approvals (as defined in Section 5(b) below) or the Intended Improvements and was included as part of Purchaser's application(s) for the Development Approvals. Upon Seller's request, Purchaser

shall provide Seller with a list of all Studies completed and shall identify any Studies which contain proprietary materials. Purchaser will use good faith efforts to obtain reliance letters from the various professionals who prepared the Studies, which letters shall permit Seller to rely on the findings of the applicable Study, but failure to obtain any such reliance letters shall not be a Purchaser default hereunder, nor shall the refund of the Initial Deposit be conditioned upon delivery to Purchaser of such reliance letters. Purchaser shall assign to Seller all of Purchaser's right, title and interest in and to the Studies and shall agree that Seller may contract with the provider of any Studies for the provision of additional services.

4. **Title, Title Insurance and Survey.**

(a) Purchaser may obtain from the Title Company a commitment (the "**Commitment**") for an ALTA Form B owner's title insurance policy covering the Property and all easements appurtenant thereto.

(b) In addition, Purchaser may obtain a current survey of the Property (the "**Survey**") prepared by a surveyor licensed by the state in which the Property is located.

(c) Prior to the expiration of the Investigation Period, Purchaser may examine the condition of title and survey matters. If, prior to the expiration of the Investigation Period, Purchaser fails either: (i) to terminate this Agreement pursuant to Section 3 above; or (ii) to provide Seller with Notice (the "**Title Defect Notice**") of specific defects in the title to or survey of the Property, then, for all purposes of this Agreement, Purchaser shall be deemed to have accepted title in the condition described in the Commitment and shall be deemed to have approved the Survey. Any title or survey exceptions that are not objected to prior to the expiration of the Investigation Period shall be deemed to be "**Permitted Exceptions.**" Notwithstanding the foregoing, Seller and Purchaser hereby acknowledge and agree that the deed to Seller contains a deed restriction which may impact Purchaser's ability to complete the Intended Improvements. Seller shall not be obligated to remove such deed restriction. Additionally, notwithstanding the foregoing, Seller and Purchaser hereby acknowledge and agree that the Property may be subject to several restrictive covenants and agreements including, but not limited to, those set forth in Book 4429, Page 617, and Book 4433, Page 68 as well as other restrictions related to the Hemenway Drive Association which may impact Purchaser's ability to complete the Intended Improvements. Seller shall not be obligated to remove any such restrictive covenants and agreements. In the event that another member of the Hemenway Drive Association or a third party makes a claim against, contests or challenges Seller in connection with the transaction contemplated herein or the impact of the Intended Improvements on such restrictive covenants and agreements or the ability of Purchaser to develop the Property with the Intended Improvements, Seller shall not be required to expend any funds of any nature or of any amount to defend such proceedings, actions, claims, contests or challenges and shall not be deemed to be in default under this Agreement for failure to defend any such proceedings, actions, claims, contests or challenges. It is the intent of the parties that Purchaser, at its sole cost and expense, shall have the right, but not the obligation, to negotiate a settlement of any such proceedings, actions, claims, contests or challenges, subject to Seller's prior consent which shall not be unreasonably withheld, conditioned or delayed, provided, however, that Seller's consent shall not be required if any

such settlement is entered into after Closing. In the event that another member of the Hemenway Drive Association or a third party makes a claim against, contests or challenges Seller in connection with the transaction contemplated herein or the impact of the Intended Improvements on such restrictive covenants and agreements or the ability of Purchaser to develop the Property with the Intended Improvements, and within seven (7) business days after receipt of notice of such action neither Seller nor Purchaser elects by Notice to the other to defend any such proceeding, action, claim, contest or challenge, then Seller shall have the right to terminate this Agreement upon Notice to Purchaser without penalty or further liability. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and any portion of the Deposit held by the Title Company shall be returned to Purchaser, and Seller shall retain any Option Payments and Extension Payments delivered to Seller. Seller is not obligated to indemnify Purchaser for any losses, liabilities, costs, damages, claims, judgments, liens, penalties, fines, actions, charges and expenses (including, without limitation, attorneys' fees and court costs) that Purchaser and/or its successor and assigns, may sustain directly or indirectly, at any time arising from or suffered as a result of any such proceeding, action, claim, contest or challenge. Purchaser unconditionally, irrevocably and permanently forever: (i) waives any and all claims for such indemnification against Seller and Seller's successors, assigns, partners, officers, directors, shareholders, employees, agents, contractors and lenders (collectively, "**Seller's Parties**"); and (ii) releases Seller and Seller's Parties from any such liability. The indemnification in this Section 4(c) shall survive the termination of this Agreement or the Closing, as applicable.

(d) If this Agreement is not terminated pursuant to Section 3 above, and if Purchaser timely delivers the Title Defect Notice before the end of the Investigation Period, then Seller shall have fifteen (15) business days (the "**Cure Election Period**") following receipt of the Title Defect Notice in which to elect in writing: (i) to remove or cure, at Seller's sole cost and expense, all noted defects to the title and/or the Survey; (ii) to not remove or cure such noted defects to the title and/or the Survey; or (iii) to notify Purchaser that such noted defects are not removable or curable (such Notice of election being referred to herein as the "**Cure Notice**"). Notwithstanding anything to the contrary herein, except for any outstanding mortgage or other voluntary monetary liens, Seller shall not be required to incur more than Five Thousand and 00/100 Dollars (\$5,000.00) in costs and expenses (including, without limitation, attorneys' fees) in the aggregate to cure all items set forth in the Title Defect Notice. If Seller fails to deliver the Cure Notice to Purchaser within the Cure Election Period, Seller shall be deemed to have elected not to cure the defects noted in the Title Defect Notice. If Seller declines to cure (or is deemed to have declined to cure) any defect noted in the Title Defect Notice, or if Seller notifies Purchaser that any such defect is not curable, Purchaser may elect, within five (5) business days after the expiration of the Cure Election Period, either: (x) to accept title to the Property as it is (in which event any such title defect(s) shall be deemed a Permitted Exception hereunder), subject to the right at Closing (as hereinafter defined) to deduct from the Purchase Price funds necessary to satisfy outstanding mortgage or other voluntary monetary liens made or assumed by Seller and to pay off such obligations at the Closing; or (y) to terminate this Agreement by Notice to Seller delivered within the five (5) business day period after the Cure Election Period, in which event all parties hereto shall be released from any and all obligations and liabilities hereunder (except as specifically set forth

in this Agreement) and the Deposit, if paid, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser.

(e) Purchaser's obligation to purchase the Property at Closing is conditional upon Seller's delivery to Purchaser of insurable fee simple title to the Property, subject only to the Permitted Exceptions and the other matters set forth in Section 7(b)(i)(A) hereof. Purchaser may object to the status of title of the Property at Closing and refuse to close this transaction if an updated title search or an update to the Survey done prior to Closing reveals: (i) that Seller has failed to remove or cure any exception to title that Seller agreed to remove or cure pursuant to Section 4(d) above; or (ii) any previously undisclosed matters other than the Permitted Exceptions, whereupon Purchaser may: (A) bring an action for specific performance against Seller; or (B) provided that any such previously undisclosed matter arises from an action or inaction of Seller, recover from Seller damages not exceeding an amount equal to the total of the certified costs paid to third parties by Purchaser for the Studies applicable to the Property divided by the number of Project Contracts (as defined in Section 5(a) below).

(f) Notwithstanding anything in this Agreement or otherwise to the contrary, Purchaser shall have no obligation of any nature to defend or to pay any fees or costs of any nature in connection with any proceedings, actions, claims, contests or challenges involving Seller or the Property in connection with the transaction contemplated herein; the impact of the Intended Improvements on any restrictive covenants and agreements affecting the Property; the impact of any restrictive covenants and agreements affecting the Property on the Intended Improvements; or the ability of Purchaser to develop the Property with the Intended Improvements. Purchaser shall not be required to expend any funds of any nature or of any amount to defend any such proceeding, action, claim, contest or challenge and shall not be deemed to be in default under this Agreement for failure to defend any such proceeding, action, claim, contest or challenge, nor shall Purchaser be obligated to indemnify Seller for any losses, liabilities, costs, damages, claims, judgments, liens, penalties, fines, actions, charges and expenses (including, without limitation, attorneys' fees and court costs) that Seller and/or its successor and assigns, may sustain, directly or indirectly, at any time arising from or suffered as a result of any such proceeding, action, claim, contest or challenge. Seller unconditionally, irrevocably and permanently forever: (i) waives any and all claims for such indemnification against Purchaser and Purchaser's successors, assigns, partners, officers, directors, shareholders, employees, agents, contractors and lenders (collectively, "Purchaser's Parties"); and (ii) releases Purchaser and Purchaser's Parties from any such liability. This Section 4(f) shall survive termination of this Agreement or the Closing, as applicable.

5. Development Approvals.

(a) Purchaser has entered or will enter other purchase and sale agreements with other owners of property in the vicinity of the Property listed on **Exhibit B** attached hereto (collectively, the "Project Contracts") covering the property of such other owners (the Property and such other properties are sometimes hereinafter collectively referred to as the "Development Tract"; such other owners are hereinafter collectively referred to as the

"Contract Sellers") for the purpose of developing a multi-family residential community containing not less than three hundred (300) residential units (either rental or for sale), in one (1) or more multi-family residential buildings, together with related amenities, required landscaping, curb cuts and street openings (the "**Intended Improvements**") on the Development Tract.

(b) In connection with the Intended Improvements, Purchaser agrees to apply for and diligently pursue (subject to Sections 5(e) and (f) below) all necessary permits and approvals from the appropriate governmental authorities in order to permit the commencement of construction and occupancy of the Intended Improvements pursuant to a final, approved and unappealable Comprehensive Permit (the "**Comprehensive Permit**") in a manner that satisfies the conditions set forth in Section 6(a) below (hereinafter collectively referred to as the "**Development Approvals**"). The Development Approvals shall include, but not be limited to, utilities, environmental and subdivision approvals from the appropriate governmental authorities. Without limitation, Purchaser shall accomplish the following on or before the dates indicated below (the "**Approval Milestones**"):

<u>Milestone</u>	<u>Date</u>
(i) Submission of an application for the Site Eligibility Letter to Mass Housing	One hundred fifty (150) days after the Effective Date (the " Site Eligibility Letter Application Deadline ") (subject to extension in Section 5(c) below).
(ii) Filing of the application for Comprehensive Permit with the Town of Milton, Massachusetts	Ninety (90) days following Purchaser's receipt of the Site Eligibility Letter from Mass Housing acceptable to Purchaser in the exercise of its reasonable discretion (the " Comp Permit Application Deadline ") (subject to extension in Section 5(c) below).

(c) Notwithstanding anything herein to the contrary, Purchaser may extend the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline beyond the initial one hundred fifty (150) or ninety (90) day period, as applicable, for two (2) periods of thirty (30) days each by Notice to Seller prior to the expiration of the applicable period (including the initial one hundred fifty (150) or ninety (90) day period) if Purchaser is unable to comply with the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline for reasons or events outside of Purchaser's control. In the event that either of the Approval Milestones is not satisfied by the dates indicated in Section 5(b) above, as such dates may be extended pursuant to this Section 5(c), and provided that all other Contract Sellers shall terminate all of the other Project Contracts, Seller shall have the right, by giving not less than thirty (30) days' Notice to Purchaser, to terminate this Agreement, in which event all Studies shall be provided to Seller, at no cost to Seller, and the Deposit, less

any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. Notwithstanding the foregoing, Seller's Notice of termination shall not be effective if within fifteen (15) days after Purchaser's receipt of such Notice, Purchaser waives, by Notice to Seller and the other Contract Sellers, the condition set forth in Section 6(a) below.

(d) Seller covenants and agrees to cooperate fully with Purchaser in order to enable Purchaser to obtain the Development Approvals in as timely a fashion as possible (including the signing and filing of any required applications by Seller and/or in Seller's name, if required, within five (5) business days after Seller's receipt of Purchaser's request that Seller take such action) at no cost to Seller. Purchaser will use good faith efforts to provide Seller with monthly electronic mail updates as to the progress of obtaining the Development Approvals; provided, however, that Purchaser's failure to provide such monthly electronic mail updates shall not constitute a Purchaser default hereunder unless and until such failure continues for ten (10) business days after Purchaser's receipt of Notice of such failure from Seller. Purchaser shall provide Seller with a copy of all applications made in connection with the Development Approvals, including all supporting documentation, within five (5) business days after such applications are filed with the appropriate governmental authority. Purchaser shall provide Seller with a copy of all decisions issued by any governmental authority in connection with any application made by Purchaser in connection with any Development Approval.

(e) Purchaser agrees to diligently and in good faith pursue the Development Approvals. For so long as Purchaser makes submissions to appropriate governmental authorities, responds to inquiries from such authorities, and otherwise engages in diligent efforts to obtain the Development Approvals, Purchaser shall be deemed to be diligently and in good faith pursuing the Development Approvals. Purchaser is not obligated, however, to continue to pursue the Development Approvals after such time, if any, that a permit or approval required as part of the Development Approvals is denied or any applicable governmental authority ceases to process Purchaser's application for any such permit or approval on the basis of lack of jurisdiction or if any applicable governmental authority informs Purchaser that Purchaser's application will not be given acceptable treatment. Upon any such event or action, Purchaser shall be entitled to terminate this Agreement by written Notice to Seller, provided that Purchaser shall simultaneously terminate all of the Project Contracts, in which event the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. In no event shall Purchaser be obligated to defend or to prosecute litigation in connection with the Development Approvals or to continue to attempt to obtain the Development Approvals until the Closing Date, as the same may be extended pursuant to Section 7 below, after such action, event or communication to Purchaser that Purchaser's application will not be given acceptable treatment. In the event of termination of the Project Contracts, Purchaser shall assign to the Contract Sellers all right, title and interest in and to Seller's interest under the Development Approvals and all other rights to construct the Intended Improvements.

(f) If Seller believes that Purchaser is not diligently pursuing the Development Approvals, Seller shall deliver to Purchaser Notice thereof (the "**Default Notice**"), which Default Notice shall include, in detail, the reasons for Seller's belief. Purchaser shall respond

to the Default Notice within fifteen (15) days after Purchaser's receipt of the Default Notice (the "**Response Period**"). If Purchaser fails to respond to the Default Notice during the Response Period, Purchaser shall be deemed in default of this Agreement and, at Seller's election, this Agreement shall terminate on the tenth (10th) business day after the expiration of the Response Period and any portion of the Deposit not previously disbursed to Seller shall be disbursed to Seller. If Purchaser responds to the Default Notice during the Response Period and Seller and Purchaser are unable to agree on whether Purchaser is diligently pursuing the Development Approvals during the Response Period, either party may, within five (5) business days after the expiration of the Response Period, require that such disagreement be resolved by arbitration and immediately commence a proceeding pursuant to the provisions of Section 33 below. If neither party commences arbitration in accordance with the previous sentence, Purchaser shall be deemed to be diligently pursuing the Development Approvals. In the event of arbitration, the terms of Section 33 below shall be applicable.

6. **Conditions Precedent to Closing.**

(a) The following are conditions precedent that must be satisfied prior to or on the Closing Date (as defined in Section 7(a) below).

(i) Purchaser shall have received all Development Approvals which have been sought in a timely manner and diligently pursued by Purchaser and any time period for appeal of the Development Approvals shall have expired without contest (or if contested, such contest has been concluded and no further right to contest exists). Purchaser shall have the right, in the exercise of its sole and absolute discretion, to terminate this Agreement pursuant to Section 6(b) below if Purchaser reasonably determines at any time on or before the earlier of the following dates (such earlier date, the "**Conditions Date**"): (A) the two (2) year anniversary of the Effective Date; or (B) the Closing Date, that such condition may not be satisfied by the Closing Date. This condition precedent shall not be satisfied if any Development Approval imposes any impact fees, offsite obligations or other obligations on Purchaser or the Property, that shall be unlawful, arbitrary or unreasonable, as Purchaser shall determine in the exercise of its sole and absolute discretion, or if a contest to or an appeal of the Site Plan or any other Development Approvals shall be filed and has not been concluded to Purchaser's satisfaction in the exercise of its reasonable discretion, with no further right to contest existing. This condition precedent shall be deemed waived by Purchaser if Purchaser is found to be or is deemed to be in default of this Agreement pursuant to Section 5(f) above.

(ii) Closings under all of the Project Contracts for the Development Tract shall occur simultaneously. The parties shall conduct an escrow-style closing through the Title Company so that it will not be necessary for any party to attend the Closing in person. All parties under each of the Project Contracts shall deliver their respective closing documents to the Title Company to be held in escrow, and when all requirements under all Project Contracts have been met, escrow shall be broken and funds and documents shall be delivered to the appropriate party pursuant to each Project Contract.

(iii) Due to no fault of Purchaser or Purchaser's Parties, between the expiration of the Investigation Period and the Closing Date, there shall not be any material

change in the environmental condition of the Property from the condition in which Purchaser accepted the Property at the expiration of the Investigation Period that shall materially increase the cost of or that shall create material delay in constructing the Intended Improvements.

(b) If Purchaser determines at any time on or before the Conditions Date that the condition set forth in Section 6(a)(i) above may not be satisfied by the Conditions Date, then Purchaser may, in the exercise of its sole and absolute discretion, terminate this Agreement by giving Notice to Seller at any time on or before the Conditions Date, provided that like notice is given to all Contract Sellers. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and the Deposit, less the Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. The condition set forth in Section 6(a)(i) above is for Purchaser's sole benefit, and Purchaser may, in its sole discretion, waive (conditionally or absolutely) the fulfillment of the condition, or any part thereof, provided that Purchaser acts in a similar manner for all Project Contracts.

(c) If Purchaser determines at any time on or before the Closing Date that the condition set forth in Section 6(a)(iii) above may not be satisfied by the Closing Date, then Purchaser may, in the exercise of its sole and absolute discretion, terminate this Agreement by giving Notice to Seller at any time on or before the Closing Date, provided that like notice is given to all Contract Sellers. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and the Deposit and the Option Payments shall be returned to Purchaser, and Seller shall retain any Extension Payments delivered to Seller. The condition set forth in Section 6(a)(iii) above is for Purchaser's sole benefit, and Purchaser may, in its sole discretion, waive the fulfillment of the condition, provided that such waiver shall be absolute and that Purchaser acts in a similar manner for all Project Contracts.

7. Closing.

(a) The Closing Date shall be determined as follows:

(i) Subject to Section 7(a)(ii) below, the Closing shall occur on a date (the "Closing Date") that is within thirty (30) days after the conditions precedent set forth in Section 6(a)(i) above have been satisfied or waived in writing by Purchaser, there are no appeals or contests pending with respect to the Development Approvals and all applicable appeal and contest periods have expired; provided, however, if an appeal or contest is filed, the Closing Date shall be the date that is thirty (30) days after a ruling or judgment favorable to Purchaser becomes final and unappealable, but in no event shall the Closing Date be: (A) earlier than twelve (12) months after the Effective Date without the approval of Seller; or (B) later than the two (2) year anniversary of the Effective Date (the "Outside Closing Date"). In all events Seller shall be given at least thirty (30) days' advance notice of the scheduled Closing Date. As used in this Agreement, the term "Closing" shall mean the time at which the Title Company: (1) is in possession of all funds, instruments and documents necessary for the Title Company to perform its obligations under Section 7(b)(iv) below; and (2) shall deliver

by wire transfer all funds due to Seller. Purchaser shall be granted full possession of the Property as of the Closing.

(ii) Notwithstanding anything in Section 7(a)(i) above to the contrary, provided that Purchaser is not found to be or is not deemed to be in default of this Agreement pursuant to Section 5(f) above and that Purchaser shall similarly extend the closing date under all Project Contracts, Purchaser shall have the right to extend the Closing Date or the Outside Closing Date, as applicable, for thirty six (36) periods of one (1) month each (each, an "Extension Period") by: (A) delivering Notice to Seller of Purchaser's election to extend the Outside Closing Date which must be given at least fifteen (15) days prior to the then-current Closing Date; and (B) paying to Seller an amount equal to the Extension Payment. The term "Extension Payment" shall mean monthly payments paid by Purchaser to Seller: (1) for the first (1st) Extension Period and continuing through and including the sixth (6th) Extension Period, the sum of Two Thousand Two Hundred Sixty Seven and 05/100 Dollars (\$2,267.05) per Extension Period; (2) for the seventh (7th) Extension Period and continuing through and including the twelfth (12th) Extension Period, the sum of Three Thousand Seven Hundred Seventy Eight and 41/100 Dollars (\$3,778.41) per Extension Period; (3) for the thirteenth (13th) Extension Period and continuing through and including the eighteenth (18th) Extension Period, the sum of Four Thousand Five Hundred Thirty Four and 09/100 Dollars (\$4,534.09) per Extension Period; (4) for the nineteen (19th) Extension Period and continuing through and including the twenty fourth (24th) Extension Period, the sum of Six Thousand Forty Five and 45/100 Dollars (\$6,045.45) per Extension Period; and (5) for the twenty fifth (25th) Extension Period and continuing through and including the thirty sixth (36th) Extension Period, the sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00) per Extension Period. Any Extension Payment shall be the sole property of Seller, and shall be in addition to the Purchase Price and Deposit and shall not be a credit against the Purchase Price or a deduction from the Deposit; provided, however, if this Agreement terminates due to a Seller default, Seller shall return to Purchaser all Extension Payments actually received from Purchaser. The Extension Payment shall be due on or before the first day of each month. In the event that Seller does not receive the Extension Payment when due, the then-current Extension Period shall be automatically deemed expired and this Agreement terminated without penalty or further liability and, in which event Seller shall be entitled to retain the Deposit.

(b) The following procedures shall govern the Closing:

(i) Seller shall deliver to Purchaser and Purchaser's attorney draft documents at least five (5) business days prior to Closing for Purchaser's review, and to the Title Company at Closing, the following original documents, each duly executed by Seller and notarized where applicable, the delivery and accuracy of which shall be a condition to Purchaser's obligation to consummate the purchase and sale of the Property:

(A) A quitclaim deed in recordable form (the "Deed"), conveying to Purchaser title to the Property, subject to the following:

- (i) Provisions of existing building, zoning, environmental, health and subdivision control laws, rules and regulations;
- (ii) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (iii) Any liens for municipal betterments assessed after the date of this Agreement;
- (iv) Any matter which an accurate survey or inspection of the Premises would reveal;
- (v) Any easement, right of way or other matter of record; and
- (vi) Permitted Exceptions.

(B) An owner's affidavit in the form reasonably required by the Title Company or to permit the Title Company to issue to Purchaser upon completion of the Closing a title policy with the standard pre-printed exceptions deleted or modified in a customary fashion for residential transactions in Massachusetts (limited to mechanics' liens, and parties in possession), subject only to real estate taxes and the Permitted Exceptions (the "Title Policy");

(C) A Seller's affidavit under penalty of perjury stating Seller is not a "foreign person," as defined in Section 1445 of the Internal Revenue Code of 1986 and the U.S. Treasury Regulations thereunder (FIRPTA), setting forth Seller's taxpayer identification number;

(D) If applicable, authority documentation and any other document reasonably required by the Title Company in order to confirm Seller's authority to consummate this transaction; and

(E) A certificate stating that each and every representation and warranty of Seller contained in this Agreement is true and correct as of the Closing Date as if made by Seller on the Closing Date.

(ii) The Title Company shall make the Deposit, less any Option Payments actually paid to Seller as of said date, available in cash or by federally insured wire at the Closing.

(iii) Purchaser shall deliver the following to the Title Company at the Closing:

(A) The balance of the Purchase Price, less the Deposit, adjusted for the prorations and other payments provided for in this Agreement;

(B) Appropriate authorizing resolutions, duly executed, authorizing Purchaser to close the subject transaction;

(C) A certificate stating that each and every representation and warranty of Purchaser contained in this Agreement is true and correct as of the Closing Date as if made by Purchaser on the Closing Date; and

(D) Such additional funds as may be required of Purchaser to pay Closing costs or other charges properly allocable to Purchaser.

(iv) After the Title Company has received all of the items to be deposited with it, and when confirmation from the Title Company has been received that it is in a position to issue the Title Policy required hereunder, the Title Company shall (provided such occurs by the Closing Date or the Outside Closing Date, as applicable):

(A) Record the Deed, instructing the Recorder's Office to return the recorded Deed to Purchaser;

(B) Record any other instruments executed by the parties or either of them that are contemplated by this Agreement or are standard for a conveyance of the nature contemplated by this Agreement in Massachusetts to be placed of record;

(C) Issue to Purchaser a marked up Commitment obligating the Title Company to issue the Title Policy to Purchaser;

(D) Charge Purchaser for the closing agent's fee, if any;

(E) Charge Purchaser for the cost of issuing the Commitment and the Title Policy including, but not limited to, the premium and any abstracting, search or service charges;

(F) Charge Seller for the cost of the deed stamp excise taxes affixed to the Deed; and

(G) Deliver the Title Policy to Purchaser as soon as reasonably practicable.

(c) Any supplemental closing instructions given by either party shall also be followed by the Title Company provided they do not conflict with any instructions set forth herein or are consented to in writing by both parties.

(d) At the Closing, the real estate taxes and assessments on the Property shall be prorated between the parties on the basis of the real estate taxes and assessments paid for the most recent year that has been assessed and billed. If the actual real estate taxes and assessments for the year of Closing are not determinable at the Closing Date, then the parties agree to adjust real estate taxes and assessments promptly upon issuance of the final real estate tax and assessments bills for the year of Closing. Water and sewer use charges shall be

apportioned, and fuel value shall be adjusted, as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the amount of the Purchase Price payable hereunder. Each party shall be responsible for the payment of its respective attorneys' fees. This Section 7(d) shall survive Closing.

(e) The parties agree to cooperate with each other and to execute and deliver at Closing any commercially reasonable and customary agreements, certificates, affidavits and any other instruments not described in this Section 7 as may be necessary or desirable to effectuate the transactions contemplated hereby.

(f) Seller's obligations hereunder are conditional upon Purchaser completing the purchase of all of the properties comprising the Development Tract pursuant to the Project Contracts.

8. Seller's Representations and Warranties.

(a) Seller represents and warrants to Purchaser that the following statements are now, and on the Closing Date will be, true and accurate:

(i) Except as set forth on Schedule 8(a) attached hereto and made a part hereof, there are no pending suits or proceedings against Seller affecting the Property, and no such suits or proceedings have been threatened in writing to Seller.

(ii) Seller has full power and authority to execute and deliver this Agreement and all documents now or hereafter to be delivered by Seller pursuant to this Agreement and to perform all obligations arising under this Agreement.

(iii) Except as set forth on Schedule 8(c) attached hereto and made a part hereof, to Seller's actual knowledge, there are not now any underground storage tanks located under the Property installed by Seller, and Seller has not removed, or caused to be removed, any underground storage tanks from the Property.

(iv) To Seller's actual knowledge, there are no agreements of sale, options to purchase or rights of first refusal or first offer outstanding with respect to all or any portion of the Property.

(b) The representations and warranties made in Section 8(a) above shall be deemed to have been remade by Seller as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the date of this Agreement, that are set forth in a certificate executed by Seller and delivered to Purchaser on or before the Closing Date.

(c) The foregoing representations and warranties shall survive the Closing for one (1) month, provided that Seller's liability for breach of the foregoing representations and warranties shall not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00).

9. Acceptance of Deed.

(a) The acceptance of the Deed by Purchaser, and the payment of the Purchase Price therefor, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, specifically by the terms hereof, to survive the termination of this Agreement or are to be performed after the delivery of the Deed.

(b) Except as specifically provided in this Agreement: (i) Seller has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Property including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title, zoning, tax consequences, physical or environmental condition, operating history or projections, valuation, governmental approvals, governmental regulations, the truth, accuracy or completeness of any information or any other matter or thing regarding the Property; (ii) without limiting the generality of the foregoing, Purchaser further acknowledges and agrees that any all information provided by Seller is for informational purposes only, without any representation or warranty whatsoever as to the accuracy or completeness thereof, and have not been relied upon by Purchaser; (iii) it is specifically agreed that the Property is being sold "as is, where is, with all faults"; (iv) Purchaser has the right to conduct such investigations of the Property including, but not limited to, the physical and environmental conditions thereof, as Purchaser deems necessary to satisfy itself as to the condition of the Property pursuant to Section 3 hereof, and will rely solely upon same and not upon any information provided by or on behalf of Seller; and (v) upon Closing, Purchaser shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions that may not have been revealed by Purchaser's investigations.

(c) Purchaser hereby waives, relinquishes and releases Seller from and against any and all claims, demands, causes of action (including causes of action in tort, i.e., negligence and strict liability), losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) of any and every kind or character, known or unknown, which Purchaser might assert or allege against Seller at any time by reason of or arising out of any fire damage, physical and environmental conditions, the violation of any applicable laws and any and all other matters regarding the Property. Should any repairs, clean-up, remediation or removal of Hazardous Substances or other environmental conditions on the Property be required after the Closing Date as a result of any action by Purchaser or any of Purchaser's agents, employees or representatives, it is hereby understood and agreed that such repairs, clean-up, removal or remediation shall be the sole responsibility of and shall be performed at the sole cost and expense of Purchaser. Purchaser shall indemnify and hold Seller harmless from any loss, cost or expense incurred by Seller as a result of any claim made against Seller in connection with or arising from such repairs, clean-up, remediation or removal that arise out of or result from the negligence, recklessness or willful misconduct of Purchaser or any of Purchaser's agents, employees or representatives.

10. Covenants.

In addition to all other covenants and obligations of Seller in this Agreement, Seller covenants with Purchaser as follows:

(a) Between the Effective Date and the Closing Date, Seller shall not, without Purchaser's prior written consent, create or permit by its consent encumbrances on the Property that will adversely affect the legal description of the Property, the physical character of the same or the status of title of the Property, except that Seller may at any time and from time to time, and provided that the following are discharged and released at Closing in accordance with local conveyancing practice and with the approval of the Title Company, which shall not be unreasonably withheld, conditioned or denied: (i) grant mortgages on the Property to secure indebtedness; or (ii) permit other encumbrances which will not materially interfere with the development of the Property for the Intended Improvements.

(b) Between the Effective Date and the Closing Date, Seller shall not file any application for any change of the present zoning classification of the Property unless Purchaser approves such change.

(c) If subsequent to Closing hereunder, any mechanics' or other liens are filed against the Property or against Purchaser or its assigns, based upon any act or omission of Seller occurring prior to Closing, and such liens are not satisfied at Closing, Seller shall take such action (or cause such action to be taken), within fifteen (15) business days after receiving Notice of such filing, by bonding, deposit, payment or otherwise, as will remove, transfer, satisfy or insure over such lien of record against the Property, at Seller's sole cost and expense.

(d) Immediately following the Closing, there shall be no parties in possession of any portion of the Property, whether as lessees, tenants-at-sufferance, trespassers or otherwise.

(e) Between the expiration of the Investigation Period and the Closing Date, Seller may enter into leases, license agreements, subleases or other occupancy agreements for all or a portion of the Property (or consent to any tenant entering into any sublease) provided (i) the same may be terminated on not more than thirty (30) days' Notice and prior to the Closing Date, and (ii) that the use of the Property does not result in the use, release or storage of Hazardous Substances on the Property, other than ordinary household use and storage in compliance with applicable laws.

(f) Between the expiration of the Investigation Period and the Closing Date, there shall not be any material change in the environmental condition of the Property from the condition in which Purchaser accepted the Property at the expiration of the Investigation Period due to any action by Seller that shall materially increase the cost of or that shall create material delay in constructing the Intended Improvements.

(g) Prior to or at Closing, Seller shall terminate all service contracts with respect to the Property and pay and satisfy all fees, costs and expenses arising thereunder.

11. **Real Estate Commission.** Seller and Purchaser represent and warrant to each other that they have not engaged or dealt with any broker or agent with respect to the purchase and sale of the Property as contemplated by this Agreement. Each party indemnifies and holds the other harmless against any and all liability, cost, damage, and expense (including, but not limited to, attorneys' fees and costs of litigation and appeals) either shall ever suffer or incur

because of any claim by any broker or agent claiming to have dealt with Purchaser or Seller, whether or not meritorious, for any commission or other compensation with respect to this Agreement or to the purchase and sale of the Property in accordance with this Agreement. This Section 11 shall survive Closing or termination of this Agreement.

12. **Condemnation.** If any proceedings, judicial, administrative or otherwise, relating to the taking, or to a proposed taking, of any portion of the Property, by eminent domain, condemnation or otherwise, are commenced prior to Closing, or if any portion of the Property is taken by eminent domain, condemnation or otherwise, prior to Closing, then Seller shall notify Purchaser promptly and if the portion of the Property taken or to be taken would materially reduce the number of residential units that Purchaser may construct as part of the Intended Improvements, or materially increase Purchaser's cost of constructing the Intended Improvements, Purchaser shall have the option, in its sole and absolute discretion, of either: (i) terminating this Agreement and receiving a full refund of the Deposit less any Option Payments paid or owing to Seller as of said date, provided that all Project Contracts are terminated simultaneously; or (ii) proceeding to Closing in accordance with the terms of this Agreement, provided that all Project Contracts are closed simultaneously. Such election must be made by Purchaser within fifteen (15) business days after Purchaser's receipt of the condemnation Notice furnished by Seller. If the Agreement is not terminated as aforesaid, at the Closing Seller shall assign to Purchaser all of its right, title, and interest in and to any awards that have been or may be made with respect to such eminent domain proceeding or condemnation (if the award is paid prior to Closing, such amount shall be held in escrow and delivered to Purchaser at Closing). If Purchaser fails to make an election in writing, Purchaser shall be deemed to have elected alternative (ii). If this Agreement is not terminated pursuant to this Section 12, Purchaser shall have the right to contest the condemnation of the Property and/or the award resulting therefrom, and Seller shall not agree to or accept any compromise or condemnation award without obtaining Purchaser's prior written approval, which approval shall not be unreasonably withheld.

13. **Default.**

(a) Except as provided in Section 13(b) below, if Purchaser defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after Purchaser's receipt of Notice thereof from Seller or if Closing fails to occur due to a default on the part of Purchaser, then the total amount of the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be delivered to Seller as liquidated and agreed upon damages; and thereafter, Purchaser shall be relieved from all further obligations under this Agreement and Seller shall have no further claim against Purchaser for specific performance or for damages by reason of the failure of Purchaser to close this transaction.

(b) A Purchaser default pursuant to Section 5(e) or 5(f) above shall be governed by the terms of such Sections.

(c) If Seller defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after receipt of Notice thereof from Purchaser, or if Closing fails to occur due to a default on the part of Seller, then, at the option of Purchaser: (i)

Purchaser may terminate this Agreement and the Deposit, including any Option Payments and Extension Payments actually received by Seller as of said date, shall be returned to Purchaser; or (ii) Purchaser may maintain an action for specific performance, as its sole remedy at law or in equity. Notwithstanding the preceding sentence, if specific performance is not available as a remedy because Seller has sold the Property to a bona fide purchaser for value and without notice of this Agreement, Purchaser shall have the right to maintain an action for its actual (but excluding consequential) damages and other remedies against Seller as may be available at law, in equity or otherwise.

(d) This Section 13 shall survive termination of this Agreement.

14. **Escrow.** The Title Company is authorized to receive funds and agrees by acceptance thereof to promptly deposit and to hold same in escrow and to disburse same subject to clearance thereof in accordance with terms and conditions of this Agreement. Failure of clearance of funds shall not excuse performance by Purchaser. If the Title Company has any doubt as to its duties or liabilities under the provisions of this Agreement, it may, in its sole discretion, continue to hold the monies that are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or it may deposit all the monies then held pursuant to this Agreement with the clerk of the local state or federal court. Upon notifying the parties of any such action, provided that Title Company complies with the requirements of such action, all liability on the part of the Title Company shall fully terminate, except to the extent of accounting for any monies theretofore delivered out of escrow. In the event of any suit between Purchaser and Seller wherein the Title Company is made a party by virtue of acting as the escrow agent hereunder, or in the event of any suit wherein Title Company interpleads the subject matter of this escrow, the Title Company shall be entitled to recover reasonable attorneys' fees and costs incurred, such fees and costs to be charged and assessed as court costs in favor of the prevailing party. The parties agree that the Title Company shall not be liable to any party or person for misdelivery to Purchaser or Seller of monies subject to this escrow, unless such misdelivery shall be due to the Title Company's willful breach of this Agreement or negligence. The parties shall have the right to change the holder of the monies from the Title Company to a mutually acceptable third party other than the Title Company, in which case the Title Company shall transfer any monies that are the subject of this escrow to such third party upon receipt of Notice from the parties. The Title Company's obligations shall survive termination of this Agreement or the Closing. The delivery, acceptance and recording of the Deed shall in all cases constitute a joint authorization by Purchaser and Seller for the release of all Deposits hereunder.

15. **Entire Agreement.** This Agreement, including the "Recitals" section hereof, constitutes the entire agreement between the parties with respect to the transaction contemplated herein, and supersedes all prior understandings or agreements between the parties.

16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and permitted assigns.

17. **Survival of Sections.** Except as specifically set forth herein, the terms, conditions and warranties contained herein shall not survive the Closing and the delivery of the Deed.

18. **Waiver; Modification.** The failure by Purchaser or Seller to insist upon or enforce any of their rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of either party's right to insist upon strict compliance with the terms of this Agreement. Either party may waive the benefit of any provision or condition for its benefit contained in this Agreement. No oral modification of this Agreement shall be binding upon the parties and any modification must be in writing and signed by the parties.

19. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state in which the Property is located, not including the choice of law rules thereof.

20. **Headings.** The Section headings as set forth in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any Section herein.

21. **Notices.**

(a) Any notice, request, demand, instruction or other communication to be given to either party under this Agreement (collectively, the "Notices"), except where required by the terms of this Agreement to be delivered at the Closing, shall be in writing and shall be sent by facsimile which automatically generates a transmission report that states the date and time of the transmission, the length of the document transmitted and the telephone number of the recipient's facsimile machine (provided that such Notice is confirmed by delivering an original copy of such Notice on the same day to a nationally recognized overnight courier for delivery to the addressee(s) on the next business day), by certified mail, return receipt requested, by a national courier or by same day delivery courier, as follows:

If to Purchaser:

~~MCR Trust Investments~~
~~Mill Creek Residential Trust LLC~~
15 New England Executive Park
Burlington, MA 01803
Attn: Robert D. Hewitt, Vice President of Development
Facsimile: (781) 270-9318
Phone: (781) 685-4698
Email: rhewitt@MCRTTrust.com

And
~~MCR Trust Investments~~
~~Mill Creek Residential Trust LLC~~
135 Route 202/206
Third Floor
Bedminster, NJ 07921
Attn: Peter J. Porraro, Senior Managing Director
Facsimile: (908) 698-0429
Phone: (908) 234-1357
Email: PPorraro@MCRTTrust.com

With a copy to: Petrina M. Markowitz, Esq.
6110 Executive Blvd., Suite 315
Rockville, MD 20852
Facsimile: (301) 869-1940
Phone: (202) 812-8290
(301) 869-1940
Email: Petrina@tanagerholdings.com

If to Seller: Arnold D. Scheller, Jr. and Sonia L. Scheller
1259 Brush Hill Road
Milton, MA 02186

With a copy to: Kimberley A. Philbin, Esq.
Prince Lobel Tye LLP
100 Cambridge Street, Suite 2200
Boston, MA 02114
Facsimile: 617-456-8100
Phone: 617-456-8151
Email: KPhilbin@PrinceLobel.com

If to the Title Company: Commonwealth Land Title Insurance Company
265 Franklin Street, 8th Floor
Boston, MA 02110
Attention Patricia Carlson, Esq.
Telephone: (617) 619-4813
Facsimile: (617) 619-4849
Email: patricia.carlson@fnf.com

(b) Any such notice or communication shall be effective when delivery is received or refused, as evidenced by the transmission report of a facsimile or the manifests or records of the United States Postal Service or national courier. A party may change its Notice address by Notice to the other party. Notice to Seller's or Purchaser's counsel is deemed to be Notice to Seller or Purchaser, as applicable.

22. **Time of the Essence.** Time is of the essence with respect to each provision of this Agreement that requires that an action be taken by either party within a stated time period, or upon a specified date; provided, however if the date for performance of an obligation is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next business day, or if performance shall be impossible as a result of a utilities and/or communications systems failure beyond the control of the party whose action is required, the date for performance shall be extended to the next business day that utilities and/or communications shall be available to such party.

23. **Construction.** Each party hereto acknowledges that all parties hereto participated equally in the drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one party than the other.

24. **Counterparts.** This Agreement may be executed in as many counterparts as may be required.

25. **Jury Waiver.** EACH PARTY WAIVES RIGHT TO A JURY IN ANY LITIGATION IN CONNECTION WITH THIS AGREEMENT, OR THE PROPERTY, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER HAS BEEN FREELY GIVEN AFTER CONSULTATION BY IT WITH COMPETENT COUNSEL.

26. **Attorneys' Fees.** If either party hereto shall obtain a judgment against the other party in connection with a dispute arising under or in connection with this Agreement (whether in an action or through arbitration), such party shall be entitled to recover its court (or arbitration) costs, and reasonable attorneys' fees and disbursements incurred in connection therewith and in any appeal or enforcement proceeding thereafter, in addition to all other recoverable costs. This Section 26 shall survive termination of this Agreement or the Closing.

27. **Confidentiality.** Seller and Purchaser acknowledge and agree that the financial terms and provisions of this Agreement are confidential, and that they will not disclose any of such terms and conditions; except that: (a) Purchaser may, but only to the extent legally required for any Development Approvals, disclose the aggregate purchase price of the Development Tract under all of the Project Contracts (but not information on the terms of this Agreement or any other individual Project Contract or Seller or any other owner of the Development Tract without the express written approval of all such owners unless Purchaser is required by law, ordinance, rule or regulation of a governmental authority to disclose such information as part of Purchaser's applications for the Development Approvals) in connection with Purchaser's applications for the Development Approvals; (b) Purchaser may disclose the existence of this Agreement and the terms and conditions hereof to Purchaser's financial, legal and professional advisors or consultants, potential investment partners and lenders and any other parties who have a need to know such information in order to assist Purchaser with its acquisition of the Development Approvals and its development of the Property with the Intended Improvements; (c) Seller may disclose such terms and conditions to Seller's financial and legal advisors who have a need to know such information in order to assist Seller with its legal and financial matters; and (d) either party may make any disclosure to the extent required by applicable law, or any court or regulatory authority. Notwithstanding the foregoing, a breach of this covenant by either party shall not constitute a default of such party's obligations under this Agreement; however, the non-breaching party shall be entitled to equitable relief in the nature of an injunction or specific performance to enforce the provisions of this Section 27 as its sole remedy for such breach. In no event shall a party have the right to rescind or terminate this Agreement as a result of a breach of the provisions of this Section 27. This Section 27 shall survive termination of this Agreement but not Closing. Prior to or following the Closing, neither party, its members, partners, directors, officers, principals or employees, or any direct or indirect beneficial owner of such party shall issue or

make any public statement (written or oral) or any press release regarding the subject matter hereof without the prior written consent (including as to the content and manner of such public statement or press release) of the other party, which consent shall not be unreasonably withheld or delayed. Except as provided in Section 38 below, neither party shall record this Agreement.

28. **Interpretation.** In this Agreement, whenever the context so requires: (a) the masculine gender includes the feminine and/or neuter; (b) the neuter includes the feminine and/or masculine; (c) the singular includes the plural; and (d) the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not non-limiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference hereto.

29. **Invalid Provisions.** If any term or provision of this Agreement or the application thereof to any person, circumstance or specific situation shall be invalid or unenforceable to any extent, the remainder of this Agreement or the application thereof to situations other than that as to which it is invalid or unenforceable, shall not be affected thereby and every provision of this Agreement shall be deemed valid and enforceable to the fullest extent permitted by law.

30. **Casualty.** If there is any fire or other casualty damage to any improvements located on the Property, any insurance proceeds shall be the property of Seller and Seller shall have the right to restore any portion of the improvements it chooses to restore and to retain the proceeds of insurance; In no event shall any such casualty be a cause for termination of this Agreement.

31. **Project Contracts.** Exclusive of any economic terms, Purchaser agrees that all Project Contracts shall be on substantially the same terms and conditions as this Agreement. In the event of any material change in any Project Contract, Purchaser shall provide Seller with Notice of such material change within five (5) business days and Seller shall have the option to adopt any such changes in this Agreement as if set forth herein in their entirety

32. **Force Majeure.** If either party is prevented from fulfilling any of its respective Closing obligations as set forth in this Agreement because an act of terrorism or severe weather or other uncontrollable conditions directly preclude a party from executing and delivering Closing documents or performing any other obligation under this Agreement (other than Purchaser's obligations to pay any amount owed to Seller pursuant to this Agreement and to maintain insurance under this Agreement and Purchaser's option to extend the Closing), then the time of such performance by either party shall be extended by a time equal to the amount of such delay, provided that neither party shall be entitled to claim such delay unless it promptly notifies the other party in writing as soon as possible under the circumstances of such delay and the cause thereof and in no event shall any such delay exceed seven (7) days.

33. **ARBITRATION.** EXCEPT AS PROVIDED IN THIS SECTION 33, ANY DISPUTE BETWEEN PURCHASER AND SELLER RELATED TO THIS AGREEMENT, THE PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT

WILL BE RESOLVED BY ARBITRATION GOVERNED BY THE FEDERAL ARBITRATION ACT AND, TO THE EXTENT NOT INCONSISTENT WITH THAT STATUTE, CONDUCTED IN ACCORDANCE WITH THE RULES OF PRACTICE AND PROCEDURE FOR THE ARBITRATION OF COMMERCIAL DISPUTES OF JUDICIAL ARBITRATION AND MEDIATION SERVICES, INC. ("JAMS"). THE ARBITRATION SHALL BE CONDUCTED IN BOSTON, MASSACHUSETTS, AND ADMINISTERED BY JAMS, WHICH WILL APPOINT A SINGLE ARBITRATOR. ALL ARBITRATION HEARINGS WILL BE COMMENCED WITHIN THIRTY (30) DAYS OF THE DEMAND FOR ARBITRATION UNLESS THE ARBITRATOR, FOR SHOWING OF GOOD CAUSE, EXTENDS THE COMMENCEMENT OF SUCH HEARING. THE DECISION OF THE ARBITRATOR WILL BE BINDING ON THE PARTIES, AND JUDGMENT UPON ANY ARBITRATION AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PARTIES ACKNOWLEDGE THAT, BY AGREEING TO ARBITRATE DISPUTES, EACH OF THEM IS WAIVING CERTAIN RIGHTS, INCLUDING ITS RIGHTS TO SEEK REMEDIES IN COURT (INCLUDING A RIGHT TO A TRIAL BY JURY), TO DISCOVERY PROCESSES THAT WOULD BE ATTENDANT TO A COURT PROCEEDING, AND TO PARTICIPATE IN A CLASS ACTION. NOTWITHSTANDING THE FOREGOING, NOTHING SHALL PRECLUDE PURCHASER FROM FILING A LIS PENDENS AGAINST THE PROPERTY (BUT SUCH FILING SHALL NOT GRANT PURCHASER THE RIGHT TO PURSUE THE SUBSTANTIVE ISSUES IN LITIGATION) SO LONG AS PURCHASER COMMENCES AN ACTION FOR ARBITRATION PURSUANT TO THIS SECTION 33 WITHIN TEN (10) BUSINESS DAYS AFTER THE FILING OF SUCH LIS PENDENS. NOTWITHSTANDING THE FOREGOING, THE PARTIES ACKNOWLEDGE THAT THEY MAY NEED TO ENGAGE IN A COURT PROCESS IN ORDER TO RESOLVE ISSUES RELATING TO THE FILING AND SUBSEQUENT REMOVAL OF THE LIS PENDENS FROM THE LAND RECORDS.

34. **Effective Date.** The "Effective Date" of this Agreement shall be the date upon which the last of Purchaser and Seller executes this Agreement.

35. **Title and Conveyancing Standards.** Title shall be determined acceptable under the customary and usual title standards accepted by the Massachusetts Real Estate Bar Association ("REBA") to the extent applicable and to the extent such title standard does not contradict any expressed term or condition of this Agreement. Any question regarding the practice or procedure regarding conveyance of the Property shall be governed by the practice standard section of REBA, to the extent applicable and to the extent such practice standard does not contradict any expressed term or condition of this Agreement.

36. **Closing Adjustments.** In the event that within sixty (60) days subsequent to the Closing any apportionment/adjustment pursuant to Section 7(d) above is found to be erroneous, then either party hereto who is entitled to additional monies shall invoice (along with reasonably detailed back-up data) the other party for such additional amounts as may be owing, and such amounts shall be paid, with good funds, within ten (10) days from the date of receipt of the invoice. The provisions of this Section 36 shall survive the Closing and delivery of the Deed hereunder for sixty (60) days.

37. **Representations of Purchaser.** Purchaser represents and warrants to Seller that the following statements are now, and on the Closing Date will be, true and accurate:

(a) *Authority.* Purchaser is a Delaware limited liability company and has all requisite power and authority to enter into this Agreement and to perform its obligations hereunder. The execution and delivery of this Agreement by Purchaser have been duly authorized.

(b) *No Conflict.* The execution and delivery of this Agreement, the performance of obligations under this Agreement and the consummation of the transactions contemplated hereunder on the part of Purchaser do not and will not violate any applicable law, ordinance, statute, rule, regulation, order, decree or judgment, conflict with or result in the breach of any material terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon any of the property or assets of the Purchaser by reason of the terms of any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which Purchaser is a party or which is or purports to be binding upon Purchaser or which otherwise affects Purchaser, which will not be discharged, assumed or released at Closing. No action by any federal, state or municipal or other governmental department, commission, board, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Purchaser in accordance with its terms.

(c) *Bankruptcy.* Purchaser has not: (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceeding, to hold, administer and/or liquidate all or substantially all of its assets.

(d) The representations and warranties made in this Section 37 shall be deemed to have been remade by Purchaser as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the Effective Date, that are set forth in a certificate executed by Purchaser and delivered to Seller on or before the Closing Date.

(e) The foregoing representations and warranties shall survive the Closing for one (1) month, provided that Purchaser's liability for breach of the foregoing representations and warranties shall not exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00).

38. **Assignment.** Seller shall have the express right to assign its rights and obligations under this Agreement and to transfer the Property at any time prior to Closing. Seller shall provide Purchaser with Notice of such assignment within five (5) business days after such assignment and/or transfer. Any such assignment or transfer shall be expressly subject to the terms and provisions of this Agreement. Upon the earlier to occur of ninety (90) days after the Effective Date or the expiration of the Investigation Period (provided that Purchaser does not

elect to terminate this Agreement upon the expiration of the Investigation Period), Purchaser shall have the right to record a memorandum of this Agreement for the purpose of providing notice of this Agreement to any transferee of Seller's interest in the Property. In furtherance of the foregoing, simultaneously with execution of this Agreement Seller and Purchaser are executing and delivering to the Title Company an original, notarized Memorandum of Purchase Agreement (the "**Memorandum**") and Release of Memorandum of Purchase Agreement (the "**Release**") in the forms attached hereto and incorporated herein as **Exhibits C and D**, respectively, and Seller, Purchaser and the Title Company are entering into that certain Escrow Agreement (the "**Escrow Agreement**") in the form attached hereto and incorporated herein as **Exhibit E**. The Title Company shall hold, record and/or deliver the Memorandum and/or the Release pursuant to the terms of the Escrow Agreement.

39. **Extensions and Amendments.** By executing this Agreement, Purchaser and Seller hereby grant to their respective attorneys, the actual authority to bind them for the sole limited purpose of allowing them to cancel, grant extensions, modify or amend this Agreement including, without limitation, any change of location for delivery of the Deed, and Purchaser and Seller shall be able to rely upon the actual signature of said attorneys as binding unless they have actual knowledge that the principals have disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile or scanned signatures shall be construed as original and shall be binding.

40. **Septic System.** Seller and Purchaser acknowledge and agree that the Property is currently served by a septic system. In connection with the transaction contemplated herein, Seller shall not be required to perform a septic system inspection pursuant to 310 CMR 15.300-.305. Notwithstanding anything to the contrary herein, Seller shall not be obligated to perform any upgrades to the septic system in connection with the transaction contemplated in this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last below written.

PURCHASER:

MCRT Investments
~~MILL CREEK RESIDENTIAL TRUST LLC~~, a
Delaware limited liability company

By: *Sub*

Name: *Peter Porcari*

Title: *Senior Managing Director*

Date: *July 27*, 2012

SELLER:

Arnold D Scheller Jr
ARNOLD D. SCHELLER, JR.

Date: *June 28*, 2012

Sonia L. Scheller
SONIA L. SCHELLER

Date: *June 28*, 2012

The undersigned acknowledges and agrees to act as Title Company in accordance with the terms of this Agreement.

COMMONWEALTH LAND TITLE
INSURANCE COMPANY


By: 
Name: Patricia M. Carlson
Title: AVP- Commercial Counsel
Date: 8-6-12

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

A certain parcel of land in Milton and in Canton, Norfolk County, Massachusetts shown as Lot B on a plan entitled "Plan of Land Brush Hill Road, Milton, Norfolk County, Mass." dated July 13, 1981 by Yunits Engineering Co., Inc. and recorded herewith, and accorded to said Plan being bounded and described as follows:

Beginning at a stone bound at the most northwesterly corner of the premises hereby conveyed; thence

NORTH 63° 02' 00" EAST one hundred fifty-nine and 98/100 (159.98) feet;
thence

NORTH 67° 00' 00" EAST one hundred fifty-eight and 79/100 (158.79) feet;
thence

NORTH 67° 00' 00" EAST four hundred eighty-two and 27/100 (482.27) feet;
thence

SOUTH 22° 57' 40" EAST two hundred forty-seven (247) feet; thence

NORTH 67° 02' 20" EAST ninety (90) feet; thence

NORTHEASTERLY by a curved line, seventy-six and 79/100 (76.79) feet;
thence

NORTH 27° 02' 20" EAST fifty-five (55) feet; thence

NORTHEASTERLY by a curved line, one hundred ninety-five and 48/100
(195.48) feet; thence

NORTH 67° 02' 20" EAST one hundred eighty (180) feet; thence

EASTERLY by a curved line, three hundred twenty-three and 76/100
(323.76) feet; thence

NORTH 69° 20' 52" EAST one hundred eighty-seven and 86/100 (187.86) feet; thence

SOUTH 0° 03' 50" WEST one hundred fifty (150) feet; thence

SOUTH 67° 00' 25" WEST one thousand four and 20/100 (1004.20) feet; thence

SOUTH 22° 57' 40" EAST two hundred forty and 54/100 (240.54) feet; thence

SOUTHWESTERLY on a curve by the midline of a thirty foot Right of Way, to the lot corner, as shown on said Plan four hundred twenty-five and 61/100 (425.61) feet; thence

NORTH 22° 57' 07" WEST four hundred seventy-seven and 20/100 (477.20) feet; thence

SOUTH 67° 07' 16" WEST three hundred seventeen and 50/100 (317.50) feet; thence

NORTH 23° 06' 12" WEST three hundred twenty-eight and 91/100 (328.91) feet to the point of beginning.

Containing, according to said Plan, 13,748 Acres.

Meaning to describe the premises conveyed to Seller by deed of Maxine R. Johnstone and Keevin Geller, Trustees of Hyacinthe Realty Trust, under Declaration of Trust dated October 6, 1976, recorded in Norfolk Registry District, Book 5915, Page 703.

EXHIBIT B
CONTRACT SELLERS

1. BARBARA PIPER- 1383 BRUSH HILL ROAD, MILTON, MA
2. ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER- 1259 BRUSH HILL ROAD, MILTON, MA
3. TRUNG Q. DO-1375 BRUSH HILL ROAD, MILTON, MA

SCHEDULE 8(A)

SUITS

NONE

SCHEDULE 8(C)

UNDERGROUND STORAGE TANKS

NONE

EXHIBIT C

MEMORANDUM OF PURCHASE AGREEMENT

MEMORANDUM OF PURCHASE AGREEMENT

THIS MEMORANDUM OF PURCHASE AGREEMENT (this "Memorandum") is entered into by ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER (collectively, "Seller"), and ~~MILL CREEK RESIDENTIAL TRUST LLC~~, a Delaware limited liability company ("Purchaser").

MCRT Investments

1. Seller and Purchaser entered into that certain Purchase Agreement with an effective date of July 27, 2012 (as amended, the "Agreement") for the sale and purchase of certain property in Milton, Norfolk County, Massachusetts, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

2. If the Closing under the Agreement does not occur by the fifth (5th) anniversary of the effective date of the Agreement, the Agreement shall automatically be deemed null and void and Purchaser's right to purchase the Property shall be deemed expired and of no further force and effect.

3. Seller and Purchaser are recording this Memorandum to give notice to third parties of Purchaser's interest in the Property pursuant to the terms set forth in the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year of the last party to sign below.

PURCHASER: *MCRT Investments*
~~MILL CREEK RESIDENTIAL TRUST LLC~~,
a Delaware limited liability company

SELLER:

By: *[Signature]*
Name: *Peter Paccaro*
Title: *Senior Managing Director*
Duly Authorized
Date: *July 27, 2012*

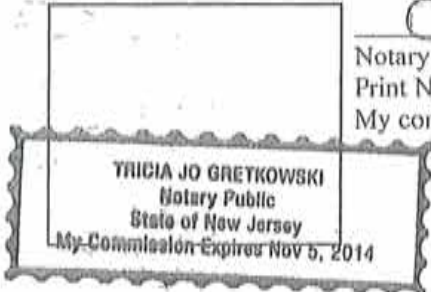
Arnold D Scheller Jr
ARNOLD D. SCHELLER, JR.
Date: *JUNE 28, 2012*

Sonia L. Scheller
SONIA L. SCHELLER
Date: *JUNE 28, 2012*

STATE of New Jersey
~~COMMONWEALTH OF MASSACHUSETTS~~)
) ss.
COUNTY OF Bergen Sussex)

On this 27th day of July, 2012, before me, the undersigned notary public, personally appeared Peter J. Porcari (name of document signer), proved to me through satisfactory evidence of identification, which were NJ Drivers License (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Tricia Jo Gretkowski
Notary Public
Print Name TRICIA JO GRETKOWSKI
My commission expires 11/5/2014



STATE of New Hampshire)
) ss.
COUNTY OF Grafton)

On this 28 day of June, 2012, before me, the undersigned notary public, personally appeared ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER, proved to me through satisfactory evidence of identification, which were NH drivers license (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Donna J. King
Notary Public
Print Name Donna J. King
My commission expires Dec. 3 2013



(Use this space for notary stamp/seal)

**Memorandum of Purchase Agreement Exhibit A
Legal Description**

The Property is legally described as follows:

A certain parcel of land in Milton and in Canton, Norfolk County, Massachusetts shown as Lot B on a plan entitled "Plan of Land Brush Hill Road, Milton, Norfolk County, Mass." dated July 13, 1981 by Yunits Engineering Co., Inc. and recorded herewith, and accorded to said Plan being bounded and described as follows:

Beginning at a stone bound at the most northwesterly corner of the premises hereby conveyed; thence

NORTH 63° 02' 00" EAST one hundred fifty-nine and 98/100 (159.98) feet; thence
NORTH 67° 00' 00" EAST one hundred fifty-eight and 79/100 (158.79) feet; thence
NORTH 67° 00' 00" EAST four hundred eighty-two and 27/100 (482.27) feet; thence
SOUTH 22° 57' 40" EAST two hundred forty-seven (247) feet; thence
NORTH 67° 02' 20" EAST ninety (90) feet; thence
NORTHEASTERLY by a curved line, seventy-six and 79/100 (76.79) feet; thence
NORTH 27° 02' 20" EAST fifty-five (55) feet; thence
NORTHEASTERLY by a curved line, one hundred ninety-five and 48/100 (195.48) feet;
thence
NORTH 67° 02' 20" EAST one hundred eighty (180) feet; thence
EASTERLY by a curved line, three hundred twenty-three and 76/100 (323.76) feet;
thence
NORTH 69° 20' 52" EAST one hundred eighty-seven and 86/100 (187.86) feet; thence
SOUTH 0° 03' 50" WEST one hundred fifty (150) feet; thence
SOUTH 67° 00' 25" WEST one thousand four and 20/100 (1004.20) feet; thence
SOUTH 22° 57' 40" EAST two hundred forty and 54/100 (240.54) feet; thence
SOUTHWESTERLY on a curve by the midline of a thirty foot Right of Way, to the lot corner,
as shown on said Plan four hundred twenty-five and 61/100 (425.61)
feet; thence
NORTH 22° 57' 07" WEST four hundred seventy-seven and 20/100 (477.20) feet; thence
SOUTH 67° 07' 16" WEST three hundred seventeen and 50/100 (317.50) feet; thence
NORTH 23° 06' 12" WEST three hundred twenty-eight and 91/100 (328.91) feet to the point
of beginning.

Containing, according to said Plan, 13,748 Acres. Meaning to describe the premises conveyed to Seller by deed of Maxine R. Johnstone and Keevin Geller, Trustees of Hyacinthe Realty Trust, under Declaration of Trust dated October 6, 1976, recorded in Norfolk Registry District, Book 5915, Page 703.

EXHIBIT D

RELEASE OF MEMORANDUM OF PURCHASE AGREEMENT

RELEASE OF MEMORANDUM OF PURCHASE AGREEMENT

THIS RELEASE MEMORANDUM OF PURCHASE AGREEMENT (this "Release") is entered into by ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER (collectively, "Seller"), and ~~MILL CREEK RESIDENTIAL TRUST LLC~~, a Delaware limited liability company ("Purchaser"). *MCRT Investments*

WITNESSETH

Seller and Purchaser entered into that certain Purchase Agreement with an effective date of July 27, 2012 (as amended, the "Agreement") for the sale and purchase of certain property in Milton, Norfolk County, Massachusetts, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property"), a memorandum of which was recorded on _____, with the Registry of Deeds in Norfolk County, Massachusetts (the "Registry of Deeds") in Book _____, Page _____ (the "Memorandum"); and

Seller and Purchaser desire to release of record the Memorandum and to record this Release with the Registry of Deeds to evidence such release.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

1. Seller and Purchaser authorize and direct the Registry of Deeds to record this Release.
2. Purchaser's interest in the Property is terminated and released. The Agreement is of no further force or effect.

IN WITNESS WHEREOF, the parties have executed this Release as of the day and year written above.

PURCHASER: *MCRT Investments*
~~MILL CREEK RESIDENTIAL TRUST LLC~~,
a Delaware limited liability company

By: *[Signature]*
Name: *Peter Porcino*
Title: *Senior Managing Director*
Duly Authorized
Date: *July 27, 2012*

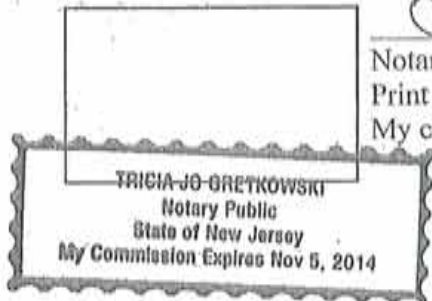
SELLER:

Arnold D Scheller Jr
ARNOLD D. SCHELLER, JR.
Date: *6-28-12*

Sonia L. Scheller
SONIA L. SCHELLER
Date: *6-28-12*


State of New Jersey
~~COMMONWEALTH OF MASSACHUSETTS~~)
) ss.
COUNTY OF Sussex)

On this 27th day of July, 2012, before me, the undersigned notary public, personally appeared Peter J. Porcino (name of document signer), proved to me through satisfactory evidence of identification, which were N.J. Driver's License (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public Tricia Jo Gietkowski
Print Name TRICIA JO GIETKOWSKI
My commission expires 11/5/2014

STATE OF New Hampshire)
) ss.
COUNTY OF Crafts)

On this 28 day of June, 2012, before me, the undersigned notary public, personally appeared ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER, proved to me through satisfactory evidence of identification, which were MA drivers license (source of identification) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.


Notary Public Donna J. King
Print Name Donna J. King
My commission expires Dec. 3, 2013
(Use this space for notary stamp/seal)

**Release of Memorandum of Purchase Agreement Exhibit A
Legal Description**

The Property is legally described as follows:

A certain parcel of land in Milton and in Canton, Norfolk County, Massachusetts shown as Lot B on a plan entitled "Plan of Land Brush Hill Road, Milton, Norfolk County, Mass." dated July 13, 1981 by Yunits Engineering Co., Inc. and recorded herewith, and accorded to said Plan being bounded and described as follows:

Beginning at a stone bound at the most northwesterly corner of the premises hereby conveyed; thence

NORTH 63° 02' 00" EAST one hundred fifty-nine and 98/100 (159.98) feet; thence
NORTH 67° 00' 00" EAST one hundred fifty-eight and 79/100 (158.79) feet; thence
NORTH 67° 00' 00" EAST four hundred eighty-two and 27/100 (482.27) feet; thence
SOUTH 22° 57' 40" EAST two hundred forty-seven (247) feet; thence
NORTH 67° 02' 20" EAST ninety (90) feet; thence
NORTHEASTERLY by a curved line, seventy-six and 79/100 (76.79) feet; thence
NORTH 27° 02' 20" EAST fifty-five (55) feet; thence
NORTHEASTERLY by a curved line, one hundred ninety-five and 48/100 (195.48) feet;
thence
NORTH 67° 02' 20" EAST one hundred eighty (180) feet; thence
EASTERLY by a curved line, three hundred twenty-three and 76/100 (323.76) feet;
thence
NORTH 69° 20' 52" EAST one hundred eighty-seven and 86/100 (187.86) feet; thence
SOUTH 0° 03' 50" WEST one hundred fifty (150) feet; thence
SOUTH 67° 00' 25" WEST one thousand four and 20/100 (1004.20) feet; thence
SOUTH 22° 57' 40" EAST two hundred forty and 54/100 (240.54) feet; thence
SOUTHWESTERLY on a curve by the midline of a thirty foot Right of Way, to the lot corner,
as shown on said Plan four hundred twenty-five and 61/100 (425.61)
feet; thence
NORTH 22° 57' 07" WEST four hundred seventy-seven and 20/100 (477.20) feet; thence
SOUTH 67° 07' 16" WEST three hundred seventeen and 50/100 (317.50) feet; thence
NORTH 23° 06' 12" WEST three hundred twenty-eight and 91/100 (328.91) feet to the point
of beginning.

Containing, according to said Plan, 13,748 Acres. Meaning to describe the premises conveyed to Seller by deed of Maxine R. Johnstone and Keevin Geller, Trustees of Hyacinthe Realty Trust, under Declaration of Trust dated October 6, 1976, recorded in Norfolk Registry District, Book 5915, Page 703.

EXHIBIT E
ESCROW AGREEMENT

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this "Escrow Agreement") is made as of July 27, 2012 by ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER (collectively, "Seller"), and ~~MILL CREEK RESIDENTIAL TRUST LLC~~, a Delaware limited liability company, or its assigns ("Purchaser"; Seller and Purchaser are sometimes hereinafter individually referred to as a "Party" and collectively as the "Parties") and COMMONWEALTH LAND TITLE INSURANCE COMPANY, a Nebraska corporation ("Escrow Agent").

MCRT Investments

RECITALS:

WHEREAS, the Parties entered into that certain Purchase Agreement dated as of July 27, 2012 (as amended, the "Agreement"), for that certain property located in Milton, Norfolk County, Massachusetts, as more particularly described in the Agreement.

WHEREAS, pursuant to the Agreement, the Parties have executed that certain Memorandum of Purchase Agreement (the "Memorandum") and that certain Release of Memorandum of Purchase Agreement (the "Release"; the Release and the Memorandum are sometimes hereinafter collectively referred to as the "Documents" or individually as a "Document").

WHEREAS, pursuant to the Agreement, Purchaser and Seller are obligated to deliver to the Documents to Escrow Agent.

WHEREAS, the Parties desire to engage Escrow Agent to serve as escrow agent to hold the Documents.

WHEREAS, Escrow Agent has agreed to accept its engagement as "Escrow Agent" hereunder.

WHEREAS, the Parties and Escrow Agent desire to set forth their agreement relating to the services of Escrow Agent with respect to the Documents.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties and Escrow Agent agree as follows:

1. Recitals. The Recitals are incorporated herein by this reference. Terms used but not defined herein shall have the meanings ascribed thereto in the Agreement.

2. Engagement. The Parties engage Escrow Agent to serve as "Escrow Agent" hereunder, and Escrow Agent accepts such engagement.

3. Documents.

(a) Escrow Agent acknowledges receipt of the Documents and shall safeguard the Documents in a safe and secure manner.

(b) Upon the earlier to occur of ninety (90) days after the Effective Date or the expiration of the Investigation Period (provided that Purchaser does not elect to terminate the Agreement upon the expiration of the Investigation Period), Purchaser shall have the right to require Escrow Agent to record the Memorandum by providing Notice (as defined in Section 9 below) to Escrow Agent and Seller of Purchaser's election to record the Memorandum. Within five (5) business days after Escrow Agent's receipt of such Notice, Escrow Agent shall record the Memorandum with the Registry of Deeds in

Norfolk County, Massachusetts (the "**Registry of Deeds**"), at Purchaser's sole cost and expense.

(c) Upon Escrow Agent's receipt of Notice from both Purchaser and Seller that the Agreement has terminated prior to the recordation of the Memorandum, Escrow Agent shall immediately deliver the Documents to Seller.

(d) Upon Escrow Agent's receipt of Notice from both Purchaser and Seller that the Agreement has terminated after the Memorandum has been recorded, Escrow Agent shall immediately record the Release with the Registry of Deeds at Seller's sole cost and expense, provided however, that if the Agreement is terminated due to a Purchaser default then the recording of the Release with the Registry of Deeds shall be performed at Purchaser's sole cost and expense.

(e) If the Agreement proceeds to Closing, at Closing Escrow Agent shall record the Release with the Registry of Deeds at Purchaser's sole cost and expense.

(f) If Seller claims that Purchaser has defaulted under the Agreement, the Agreement has been terminated as a result of such Purchaser default and Seller claims entitlement to either Document or both Documents as a consequence thereof, Seller shall give Notice thereof to Escrow Agent and Purchaser (the "**Seller Notice**"). The Seller Notice shall state with specificity the reason(s) supporting Seller's claim that the Agreement has been terminated due to Purchaser's default. Purchaser shall have ten (10) days after receipt of the Seller Notice to deliver Notice to Escrow Agent and Seller objecting to Escrow Agent's delivery of the applicable Document(s) to Seller (the "**Purchaser Objection Notice**"). If Escrow Agent does not timely receive the Purchaser Objection Notice, Purchaser shall be conclusively deemed to have consented to the release of the Document(s) to Seller and Escrow Agent shall promptly deliver the applicable Document(s) to Seller. If Escrow Agent timely receives the Purchaser Objection Notice, the provisions of Section 5 below shall apply.

4. **Termination.** This Escrow Agreement shall terminate at such time as the Closing occurs, or when Escrow Agent either records the Release or delivers the Document(s) to Seller or to an arbitrator or a court of competent jurisdiction pursuant to Section 3 above or Section 5 below, as applicable.

5. **Alternative Actions.** If Escrow Agent is uncertain as to its duties or actions hereunder or shall receive instructions or a Notice from a Party that are in conflict with instructions or a Notice from the other Party or which, in the reasonable opinion of Escrow Agent, are in conflict with any of the provisions of this Escrow Agreement, Escrow Agent shall then be entitled to take any of the following actions:

(a) Hold the Document(s) as provided in this Escrow Agreement and decline to take any further action until Escrow Agent receives a joint written direction from the Parties or any order of a court of competent jurisdiction directing that action be taken with respect to the Document(s), in which case Escrow Agent shall then take the action directed in such joint written direction from the Parties or any order of a court of competent jurisdiction;

(b) In the event of arbitration or litigation between the Parties, Escrow Agent may deliver the Document(s) to the applicable arbitrator or to the clerk of any court in which such litigation is pending; or

(c) Escrow Agent may deliver the Document(s) to a court of competent jurisdiction and therein commence an action for interpleader, the cost thereof to Escrow Agent to be borne by whichever of the Parties does not prevail in the litigation.

6. **Liability.** Escrow Agent shall not be liable for any action taken or omitted in good faith and believed by it to be authorized or within the rights or powers conferred upon it by this Escrow Agreement and it may rely, and shall be protected in acting or refraining from acting in reliance upon an opinion of counsel and upon any directions, instructions, notice, certificate, instrument, request, paper or other document believed by it to be genuine and to have been made, sent, signed or presented by the proper party or parties. In no event shall Escrow Agent have any financial liability hereunder except in the case of Escrow Agent's bad faith, ^{gross} negligence or willful misconduct. Delivery of the Document(s) in accordance with the terms, conditions and provisions of this Escrow Agreement shall fully and completely discharge and exonerate Escrow Agent from any and all future liability or obligation of any nature or character, at law or in equity, to the Parties hereto or under this Escrow Agreement, with respect to the Document(s), except for Escrow Agent's bad faith, ^{gross} negligence or willful misconduct. Escrow Agent shall be under no obligation to take any legal action in connection with the Document(s) or this Escrow Agreement or to appear in, prosecute or defend any action or legal proceeding which would or might, in its sole opinion, involve it in cost, expense, loss or liability unless, in advance, and as often as reasonably required by it, Escrow Agent shall be furnished with such security and indemnity as it finds reasonably satisfactory against all such cost, expense, loss or liability. Notwithstanding any other provision of this Escrow Agreement, the Parties jointly and equally indemnify and hold harmless Escrow Agent against any loss, liability or expense incurred without bad faith, ^{gross} negligence or willful misconduct on its part and arising out of or in connection with its services under the terms of this Escrow Agreement, including the cost and expense of defending itself against any claim of liability.

7. **Modification.** Escrow Agent shall not be bound by any modification of this Escrow Agreement unless the same is in writing and signed by the Parties and Escrow Agent. From time to time on or after the date hereof, the Parties shall deliver or cause to be delivered to Escrow Agent such further commercially reasonable documents and instruments that fall due, or cause to be done such further acts as Escrow Agent may reasonably request (it being understood that Escrow Agent shall have no obligation to make any such request) to carry out more effectively the provisions and purposes of this Escrow Agreement, to evidence compliance with this Escrow Agreement or to assure itself that it is protected in acting hereunder.

8. **Expenses.** Escrow Agent shall serve hereunder without fee for its services as escrow agent, but shall be entitled to reimbursement for reasonable, third party documented expenses incurred by Escrow Agent. Escrow Agent shall not seek reimbursement for the services of its employees and partners, but only for its actual and reasonable out-of-pocket expenses. Such third-party documented costs shall be reimbursed pursuant to the terms of this Escrow Agreement and, if any such third-party cost is not specifically addressed herein, the Parties shall each be responsible for one-half of such costs. Notwithstanding any other provision of this Escrow Agreement, the Parties jointly indemnify and hold harmless Escrow Agent against any reasonable, third party documented expenses incurred by Escrow Agent pursuant to this Section 8.

9. **Notices.** Any notice or communication (a "Notice") which may be or is required to be given pursuant to the terms of this Escrow Agreement shall be in writing and shall be sent to the respective party at the addresses and in the manner set forth in the Agreement.

10. **Governing Law; Assigns.** This Escrow Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties and Escrow Agent.

11. **Substitute Escrow Agent.** The Parties reserve the right, at any time and from time to time, by mutual written agreement, to substitute a new escrow agent in place of Escrow Agent.

12. **Agreement.** This Escrow Agreement is intended solely to supplement and implement the provisions of the Agreement and is not intended to modify, amend or vary any of the rights or obligations of the Parties under the Agreement. Notwithstanding the foregoing, in the event that this Escrow Agreement shall conflict with the Agreement, the terms and provisions of the Agreement shall govern and control.

13. **Entire Agreement; Amendment.** The applicable provisions of the Agreement and this Escrow Agreement represent the entire understanding of the Parties and Escrow Agent with respect to the subject matter hereof and may only be amended by a writing executed by the Parties and Escrow Agent. All prior negotiations and discussions by the Parties and Escrow Agent with respect to the subject matter hereof are merged herein and superseded hereby.

14. **Counterparts.** This Escrow Agreement may be executed in counterparts.

15. **Captions.** The captions in this Escrow Agreement are inserted only for the purpose of convenience of reference and in no way define, limit or describe the scope or intent of this Escrow Agreement or any part thereof.

16. **Construction.** Each provision of this Escrow Agreement has been mutually negotiated, prepared and drafted, each Party has been represented by legal counsel, and in connection with the construction of any provision hereof or deletions here from no consideration shall be given to the issue of which Party hereto actually prepared, drafted, requested or negotiated any provision or deletion.

17. **Professional Fees.** The prevailing Party in any action, proceeding or arbitration against the other Party by reason of any breach or alleged breach arising out of this Escrow Agreement shall be entitled to recover from the other Party all reasonable costs and expenses of the action, proceeding or arbitration, including reasonable attorneys' and other professional fees. Additional fees due to Escrow Agent incurred in connection with any litigation, arbitration or similar proceeding between the parties arising out of a dispute related to this Escrow Agreement or the transactions contemplated by this Escrow Agreement shall be paid equally between the Parties. This Section 17 shall survive termination of this Escrow Agreement.

18. **Jury Waiver.** Each Party waives right to a jury in any litigation in connection with this Escrow Agreement, or the Property, or the transactions contemplated by this Escrow Agreement. Each Party acknowledges that this waiver has been freely given after consultation by it with competent counsel.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS, the parties have executed this Escrow Agreement as of the date first above written.

PURCHASER: *MERT Investments*
MILL CREEK RESIDENTIAL TRUST LLC,
a Delaware limited liability company

By: *P. Porro*
Name: Peter Porro
Title: Senior Managing Director
Duly Authorized
Date: July 27, 2012

SELLER:

Arnold D. Scheller, Jr.
ARNOLD D. SCHELLER, JR.
Date: JUNE 28, 2012

Sonia L. Scheller
SONIA L. SCHELLER
Date: JUNE 28, 2012

ESCROW AGENT:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: _____
Name: _____
Title: _____
Duly Authorized

IN WITNESS, the parties have executed this Escrow Agreement as of the date first above written.

PURCHASER: *MCR Investments*
~~MILL CREEK RESIDENTIAL TRUST LLC~~,
a Delaware limited liability company

By: _____
Name: _____
Title: _____
Duly Authorized
Date: _____

SELLER:

Arnold D Scheller Jr
ARNOLD D. SCHELLER, JR.
Date: JUNE 28, 2012

Sonia L Scheller
SONIA L. SCHELLER
Date: JUNE 28, 2012

ESCROW AGENT:

COMMONWEALTH LAND TITLE INSURANCE COMPANY

By: *[Signature]*
Name: Patricia M. Carben
Title: AVP, Commercial Counsel
Duly Authorized

**PURCHASE AGREEMENT
(1375 BRUSH HILL ROAD, MILTON, MA)**

THIS PURCHASE AGREEMENT (this "Agreement") is entered into by **TRUNG Q. DO** ("Seller"), and **MILL CREEK RESIDENTIAL TRUST LLC**, a Delaware limited liability company, or its assigns ("Purchaser") as of July 27, 2012 (the "Effective Date").

RECITALS:

Seller is currently the owner of that certain property located in Milton, Norfolk County, Commonwealth of Massachusetts, containing approximately One and 70/100 (1.70) acres of land more particularly described in Exhibit A attached hereto and made a part hereof (the "**Property**") commonly known as and numbered 1375 Brush Hill Road, Milton, Mass. The parties to this Agreement have agreed to the sale and purchase of the Property on terms and conditions more particularly set forth in this Agreement.

AGREEMENT:

1. **Purchase and Sale.** Subject to all of the terms and conditions of this Agreement, Seller will sell to Purchaser and Purchaser will purchase from Seller the Property, together with all appurtenances, rights, easements, and rights of way incident thereto.

2. **Purchase Price and Deposit.**

(a) The purchase price (the "**Purchase Price**") for the Property shall be One Million Three Hundred Thousand and No/100 Dollars (\$1,300,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing (as defined in Section 7 below), by wire transfer of funds less the Deposit (as defined in Section 2(b) below), and as further adjusted for prorations and adjustments as set forth in this Agreement.

(b) Within five (5) business days following the Effective Date, Purchaser shall deposit with Commonwealth Land Title Insurance Company, at 265 Franklin Street, 8th Floor, Boston, Massachusetts 02110, attention Patricia Carlson, Esq.; telephone (617) 619-4813; fax (617) 619-4849 (the "**Title Company**") the sum of Seventeen Thousand Two Hundred Seventy One and 00/100 Dollars (\$17,271.00)(the "**Initial Deposit**"). Within five (5) business days after expiration of the Investigation Period (as defined in Section 3(a) below), and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Twenty Nine Thousand fifteen and 28/100 Dollars(\$29,015.28)with the Title Company (the "**Second Deposit**"). Within five (5) business days after Purchaser's receipt of the Project Eligibility (Site Approval) letter (the "**Site Eligibility Letter**") from the Massachusetts Housing Finance Agency ("**Mass Housing**") acceptable to Purchaser in the exercise of its reasonable discretion, and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Twenty Two Thousand Seven Hundred ninety Seven and 72/100 Dollars (\$22,797.72)with the Title Company (the "**Third Deposit**"). The Initial Deposit, the

Second Deposit and the Third Deposit, together with all interest earned thereon and including the Option Payments (as defined in Section 2(c) below), are hereinafter sometimes collectively referred to as the "**Deposit**." The Deposit shall be invested by the Title Company in an interest bearing account in an institution selected by Purchaser and acceptable to Seller and shall be held in accordance with the terms of Section 14 below. The disposition of the Deposit shall be in accordance with the terms and conditions of this Agreement. All interest on the Deposit shall be paid to the party entitled to receive the Deposit

(c) Beginning on the Option Payment Commencement Date (as defined herein) and continuing on each monthly anniversary thereof until the earlier of: (i) the Closing; (ii) termination of this Agreement; (iii) payment to Seller of the Extension Payments (as defined in Section 7(a)(ii) below); or (iv) depletion of the Deposit (any event in clauses (i) through (iv) above, an "**Option Payment Termination Event**"), the Title Company shall withdraw from the Deposit an amount equal to the Option Payment (as hereinafter defined) and deliver the Option Payment to Seller. As used herein the term "**Option Payment**" shall mean the sum of Three Thousand Eight Hundred Thirty Eight and 00/100 Dollars (\$ 3,838.00). If the Option Payment Termination Event occurs on a date other than the last day of a calendar month then the Option Payment shall be prorated for such month, and if Closing occurs, Purchaser shall receive a credit against the Purchase Price of One Hundred Twenty Seven and 93/100 Dollars (\$127.93) for each day that lapses between the Closing Date and the expiration of the then-current calendar month; or if this Agreement terminates, Seller shall return to Purchaser One Hundred Twenty Seven and 93/100 Dollars (\$127.93) for each day that lapses between the termination date and the expiration of the then-current calendar month. The "**Option Payment Commencement Date**" shall be either: (a) the seven (7) month anniversary of the Effective Date, if Purchaser receives the Site Eligibility Letter prior to the seven (7) month anniversary of the Effective Date or if Purchaser does not submit its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date; or (b) the eight (8) month anniversary of the Effective Date, if Purchaser does not receive the Site Eligibility Letter prior to the seven (7) month anniversary of the Effective Date and Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date. In no event shall the Option Payment Commencement Date be later than the eight (8) month anniversary of the Effective Date, and in no event shall the Option Payment Commencement Date be extended from the seven (7) month anniversary of the Effective Date to the eight (8) month anniversary of the Effective Date unless Purchaser has provided Seller with reasonable evidence that Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date.

(d) Notwithstanding any other provision in this Agreement, the Option Payments, once delivered to Seller, shall be non-refundable to Purchaser unless this Agreement terminates due to a Seller default, in which case the Deposit, including any Option Payments paid or owing to Seller as of said date, shall be refunded to Purchaser; or, if this Agreement proceeds to Closing, the Deposit (including interest earned on the

Deposit) shall be applied as a credit to the Purchase Price, without any deduction for Option Payments.

3. **Investigation Period.**

(a) Commencing on the first (1st) business day following the Effective Date, Purchaser shall have ninety (90) days, subject to extension as provided herein (the "**Investigation Period**") during which to perform, or have performed, at Purchaser's sole cost and expense and option, such studies and investigations of the Property as Purchaser deems desirable, in the exercise of its sole and absolute discretion. During the Investigation Period Purchaser may investigate: (i) whether telephone, gas, electric, potable water, sanitary sewer, septic, storm water, drainage, cable television, and other utilities are available at the lot lines of the Development Tract (as defined in Section 5(a) below) through publicly dedicated streets or easements appurtenant to the Development Tract with sufficient capacity to serve the Intended Improvements (as defined in Section 5(a) below); (ii) whether any moratorium on service by any utility serving the Development Tract has occurred or any is threatened; and (iii) whether any moratorium on development on the Development Tract has been imposed by any governmental authority or any is threatened. Notwithstanding anything herein to the contrary, Purchaser may extend the Investigation Period beyond the initial ninety (90) days for two (2) periods of thirty (30) days each by Notice (as defined in Section 21 below) to Seller prior to the expiration of the applicable period (including the initial ninety (90) day period) if Purchaser is unable to complete its studies and investigations of the Property for reasons or events outside of Purchaser's control. The Investigation Period shall terminate at the end of the initial ninety (90) day period unless Purchaser extends the Investigation Period as provided herein, in which case the Investigation Period shall terminate at the end of the applicable extension period.

(b) During the Investigation Period and continuing until Closing, Seller shall provide Purchaser and its agents with reasonable access to the Property, and all structures located thereon, upon reasonable prior Notice to Seller. Purchaser shall be permitted to access all structures as necessary for survey purposes, soil borings and test pits, provided that any damage to the Property shall be restored.

(c) Purchaser agrees to maintain in full force and effect during any period that Purchaser is making any entry onto the Property pursuant to this Agreement commercial general liability insurance insuring Purchaser and Seller against any and all claims for bodily injury and property damage occurring in or about the Property as a result of any such entry by Purchaser, which insurance: (i) shall be obtained from an insurer authorized to conduct business in the state in which the Property is located; (ii) shall have a combined single limit of not less than Two Million and No/100 Dollars (\$2,000,000.00); and (iii) shall include a contractual liability endorsement insuring Purchaser's indemnity obligations hereunder. Purchaser shall provide reasonable evidence of such insurance to Seller prior to Purchaser's initial entry onto the Property. Purchaser shall also indemnify and hold Seller harmless from any loss, cost or expense incurred by Seller as a result of the negligence, recklessness or willful misconduct of Purchaser or any of Purchaser's agents, employees or representatives who enter the Property and for any Hazardous

Substance (as defined below) brought on the Property by Purchaser or any of Purchaser's agents. Until the Closing Purchaser shall have no indemnification obligation or other liability for, or in connection with, any claims arising from pre-existing conditions on or under the Property, or those arising from the presence, discovery, or disturbance of any Hazardous Substance previously existing on the Property. The foregoing indemnification shall survive Closing or termination of this Agreement. The term "**Hazardous Substance**" means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, radioactive materials, explosives, known carcinogens, petroleum products and by products (including crude oil or any fraction thereof), and any pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or a contaminant in, or the use, manufacture, generation, storage, treatment, transportation, release or disposal of which is regulated by, any Environmental Law. The term "**Environmental Law**" means all applicable federal, state, and municipal laws, by-laws, rules, regulations, codes and ordinances, and the requirements of any governmental agency or authority having or claiming jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of persons and property and all other environmental matters relating to Hazardous Substances or the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment applicable to the Property and relating to Hazardous Substances, or to the existence, use, discharge, release or disposal thereof.

(d) Not later than thirty days before the Closing Date, Seller and Purchaser shall meet at the Property, and Seller shall provide to Purchaser a list of appliances and lighting and plumbing fixtures that Seller desires to remove from the Property prior to Closing. Such list shall be subject to Purchaser's approval in the exercise of its reasonable discretion.

(e) Prior to the expiration of the Investigation Period, Purchaser, in its sole and absolute discretion, may elect to terminate this Agreement by notifying Seller in writing of such election to terminate not later than 6:00 p.m. on the last day of the Investigation Period. If Purchaser fails to deliver to Seller such Notice of Purchaser's election to terminate this Agreement, Purchaser shall be deemed to have waived such right to terminate this Agreement. Purchaser reserves the right to terminate this Agreement pursuant to this Section 3(e), for any reason whatsoever. Upon such termination, the Deposit shall be returned to Purchaser and the parties hereto shall be relieved of all liabilities and obligations under this Agreement, except as specifically set forth in this Agreement; provided, however, that Purchaser shall promptly restore any damage to the Property caused by Purchaser's activities on the Property during the Investigation Period. Purchaser shall deliver to Seller without any representation or warranty of any nature, copies of any studies, findings and reports (collectively, the "**Studies**") of the Property completed by Purchaser, at no cost to Seller; provided, however, the Studies shall include only such Studies created by or at Purchaser's direction and shall in no event include any proprietary materials of Purchaser, except to the extent such work product pertains to the Development Approvals (as defined in Section 5(b) below) or the Intended Improvements and was included as part of Purchaser's application(s) for the Development Approvals. Purchaser will use good faith efforts to obtain reliance letters from the various

professionals who prepared the Studies, which letters shall permit Seller to rely on the findings of the applicable Study, but failure to obtain any such reliance letters shall not be a Purchaser default hereunder, nor shall the refund of the Initial Deposit be conditioned upon delivery to Purchaser of such reliance letters. Purchaser shall assign to Seller all of Purchaser's right, title and interest in and to the Studies and shall agree that Seller may contract with the provider of any Studies for the provision of additional services.

4. **Title, Title Insurance and Survey.**

(a) Purchaser may obtain from the Title Company a commitment (the "**Commitment**") for an ALTA Form B owner's title insurance policy covering the Property and all easements appurtenant thereto.

(b) In addition, Purchaser may obtain a current survey of the Property (the "**Survey**") prepared by a surveyor licensed by the state in which the Property is located.

(c) Prior to the expiration of the Investigation Period, Purchaser may examine the condition of title and survey matters. If, prior to the expiration of the Investigation Period, Purchaser fails either: (i) to terminate this Agreement pursuant to Section 3 above; or (ii) to provide Seller with Notice (the "**Title Defect Notice**") of specific defects in the title to or survey of the Property, then, for all purposes of this Agreement, Purchaser shall be deemed to have accepted title in the condition described in the Commitment and shall be deemed to have approved the Survey. Any title or survey exceptions that are not objected to prior to the expiration of the Investigation Period shall be deemed to be "**Permitted Exceptions**."

(d) If this Agreement is not terminated pursuant to Section 3 above, and if Purchaser timely delivers the Title Defect Notice before the end of the Investigation Period, then Seller shall have fifteen (15) business days (the "**Cure Election Period**") following receipt of the Title Defect Notice in which to elect in writing: (i) to remove or cure, at Seller's sole cost and expense, all noted defects to the title and/or the Survey; (ii) to not remove or cure such noted defects to the title and/or the Survey; or (iii) to notify Purchaser that such noted defects are not removable or curable (such Notice of election being referred to herein as the "**Cure Notice**"). If Seller fails to deliver the Cure Notice to Purchaser within the Cure Election Period, Seller shall be deemed to have elected not to cure the defects noted in the Title Defect Notice. If Seller declines to cure (or is deemed to have declined to cure) any defect noted in the Title Defect Notice, or if Seller notifies Purchaser that any such defect is not curable, Purchaser may elect, within five (5) business days after the Cure Election Period, either: (x) to accept title to the Property as it is (in which event any such title defect(s) shall be deemed a Permitted Exception hereunder), subject to the right at Closing (as hereinafter defined) to deduct from the Purchase Price funds necessary to satisfy outstanding mortgage or other voluntary monetary liens made or assumed by Seller and to pay off such obligations at the Closing; or (y) to terminate this Agreement by Notice to Seller delivered within the five (5) business day period after the Cure Election Period, in which event all parties hereto shall be released from any and all obligations and liabilities hereunder (except as specifically

set forth in this Agreement) and the Deposit, if paid, less any Option Payments paid to Seller as of said date, shall be returned to Purchaser.

(e) Purchaser's obligation to purchase the Property at Closing is conditional upon Seller's delivery to Purchaser of insurable fee simple title to the Property, subject only to the Permitted Exceptions and the other matters set forth in Section 7(b)(i)(A) hereof. Purchaser may object to the status of title of the Property at Closing and refuse to close this transaction if an updated title search or an update to the Survey done prior to Closing reveals: (i) that Seller has failed to remove or cure any exception to title that Seller agreed to remove or cure pursuant to Section 4(d) above; or (ii) any matters other than the Permitted Exceptions, whereupon Purchaser may: (A) bring an action for specific performance against Seller; or (B) recover from Seller damages not exceeding an amount equal to the total of the certified costs paid to third parties by Purchaser for the Studies divided by the number of Project Contracts (as defined in Section 5(a) below).

5. Development Approvals.

(a) Purchaser has entered or will enter other purchase and sale agreements with other owners of property in the vicinity of the Property listed on **Exhibit B** attached hereto (collectively, the "**Project Contracts**") covering the property of such other owners (the Property and such other properties are sometimes hereinafter collectively referred to as the "**Development Tract**"; such other owners are hereinafter collectively referred to as the "**Contract Sellers**") for the purpose of developing a multi-family residential community containing not less than three hundred (300) residential units (either rental or for sale), in one (1) or more multi-family residential buildings, together with related amenities, required landscaping, curb cuts and street openings (the "**Intended Improvements**") on the Development Tract.

(b) In connection with the Intended Improvements, Purchaser agrees to apply for and diligently pursue (subject to Sections 5(e) and (f) below) all necessary permits and approvals from the appropriate governmental authorities in order to permit the commencement of construction and occupancy of the Intended Improvements pursuant to a final, approved and unappealable Comprehensive Permit (the "**Comprehensive Permit**") in a manner that satisfies the conditions set forth in Section 6(a) below (hereinafter collectively referred to as the "**Development Approvals**"). The Development Approvals shall include, but not be limited to, utilities, environmental and subdivision approvals from the appropriate governmental authorities. Without limitation, Purchaser shall accomplish the following on or before the dates indicated below (the "**Approval Milestones**"):

<u>Milestone</u>	<u>Date</u>
(i) Submission of an application for the Site Eligibility Letter to Mass Housing	One hundred fifty (150) days after the Effective Date (the " Site Eligibility Letter Application Deadline ") (subject to extension in Section 5(c) below).

(ii) Filing of the application for Comprehensive Permit with the Town of Milton, Massachusetts	Ninety (90) days following Purchaser's receipt of the Site Eligibility Letter from Mass Housing acceptable to Purchaser in the exercise of its reasonable discretion (the "Comp Permit Application Deadline") (subject to extension in Section 5(c) below).
--	---

(c) Notwithstanding anything herein to the contrary, Purchaser may extend the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline beyond the initial one hundred fifty (150) or ninety (90) day period, as applicable, for two (2) periods of thirty (30) days each by Notice to Seller prior to the expiration of the applicable period (including the initial one hundred fifty (150) or ninety (90) day period) if Purchaser is unable to comply with the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline for reasons or events outside of Purchaser's control. In the event that either of the Approval Milestones is not satisfied by the dates indicated in Section 5(b) above, as such dates may be extended pursuant to this Section 5(c), and provided that all other Contract Sellers shall terminate all of the other Project Contracts, Seller shall have the right, by giving not less than thirty (30) days' Notice to Purchaser, to terminate this Agreement, in which event all Studies shall be provided to Seller, at no cost to Seller, and the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. Notwithstanding the foregoing, Seller's Notice of termination shall not be effective if within fifteen (15) days after Purchaser's receipt of such Notice, Purchaser waives, by Notice to Seller and the other Contract Sellers, the condition set forth in Section 6(a) below.

(d) Seller covenants and agrees to cooperate fully with Purchaser in order to enable Purchaser to obtain the Development Approvals in as timely a fashion as possible (including the signing and filing of any required applications by Seller and/or in Seller's name, if required, within five (5) business days after Seller's receipt of Purchaser's request that Seller take such action) at no cost to Seller.

(e) Purchaser agrees to diligently and in good faith pursue the Development Approvals. For so long as Purchaser makes submissions to appropriate governmental authorities, responds to inquiries from such authorities, and otherwise engages in diligent efforts to obtain the Development Approvals, Purchaser shall be deemed to be diligently and in good faith pursuing the Development Approvals. Purchaser is not obligated, however, to continue to pursue the Development Approvals after such time, if any, that a permit or approval required as part of the Development Approvals is denied or any applicable governmental authority ceases to process Purchaser's application for any such permit or approval on the basis of lack of jurisdiction or if any applicable governmental authority informs Purchaser that Purchaser's application will not be given acceptable treatment. Upon any such event or action, Purchaser shall be entitled to terminate this Agreement, provided that Purchaser shall simultaneously terminate all of the Project Contracts, in which event the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. In no event shall Purchaser be obligated to defend or to prosecute litigation in connection with the Development Approvals or to

continue to attempt to obtain the Development Approvals until the Closing Date, as the same may be extended pursuant to Section 7 below, after such action, event or communication to Purchaser that Purchaser's application will not be given acceptable treatment. In the event of termination of the Project Contracts, Purchaser shall assign to the Contract Sellers all right, title and interest in and to Seller's interest under the Development Approvals and all other rights to construct the Intended Improvements.

(f) If Seller believes that Purchaser is not diligently pursuing the Development Approvals, Seller shall deliver to Purchaser Notice thereof (the "**Default Notice**"), which Default Notice shall include, in detail, the reasons for Seller's belief. Purchaser shall respond to the Default Notice within fifteen (15) days after Purchaser's receipt of the Default Notice (the "**Response Period**"). If Purchaser fails to respond to the Default Notice during the Response Period, Purchaser shall be deemed in default of this Agreement and, at Seller's election, this Agreement shall terminate on the tenth (10th) business day after the expiration of the Response Period and any portion of the Deposit not previously disbursed to Seller shall be disbursed to Seller. If Purchaser responds to the Default Notice during the Response Period and Seller and Purchaser are unable to agree on whether Purchaser is diligently pursuing the Development Approvals during the Response Period, either party may, within five (5) business days after the expiration of the Response Period, require that such disagreement be resolved by arbitration and immediately commence a proceeding pursuant to the provisions of Section 33 below. If neither party commences arbitration in accordance with the previous sentence, Purchaser shall be deemed to be diligently pursuing the Development Approvals. In the event of arbitration, the terms of Section 33 below shall be applicable.

6. Conditions Precedent to Closing.

(a) The following are conditions precedent that must be satisfied prior to or on the Closing Date (as defined in Section 7(a) below).

(i) Purchaser shall have received all Development Approvals which have been sought in a timely manner and diligently pursued by Purchaser and any time period for appeal of the Development Approvals shall have expired without contest (or if contested, such contest has been concluded and no further right to contest exists). Purchaser shall have the right, in the exercise of its sole and absolute discretion, to terminate this Agreement pursuant to Section 6(b) below if Purchaser reasonably determines at any time on or before the earlier of the following dates (such earlier date, the "**Conditions Date**"): (A) the two (2) year anniversary of the Effective Date; or (B) the Closing Date, that such condition may not be satisfied by the Closing Date. This condition shall not be satisfied if any Development Approval imposes any impact fees, offsite obligations or other obligations on Purchaser or the Property, that shall be unlawful, arbitrary or unreasonable, as Purchaser shall determine in the exercise of its sole and absolute discretion, or if a contest to or an appeal of the Site Plan or any other Development Approvals shall be filed. This condition shall be deemed waived if Purchaser is found to be or is deemed to be in default of this Agreement pursuant to Section 5(f) above.

(ii) Closings under all of the Project Contracts for the Development Tract shall occur simultaneously with Closing hereunder.

(b) If Purchaser determines at any time on or before the Conditions Date that the condition set forth in Section 6(a) above may not be satisfied by the Closing Date, then Purchaser may, in the exercise of its sole and absolute discretion, terminate this Agreement by giving Notice to Seller at any time on or before the Conditions Date, provided that like notice is given to all Contract Sellers. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and the Deposit, less the Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. The condition set forth in Section 6(a)(i) above is for Purchaser's sole benefit, and Purchaser may, in its sole discretion, waive (conditionally or absolutely) the fulfillment of the condition, or any part thereof, provided that Purchaser acts in a similar manner for all Project Contracts.

7. Closing.

(a) The Closing Date shall be determined as follows:

(i) Subject to Section 7(a)(ii) below, the Closing shall occur on a date (the "**Closing Date**") that is within thirty (30) days after the conditions precedent set forth in Section 6(a) above have been satisfied or waived in writing by Purchaser, there are no appeals or contests pending with respect to the Development Approvals and all applicable appeal and contest periods have expired; provided, however, if an appeal or contest is filed, the Closing Date shall be the date that is thirty (30) days after a ruling or judgment favorable to Purchaser becomes final and unappealable, but in no event shall the Closing Date be: (A) earlier than 12 months after the Effective Date without the approval of Seller; or (B) later than the two (2) year anniversary of the Effective Date (the "**Outside Closing Date**"). The Closing will be held at 12:01 P.M. at the Norfolk Registry of Deeds, or upon not less than five (5) days' Notice to Seller, at the office of Purchaser's attorney in Suffolk or Norfolk County, Massachusetts, or at such other place as the parties may mutually agree in writing. As used in this Agreement, the term "**Closing**" shall mean the time at which the Title Company: (1) is in possession of all funds, instruments and documents necessary for the Title Company to perform its obligations under Section 7(b)(iv) below; and (2) shall deliver by wire transfer all funds due to Seller. Purchaser shall be granted full possession of the Property as of the Closing.

(ii) Notwithstanding anything in Section 7(a)(i) above to the contrary, provided that Purchaser shall similarly extend the closing date under all Project Contracts, Purchaser shall have the right to extend the Closing Date or the Outside Closing Date, as applicable, for thirty six (36) periods of one (1) month each (each, an "**Extension Period**") by: (A) delivering Notice to Seller of Purchaser's election to extend the Outside Closing Date prior to the then-current Closing Date; and (B) paying to Seller an amount equal to the Extension Payment. The term "**Extension Payment**" shall mean: (1) beginning on the date that is the first (1st) day of the first (1st) Extension Period and continuing through the first (1st) day of the sixth (6th) Extension Period, the sum of Three Thousand Eight Hundred Thirty Eight and 00/100 Dollars (\$ 3,838.00); (2)

beginning on the date that is the first (1st) day of the seventh (7th) Extension Period and continuing through the first (1st) day of the twelfth (12th) Extension Period, the sum of Three Thousand Eight Hundred Thirty Eight and 00/100 Dollars (\$ 3,838.00); (3) beginning on the date that is the first (1st) day of the thirteenth (13th) Extension Period and continuing through the first (1st) day of the eighteenth (18th) Extension Period, the sum of Three Thousand Eight Hundred Thirty Eight and 00/100 Dollars (\$ 3,838.00); and (4) beginning on the date that is the first (1st) day of the nineteen (19th) Extension Period and continuing through the first (1st) day of the thirty sixth (36th) Extension Period, the sum of Three Thousand Eight Hundred Thirty Eight and 00/100 Dollars (\$ 3,838.00). Any Extension Payment shall be the sole property of Seller, and shall be in addition to the Purchase Price and shall not be a credit against the Purchase Price; provided, however, if this Agreement terminates due to a Seller default, Seller shall return to Purchaser all Extension Payments.

(b) The following procedures shall govern the Closing:

(i) Seller shall deliver to Purchaser and Purchaser's attorney at least five (5) business days prior to Closing for Purchaser's review, and to the Title Company at Closing, the following documents, each duly executed by Seller and notarized where applicable, the delivery and accuracy of which shall be a condition to Purchaser's obligation to consummate the purchase and sale of the Property:

(A) A quitclaim deed in recordable form (the "Deed"), conveying to Purchaser title to the Property, subject to the following:

- (i) Provisions of existing building, zoning, environmental, health and subdivision control laws, rules and regulations;
- (ii) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (iii) Any liens for municipal betterments assessed after the date of this Agreement;
- (iv) Any matter which an accurate survey or inspection of the Premises would reveal;
- (v) Any easement, right of way or other matter of record that does not materially interfere with the development of the Property for the Intended Improvements; and
- (vi) Permitted Exceptions.

(B) An owner's affidavit in the form reasonably required by the Title Company or to permit the Title Company to issue to Purchaser upon completion of

the Closing a title policy with the standard pre-printed exceptions deleted or modified in a customary fashion for residential transactions in Massachusetts (limited to mechanics' liens, and parties in possession), subject only to real estate taxes and the Permitted Exceptions (the "**Title Policy**");

(C) A Seller's affidavit under penalty of perjury stating Seller is not a "foreign person," as defined in Section 1445 of the Internal Revenue Code of 1986 and the U.S. Treasury Regulations thereunder (FIRPTA), setting forth Seller's taxpayer identification number;

(D) If applicable, authority documentation and any other document reasonably required by the Title Company in order to confirm Seller's authority to consummate this transaction; and

(E) A certificate stating that each and every representation and warranty of Seller contained in this Agreement is true and correct as of the Closing Date as if made by Seller on the Closing Date.

(ii) The Title Company shall make the Deposit, less any Option Payments paid to Seller as of said date, available in cash at the Closing.

(iii) Purchaser shall deliver the following to the Title Company at the Closing:

(A) The balance of the Purchase Price, less the Deposit, adjusted for the prorations and other payments provided for in this Agreement;

(B) Appropriate authorizing resolutions, duly executed, authorizing Purchaser to close the subject transaction;

(C) A certificate that shall state that each and every representation and warranty of Purchaser contained in this Agreement is true and correct as of the Closing Date as if made by Purchaser on the Closing Date; and

(D) Such additional funds as may be required of Purchaser to pay Closing costs or other charges properly allocable to Purchaser.

(iv) After the Title Company has received all of the items to be deposited with it, and when confirmation from the Title Company has been received that it is in a position to issue the Title Policy required hereunder, the Title Company shall (provided such occurs by the Closing Date or the Outside Closing Date, as applicable):

(A) Record the Deed, instructing the Recorder's Office to return the recorded Deed to Purchaser;

(B) Record any other instruments executed by the parties or either of them that are contemplated by this Agreement to be placed of record;

(C) Issue to Purchaser a marked up Commitment obligating the Title Company to issue the Title Policy to Purchaser;

(D) Charge Purchaser for the closing agent's fee, if any;

(E) Charge Purchaser for the cost of issuing the Commitment and the Title Policy including, but not limited to, the premium and any abstracting, search or service charges;

(F) Charge Seller for the cost of the deed stamps affixed to the Deed; and

(G) Deliver the Title Policy to Purchaser as soon as reasonably practicable.

(c) Any supplemental closing instructions given by either party shall also be followed by the Title Company provided they do not conflict with any instructions set forth herein or are consented to in writing by the other party.

(d) At the Closing, the real estate taxes and assessments on the Property shall be prorated between the parties on the basis of the real estate taxes and assessments paid for the most recent year that has been assessed and billed. If the actual real estate taxes and assessments for the year of Closing are not determinable at the Closing Date, then the parties agree to re-prorate real estate taxes and assessments promptly upon issuance of the real estate tax and assessments bills for the year of Closing. Water and sewer use charges shall be apportioned, and fuel value shall be adjusted, as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the amount of the Purchase Price payable hereunder. Each party shall be responsible for the payment of its respective attorneys' fees. This Section 7(d) shall survive Closing.

(e) The parties agree to cooperate with each other and to execute and deliver at Closing any agreements, certificates, affidavits and any other instruments not described in this Section 7 as may be necessary or desirable to effectuate the transactions contemplated hereby.

(f) Seller's obligations hereunder are conditional upon Purchaser completing the purchase of all of the properties comprising the Development Tract pursuant to the Project Contracts.

8. Seller's Representations and Warranties.

(a) Seller represents and warrants to Purchaser that the following statements are now, and on the Closing Date will be, true and accurate:

(i) Except as set forth on Schedule 8(a) attached hereto and made a part hereof, there are no pending suits or proceedings against Seller affecting the Property, and no such suits or proceedings have been threatened in writing to Seller.

(ii) Seller has full power and authority to execute and deliver this Agreement and all documents now or hereafter to be delivered by Seller pursuant to this Agreement and to perform all obligations arising under this Agreement.

(iii) Except as set forth on Schedule 8(c) attached hereto and made a part hereof, to the best of Seller's knowledge, there are not now any underground storage tanks located under the Property installed by Seller, and Seller has not removed, or caused to be removed, any underground storage tanks from the Property.

(iv) To Seller's actual knowledge, there are no agreements of sale, options to purchase or rights of first refusal or first offer outstanding with respect to all or any portion of the Property.

(b) The representations and warranties made in Section 8(a) above shall be deemed to have been remade by Seller as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the date of this Agreement, that are set forth in a certificate executed by Seller and delivered to Purchaser on or before the Closing Date.

(c) The foregoing representations and warranties shall survive the Closing for one (1) month, provided that Seller's liability for breach of the foregoing representations and warranties shall not exceed One Hundred Thousand and No/100 Dollars (\$100,000.00).

9. **Acceptance of Deed.**

(a) The acceptance of the Deed by Purchaser, and the payment of the Purchase Price therefor, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, specifically by the terms hereof, to survive the termination of this Agreement or are to be performed after the delivery of the Deed.

(b) Except as specifically provided in this Agreement: (i) Seller has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Property including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title, zoning, tax consequences, physical or environmental condition, operating history or projections, valuation, governmental approvals, governmental regulations, the truth, accuracy or completeness of any information or any other matter or thing regarding the Property; (ii) without limiting the generality of the foregoing, Purchaser further acknowledges and agrees that any all information provided by Seller is for informational purposes only, without any representation or warranty whatsoever as to the accuracy or completeness thereof, and have not been relied upon by Purchaser; (iii) it is specifically agreed that the Property is being sold "as is, where is, with all faults"; (iv) Purchaser has the right to conduct such investigations of the Property including, but not limited to, the physical and environmental conditions thereof, as Purchaser deems necessary to satisfy itself as to the condition of the Property pursuant to Section 3 hereof, and will rely solely

upon same and not upon any information provided by or on behalf of Seller; and (v) upon Closing, Purchaser shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions that may not have been revealed by Purchaser's investigations.

(c) Purchaser hereby waives, relinquishes and releases Seller from and against any and all claims, demands, causes of action (including causes of action in tort, i.e., negligence and strict liability), losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) of any and every kind or character, known or unknown, which Purchaser might assert or allege against Seller at any time by reason of or arising out of any fire damage, physical and environmental conditions, the violation of any applicable laws and any and all other matters regarding the Property. Effective on the Closing Date, Purchaser shall hold Seller harmless from and against any and all claims, demands, causes of action (but specifically not including causes of action in tort; i.e., negligence and strict liability, arising prior to the Closing Date), loss, damage, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) of any and every kind or character, known or unknown, fixed or contingent, asserted against or incurred by Seller at any time by reason of or arising out of the violation of any applicable laws pertaining to any adverse physical or environmental condition placed or occurring on the Property. Should any repairs, clean-up, remediation or removal of hazardous substances or other environmental conditions on the Property be required after the Closing Date, it is hereby understood and agreed that such repairs, clean-up, removal or remediation shall be the responsibility of and shall be performed at the sole cost and expense of Purchaser.

10. Covenants.

In addition to all other covenants and obligations of Seller in this Agreement, Seller covenants with Purchaser as follows:

(a) Between the Effective Date and the Closing Date, Seller shall not, without Purchaser's prior written consent, create or permit by its consent encumbrances on the Property that will adversely affect the legal description of the Property, the physical character of the same or the status of title of the Property, except that Seller may at any time and from time to time, and provided that the following are discharged and released at Closing: (i) grant mortgages on the Property to secure indebtedness not to exceed in the aggregate eighty (80%) of the Purchase Price; or (ii) other encumbrances which will not materially interfere with the development of the Property for the Intended Improvements.

(b) Between the Effective Date and the Closing Date, Seller shall not file any application for any change of the present zoning classification of the Property unless Purchaser approves such change.

(c) If subsequent to Closing hereunder, any mechanics' or other liens are filed against the Property or against Purchaser or its assigns, based upon any act or omission of Seller occurring prior to Closing, and such liens are not satisfied at Closing, Seller shall

take such action (or cause such action to be taken), within ten (10) days after such filing, by bonding, deposit, payment or otherwise, as will remove, transfer, satisfy or insure over such lien of record against the Property, at Seller's sole cost and expense.

(d) Immediately following the Closing, there shall be no parties in possession of any portion of the Property, whether as lessees, tenants-at-sufferance, trespassers or otherwise.

(e) Between the expiration of the Investigation Period and the Closing Date, Seller may enter into leases, license agreements, subleases or other occupancy agreements for the Property (or consent to any tenant entering into any sublease) provided (i) the same may be terminated on not more than thirty (30) days' Notice and prior to the Closing Date, and (ii) that the use of the Property does not result in the use, release or storage of Hazardous Substances on the Property, other than ordinary household use and storage in compliance with applicable laws.

(f) Between the expiration of the Investigation Period and the Closing Date, there shall not be any material change in the environmental condition of the Property from the condition in which Purchaser accepted the Property at the expiration of the Investigation Period that shall materially increase the cost of or that shall create material delay in constructing the Intended Improvements.

(g) Prior to or at Closing, Seller shall terminate all service contracts with respect to the Property and pay and satisfy all fees, costs and expenses arising thereunder.

11. **Real Estate Commission.** Seller and Purchaser represent and warrant to each other that they have not engaged or dealt with any broker or agent with respect to the purchase and sale of the Property as contemplated by this Agreement. Each party indemnifies and holds the other harmless against any and all liability, cost, damage, and expense (including, but not limited to, attorneys' fees and costs of litigation and appeals) either shall ever suffer or incur because of any claim by any broker or agent claiming to have dealt with Purchaser or Seller, whether or not meritorious, for any commission or other compensation with respect to this Agreement or to the purchase and sale of the Property in accordance with this Agreement. This Section 11 shall survive Closing or termination of this Agreement.

12. **Condemnation.** If any proceedings, judicial, administrative or otherwise, relating to the taking, or to a proposed taking, of any portion of the Property, by eminent domain, condemnation or otherwise, are commenced prior to Closing, or if any portion of the Property is taken by eminent domain, condemnation or otherwise, prior to Closing, then Seller shall notify Purchaser promptly and if the portion of the Property taken or to be taken would materially reduce the number of residential units that Purchaser may construct as part of the Intended Improvements, or increase Purchaser's cost of constructing the Intended Improvements, Purchaser shall have the option, in its sole and

absolute discretion, of either: (i) terminating this Agreement and receiving a full refund of the Deposit, provided that all Project Contracts are terminated simultaneously; or (ii) Closing in accordance with the terms of this Agreement, provided that all Project Contracts are closed simultaneously. If the Agreement is not terminated as aforesaid, at the Closing Seller shall assign to Purchaser all of its right, title, and interest in and to any awards that have been or may be made with respect to such eminent domain proceeding or condemnation (if the award is paid prior to Closing, such amount shall be held in escrow and delivered to Purchaser at Closing). Such election must be made by Purchaser within thirty (30) business days after Purchaser's receipt of the Notice furnished by Seller. If Purchaser fails to make an election in writing, Purchaser shall be deemed to have elected alternative (ii). If this Agreement is not terminated pursuant to this Section 12, Purchaser shall have the right to contest the condemnation of the Property and/or the award resulting therefrom, and Seller shall not agree to or accept any compromise or condemnation award without obtaining Purchaser's prior written approval, which approval shall not be unreasonably withheld.

13. **Default.**

(a) Except as provided in Section 13(b) below, if Purchaser defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after Purchaser's receipt of Notice thereof from Seller or if Closing fails to occur due to a default on the part of Purchaser, then the total amount of the Deposit, less any Option Payments paid to Seller as of said date, shall be delivered to Seller as liquidated and agreed upon damages; and thereafter, Purchaser shall be relieved from all further obligations under this Agreement and Seller shall have no further claim against Purchaser for specific performance or for damages by reason of the failure of Purchaser to close this transaction.

(b) A Purchaser default pursuant to Section 5(c) or 5(f) above shall be governed by the terms of such Sections.

(c) If Seller defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after receipt of Notice thereof from Purchaser, or if Closing fails to occur due to a default on the part of Seller, then, at the option of Purchaser: (i) Purchaser may terminate this Agreement and the Deposit, including any Option Payments and Extension Payments paid to Seller as of said date, shall be returned to Purchaser; or (ii) Purchaser may maintain an action for specific performance, as its sole remedy at law or in equity. Notwithstanding the preceding sentence, if specific performance is not available as a remedy because Seller has sold the Property to a bona fide purchaser for value and without notice of this Agreement, Purchaser shall have the right to maintain an action for damages and other remedies against Seller as may be available at law, in equity or otherwise.

(d) This Section 13 shall survive termination of this Agreement.

14. **Escrow.** The Title Company is authorized to receive funds and agrees by acceptance thereof to promptly deposit and to hold same in escrow and to disburse same

subject to clearance thereof in accordance with terms and conditions of this Agreement. Failure of clearance of funds shall not excuse performance by Purchaser. If the Title Company has any doubt as to its duties or liabilities under the provisions of this Agreement, it may, in its sole discretion, continue to hold the monies that are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or it may deposit all the monies then held pursuant to this Agreement with the clerk of the local state or federal court. Upon notifying the parties of such action, all liability on the part of the Title Company shall fully terminate, except to the extent of accounting for any monies theretofore delivered out of escrow. In the event of any suit between Purchaser and Seller wherein the Title Company is made a party by virtue of acting as the escrow agent hereunder, or in the event of any suit wherein Title Company interpleads the subject matter of this escrow, the Title Company shall be entitled to recover reasonable attorneys' fees and costs incurred, such fees and costs to be charged and assessed as court costs in favor of the prevailing party. The parties agree that the Title Company shall not be liable to any party or person for misdelivery to Purchaser or Seller of monies subject to this escrow, unless such misdelivery shall be due to the Title Company's willful breach of this Agreement or gross negligence. The parties shall have the right to change the holder of the monies from the Title Company to a mutually acceptable third party other than the Title Company, in which case the Title Company shall transfer any monies that are the subject of this escrow to such third party upon receipt of Notice from the parties. The Title Company's obligations shall survive termination of this Agreement or the Closing.

15. **Entire Agreement.** This Agreement, including the "Recitals" section hereof, constitutes the entire agreement between the parties with respect to the transaction contemplated herein, and supersedes all prior understandings or agreements between the parties.

16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and permitted assigns

17. **Survival of Sections.** Except as specifically set forth herein, the terms, conditions and warranties contained herein shall not survive the Closing and the delivery of the Deed.

18. **Waiver; Modification.** The failure by Purchaser or Seller to insist upon or enforce any of their rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of Purchaser's right to insist upon strict compliance with the terms of this Agreement. Either party may waive the benefit of any provision or condition for its benefit contained in this Agreement. No oral modification of this Agreement shall be binding upon the parties and any modification must be in writing and signed by the parties.

19. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state in which the Property is located, not including the choice of law rules thereof.

20. **Headings.** The Section headings as set forth in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any Section herein.

21. **Notices.**

(a) Any notice, request, demand, instruction or other communication to be given to either party under this Agreement (collectively, the "Notices"), except where required by the terms of this Agreement to be delivered at the Closing, shall be in writing and shall be sent by telephone facsimile (provided that such Notice is confirmed by delivering an original copy of such Notice on the same day to a nationally recognized overnight courier for delivery to the addressee(s) on the next business day), by certified mail, return receipt requested, by express overnight courier or by same day delivery courier, as follows:

If to Purchaser:

Mill Creek Residential Trust LLC
15 New England Executive Park
Burlington, MA 01803
Attn: Robert D. Hewitt, Vice President of
Development

Facsimile: (781) 270-9318
Phone: (781) 685-4698
Email: RHewitt@MCRTrust.com

And

Mill Creek Residential Trust LLC
135 Route 202/206
Third Floor
Bedminster, NJ 07921
Attn: Peter J. Porraro, Senior Managing
Director
Facsimile: (908) 698-0429
Phone: (908) 234-1357
Email: PPorraro@MCRTrust.com

With a copy to: Petrina M.
Markowitz, Esq.
6110 Executive Blvd.
Suite 315
Rockville, MD 20852
Facsimile: (301) 869-1940

Phone: (202) 812-8290

(301) 869-1940

Email:

~~mailto:markowitzp@gtlaw.com~~ ~~mailto:mark~~

~~owitzp@gtlaw.com~~

Petrina@tanagerholdings.com

If to Seller:

Attn: Trung Q. Do

1375 Brush Hill Road

Milton, Mass. 02186

Facsimile: _____

Phone: (617) 970-4360

Email: trungdo9@yahoo.com

tqdo@partners.org

With a copy to:

Callahan & Associates, LLC

10 Smith Lane

Swampscott, MA 01907.

Facsimile: (781) 842-3131

Phone: (781) 258-1471

Email:

mailto:CallahanMichaelF@comcast.net

If to the Title Company:

at the address stated in Section 2 above

(b) Notices shall be deemed given: (i) when received, if delivered by telephone facsimile or same day delivery courier; (ii) on the third (3rd) day following the date that the Notice is deposited in the facilities of the U. S. Postal Service, if forwarded by certified mail; or (iii) on the day following the date that the Notice is deposited in the facilities of an overnight courier, if delivered by express overnight courier. A party may change its Notice address by Notice to the other party. Notice to Seller's or Purchaser's counsel is deemed to be Notice to Seller or Purchaser, as applicable.

22. **Time of the Essence.** Time is of the essence with respect to each provision of this Agreement that requires that an action be taken by either party within a stated time period, or upon a specified date; provided, however if the date for performance of an obligation is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next business day, or if performance shall be impossible as a result of a utilities and/or communications systems failure beyond the control of the party whose action is required, the date for performance shall be extended to the next business day that utilities and/or communications shall be available to such party.

23. **Construction.** Each party hereto acknowledges that all parties hereto participated equally in the drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one party than the other.

24. **Counterparts.** This Agreement may be executed in as many counterparts as may be required.

25. **Jury Waiver.** EACH PARTY WAIVES RIGHT TO A JURY IN ANY LITIGATION IN CONNECTION WITH THIS AGREEMENT, OR THE PROPERTY, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER HAS BEEN FREELY GIVEN AFTER CONSULTATION BY IT WITH COMPETENT COUNSEL.

26. **Attorneys' Fees.** If either party hereto shall obtain a judgment against the other party in connection with a dispute arising under or in connection with this Agreement (whether in an action or through arbitration), such party: (a) shall be entitled to recover its court (or arbitration) costs, and reasonable attorneys' fees and disbursements incurred in connection therewith and in any appeal or enforcement proceeding thereafter, in addition to all other recoverable costs; provided, however, that the aggregate amount of any such recovered costs, fees and disbursements shall not exceed One Hundred Thousand and No/100 Dollars (\$100,000.00); and (b) waives rights to recover attorneys' fees and other costs, if any, that otherwise would be available by statute or as a matter of law. This Section 26 shall survive termination of this Agreement or the Closing.

27. **Confidentiality.** Seller and Purchaser acknowledge and agree that the financial terms and provisions of this Agreement are confidential, and that they will not disclose any of such terms and conditions; except that: (a) Purchaser may, but only to the extent legally required for any Development Approvals, disclose the aggregate purchase price of the Development Tract under all of the Project Contracts (but not information on the terms of this Agreement or any other individual Project Contract or Seller or any other owner of the Development Tract without the express written approval of all such owners unless Purchaser is required by law, ordinance, rule or regulation of a governmental authority to disclose such information as part of Purchaser's applications for the Development Approvals) in connection with Purchaser's applications for the Development Approvals; (b) Purchaser may disclose the existence of this Agreement and the terms and conditions hereof to Purchaser's financial, legal and professional advisors or consultants, potential investment partners and lenders and any other parties who have a need to know such information in order to assist Purchaser with its acquisition of the Development Approvals and its development of the Property with the Intended Improvements; (c) Seller may disclose such terms and conditions to Seller's financial and legal advisors who have a need to know such information in order to assist Seller with its legal and financial matters; (d) Purchaser may disclose the financial terms and non financial terms of this agreement to Peter Hicks; (e) Purchaser may disclose the non financial terms of this agreement to the other Contract Sellers and (f) either party may make any disclosure to the extent required by applicable law, or any court or regulatory authority. Notwithstanding the foregoing, a breach of this covenant by either party shall not constitute a default of such party's obligations under this Agreement; however, the

non-breaching party shall be entitled to equitable relief in the nature of an injunction or specific performance to enforce the provisions of this Section 27 as its sole remedy for such breach. In no event shall a party have the right to rescind or terminate this Agreement as a result of a breach of the provisions of this Section 27. This Section 27 shall survive termination of this Agreement but not Closing.

28. **Interpretation.** In this Agreement, whenever the context so requires: (a) the masculine gender includes the feminine and/or neuter; (b) the neuter includes the feminine and/or masculine; (c) the singular includes the plural; and (d) the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not non-limiting language (such as "without limitation, " or "but not limited to, " or words of similar import) is used with reference hereto.

29. **Invalid Provisions.** If any term or provision of this Agreement or the application thereof to any person, circumstance or specific situation shall be invalid or unenforceable to any extent, the remainder of this Agreement or the application thereof to situations other than that as to which it is invalid or unenforceable, shall not be affected thereby and every provision of this Agreement shall be deemed valid and enforceable to the fullest extent permitted by law.

30. **Casualty.** If there is any fire or other casualty damage to any improvements located on the Property, any insurance proceeds shall be the property of Seller and Seller shall have the right to restore any portion of the improvements it chooses to restore and to retain the proceeds of insurance; provided, however, if Seller does not restore the improvements to the condition substantially in effect at the end of the Investigation Period, at the Closing, Seller either shall pay over or assign to Purchaser, without recourse, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by Seller for any partial restoration or shall give to Purchaser a credit against the Purchase Price equal to said amounts so recovered or recoverable less any amounts reasonably expended by Seller for any partial restoration. In no event shall any such casualty be a cause for termination of this Agreement.

31. **Recording of Agreement.** In the event that Purchaser records this Agreement or any notice or other evidence of this Agreement at the Norfolk County registry of Deeds, Seller, at its option, may declare Seller's obligations hereunder to be null and void and may deem Purchaser to be in default of its obligations hereunder.

32. **Disclosure Requirements.** Purchaser is responsible for notifying Seller in writing within fifteen (15) business days of all non financial changes to Development Agreements with Sellers listed in Exhibit B pertaining to the 'property' ("Seller's Development Agreements

33. **Project Contracts.** Exclusive of any economic terms, Purchaser agrees that all Project Contracts shall be on substantially the same terms and conditions as this Agreement. Upon execution of this agreement by all parties, Purchaser shall provide Seller with a copy of the agreements with all other Contract Sellers, excluding any financial terms, and shall certify that such Agreements are true and correct copies, and Seller shall have the option to adopt all of the non financial terms in such agreements into this Agreement as if set forth herein in their entirety. In the event of any subsequent change in any Project Contract, Purchaser shall notify Seller of such change and Seller shall have the option to adopt any such changes in this Agreement as if set forth herein in their entirety

34. **Force Majeure.** If either party is prevented from fulfilling any of its respective Closing obligations as set forth in this Agreement because an act of terrorism or severe weather or other uncontrollable conditions directly preclude a party either from wiring Closing funds or executing and delivering Closing documents, then the time of such performance by either party, including the time for payment of sums due hereunder, shall be extended by a time equal to the amount of such delay, provided that neither party shall be entitled to claim such delay unless it promptly notifies the other party in writing as soon as possible under the circumstances of such delay and the cause thereof and in no event shall any such delay exceed seven (7) days.

35. **ARBITRATION.** EXCEPT AS PROVIDED IN THIS SECTION 33, ANY DISPUTE BETWEEN PURCHASER AND SELLER RELATED TO THIS AGREEMENT, THE PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT WILL BE RESOLVED BY ARBITRATION GOVERNED BY THE FEDERAL ARBITRATION ACT AND, TO THE EXTENT NOT INCONSISTENT WITH THAT STATUTE, CONDUCTED IN ACCORDANCE WITH THE RULES OF PRACTICE AND PROCEDURE FOR THE ARBITRATION OF COMMERCIAL DISPUTES OF JUDICIAL ARBITRATION AND MEDIATION SERVICES, INC. ("JAMS"). THE ARBITRATION SHALL BE CONDUCTED IN BOSTON, MASSACHUSETTS, AND ADMINISTERED BY JAMS, WHICH WILL APPOINT A SINGLE ARBITRATOR. ALL ARBITRATION HEARINGS WILL BE COMMENCED WITHIN THIRTY (30) DAYS OF THE DEMAND FOR ARBITRATION UNLESS THE ARBITRATOR, FOR SHOWING OF GOOD CAUSE, EXTENDS THE COMMENCEMENT OF SUCH HEARING. THE DECISION OF THE ARBITRATOR WILL BE BINDING ON THE PARTIES, AND JUDGMENT UPON ANY ARBITRATION AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PARTIES ACKNOWLEDGE THAT, BY AGREEING TO ARBITRATE DISPUTES, EACH OF THEM IS WAIVING CERTAIN RIGHTS, INCLUDING ITS RIGHTS TO SEEK REMEDIES IN COURT (INCLUDING A RIGHT TO A TRIAL BY JURY), TO DISCOVERY PROCESSES THAT WOULD BE ATTENDANT TO A COURT PROCEEDING, AND TO PARTICIPATE IN A CLASS ACTION. NOTWITHSTANDING THE FOREGOING, NOTHING SHALL PRECLUDE PURCHASER FROM FILING A LIS PENDENS AGAINST THE PROPERTY (BUT SUCH FILING SHALL NOT GRANT PURCHASER THE RIGHT

TO PURSUE THE SUBSTANTIVE ISSUES IN LITIGATION) SO LONG AS PURCHASER COMMENCES AN ACTION FOR ARBITRATION PURSUANT TO THIS SECTION 33 WITHIN A REASONABLE TIME AFTER THE FILING OF SUCH LIS PENDENS. NOTWITHSTANDING THE FOREGOING, THE PARTIES ACKNOWLEDGE THAT THEY MAY NEED TO ENGAGE IN A COURT PROCESS IN ORDER TO RESOLVE ISSUES RELATING TO THE FILING AND SUBSEQUENT REMOVAL OF THE LIS PENDENS FROM THE LAND RECORDS.

35. Effective Date. The "Effective Date" of this Agreement shall be the date upon which the last of Purchaser and Seller executes and delivers this Agreement to the other party.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last below written.

PURCHASER:

MCR Investments, LLC
~~MILL CREEK RESIDENTIAL TRUST~~
LLC, a Delaware limited liability company

By: *Peter Ferrero*

Name: *Peter Ferrero*

Title: *Senior Managing Director*

Date: *July 27*, 2012

SELLER:

Trung Q. Do
Trung Q. Do

Date: *JUNE 28*, 2012

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last below written.

PURCHASER:

**MILL CREEK RESIDENTIAL TRUST
LLC, a Delaware limited liability company**

By: _____

Name: _____

Title: _____

Date: _____, 2012

SELLER:

Trung Q. Do

Date: Aug 28, 2012

The undersigned acknowledges and agrees to act as Title Company in accordance with the terms of this Agreement.

**COMMONWEALTH LAND TITLE
INSURANCE COMPANY**

By: 

Name: Patricia M. Carlson

Title: AVP & Commercial Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land with the buildings and other improvements thereon in said Milton, Norfolk County, Massachusetts shown as Lot A on a Plan of a Portion of Peabody Land in Milton, Mass., Scale 1 in.=80 ft., January 22, 1947, Arthur M. Southwick, Engineer, recorded with the Norfolk Registry of Deeds in Book 2665, Page 378, and bounded and described according to said Plan as follows:

NORTHEASTERLY: by Brush Hill Road, two hundred eighty-six and 50/100 (286.50) feet;

EASTERLY: by land now or formerly of Peabody, thirty-one and 83/100 (31.83) feet;

SOUTHEASTERLY: by other land now or formerly of Peabody, two hundred eleven and 00/100 (211.00) feet;

SOUTHWESTERLY: by other land now or formerly of Peabody, two hundred eighty-eight and 80/100 (288.80) feet;

NORTHWESTERLY: by land now or formerly of A. Hemenway, three hundred and 72/100 (300.72) feet;

Containing according to said Plan 1.70 acres, being all of said measurements and contents more or less.

Said premises are conveyed subject to and with the benefits of restrictions (to the extent still in force and applicable) and rights as more particularly set forth in deed of Marian L. Peabody to Cordelia M. Thayer dated February 28, 1947, recorded with said Deeds in Book 2665, Page 378, and the same are conveyed subject also to and with the benefit of the provisions of an agreement dated February 28, 1947, recorded with said Deeds in Book 2665, Page 375. Said premises also conveyed with the benefit of and subject to all other easements, restrictions, agreements and other matters of record, insofar as now in force and applicable.

For title see deed recorded in the Norfolk Registry of Deeds at Book 24956, Page 360.

EXHIBIT B
CONTRACT SELLERS

1. BARBARA PIPER- 1383 BRUSH HILL ROAD, MILTON, MA
2. ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER- 1259
BRUSH HILL ROAD, MILTON, MA
3. TRUNG Q. DO-1375 BRUSH HILL ROAD, MILTON, MA

SCHEDULE 8(A)

SUITS

NONE

SCHEDULE 8(C)

UNDERGROUND STORAGE TANKS

NONE

PURCHASE AGREEMENT
(1381-1383 BRUSH HILL ROAD, MILTON, MASSACHUSETTS)

THIS PURCHASE AGREEMENT (this "Agreement") is entered into by BARBARA A. PIPER ("Seller"), and MILL CREEK RESIDENTIAL TRUST LLC, a Delaware limited liability company, or its assigns ("Purchaser") as of July 27, 2012 (the "Effective Date").

RECITALS:

Seller is currently the owner of that certain property located in Milton, Norfolk County, Commonwealth of Massachusetts, containing approximately Four and 81/100 (4.81) acres of land more particularly described in Exhibit A attached hereto and made a part hereof (the "Property") commonly known as and numbered as 1381-1383 Brush Hill Road, Milton, Massachusetts. The parties to this Agreement have agreed to the sale and purchase of the Property on terms and conditions more particularly set forth in this Agreement.

AGREEMENT:

1. **Purchase and Sale.** Subject to all of the terms and conditions of this Agreement, Seller will sell to Purchaser and Purchaser will purchase from Seller the Property, together with all appurtenances, rights, easements, and rights of way incident thereto.

2. **Purchase Price and Deposit.**

(a) The purchase price (the "Purchase Price") for the Property shall be Three Million One Hundred Sixty Thousand and No/100 Dollars (\$3,160,000.00). The Purchase Price shall be paid by Purchaser to Seller at Closing (as defined in Section 7 below), by wire transfer of funds less the Deposit (as defined in Section 2(b) below), and as further adjusted for prorations and adjustments as set forth in this Agreement.

(b) Within five (5) business days following the Effective Date, Purchaser shall deposit with Commonwealth Land Title Insurance Company, at 265 Franklin Street, 8th Floor, Boston, Massachusetts 02110, attention Patricia Carlson, Esq.; telephone (617) 619-4813; fax (617) 619-4849 (the "Title Company") the sum of Twenty One Thousand Five Hundred Forty Five and 45/100 Dollars (\$21,545.45) (the "Initial Deposit"). Within five (5) business days after expiration of the Investigation Period (as defined in Section 3(a) below), and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Thirty Five Thousand Nine Hundred Nine and 09/100 Dollars (\$35,909.09) with the Title Company (the "Second Deposit"). Within five (5) business days after Purchaser's receipt of the Project Eligibility (Site Approval) letter (the "Site Eligibility Letter") from the Massachusetts Housing Finance Agency ("Mass Housing") acceptable to Purchaser in the exercise of its reasonable discretion, and provided Purchaser has not terminated this Agreement, Purchaser will deposit an additional Twenty Eight Thousand Seven Hundred Twenty Seven and 27/100 Dollars (\$28,727.27) with the Title Company (the "Third Deposit"). The Initial Deposit, the Second Deposit and the Third Deposit, together with all interest earned thereon and including the Option Payments (as defined in Section 2(c) below), are hereinafter sometimes collectively referred to as the "Deposit." The

Deposit shall be invested by the Title Company in an interest bearing account in an institution selected by Purchaser and acceptable to Seller and shall be held in accordance with the terms of Section 14 below. The disposition of the Deposit shall be in accordance with the terms and conditions of this Agreement. All interest on the Deposit shall be paid to the party entitled to receive the Deposit.

(c) Beginning on the Option Payment Commencement Date (as defined herein) and continuing on each monthly anniversary thereof until the earlier of: (i) the Closing; (ii) termination of this Agreement; (iii) payment to Seller of the Extension Payments (as defined in Section 7(a)(ii) below); or (iv) depletion of the Deposit (any event in clauses (i) through (iv) above, an "**Option Payment Termination Event**"), the Title Company shall withdraw from the Deposit an amount equal to the Option Payment (as hereinafter defined) and deliver the Option Payment to Seller. As used herein the term "**Option Payment**" shall mean the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00). If the Option Payment Termination Event occurs on a date other than the last day of a calendar month then the Option Payment shall be prorated for such month, and if Closing occurs, Purchaser shall receive a credit against the Purchase Price of Eighty Three and 33/100 Dollars (\$83.33) for each day that lapses between the Closing Date and the expiration of the then-current calendar month; or if this Agreement terminates, Seller shall return to Purchaser Eighty Three and 33/100 Dollars (\$83.33) for each day that lapses between the termination date and the expiration of the then-current calendar month. The "**Option Payment Commencement Date**" shall be: the seventh (7th) month anniversary of the Effective Date, if Purchaser receives the Site Eligibility Letter prior to the seventh (7th) month anniversary of the Effective Date or if Purchaser does not submit its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date; or the eighth (8th) month anniversary of the Effective Date, if Purchaser does not receive the Site Eligibility Letter prior to the seventh (7th) anniversary of the Effective Date and Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date. In no event shall the Option Payment Commencement Date be later than the eighth (8th) month anniversary of the Effective Date, and in no event shall the Option Payment Commencement Date be extended from the seventh (7th) month anniversary of the Effective Date to the eighth (8th) month anniversary of the Effective Date unless Purchaser has submitted its application for the Site Eligibility Letter to Mass Housing within one hundred fifty (150) days after the Effective Date.

(d) Notwithstanding any other provision in this Agreement, the Option Payments, once delivered to Seller, shall be non-refundable to Purchaser unless this Agreement terminates due to a Seller default, in which case the Deposit, including any Option Payments paid or owing to Seller as of said date, shall be refunded to Purchaser; or, if this Agreement proceeds to Closing, the Deposit (including interest earned on the Deposit) shall be applied as a credit to the Purchase Price, without any deduction for Option Payments.

3. Investigation Period.

(a) Commencing on the first (1st) business day following the Effective Date, Purchaser shall have ninety (90) days, subject to extension as provided herein (the "**Investigation Period**") during which to perform, or have performed, at Purchaser's sole cost and expense and option, such studies and investigations of the Property as Purchaser deems desirable, in the exercise of

its sole and absolute discretion. During the Investigation Period Purchaser may investigate: (i) whether telephone, gas, electric, potable water, sanitary sewer, septic, storm water, drainage, cable television, and other utilities are available at the lot lines of the Development Tract (as defined in Section 5(a) below) through publicly dedicated streets or easements appurtenant to the Development Tract with sufficient capacity to serve the Intended Improvements (as defined in Section 5(a) below); (ii) whether any moratorium on service by any utility serving the Development Tract has occurred or any is threatened; and (iii) whether any moratorium on development on the Development Tract has been imposed by any governmental authority or any is threatened. Notwithstanding anything herein to the contrary, Purchaser may extend the Investigation Period beyond the initial ninety (90) days for two (2) periods of thirty (30) days each by Notice (as defined in Section 21 below) to Seller prior to the expiration of the applicable period (including the initial ninety (90) day period) if Purchaser is unable to complete its studies and investigations of the Property for reasons or events outside of Purchaser's control. The Investigation Period shall terminate at the end of the initial ninety (90) day period unless Purchaser extends the Investigation Period as provided herein, in which case the Investigation Period shall terminate at the end of the applicable extension period.

(b) During the Investigation Period and continuing until Closing, Seller shall provide Purchaser and its agents with reasonable access to the Property, and all structures located thereon, upon reasonable prior Notice to Seller. Purchaser shall be permitted to access all structures as necessary for survey purposes, soil borings and test pits, provided that any damage to the Property shall be restored.

(c) Purchaser agrees to maintain in full force and effect during any period that Purchaser is making any entry onto the Property pursuant to this Agreement commercial general liability insurance insuring Purchaser and Seller against any and all claims for bodily injury and property damage occurring in or about the Property as a result of any such entry by Purchaser, which insurance: (i) shall be obtained from an insurer authorized to conduct business in the state in which the Property is located; (ii) shall have a combined single limit of not less than Two Million and No/100 Dollars (\$2,000,000.00); and (iii) shall include a contractual liability endorsement insuring Purchaser's indemnity obligations hereunder. Purchaser shall provide reasonable evidence of such insurance to Seller prior to Purchaser's initial entry onto the Property. Purchaser shall also indemnify and hold Seller harmless from any loss, cost or expense incurred by Seller as a result of the negligence, recklessness or willful misconduct of Purchaser or any of Purchaser's agents, employees or representatives who enter the Property and for any Hazardous Substance (as defined below) brought on the Property by Purchaser or any of Purchaser's agents. Until the Closing Purchaser shall have no indemnification obligation or other liability for, or in connection with, any claims arising from pre-existing conditions on or under the Property, or those arising from the presence, discovery, or disturbance of any Hazardous Substance previously existing on the Property. The foregoing indemnification shall survive Closing or termination of this Agreement. The term "**Hazardous Substance**" means asbestos, urea formaldehyde, polychlorinated biphenyls, nuclear fuel or materials, radioactive materials, explosives, known carcinogens, petroleum products and by products (including crude oil or any fraction thereof), and any pollutant, contaminant, chemical, material or substance defined as hazardous or as a pollutant or a contaminant in, or the use, manufacture, generation, storage, treatment, transportation, release or disposal of which is regulated by, any Environmental Law. The term "**Environmental Law**" means all applicable federal, state, and

municipal laws, by-laws, rules, regulations, codes and ordinances, and the requirements of any governmental agency or authority having or claiming jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of persons and property and all other environmental matters relating to Hazardous Substances or the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment applicable to the Property and relating to Hazardous Substances, or to the existence, use, discharge, release or disposal thereof.

(d) Not later than thirty days before the Closing Date, Seller and Purchaser shall meet at the Property, and Seller shall provide to Purchaser a list of appliances and lighting and plumbing fixtures that Seller desires to remove from the Property prior to Closing.

(e) Prior to the expiration of the Investigation Period, Purchaser, in its sole and absolute discretion, may elect to terminate this Agreement by notifying Seller in writing of such election to terminate not later than 6:00 p.m. on the last day of the Investigation Period. If Purchaser fails to deliver to Seller such Notice of Purchaser's election to terminate this Agreement, Purchaser shall be deemed to have waived such right to terminate this Agreement. Purchaser reserves the right to terminate this Agreement pursuant to this Section 3(e), for any reason whatsoever. Upon such termination, the Deposit shall be returned to Purchaser and the parties hereto shall be relieved of all liabilities and obligations under this Agreement, except as specifically set forth in this Agreement; provided, however, that Purchaser shall promptly restore any damage to the Property caused by Purchaser's activities on the Property during the Investigation Period. Purchaser shall deliver to Seller without any representation or warranty of any nature, copies of any studies, findings and reports (collectively, the "Studies") of the Property completed by Purchaser, at no cost to Seller; provided, however, the Studies shall include only such Studies created by or at Purchaser's direction and shall in no event include any proprietary materials of Purchaser, except to the extent such work product pertains to the Development Approvals (as defined in Section 5(b) below) or the Intended Improvements and was included as part of Purchaser's application(s) for the Development Approvals. Purchaser will use good faith efforts to obtain reliance letters from the various professionals who prepared the Studies, which letters shall permit Seller to rely on the findings of the applicable Study, but failure to obtain any such reliance letters shall not be a Purchaser default hereunder, nor shall the refund of the Initial Deposit be conditioned upon delivery to Purchaser of such reliance letters. Purchaser shall assign to Seller all of Purchaser's right, title and interest in and to the Studies and shall agree that Seller may contract with the provider of any Studies for the provision of additional services.

4. **Title, Title Insurance and Survey.**

(a) Purchaser may obtain from the Title Company a commitment (the "Commitment") for an ALTA Form B owner's title insurance policy covering the Property and all easements appurtenant thereto.

(b) In addition, Purchaser may obtain a current survey of the Property (the "Survey") prepared by a surveyor licensed by the state in which the Property is located.

(c) Prior to the expiration of the Investigation Period, Purchaser may examine the condition of title and survey matters. If, prior to the expiration of the Investigation Period, Purchaser fails either: (i) to terminate this Agreement pursuant to Section 3 above; or (ii) to provide Seller with Notice (the "Title Defect Notice") of specific defects in the title to or survey of the Property, then, for all purposes of this Agreement, Purchaser shall be deemed to have accepted title in the condition described in the Commitment and shall be deemed to have approved the Survey. Any title or survey exceptions that are not objected to prior to the expiration of the Investigation Period shall be deemed to be "Permitted Exceptions."

(d) If this Agreement is not terminated pursuant to Section 3 above, and if Purchaser timely delivers the Title Defect Notice before the end of the Investigation Period, then Seller shall have fifteen (15) business days (the "Cure Election Period") following receipt of the Title Defect Notice in which to elect in writing: (i) to remove or cure, at Seller's sole cost and expense, all noted defects to the title and/or the Survey; (ii) to not remove or cure such noted defects to the title and/or the Survey; or (iii) to notify Purchaser that such noted defects are not removable or curable (such Notice of election being referred to herein as the "Cure Notice"). If Seller fails to deliver the Cure Notice to Purchaser within the Cure Election Period, Seller shall be deemed to have elected not to cure the defects noted in the Title Defect Notice. If Seller declines to cure (or is deemed to have declined to cure) any defect noted in the Title Defect Notice, or if Seller notifies Purchaser that any such defect is not curable, Purchaser may elect, within five (5) business days after the Cure Election Period, either: (x) to accept title to the Property as it is (in which event any such title defect(s) shall be deemed a Permitted Exception hereunder), subject to the right at Closing (as hereinafter defined) to deduct from the Purchase Price funds necessary to satisfy outstanding mortgage or other voluntary monetary liens made or assumed by Seller and to pay off such obligations at the Closing; or (y) to terminate this Agreement by Notice to Seller delivered within the five (5) business day period after the Cure Election Period, in which event all parties hereto shall be released from any and all obligations and liabilities hereunder (except as specifically set forth in this Agreement) and the Deposit, if paid, less any Option Payments paid to Seller as of said date, shall be returned to Purchaser.

(e) Purchaser's obligation to purchase the Property at Closing is conditional upon Seller's delivery to Purchaser of insurable fee simple title to the Property, subject only to the Permitted Exceptions and the other matters set forth in Section 7(b)(i)(A) hereof. Purchaser may object to the status of title of the Property at Closing and refuse to close this transaction if an updated title search or an update to the Survey done prior to Closing reveals: (i) that Seller has failed to remove or cure any exception to title that Seller agreed to remove or cure pursuant to Section 4(d) above; or (ii) any matters other than the Permitted Exceptions, whereupon Purchaser may: (A) bring an action for specific performance against Seller; or (B) recover from Seller damages not exceeding an amount equal to the total of the certified costs paid to third parties by Purchaser for the Studies divided by the number of Project Contracts (as defined in Section 5(a) below).

5. Development Approvals.

(a) Purchaser has entered or will enter other purchase and sale agreements with other owners of property in the vicinity of the Property listed on Exhibit B attached hereto (collectively, the "Project Contracts") covering the property of such other owners (the Property

and such other properties are sometimes hereinafter collectively referred to as the "**Development Tract**"; such other owners are hereinafter collectively referred to as the "**Contract Sellers**") for the purpose of developing a multi-family residential community containing not less than three hundred (300) residential units (either rental or for sale), in one (1) or more multi-family residential buildings, together with related amenities, required landscaping, curb cuts and street openings (the "**Intended Improvements**") on the Development Tract.

(b) In connection with the Intended Improvements, Purchaser agrees to apply for and diligently pursue (subject to Sections 5(e) and (f) below) all necessary permits and approvals from the appropriate governmental authorities in order to permit the commencement of construction and occupancy of the Intended Improvements pursuant to a final, approved and unappealable Comprehensive Permit (the "**Comprehensive Permit**") in a manner that satisfies the conditions set forth in Section 6(a) below (hereinafter collectively referred to as the "**Development Approvals**"). The Development Approvals shall include, but not be limited to, utilities, environmental and subdivision approvals from the appropriate governmental authorities. Without limitation, Purchaser shall accomplish the following on or before the dates indicated below (the "**Approval Milestones**"):

<u>Milestone</u>	<u>Date</u>
(i) Submission of an application for the Site Eligibility Letter to Mass Housing	One hundred fifty (150) days after the Effective Date (the " Site Eligibility Letter Application Deadline ") (subject to extension in Section 5(c) below).
(ii) Filing of the application for Comprehensive Permit with the Town of Milton, Massachusetts	Ninety (90) days following Purchaser's receipt of the Site Eligibility Letter from Mass Housing acceptable to Purchaser in the exercise of its reasonable discretion (the " Comp Permit Application Deadline ") (subject to extension in Section 5(c) below).

(c) Notwithstanding anything herein to the contrary, Purchaser may extend the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline beyond the initial one hundred fifty (150) or ninety (90) day period, as applicable, for two (2) periods of thirty (30) days each by Notice to Seller prior to the expiration of the applicable period (including the initial one hundred fifty (150) or ninety (90) day period) if Purchaser is unable to comply with the Site Eligibility Letter Application Deadline and/or the Comp Permit Application Deadline for reasons or events outside of Purchaser's control. In the event that either of the Approval Milestones is not satisfied by the dates indicated in Section 5(b) above, as such dates may be extended pursuant to this Section 5(c), and provided that all other Contract Sellers shall terminate all of the other Project Contracts, Seller shall have the right, by giving not less than thirty (30) days' Notice to Purchaser, to terminate this Agreement, in which event all Studies shall be provided to Seller, at no cost to Seller, and the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. Notwithstanding the foregoing,

Seller's Notice of termination shall not be effective if within fifteen (15) days after Purchaser's receipt of such Notice, Purchaser waives, by Notice to Seller and the other Contract Sellers, the condition set forth in Section 6(a) below.

(d) Seller covenants and agrees to cooperate fully with Purchaser in order to enable Purchaser to obtain the Development Approvals in as timely a fashion as possible (including the signing and filing of any required applications by Seller and/or in Seller's name, if required, within five (5) business days after Seller's receipt of Purchaser's request that Seller take such action) at no cost to Seller.

(e) Purchaser agrees to diligently and in good faith pursue the Development Approvals. For so long as Purchaser makes submissions to appropriate governmental authorities, responds to inquiries from such authorities, and otherwise engages in diligent efforts to obtain the Development Approvals, Purchaser shall be deemed to be diligently and in good faith pursuing the Development Approvals. Purchaser is not obligated, however, to continue to pursue the Development Approvals after such time, if any, that a permit or approval required as part of the Development Approvals is denied or any applicable governmental authority ceases to process Purchaser's application for any such permit or approval on the basis of lack of jurisdiction or if any applicable governmental authority informs Purchaser that Purchaser's application will not be given acceptable treatment. Upon any such event or action, Purchaser shall be entitled to terminate this Agreement, provided that Purchaser shall simultaneously terminate all of the Project Contracts, in which event the Deposit, less any Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. In no event shall Purchaser be obligated to defend or to prosecute litigation in connection with the Development Approvals or to continue to attempt to obtain the Development Approvals until the Closing Date, as the same may be extended pursuant to Section 7 below, after such action, event or communication to Purchaser that Purchaser's application will not be given acceptable treatment. In the event of termination of the Project Contracts, Purchaser shall assign to the Contract Sellers all right, title and interest in and to Seller's interest under the Development Approvals and all other rights to construct the Intended Improvements.

(f) If Seller believes that Purchaser is not diligently pursuing the Development Approvals, Seller shall deliver to Purchaser Notice thereof (the "**Default Notice**"), which Default Notice shall include, in detail, the reasons for Seller's belief. Purchaser shall respond to the Default Notice within fifteen (15) days after Purchaser's receipt of the Default Notice (the "**Response Period**"). If Purchaser fails to respond to the Default Notice during the Response Period, Purchaser shall be deemed in default of this Agreement and, at Seller's election, this Agreement shall terminate on the tenth (10th) business day after the expiration of the Response Period and any portion of the Deposit not previously disbursed to Seller shall be disbursed to Seller. If Purchaser responds to the Default Notice during the Response Period and Seller and Purchaser are unable to agree on whether Purchaser is diligently pursuing the Development Approvals during the Response Period, either party may, within five (5) business days after the expiration of the Response Period, require that such disagreement be resolved by arbitration and immediately commence a proceeding pursuant to the provisions of Section 33 below. If neither party commences arbitration in accordance with the previous sentence, Purchaser shall be deemed to be diligently pursuing the Development Approvals. In the event of arbitration, the terms of Section 33 below shall be applicable.

6. Conditions Precedent to Closing.

(a) The following are conditions precedent that must be satisfied prior to or on the Closing Date (as defined in Section 7(a) below).

(i) Purchaser shall have received all Development Approvals which have been sought in a timely manner and diligently pursued by Purchaser and any time period for appeal of the Development Approvals shall have expired without contest (or if contested, such contest has been concluded and no further right to contest exists). Purchaser shall have the right, in the exercise of its sole and absolute discretion, to terminate this Agreement pursuant to Section 6(b) below if Purchaser reasonably determines at any time on or before the earlier of the following dates (such earlier date, the "Conditions Date"): (A) the two (2) year anniversary of the Effective Date; or (B) the Closing Date, that such condition may not be satisfied by the Closing Date. This condition shall not be satisfied if any Development Approval imposes any impact fees, offsite obligations or other obligations on Purchaser or the Property, that shall be unlawful, arbitrary or unreasonable, as Purchaser shall determine in the exercise of its sole and absolute discretion, or if a contest to or an appeal of the Site Plan or any other Development Approvals shall be filed. This condition shall be deemed waived if Purchaser is found to be or is deemed to be in default of this Agreement pursuant to Section 5(f) above.

(ii) Closings under all of the Project Contracts for the Development Tract shall occur simultaneously with Closing hereunder.

(b) If Purchaser determines at any time on or before the Conditions Date that the condition set forth in Section 6(a) above may not be satisfied by the Closing Date, then Purchaser may, in the exercise of its sole and absolute discretion, terminate this Agreement by giving Notice to Seller at any time on or before the Conditions Date, provided that like notice is given to all Contract Sellers. Upon such termination, both parties shall be released from all duties and obligations created herein (except as expressly set forth in this Agreement), and the Deposit, less the Option Payments paid or owing to Seller as of said date, shall be returned to Purchaser. The condition set forth in Section 6(a)(i) above is for Purchaser's sole benefit, and Purchaser may, in its sole discretion, waive (conditionally or absolutely) the fulfillment of the condition, or any part thereof, provided that Purchaser acts in a similar manner for all Project Contracts.

7. Closing.

(a) The Closing Date shall be determined as follows:

(i) Subject to Sections 7(a)(ii) and 7(a)(iii) below, the Closing shall occur on a date (the "Closing Date") that is within thirty (30) days after the conditions precedent set forth in Section 6(a) above have been satisfied or waived in writing by Purchaser, there are no appeals or contests pending with respect to the Development Approvals and all applicable appeal and contest periods have expired; provided, however, if an appeal or contest is filed, the Closing Date shall be the date that is thirty (30) days after a ruling or judgment favorable to Purchaser becomes final and unappealable, but in no event shall the Closing Date be: (A) earlier than 12 months after the Effective Date without the approval of Seller; or (B) later than the two (2) year

anniversary of the Effective Date (the "**Outside Closing Date**"). The Closing will be held at 12:01 P.M. at the Norfolk Registry of Deeds, or upon not less than five (5) days' Notice to Seller, at the office of Purchaser's attorney in Suffolk or Norfolk County, Massachusetts, or at such other place as the parties may mutually agree in writing. As used in this Agreement, the term "**Closing**" shall mean the time at which the Title Company: (1) is in possession of all funds, instruments and documents necessary for the Title Company to perform its obligations under Section 7(b)(iv) below; and (2) shall deliver by wire transfer all funds due to Seller. Purchaser shall be granted full possession of the Property as of the Closing.

(ii) Notwithstanding anything in Section 7(a)(i) above to the contrary, provided that Purchaser shall similarly extend the closing date under all Project Contracts, Purchaser shall have the right to extend the Closing Date or the Outside Closing Date, as applicable, for twenty four (24) periods of one (1) month each (each, an "**Extension Period**") by: (A) delivering Notice to Seller of Purchaser's election to extend the Outside Closing Date prior to the then-current Closing Date; and (B) paying to Seller an amount equal to the Extension Payment. The term "**Extension Payment**" shall mean: (1) beginning on the date that is the first (1st) day of the first (1st) Extension Period and continuing through the first (1st) day of the sixth (6th) Extension Period, the sum of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00); (2) beginning on the date that is the first (1st) day of the seventh (7th) Extension Period and continuing through the first (1st) day of the twelfth (12th) Extension Period, the sum of Three Thousand Five Hundred Ninety and 91/100 Dollars (\$3,590.91); (3) beginning on the date that is the first (1st) day of the thirteenth (13th) Extension Period and continuing through the first (1st) day of the eighteenth (18th) Extension Period, the sum of Four Thousand Three Hundred Nine and 09/100 Dollars (\$4,309.09); and (4) beginning on the date that is the first (1st) day of the nineteen (19th) Extension Period and continuing through the first (1st) day of the twenty fourth (24th) Extension Period, the sum of Five Thousand Seven Hundred Forty Five and 45/100 Dollars (\$5,745.45). Any Extension Payment shall be the sole property of Seller, and shall be in addition to the Purchase Price and shall not be a credit against the Purchase Price; provided, however, if this Agreement terminates due to a Seller default, Seller shall return to Purchaser all Extension Payments.

(iii) Notwithstanding anything in Section 7(a)(i) or 7(a)(ii) above to the contrary, provided that Purchaser shall similarly extend the closing date under all Project Contracts, if an appeal or contest is filed with respect to any Development Approval that Purchaser elects to prosecute or defend, as applicable, and such appeal or contest is not resolved within twenty four (24) months after the Outside Closing Date, Purchaser shall have the right to continue to extend the Outside Closing Date for twelve (12) periods of one (1) month each by: (A) delivering Notice to Seller of Purchaser's election to extend the Closing Date prior to the then-current Closing Date; and (B) paying to Seller an amount equal to the Appeals Extension Payment. The term "**Appeals Extension Payment**" shall mean the sum of Five Thousand Seven Hundred Forty Five and 45/100 Dollars (\$5,745.45). The Closing Date shall be the date that is thirty (30) days after a ruling or judgment favorable to Purchaser becomes final and unappealable, but in no event shall the Closing Date be later than the date on which the last one (1) month extension period expires. Any Appeals Extension Payment shall be the sole property of Seller, and shall be in addition to the Purchase Price and shall not be a credit against the Purchase Price; provided, however, if this Agreement terminates due to a Seller default, Seller shall return to Purchaser all Appeals Extension Payments.

(b) The following procedures shall govern the Closing:

(i) Seller shall deliver to Purchaser and Purchaser's attorney at least five (5) business days prior to Closing for Purchaser's review, and to the Title Company at Closing, the following documents, each duly executed by Seller and notarized where applicable, the delivery and accuracy of which shall be a condition to Purchaser's obligation to consummate the purchase and sale of the Property:

(A) A quitclaim deed in recordable form (the "**Deed**"), conveying to Purchaser title to the Property, subject to the following:

- (i) Provisions of existing building, zoning, environmental, health and subdivision control laws, rules and regulations;
- (ii) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;
- (iii) Any liens for municipal betterments assessed after the date of this Agreement;
- (iv) Any matter which an accurate survey or inspection of the Premises would reveal;
- (v) Any easement, right of way or other matter of record that does not materially interfere with the development of the Property for the Intended Improvements; and
- (vi) Permitted Exceptions.

(B) An owner's affidavit in the form reasonably required by the Title Company or to permit the Title Company to issue to Purchaser upon completion of the Closing a title policy with the standard pre-printed exceptions deleted or modified in a customary fashion for residential transactions in Massachusetts (limited to mechanics' liens, and parties in possession), subject only to real estate taxes and the Permitted Exceptions (the "**Title Policy**");

(C) A Seller's affidavit under penalty of perjury stating Seller is not a "foreign person," as defined in Section 1445 of the Internal Revenue Code of 1986 and the U.S. Treasury Regulations thereunder (FIRPTA), setting forth Seller's taxpayer identification number;

(D) If applicable, authority documentation and any other document reasonably required by the Title Company in order to confirm Seller's authority to consummate this transaction; and

(E) A certificate stating that each and every representation and warranty of Seller contained in this Agreement is true and correct as of the Closing Date as if made by Seller on the Closing Date.

(ii) The Title Company shall make the Deposit, less any Option Payments paid to Seller as of said date, available in cash at the Closing.

(iii) Purchaser shall deliver the following to the Title Company at the Closing:

(A) The balance of the Purchase Price, less the Deposit, adjusted for the prorations and other payments provided for in this Agreement;

(B) Appropriate authorizing resolutions, duly executed, authorizing Purchaser to close the subject transaction;

(C) A certificate that shall state that each and every representation and warranty of Purchaser contained in this Agreement is true and correct as of the Closing Date as if made by Purchaser on the Closing Date; and

(D) Such additional funds as may be required of Purchaser to pay Closing costs or other charges properly allocable to Purchaser.

(iv) After the Title Company has received all of the items to be deposited with it, and when confirmation from the Title Company has been received that it is in a position to issue the Title Policy required hereunder, the Title Company shall (provided such occurs by the Closing Date or the Outside Closing Date, as applicable):

(A) Record the Deed, instructing the Recorder's Office to return the recorded Deed to Purchaser;

(B) Record any other instruments executed by the parties or either of them that are contemplated by this Agreement to be placed of record;

(C) Issue to Purchaser a marked up Commitment obligating the Title Company to issue the Title Policy to Purchaser;

(D) Charge Purchaser for the closing agent's fee, if any;

(E) Charge Purchaser for the cost of issuing the Commitment and the Title Policy including, but not limited to, the premium and any abstracting, search or service charges;

(F) Charge Seller for the cost of the deed stamps affixed to the Deed;
and

(G) Deliver the Title Policy to Purchaser as soon as reasonably practicable.

(c) Any supplemental closing instructions given by either party shall also be followed by the Title Company provided they do not conflict with any instructions set forth herein or are consented to in writing by the other party.

(d) At the Closing, the real estate taxes and assessments on the Property shall be prorated between the parties on the basis of the real estate taxes and assessments paid for the most recent year that has been assessed and billed. If the actual real estate taxes and assessments

for the year of Closing are not determinable at the Closing Date, then the parties agree to re-prorate real estate taxes and assessments promptly upon issuance of the real estate tax and assessments bills for the year of Closing. Water and sewer use charges shall be apportioned, and fuel value shall be adjusted, as of the Closing Date and the net amount thereof shall be added to or deducted from, as the case may be, the amount of the Purchase Price payable hereunder. Each party shall be responsible for the payment of its respective attorneys' fees. This Section 7(d) shall survive Closing.

(e) The parties agree to cooperate with each other and to execute and deliver at Closing any agreements, certificates, affidavits and any other instruments not described in this Section 7 as may be necessary or desirable to effectuate the transactions contemplated hereby.

(f) Seller's obligations hereunder are conditional upon Purchaser completing the purchase of all of the properties comprising the Development Tract pursuant to the Project Contracts.

8. Seller's Representations and Warranties.

(a) Seller represents and warrants to Purchaser that the following statements are now, and on the Closing Date will be, true and accurate:

(i) Except as set forth on Schedule 8(a) attached hereto and made a part hereof, there are no pending suits or proceedings against Seller affecting the Property, and no such suits or proceedings have been threatened in writing to Seller.

(ii) Seller has full power and authority to execute and deliver this Agreement and all documents now or hereafter to be delivered by Seller pursuant to this Agreement and to perform all obligations arising under this Agreement.

(iii) Except as set forth on Schedule 8(c) attached hereto and made a part hereof, to the best of Seller's knowledge, there are not now any underground storage tanks located under the Property installed by Seller, and Seller has not removed, or caused to be removed, any underground storage tanks from the Property.

(iv) To Seller's actual knowledge, there are no agreements of sale, options to purchase or rights of first refusal or first offer outstanding with respect to all or any portion of the Property.

(b) The representations and warranties made in Section 8(a) above shall be deemed to have been remade by Seller as of the Closing Date, as if made on and as of such date, except for such matters, if any, arising subsequent to the date of this Agreement, that are set forth in a certificate executed by Seller and delivered to Purchaser on or before the Closing Date.

(c) The foregoing representations and warranties shall survive the Closing for one (1) month, provided that Seller's liability for breach of the foregoing representations and warranties shall not exceed One Hundred Thousand and No/100 Dollars (\$100,000.00) and Seller's liability hereunder shall be conditioned upon her breach being caused by her willful or voluntary action or inaction and due to circumstances within her reasonable physical or financial control.

9. Acceptance of Deed.

(a) The acceptance of the Deed by Purchaser, and the payment of the Purchase Price therefor, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, specifically by the terms hereof, to survive the termination of this Agreement or are to be performed after the delivery of the Deed.

(b) Except as specifically provided in this Agreement: (i) Seller has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the Property including, but not limited to, any warranties or representations as to habitability, merchantability, fitness for a particular purpose, title, zoning, tax consequences, physical or environmental condition, operating history or projections, valuation, governmental approvals, governmental regulations, the truth, accuracy or completeness of any information or any other matter or thing regarding the Property; (ii) without limiting the generality of the foregoing, Purchaser further acknowledges and agrees that any all information provided by Seller is for informational purposes only, without any representation or warranty whatsoever as to the accuracy or completeness thereof, and have not been relied upon by Purchaser; (iii) it is specifically agreed that the Property is being sold "as is, where is, with all faults"; (iv) Purchaser has the right to conduct such investigations of the Property including, but not limited to, the physical and environmental conditions thereof, as Purchaser deems necessary to satisfy itself as to the condition of the Property pursuant to Section 3 hereof, and will rely solely upon same and not upon any information provided by or on behalf of Seller; and (v) upon Closing, Purchaser shall assume the risk that adverse matters, including but not limited to adverse physical and environmental conditions that may not have been revealed by Purchaser's investigations.

(c) Purchaser hereby waives, relinquishes and releases Seller from and against any and all claims, demands, causes of action (including causes of action in tort, i.e., negligence and strict liability), losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) of any and every kind or character, known or unknown, which Purchaser might assert or allege against Seller at any time by reason of or arising out of any fire damage, physical and environmental conditions, the violation of any applicable laws and any and all other matters regarding the Property. Should any repairs, clean-up, remediation or removal of hazardous substances or other environmental conditions on the Property be required after the Closing Date, it is hereby understood and agreed that such repairs, clean-up, removal or remediation shall be the responsibility of and shall be performed at the sole cost and expense of Purchaser.

10. Covenants.

In addition to all other covenants and obligations of Seller in this Agreement, Seller covenants with Purchaser as follows:

(a) Between the Effective Date and the Closing Date, Seller shall not, without Purchaser's prior written consent, create or permit by its consent encumbrances on the Property that will adversely affect the legal description of the Property, the physical character of the same or the status of title of the Property, except that Seller may at any time and from time to time, and provided that the following are discharged and released at Closing: (i) grant mortgages on the

Property to secure indebtedness not to exceed in the aggregate eighty (80%) of the Purchase Price; or (ii) other encumbrances which will not materially interfere with the development of the Property for the Intended Improvements.

(b) Between the Effective Date and the Closing Date, Seller shall not file any application for any change of the present zoning classification of the Property unless Purchaser approves such change.

(c) If subsequent to Closing hereunder, any mechanics' or other liens are filed against the Property or against Purchaser or its assigns, based upon any act or omission of Seller occurring prior to Closing, and such liens are not satisfied at Closing, Seller shall take such action (or cause such action to be taken), within ten (10) days after such filing, by bonding, deposit, payment or otherwise, as will remove, transfer, satisfy or insure over such lien of record against the Property, at Seller's sole cost and expense.

(d) Immediately following the Closing, there shall be no parties in possession of any portion of the Property, whether as lessees, tenants-at-sufferance, trespassers or otherwise.

(e) Between the expiration of the Investigation Period and the Closing Date, Seller may enter into leases, license agreements, subleases or other occupancy agreements for the Property (or consent to any tenant entering into any sublease) provided (i) the same may be terminated on not more than thirty (30) days' Notice and prior to the Closing Date, and (ii) that the use of the Property does not result in the use, release or storage of Hazardous Substances on the Property, other than ordinary household use and storage in compliance with applicable laws.

(f) Between the expiration of the Investigation Period and the Closing Date, there shall not be any material change in the environmental condition of the Property from the condition in which Purchaser accepted the Property at the expiration of the Investigation Period that shall materially increase the cost of or that shall create material delay in constructing the Intended Improvements.

(g) Prior to or at Closing, Seller shall terminate all service contracts with respect to the Property and pay and satisfy all fees, costs and expenses arising thereunder.

11. **Real Estate Commission.** Seller and Purchaser represent and warrant to each other that they have not engaged or dealt with any broker or agent with respect to the purchase and sale of the Property as contemplated by this Agreement. Each party indemnifies and holds the other harmless against any and all liability, cost, damage, and expense (including, but not limited to, attorneys' fees and costs of litigation and appeals) either shall ever suffer or incur because of any claim by any broker or agent claiming to have dealt with Purchaser or Seller, whether or not meritorious, for any commission or other compensation with respect to this Agreement or to the purchase and sale of the Property in accordance with this Agreement. This Section 11 shall survive Closing or termination of this Agreement.

12. **Condemnation.** If any proceedings, judicial, administrative or otherwise, relating to the taking, or to a proposed taking, of any portion of the Property, by eminent domain, condemnation or otherwise, are commenced prior to Closing, or if any portion of the Property is taken by eminent domain, condemnation or otherwise, prior to Closing, then Seller shall notify

Purchaser promptly and if the portion of the Property taken or to be taken would materially reduce the number of residential units that Purchaser may construct as part of the Intended Improvements, or increase Purchaser's cost of constructing the Intended Improvements, Purchaser shall have the option, in its sole and absolute discretion, of either: (i) terminating this Agreement and receiving a full refund of the Deposit, provided that all Project Contracts are terminated simultaneously; or (ii) Closing in accordance with the terms of this Agreement, provided that all Project Contracts are closed simultaneously. If the Agreement is not terminated as aforesaid, at the Closing Seller shall assign to Purchaser all of its right, title, and interest in and to any awards that have been or may be made with respect to such eminent domain proceeding or condemnation (if the award is paid prior to Closing, such amount shall be held in escrow and delivered to Purchaser at Closing). Such election must be made by Purchaser within thirty (30) business days after Purchaser's receipt of the Notice furnished by Seller. If Purchaser fails to make an election in writing, Purchaser shall be deemed to have elected alternative (ii). If this Agreement is not terminated pursuant to this Section 12, Purchaser shall have the right to contest the condemnation of the Property and/or the award resulting therefrom, and Seller shall not agree to or accept any compromise or condemnation award without obtaining Purchaser's prior written approval, which approval shall not be unreasonably withheld.

13. **Default.**

(a) Except as provided in Section 13(b) below, if Purchaser defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after Purchaser's receipt of Notice thereof from Seller or if Closing fails to occur due to a default on the part of Purchaser, then the total amount of the Deposit, less any Option Payments paid to Seller as of said date, shall be delivered to Seller as liquidated and agreed upon damages; and thereafter, Purchaser shall be relieved from all further obligations under this Agreement and Seller shall have no further claim against Purchaser for specific performance or for damages by reason of the failure of Purchaser to close this transaction.

(b) A Purchaser default pursuant to Section 5(e) or 5(f) above shall be governed by the terms of such Sections.

(c) If Seller defaults in its obligations pursuant to this Agreement and such default continues for ten (10) business days after receipt of Notice thereof from Purchaser, or if Closing fails to occur due to a default on the part of Seller, then, at the option of Purchaser: (i) Purchaser may terminate this Agreement and the Deposit, including any Option Payments and Extension Payments paid to Seller as of said date, shall be returned to Purchaser; or (ii) Purchaser may maintain an action for specific performance, as its sole remedy at law or in equity. Notwithstanding the preceding sentence, if specific performance is not available as a remedy because Seller has sold the Property to a bona fide purchaser for value and without notice of this Agreement, Purchaser shall have the right to maintain an action for damages and other remedies against Seller as may be available at law, in equity or otherwise.

(d) This Section 13 shall survive termination of this Agreement.

14. **Escrow.** The Title Company is authorized to receive funds and agrees by acceptance thereof to promptly deposit and to hold same in escrow and to disburse same subject to clearance

thereof in accordance with terms and conditions of this Agreement. Failure of clearance of funds shall not excuse performance by Purchaser. If the Title Company has any doubt as to its duties or liabilities under the provisions of this Agreement, it may, in its sole discretion, continue to hold the monies that are the subject of this escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto, or it may deposit all the monies then held pursuant to this Agreement with the clerk of the local state or federal court. Upon notifying the parties of such action, all liability on the part of the Title Company shall fully terminate, except to the extent of accounting for any monies theretofore delivered out of escrow. In the event of any suit between Purchaser and Seller wherein the Title Company is made a party by virtue of acting as the escrow agent hereunder, or in the event of any suit wherein Title Company interpleads the subject matter of this escrow, the Title Company shall be entitled to recover reasonable attorneys' fees and costs incurred, such fees and costs to be charged and assessed as court costs in favor of the prevailing party. The parties agree that the Title Company shall not be liable to any party or person for misdelivery to Purchaser or Seller of monies subject to this escrow, unless such misdelivery shall be due to the Title Company's willful breach of this Agreement or gross negligence. The parties shall have the right to change the holder of the monies from the Title Company to a mutually acceptable third party other than the Title Company, in which case the Title Company shall transfer any monies that are the subject of this escrow to such third party upon receipt of Notice from the parties. The Title Company's obligations shall survive termination of this Agreement or the Closing.

15. **Entire Agreement.** This Agreement, including the "Recitals" section hereof, constitutes the entire agreement between the parties with respect to the transaction contemplated herein, and supersedes all prior understandings or agreements between the parties.

16. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and permitted assigns

17. **Survival of Sections.** Except as specifically set forth herein, the terms, conditions and warranties contained herein shall not survive the Closing and the delivery of the Deed.

18. **Waiver; Modification.** The failure by Purchaser or Seller to insist upon or enforce any of their rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of Purchaser's right to insist upon strict compliance with the terms of this Agreement. Either party may waive the benefit of any provision or condition for its benefit contained in this Agreement. No oral modification of this Agreement shall be binding upon the parties and any modification must be in writing and signed by the parties.

19. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state in which the Property is located, not including the choice of law rules thereof.

20. **Headings.** The Section headings as set forth in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any Section herein.

21. Notices.

(a) Any notice, request, demand, instruction or other communication to be given to either party under this Agreement (collectively, the "Notices"), except where required by the terms of this Agreement to be delivered at the Closing, shall be in writing and shall be sent by telephone facsimile (provided that such Notice is confirmed by delivering an original copy of such Notice on the same day to a nationally recognized overnight courier for delivery to the addressee(s) on the next business day), by certified mail, return receipt requested, by express overnight courier or by same day delivery courier, as follows:

If to Purchaser:

Mill Creek Residential Trust LLC
15 New England Executive Park
Burlington, MA 01803
Attn: Robert D. Hewitt, Vice President of
Development
Facsimile: (781) 270-9318
Phone: (781) 685-4698
Email: RHewitt@MCRTrust.com

And

Mill Creek Residential Trust LLC
135 Route 202/206
Third Floor
Bedminster, NJ 07921
Attn: Peter J. Porraro, Senior Managing Director
Facsimile: (908) 698-0429
Phone: (908) 234-1357
Email: PPorraro@MCRTrust.com

With a copy to:

Petrina M. Markowitz, Esq.
6110 Executive Blvd.
Suite 315
Rockville, MD 20852
Facsimile: (301) 869-1940
Phone: (202) 812-8290
(301) 869-1940
Email: Petrina@tanagerholdings.com

If to Seller:

Attn: Barbara Piper
1381-1383 Brush Hill Road
Milton, Mass. 02186
Facsimile: NONE
Phone: (781) 738-2745
Email: barbarapiper@CMAA.com
barbarapiper01@gmail.com
Callahan & Associates, LLC

With a copy to:

10 Smith Lane
Swampscott, MA 01907.
Facsimile: (781) 842-3131
Phone: (781) 258-1471
Email: CallahanMichaelF@comcast.net

Richard Levin
Levin & Levin
875 Southern Artery
Quincy, Mass. 02169
Phone: 617 471 5700
Email: r.levin@levin&levin.com

If to the Title Company: at the address stated in Section 2 above

(b) Notices shall be deemed given: (i) when received, if delivered by telephone facsimile or same day delivery courier; (ii) on the third (3rd) day following the date that the Notice is deposited in the facilities of the U. S. Postal Service, if forwarded by certified mail; or (iii) on the day following the date that the Notice is deposited in the facilities of an overnight courier, if delivered by express overnight courier. A party may change its Notice address by Notice to the other party. Notice to Seller's or Purchaser's counsel is deemed to be Notice to Seller or Purchaser, as applicable.

22. **Time of the Essence.** Time is of the essence with respect to each provision of this Agreement that requires that an action be taken by either party within a stated time period, or upon a specified date; provided, however if the date for performance of an obligation is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next business day, or if performance shall be impossible as a result of a utilities and/or communications systems failure beyond the control of the party whose action is required, the date for performance shall be extended to the next business day that utilities and/or communications shall be available to such party.

23. **Construction.** Each party hereto acknowledges that all parties hereto participated equally in the drafting of this Agreement and that, accordingly, no court construing this Agreement shall construe it more stringently against one party than the other.

24. **Counterparts.** This Agreement may be executed in as many counterparts as may be required.

25. **Jury Waiver.** EACH PARTY WAIVES RIGHT TO A JURY IN ANY LITIGATION IN CONNECTION WITH THIS AGREEMENT, OR THE PROPERTY, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER HAS BEEN FREELY GIVEN AFTER CONSULTATION BY IT WITH COMPETENT COUNSEL.

26. **Attorneys' Fees.** If either party hereto shall obtain a judgment against the other party in connection with a dispute arising under or in connection with this Agreement (whether in an

action or through arbitration), such party: (a) shall be entitled to recover its court (or arbitration) costs, and reasonable attorneys' fees and disbursements incurred in connection therewith and in any appeal or enforcement proceeding thereafter, in addition to all other recoverable costs; provided, however, that the aggregate amount of any such recovered costs, fees and disbursements shall not exceed One Hundred Thousand and No/100 Dollars (\$100,000.00); and (b) waives rights to recover attorneys' fees and other costs, if any, that otherwise would be available by statute or as a matter of law. This Section 26 shall survive termination of this Agreement or the Closing.

27. **Confidentiality.** Seller and Purchaser acknowledge and agree that the financial terms and provisions of this Agreement are confidential, and that they will not disclose any of such terms and conditions; except that: (a) Purchaser may, but only to the extent legally required for any Development Approvals, disclose the aggregate purchase price of the Development Tract under all of the Project Contracts (but not information on the terms of this Agreement or any other individual Project Contract or Seller or any other owner of the Development Tract without the express written approval of all such owners unless Purchaser is required by law, ordinance, rule or regulation of a governmental authority to disclose such information as part of Purchaser's applications for the Development Approvals) in connection with Purchaser's applications for the Development Approvals; (b) Purchaser may disclose the existence of this Agreement and the terms and conditions hereof to Purchaser's financial, legal and professional advisors or consultants, potential investment partners and lenders and any other parties who have a need to know such information in order to assist Purchaser with its acquisition of the Development Approvals and its development of the Property with the Intended Improvements; (c) Seller may disclose such terms and conditions to Seller's financial and legal advisors who have a need to know such information in order to assist Seller with its legal and financial matters; and (d) either party may make any disclosure to the extent required by applicable law, or any court or regulatory authority. Notwithstanding the foregoing, a breach of this covenant by either party shall not constitute a default of such party's obligations under this Agreement; however, the non-breaching party shall be entitled to equitable relief in the nature of an injunction or specific performance to enforce the provisions of this Section 27 as its sole remedy for such breach. In no event shall a party have the right to rescind or terminate this Agreement as a result of a breach of the provisions of this Section 27. This Section 27 shall survive termination of this Agreement but not Closing.

28. **Interpretation.** In this Agreement, whenever the context so requires: (a) the masculine gender includes the feminine and/or neuter; (b) the neuter includes the feminine and/or masculine; (c) the singular includes the plural; and (d) the use of the word "including" shall not be deemed to limit the generality of the term or clause to which it has reference, whether or not non-limiting language (such as "without limitation," or "but not limited to," or words of similar import) is used with reference hereto.

29. **Invalid Provisions.** If any term or provision of this Agreement or the application thereof to any person, circumstance or specific situation shall be invalid or unenforceable to any extent, the remainder of this Agreement or the application thereof to situations other than that as to which it is invalid or unenforceable, shall not be affected thereby and every provision of this Agreement shall be deemed valid and enforceable to the fullest extent permitted by law.

30. **Casualty.** If there is any fire or other casualty damage to any improvements located on the Property, any insurance proceeds shall be the property of Seller and Seller shall have the right to restore any portion of the improvements it chooses to restore and to retain the proceeds of insurance; provided, however, if Seller does not restore the improvements to the condition substantially in effect at the end of the Investigation Period, at the Closing, Seller either shall pay over or assign to Purchaser, without recourse, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by Seller for any partial restoration or shall give to Purchaser a credit against the Purchase Price equal to said amounts so recovered or recoverable less any amounts reasonably expended by Seller for any partial restoration. In no event shall any such casualty be a cause for termination of this Agreement.

31. **Project Contracts.** Exclusive of any economic terms, Purchaser agrees that all Project Contracts shall be on substantially the same terms and conditions as this Agreement. In the event of any material change in any Project Contract, Seller shall have the option to adopt any such changes in this Agreement as if set forth herein in their entirety

32. **Force Majeure.** If either party is prevented from fulfilling any of its respective Closing obligations as set forth in this Agreement because an act of terrorism or severe weather or other uncontrollable conditions directly preclude a party either from wiring Closing funds or executing and delivering Closing documents, then the time of such performance by either party, including the time for payment of sums due hereunder, shall be extended by a time equal to the amount of such delay, provided that neither party shall be entitled to claim such delay unless it promptly notifies the other party in writing as soon as possible under the circumstances of such delay and the cause thereof and in no event shall any such delay exceed seven (7) days.

33. **ARBITRATION.** EXCEPT AS PROVIDED IN THIS SECTION 33, ANY DISPUTE BETWEEN PURCHASER AND SELLER RELATED TO THIS AGREEMENT, THE PROPERTY OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT WILL BE RESOLVED BY ARBITRATION GOVERNED BY THE FEDERAL ARBITRATION ACT AND, TO THE EXTENT NOT INCONSISTENT WITH THAT STATUTE, CONDUCTED IN ACCORDANCE WITH THE RULES OF PRACTICE AND PROCEDURE FOR THE ARBITRATION OF COMMERCIAL DISPUTES OF JUDICIAL ARBITRATION AND MEDIATION SERVICES, INC. ("JAMS"). THE ARBITRATION SHALL BE CONDUCTED IN BOSTON, MASSACHUSETTS, AND ADMINISTERED BY JAMS, WHICH WILL APPOINT A SINGLE ARBITRATOR. ALL ARBITRATION HEARINGS WILL BE COMMENCED WITHIN THIRTY (30) DAYS OF THE DEMAND FOR ARBITRATION UNLESS THE ARBITRATOR, FOR SHOWING OF GOOD CAUSE, EXTENDS THE COMMENCEMENT OF SUCH HEARING. THE DECISION OF THE ARBITRATOR WILL BE BINDING ON THE PARTIES, AND JUDGMENT UPON ANY ARBITRATION AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PARTIES ACKNOWLEDGE THAT, BY AGREEING TO ARBITRATE DISPUTES, EACH OF THEM IS WAIVING CERTAIN RIGHTS, INCLUDING ITS RIGHTS TO SEEK REMEDIES IN COURT (INCLUDING A RIGHT TO A TRIAL BY JURY), TO DISCOVERY PROCESSES THAT WOULD BE ATTENDANT TO A COURT PROCEEDING, AND TO PARTICIPATE IN A CLASS ACTION. NOTWITHSTANDING THE FOREGOING, NOTHING SHALL PRECLUDE PURCHASER FROM FILING A LIS PENDENS AGAINST THE PROPERTY (BUT SUCH FILING SHALL NOT GRANT PURCHASER THE RIGHT TO PURSUE THE

SUBSTANTIVE ISSUES IN LITIGATION) SO LONG AS PURCHASER COMMENCES AN ACTION FOR ARBITRATION PURSUANT TO THIS SECTION 33 WITHIN A REASONABLE TIME AFTER THE FILING OF SUCH LIS PENDENS. NOTWITHSTANDING THE FOREGOING, THE PARTIES ACKNOWLEDGE THAT THEY MAY NEED TO ENGAGE IN A COURT PROCESS IN ORDER TO RESOLVE ISSUES RELATING TO THE FILING AND SUBSEQUENT REMOVAL OF THE LIS PENDENS FROM THE LAND RECORDS.

34. **Continued Occupancy.** If the Closing shall occur prior to July 15, 2014, Seller shall have the option to remain in the Property after the Closing pursuant to a Use and Occupancy Agreement on the following terms for a period of time ending on July 15, 2014. Such option shall be exercised by Seller no later than thirty (30) days prior to Closing by Notice to Purchaser. Seller shall not be required to pay any rent during the period of such occupancy but shall pay for all utilities during occupancy, and shall pay for and obtain liability insurance and insurance on its personal property. In the event Seller elects to remain in the Property and shall fail to vacate the Property on or before July 15, 2014, the holdover rate shall be Three Hundred and No/100 Dollars (\$300.00) per day.

35. **Effective Date.** The "Effective Date" of this Agreement shall be the date upon which the last of Purchaser and Seller executes and delivers this Agreement to the other party.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last below written.

PURCHASER:

MCRT INVESTMENTS LLC
~~MILL CREEK RESIDENTIAL TRUST LLC~~, a
Delaware limited liability company

By: *Peter Parrato*

Name: *Peter Parrato*

Title: *Senior Managing Director*

Date: *July 27*, 2012

SELLER:

BARBARA A. PIPER

Date: _____, 2012

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last below written.

PURCHASER:

MILL CREEK RESIDENTIAL TRUST LLC, a
Delaware limited liability company

By: _____

Name: _____

Title: _____

Date: _____, 2012

SELLER:


Barbara A. Piper

BARBARA A. PIPER

Date: APRIL 5, 2012

The undersigned acknowledges and agrees to act as Title Company in accordance with the terms of this Agreement.

**COMMONWEALTH LAND TITLE
INSURANCE COMPANY**

By: 

Name: Patricia M. Carlson

Title: AVP, Commercial Counsel

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The land with the buildings thereon situated on Brush Hill Road in Milton, Norfolk County, Massachusetts, bounded and described as follows: Beginning at the Southeasterly corner of said parcel at a stone bound in the Southwesterly line of Brush Hill Road at the center of an avenue shown on the plan hereinafter refereed to, and thence running Southwesterly along the center line of said avenue in part by Lot No. 1 on said plan and in part by Lot No. 2 on said plan six hundred-fifty-five and 5/10 (655.5) feet to a stone bound; thence Westerly along said center line curving to the right on a radius of three hundred eighty (380) feet by Lot No. 2 on said plan one hundred thirty-five and 4/10 (135.4) feet to a stone bound, thence Westerly along said center line and still by said Lot No. 2 curving to the left on a radius of four hundred eighty-six (486) feet, one hundred forty-four and 25/100 (144.25) feet to a stone bound; thence Northwesterly by Lot No. 5 on said plan two hundred forty and 8/10 (240.8) feet to a stone bound at land now or formerly of Augustus Hemenway; thence Northeasterly by said land now or formerly of Hemenway one thousand four (1004) feet to Brush Hill Road; thence Southerly by said Road three hundred twenty-six and 6/10 (326.6), feet to the point of beginning.

Being Lot No. 6 as shown on a plan of "Estate of Richard Olney, Milton & Canton, Mass." by Arthur A. Shurtleff, dated December 20, 1911 duly recorded with Norfolk Deeds at Plan Book 62, Page 2989, together with all our right, title, and interest, if any, in the fee of that part of Brush Hill road adjoining said parcel. There is, however, excepted from said premises so much thereof as was conveyed by Marian Lawrence Peabody to Cordelia M. Thayer by deed dated February 28, 1947, and recorded with Norfolk Deeds, Book 2665, Page 378.

Said premises contains four and 81/100 (4.81) acres of land, more or less.

Said parcel is subject to and with the benefit of all rights, easements and restrictions of record, if any, insofar as the same may now be in force and applicable.

For Title see that deed from TIM ROBERTS and BARBARA ROBERTS, a/k/a BARBARA A. PIPER to BARBARA A. PIPER dated March 26, 2012 and recorded with the Norfolk County Registry of Deeds.

EXHIBIT B

CONTRACT SELLERS

1. BARBARA PIPER- 1383 BRUSH HILL ROAD, MILTON, MA
2. ARNOLD D. SCHELLER, JR. AND SONIA L. SCHELLER- 1259 BRUSH HILL ROAD, MILTON, MA
3. TRUNG Q. DO-1375 BRUSH HILL ROAD, MILTON, MA

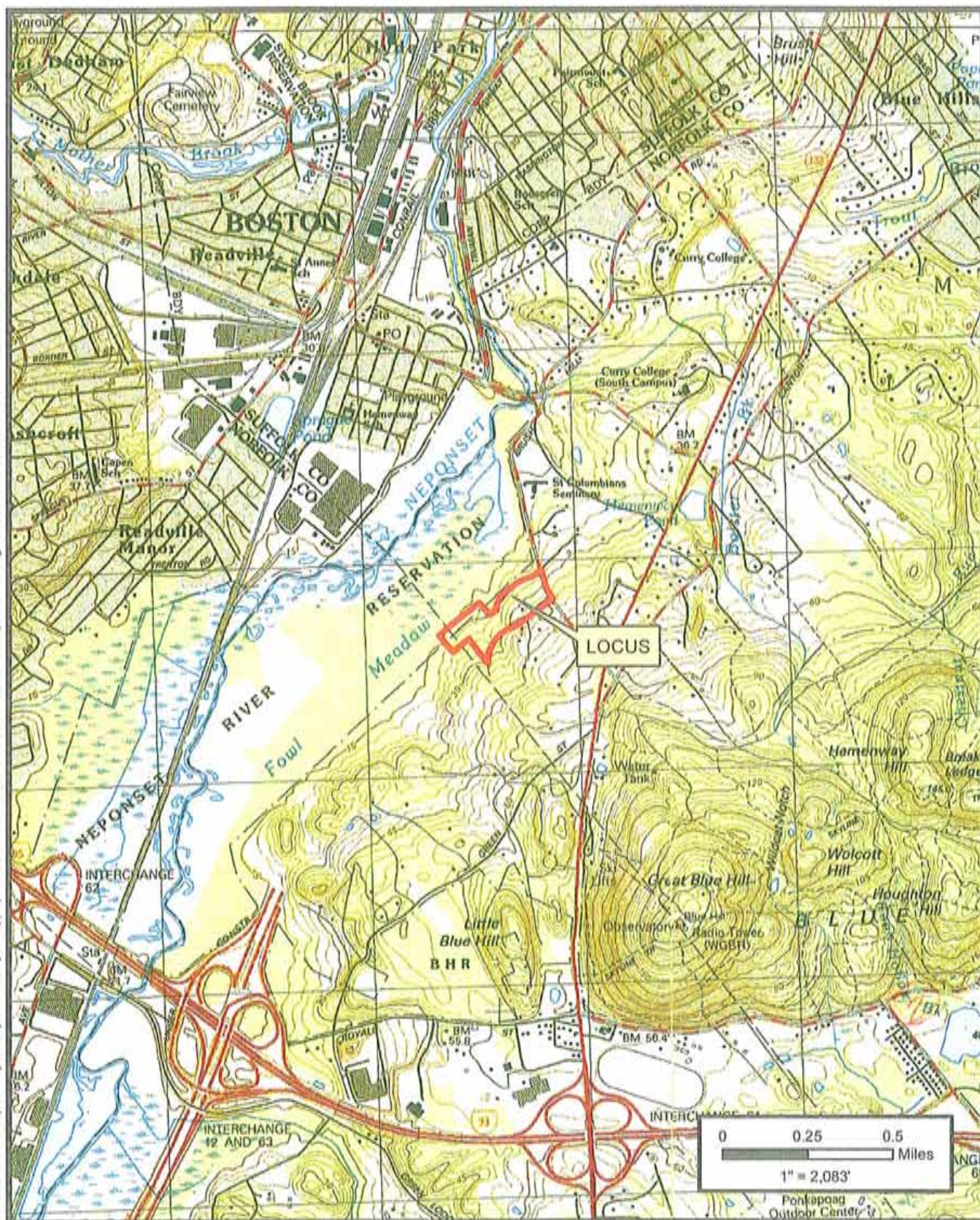
SCHEDULE 8(A)

SUITS

NONE

GIS MAP

It is the user's responsibility to verify the accuracy and appropriateness of the data contained herein. Use of this map constitutes agreement with the terms of Tetra Tech GIS Disclaimer.



TETRA TECH

One Grant Street
Framingham, MA 01701

USGS Map

1259, 1375 & 1383 Brush Hill Road
Milton, Massachusetts

2/5/13

Z

Figure

1

Source: MassGIS, USGS

APPLICATION FORMS

1. General Development Information
2. Chapter 40B Site and Final Approval Applications Required Initial Budgets
3. Chapter 40B Site Approval and Final Approval Applications Additional Required Information

General Development Information



Revised: 2/15/2006

For MassHousing Use Only:

Site Approval No.	
Project No.	
Construction Type (N, R or B):	

N-New Construction, R-Rehabilitation, B-Both

*Site and Final Approval Applications Only

Staff Member Date of Visit

Site Visit:		
Site Visit:		
Site Visit:		

Town Counsel: * #REF!

Phone: #REF!

Current Application:

Check "X" Below

Site Approval:	X
Final Approval:	
Official Action Status:	
Loan Commitment:	
OAS/Commitment:	

Application Application Application
Original Date Revised Date 2nd Revised Date

2/22/2013		

GENERAL INFORMATION

Development Name: Milton Mews

Street: 1259, 1375 & 1383 Brush Hill Road

Map: A Block: 10 Lot: 1B,2A, 2B

Cross Streets* Hemenway Drive

*If applicable.

City/Town: Milton

Zip Code: 02186 Plus 4:

Developer: Mill Creek Residential Trust, LLC

Applicant (if different): Milton Mews Venture LLC

Contact Name: Robert Hewitt

Title: Managing Director

Phone: (781) 685-4698 Fax: (781) 270-9318

E-mail: rhewitt@MCRTrust.com

Development

Description: The development will contain 276 units on over 20 acres of land off Brush Hill Road. The property will have a mix of one, two and three bedroom apartments in three 3-5 story buildings and 42 townhouse units in 9 buildings. The community will also have a clubhouse as well as a swimming pool.

Age Restricted (Y/N): N

Age Restriction ("55+" or "62+"):

General Development Information

Financing Program(s):*

ElderCHOICE or Elder 80/20:
80/20

Expanding Rental Affordability (ERA):

New England Fund (NEF):

Other (Specify):

Check "X" Below

X

NEF Bank:

Contact:

Phone:

E-mail:

Address

Address

For NEF Site Approvals:

Cambridge Savings Bank
David Ault
617-864-8700
1374 Massachusetts Ave
Cambridge, MA 02138

**Multiple programs may be selected for Site Approval Applications only. For Final Approval, Official Action Status and Loan Commitment Applications, please check "X" for only one program.*

MassHousing Subsidy Program(s):

4% Low-Income Housing Tax Credits:

Priority Development Fund (PDF):

Other (Specify):

Check "X" Below

SITE INFORMATION

Site Area:

Gross Site Area:

Buildable (Net) Site Area:*

Acres

20.22
16.16

or

or

Square Feet

**If different from Gross Site Area, complete all below that apply to indicate non-buildable area(s).*

Wetlands:

Flood Zone/Hazard Area:

Conservation Area (non-wetlands):

Other (Specify):

Acres

4.06

or

or

or

or

Square Feet

Land Use and Zoning: Check "X" for all that apply

Prior Use(s):*

-Residential
-Commercial
-Office
-Industrial
-Open Space
-Municipal
-Other (Specify)

X

Existing Use(s):*

-Residential
-Commercial
-Office
-Industrial
-Open Space
-Municipal
-Other

X

Planned Use(s):*

-Residential
-Commercial
-Office
-Industrial
-Open Space
-Municipal
-Other (Specify)

X

Current Zoning:*

-Residential
-Commercial
-Office
-Industrial
-Open Space
-Municipal
-Other

X

Min. Lot Size

1.84

(in acres)

General Development Information

*Check "X" for each that applies. For "Planned Uses," refer to adopted municipal land use plan.
Use "NA" for municipalities with no adopted land use plan.

Existing buildings on site? (Y) Yes or (N) No
Y

If "Yes," describe the plans for these buildings (re-use, demolition, etc.):

There are three homes, all of which will be demolished

	(Y) Yes or (N) No
Site or building listed, nominated or eligible for National Register of Historic Places?	N
Site or building designated as a municipal/state landmark or historic district?	N
Site considered "Prime" or "Unique" agricultural land under Executive Order 193?	N
Site contain endangered animal or plant species, or archeological resources?	Y

Surrounding Uses within 1/2 Mile:

Shopping facilities:

Schools:

Hospitals:

Parks, Recreation, Open Space:

Police Station:

Fire Station:

Public Transit:

Houses of Worship:

City/Town Hall:

Check "X" Below

X

Public Transit:

(Y) Yes or (N) No

N	Commuter Rail
	Within 1/4 Mile?
N	T Station
	Within 1/4 Mile?
N	Bus Stop
	Within 1/4 Mile?

All Non-Residential Uses, either existing or proposed, within 1/2 mile of the development site that may adversely impact the site must be detailed below. Such uses include, but are not limited to, land fills, industrial uses and known hazardous waste sites.

Potential Adverse Use(s):

-Land Fill

-Industrial Uses

-Hazardous/Superfund/CERCLA

-Other (Specify)

(E) Existing or

(P) Proposed

Existing Infrastructure

Sanitary Sewer:

Storm Sewer:

Public Water:

Gas:

Streets:

Sidewalks:

Curbs:

(Y) Yes or (N) No

Y
N
Y
Y
Y
N
N

Distance from Site

(in feet)

24.00
16.00

Size Connector

(in inches)

8.00
8.00

General Development Information

DEVELOPMENT INFORMATION

Number of Buildings: 18

Total Units: 276

Development Type(s):

Rental Residential:	<i>Gross Sq. Ft.</i>	<i>Net Sq. Ft.</i>
New Construction:	331,230	293,642
Rehabilitation:		

Ownership Residential:	<i>Gross Sq. Ft.</i>	<i>Net Sq. Ft.</i>
New Construction:		
Rehabilitation:		

Commercial and/or Garage	<i>Gross Sq. Ft.</i>	<i>Net Sq. Ft.</i>
New Construction:		
Rehabilitation:		

Construction Type(s):	<i>Gross Sq. Ft.*</i>	<i>Net Sq. Ft.*</i>
Detached:		
Townhouse:	74,970	60,300
Low-Rise (up to 35 ft.):		
Mid-Rise (up to 70 ft.):	256,260	233,342
High-Rise (over 70 ft.):		
Commercial/Garage:	<i>Listed in Development Type above.</i>	

<i>Fire Code**</i>	<i>Fuel***</i>
W	G
W	G

*Total of columns should match total for Residential and Commercial Development Type(s) above.

*Enter letters for all Fire Code Type systems that apply.

C = Concrete Frame

S = Protected Steel

O = Other

M = Masonry Bearing Wall

W = Wood Frame

**Enter letter for Fuel Type.

G = Gas E = Electric

P = Oil O = Other

Density:

Gross Density:	13.6	<i>Units Per Acre</i>
Net Density:	17.1	<i>Units Per Acre</i>
Floor Area Ratio:	0.38	<i>Total Gross Sq. Ft./Total Gross Site Area</i>
Lot Coverage:	40.14	<i>Total Impervious Surface Sq. Ft./Buildable (Net) Site Area</i>
Building Coverage:	14.47	<i>Total Building Foot Print Sq.Ft./Buildable (Net) Site Area</i>

*For single-family developments, if Gross Density exceeds eight (8) units per acre, explain how the increased density is compatible with or enhances the surrounding area.

General Development Information

Ownership Unit and Price Schedule:

Single-Family:	<div>No. of Units</div>	
Two-Family/Duplex:		
Condominium:	<div>No. of Buildings</div>	
Townhouse/Other:		

Low Income:*

	Income Level (Area Median Income):				
	0BR	1BR	2BR	3BR	4BR
No. of Units:					
No. of Bathrooms:					
Net Square Feet:					
Sales Price:					
Sales Proceeds:	\$0	\$0	\$0	\$0	\$0

Other Income**

	Income Level (Area Median Income):				
	0BR	1BR	2BR	3BR	4BR
No. of Units:					
No. of Bathrooms:					
Net Square Feet:					
Sales Price:					
Sales Proceeds:	\$0	\$0	\$0	\$0	\$0

Market Rate:

	0BR	1BR	2BR	3BR	4BR
No. of Units:					
No. of Bathrooms:					
Net Square Feet:					
Sales Price:					
Sales Proceeds:	\$0	\$0	\$0	\$0	\$0

Total Ownership Units:	0	0	0	0	0
Total Sales Proceeds:	\$0	\$0	\$0	\$0	\$0

Condominium Fee, if applicable:

Rental Unit and Rent Schedule:

Low Income:*

	Income Level (Area Median Income):				
	0BR	1BR	2BR	3BR	4BR
No. of Units:		27	36	6	
No. of Bathrooms:					
Net Square Feet:		835	1156	1512.5	
Proposed Gross Rent:		\$1,178	\$1,263	\$1,516	
Utility Allowance:		\$109	\$128	\$155	
Annual Net Income:	\$0	\$346,356	\$490,320	\$97,992	\$0

Other Income**

	Income Level (Area Median Income):				
	0BR	1BR	2BR	3BR	4BR
No. of Units:					
No. of Bathrooms:					
Net Square Feet:					
Proposed Gross Rent:					
Utility Allowance:					
Annual Net Income:	\$0	\$0	\$0	\$0	\$0

General Development Information

Market Rate:	0BR	1BR	2BR	3BR	4BR
No. of Units:		83	102	22	
No. of Bathrooms:					
Net Square Feet:		835	1156	1513	
Proposed Gross Rent:		\$2,129	\$2,507	\$3,091	
Utility Allowance:					
Annual Net Income:	\$0	\$2,120,484	\$3,068,568	\$816,024	\$0
Total Rental Units:	0	110	138	28	0
Annual Net Income:	\$0	\$2,466,840	\$3,558,888	\$914,016	\$0

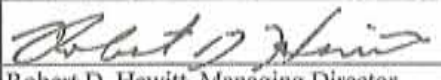
Parking Spaces:

No. of Enclosed Spaces:	92	No. Below-Grade Spaces:	0
Surface Spaces:	371	(Number of Enclosed Below-Grade)	
Other:			

No. of Spaces included in Sales Price:		
No. of Enclosed Spaces for Aff. Units:	10	
No. of Spaces for Sale Separately:		Sales Price:

DEVELOPER/APPLICANT CERTIFICATION

The undersigned hereby certifies that he/she is Managing Director of
the Applicant, Milton Mews Venture LLC
(a) all of the information provided in this application for the development known as
Milton Mews is complete and is true and correct
to the best of his/her knowledge, and (b) that a copy of this application has been
submitted to the City/Town of Milton.

Signature of Developer/Applicant Representative: 
Print Name and Title (of Developer/Applicant): Robert D. Hewitt, Managing Director
Date: 2/22/2013

For further information regarding Home Ownership Developments, contact Rich Herlihy, Development Officer,
at (617) 854-1335 or rherlihy@masshousing.com; or Sarah Hall, Loan Specialist, at (617) 854-1136 or shall@masshousing.com

For further information regarding Rental Developments, contact Douglas Lloyd, Development Officer,
at (617) 854-1372 or dlloyd@masshousing.com

For further information regarding The Affordable Housing Trust Fund, contact Lynn Shields, Manager, Affordable Housing Trust
Fund, at (617) 854-1381 or lshields@masshousing.com

**Chapter 40B Site and Final Approval Applications
Required Initial Budgets**



Revised: 2/13/2006

For MassHousing Use Only*				Const. Monitor:	
Development Name:	Milton Mews			Agmt Date:	
Municipality:	Milton			Reg. Monitor:	
Site Approval #:	0	Construction Type		Agmt Date:	
Project #:	0	0	<i>*See also "Sustainable Development Self-Assessment"</i>		

Please complete the form below *only* for Site Approval and Final Approval Applications.
(For all other applications, the information below will be provided in the One Stop Application).

INITIAL CAPITAL BUDGET - Please provide estimated total development sources and uses below.

FUNDING (SOURCES):	Lender Name	RENTAL	OWNERSHIP
		Amount	Amount
Permanent Debt:	Cambridge Savings Bank	\$46,000,000	
Public Equity/Soft Debt:			
Private Equity:*		\$16,100,576	
Additional Source:	Contributed Developer Fee	\$4,008,237	
Additional Source:			
Additional Source:			

**MassHousing reserves the right to request additional information regarding any proposed use of equity (e.g., verification of the source and availability of such funds).*

DEVELOPMENT COSTS (USES):			RENTAL	OWNERSHIP
			Amount	Amount
Site Acquisition:			\$3,000,000	
Hard Costs:				
Site Preparation:	Rental Gross	Owner, Gross	\$5,970,294	
Landscaping:	Sq. Ft. Cost	Sq. Ft. Cost	\$1,085,508	
Residential Construction:	\$113.55		\$37,612,590	
Commercial Construction:				
Subtotal Hard Costs:	% of Hard Costs		\$44,668,392	\$0
Hard Cost Contingency:	5.00%		\$2,233,420	
Total Hard Costs:			\$46,901,812	\$0

Soft Costs:	
Architecture and Engineering:	\$2,000,000
Surveys and Permits:	\$1,350,000
Clerk of the Works:	
Environmental Engineer:	
Legal:	\$1,400,000
Title and Recording:	\$125,000
Accounting and Cost Certification:	\$65,000
Marketing and Rent Up:	\$875,000
Real Estate Taxes:	\$250,000
Insurance:	\$464,570
Relocation:	
Appraisal:	
Security:	
Construction Loan Interest: <i>Show Loan Assumptions Below</i>	\$1,296,365
Inspecting Engineer:	
Financing Fees:	\$589,397
Construction Lender:	
Permanent Lender:*	
Mortgage Insurance Premium (MIP):	
Credit Enhancement Fees:	

**Chapter 40B Site and Final Approval Applications
Required Initial Budgets**

Letter of Credit Fees:			
Other Development Costs/Misc:		\$153,257	
Pre-Construction Services:		\$165,500	
Other (specify):	Lease-up/Operating Deficit	\$249,873	
Other (specify):	Warranty	\$100,000	
Subtotal Soft Costs:		\$9,083,962	\$0
	<i>% of Soft Costs</i>		
Soft Cost Contingency:	5.00%	\$454,198	
Total Soft Costs:		\$9,538,160	\$0
Capitalized Reserves:			
Lease-Up Reserves:			
Operating Reserves:		\$674,844	
Other (specify):			
Subtotal Capitalized Reserves:		\$674,844	\$0
Developer Fee/Overhead:		\$0	NA
Total Development Costs (TDC):		\$60,114,816	\$0
Total Sources:		\$66,108,813	\$0
Ownership Unit Profit:		NA	
Ownership Profit as Percent of TDC:			#DIV/0!

* See www.masshousing.com for current MassHousing Fee Schedule.

Construction Debt Assumptions:

Loan Amount:	Lender:	Cambridge Savings Bank	\$46,000,000
Annual Rate:	Basis:*	30 day LIBOR + 300bp	4.20%
Term:	*Percent spread over Prime, NEF or other rate		24 months
Amortization:			N.A.

INITIAL RENTAL PRO FORMA - Please complete the chart below for projected Year 1 operations.

Permanent Debt Assumptions:

Loan Amount:	Lender:	Cambridge Savings Bank	\$46,000,000
Annual Rate:			4.20%
Override - Type "Y" if MassHousing Loan			0.00%
Term:			5
Amortization:			30
Lender Required Debt Service Coverage Ratio:			1.20

Gross Rental Income:*

Other Income:*		\$6,939,744
Less Vacancy (Affordable Units):**	Vacancy Rate	\$99,360
Less Vacancy (Moderate Units):	5.0%	(\$46,733)
Less Vacancy (Market Units):		\$0
	5.0%	(\$300,254)

Gross Effective Income:

Less Operating Expenses:	Per Unit:	\$12,510	\$6,692,117
			(\$3,452,867)

Net Operating Income:

Less Permanent Loan Debt Service:		\$3,239,250
		(\$2,699,375)

Cash Flow:

Debt Service Coverage:		1.20
-------------------------------	--	-------------

* Please provide the additional information below

(a) Describe utility allowance assumptions (utilities to be paid by tenants)

**Chapter 40B Site and Final Approval Applications
Required Initial Budgets**

Tenants will pay gas heat and hot water, cooking, and electricity.

(b) Describe "other income (commercial sq. ft. rents, laundry charges, parking fees, etc.)

Mill Creek has found in its other developments that additional income from miscellaneous fees averages \$30 per unit per month.

***See applicable income levels listed in Sustainable Development Self-Assessment under Initial Unit and Rent Schedule.*

RENTAL OPERATING EXPENSE ASSUMPTION:

Assumed Max. Operating Expenses:*		\$3,452,867
Assumed Max. Operating Expense/Unit:**	Units: 276	\$12,510

** Calculated based on Net Operating Income, Debt Service and required Debt Service Coverage listed above.*

***MassHousing may request further detail regarding projected operating expenses if such expenses appear higher or lower than market comparables.*

For further information regarding Home Ownership Developments, contact Rich Herlihy, Development Officer, at (617) 854-1335 or rherlihy@masshousing.com; or Sarah Hall, Loan Specialist, at (617) 854-1136 or shall@masshousing.com

For further information regarding Rental Developments, contact Douglas Lloyd, Development Officer, at (617) 854-1372 or dlloyd@masshousing.com

For further information regarding The Affordable Housing Trust Fund, contact Lynn Shields, Manager, Affordable Housing Trust Fund, at (617) 854-1381 or lshields@masshousing.com

Chapter 40B Site Approval and Final Approval
Applications Additional Required Information



Revised: 3/6/2006

For MassHousing Use Only*

Development Name:	Milton Mews	Const. Monitor:	0
Municipality:	Milton	Agmt Date:	0
Site Approval #:	0	Construction Type	Reg. Monitor: 0
Project #:	0	0	Agmt Date: 0

*See also "Sustainable Development Self-Assessment"

ADDITIONAL SITE APPROVAL APPLICATION REQUIREMENTS

Please complete the form below *only* for **Site Approval** and **Final Approval** Applications.
(For all other applications, the information below will be provided in the One Stop Application).

NOTE: For developments that have received a Site Approval from MassHousing, the Applicant only needs to submit information for Final Approval for items below that have **CHANGED** since the original Site Approval Application.

(1) NEW ENGLAND FUND (NEF) LETTER OF INTEREST (Attachment No. 6):

For **Site Approval Applications** seeking approval for **NEF financing**, please attach a Letter of Interest from a current Federal Home Loan Bank (FHLB) of Boston member bank regarding financing for the proposed development (Include as **Attachment No. 6** to Site Approval Application).

The Letter of Interest must include, at a minimum, the following information and projected loan terms:

- (a) *Confirmation that the bank is a current FHLB of Boston member bank and that the bank will specifically use NEF funds for the proposed development;*
- (b) *All-in annual interest rate for the financing, or member bank spread over the FHLB of Boston's NEF Amortizing Advance or other applicable NEF rate;*
- (c) *Maximum loan term and amortization;*
- (d) *Minimum debt service coverage ratio requirement;*
- (e) *Maximum loan-to-value, and*
- (f) *Any other applicable limitation impacting loan size (maximum loan amount per development, etc.)*

NOTE: CONSTRUCTION AND PERMANENT FINANCING COMMITMENTS WILL BE AT THE TIME OF FINAL APPROVAL BY MASSHOUSING. SEE "SITE AND FINAL APPROVAL REQUIRED CHECKLIST" ON MASSHOUSING'S WEBSITE (RENTAL DEVELOPMENT SECTION) FOR FURTHER INFORMATION.

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(2) RELATED APPLICATIONS:

Pursuant to 760 CMR 31.07.(1).(h)., a local zoning board of appeals may deny or grant with conditions a Comprehensive Permit if 12 months has not elapsed since the filing, disposition or withdrawal date of a prior application for a variance, special permit, subdivision or other local approval related to construction on the subject site if that application included no low- or moderate-income housing. Please indicate below any such previous applications relating to the subject property, including the application filing date, as well as any denial, approval, settlement or withdrawal dates. Please also indicate the current applicant's role, if any, in the previous application(s).

There have been no related applications.

(3) CONTACT WITH LOCAL OFFICIAL(S): Town Counsel:

Phone:

With respect to the current Site Approval Application, please describe any local discussions/ consultations that have taken place with the relevant governing boards of the community, noting dates of these meetings and any local comments that have been made to date. At a minimum, prior to any submittal of a Site Approval Application to MassHousing, meetings must be held with the Chief Elected Official and/or the Town/City Manager, and, if applicable, the Local Housing Partnership.

(a) Chief Elected Official (Mayor, Board of Selectman Chair, etc.) or Town/City Manager

Meeting Dates:

10/1/2012

Chief Elected Official:

Title:

Address:

Telephone:

Fax:

E-Mail (if available):

Tom Hurley

Chair, Board of Selectmen

Town Office Building, 525 Canton Ave., Milton, MA 02186

617.898.4846

617.698.6741

Comments:

Acting Town Administrator Annemarie Fagan and Town Planner Bill Clark also attended this meeting.

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(b) Local Housing Partnership (if applicable):

Meeting Dates:

Comments:

N/A

(c) Planning Board:

Meeting Dates:

Comments:

We met with the Planning Board Chairman Alex Whiteside on December 1, 2012, along with other Town officials including John Kiernan, Chair of the Conservation Commission, Tom Hurley, Chair of the Board of Selectmen, Annmarie Fagan, Acting Town Administrator, and Bill Clar, Town Planner.

(d) Zoning Board of Appeals:

Meeting Dates:

Comments:

We offered to meet with the Chairman of the ZBA but our offer was declined.

(e) Other (Specify):

Meeting Dates:

Comments:

11/16/2012: Meeting with representatives of Fuller Village - Deborah Felton, Manager, Senator Brian Joyce, Board Member, and Marvin Gordan, Board Member. 11/27/2012: Meeting with Selectman Robert Sweeney. 12/2/2012: Meeting with Selectmen Denis Keohane.

(4) SITE CONTROL:

(a) Owned by Developer or Applicant (if different legal entity):

Name of Owner:

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(b) Under Purchase and Sale Agreement (List Parties - Buyer and Seller):

Buyer:	MCRT Investments LLC or its assigns		
Seller:	Arnold D. Scheller, Jr. and Sonia L. Scheller		
Expiration Date:	*	Extension Dates:	36, 1-month extensions
Purchase Price:	\$3,325,000		

*30 days after approvals if no appeal; July 27, 2014 if appeal.

Buyer:	Mill Creek Residential Trust LLC or its assigns		
Seller:	Trung Q. Do		
Expiration Date:	**	Extension Dates:	36, 1-month extensions
Purchase Price:	\$1,300,000		

**30 days after approvals if no appeal; July 27, 2014 if appeal.

Buyer:	Mill Creek Residential LLC or its assigns		
Seller:	Barbara A. Piper		
Expiration Date:	***	Extension Dates:	36, 1-month extensions
Purchase Price:	\$3,160,000		

***30 days after approvals if no appeal; July 27, 2014 if appeal.

Buyer:			
Seller:			
Expiration Date:		Extension Dates:	
Purchase Price:			

(c) Under Option (List Parties - Buyer and Seller):

Buyer:			
Seller:			
Expiration Date:		Extension Dates:	
Purchase Price:			

**(d) Is the Purchase and Sale Agreement, Option or Title currently in dispute
pending litigation, arbitration, other)? Check "X"**

Yes	
No	X

Please explain any dispute:

--

Most Recent "Arms Length" Sale: Check "X"

Yes	
No	X

Date of Sale:

Buyer:			
Seller:			

(5) DEVELOPER/APPLICANT QUALIFICATIONS (Attachment No. 7):

Developers or Applicants that have received financing from MassHousing within the past five (5) years

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

for a development of comparable size and complexity to the proposed development are NOT required to complete the following four (4) charts. Such Developers or Applicants may skip this (Section 5) section.

(a) Development Team:

Developer/Applicant:

Development Consultant:

Architect:

Contractor:

Management Agent:

Name

Milton Mews Venture LLC/Mill Creek Residential Trust

Michael Jacobs

CUBE 3 Studio LLC

MCRT Northeast Construction

TBD

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(b) Role of Applicant in Current Proposal - Please check "X" in the appropriate column below to reflect for each of the *development tasks* listed, whether the *Developer/Applicant* or *Development Consultant or Other* - please specify), has primary responsibility for the task in this **current proposal**.

Development Task:	Developer/Applicant	Development Consultant/Other (Please Specify Name Below)
-Local Permitting and Zoning:	X	All
-Arch. Design Oversight:	X	
-Construction Bid Oversight:	X	
-Financing Packaging:	X	
-Subsidy Applications:	X	
-Tenant Relations/Organizing:	X	
-Loan Closing:	X	
-Construction Oversight:	X	Architect
-Rent-Up:	X	
-Marketing:	X	
-Other (please specify):		

(c) Development Team Prior Experience - Please provide a list of prior development experience in the past five (5) *years* for each of the relevant development team members. A list must be completed for the proposed *Developer/Applicant* and the *Development Consultant (or Other)*, if any.

As each member of the development team has been part of a development team for other Chapter 40B developments within the last 5 years, consistent with past practice, we have not replicated their experience here. Attach a list for **EACH** team member (**Attachment No. 7** of the Site Approval Application) with the following information for **EACH** development identified for experience qualification purposes:

-Development Name	-Month and Year Completed
-Community/Address	-Specific Role (Use task chart above)
-Housing Type*	-Construction Lender
-Development Type**	-Permanent Lender
-Number of Units	-Other Funding Sources, if any

***Housing Type (List all that apply):** Rental, Homeownership, Family, Limited Equity Cooperative, SRO, Assisted Living, Special Needs (other than assisted living), Elderly Housing (conventional).

****Development Type (List all that apply):** New Construction, Substantial Rehabilitation, Moderate Rehabilitation, Adaptive Reuse, Acquisition, Financially Distressed, Preservation.

NOTE: Any new team member at the time of the Final Approval Application must be noted and experience must be included for that member in the Final Approval Application.

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(d) Prior Development Costs - The *Developer/Applicant* and *Development Consultant (or Other, if any)* must attach a list for EACH development cited as experience above that shows the following:

-Development Name	-Construction Loan Interest
-Acquisition - Land	-Other Development Costs
-Acquisition - Building(s)	-Developer Fee*
-Direct Construction	-Developer Overhead*
-Construction Contingency	-Total Development Cost

**Exclude any developer fee or overhead contributed or loaned to the development.*

(e) Contacts at Lending Institutions - Please also list contacts for the relevant lending institutions involved in EACH the developments listed above for the **Developer/Applicant** experience:*

-Contact Name	-Phone Number
-Contact Title	-Fax Number
-Organization/Address	-E-mail, if available

** MassHousing reserves the right to request additional contacts for lending institutions involved in developments listed for others development team members.*

(f) Criminal Activities - Have you ever been convicted of a felony or, to the best of your knowledge, has any member of your development team ever been convicted of a felony?
If yes, please explain.

(Y) Yes or (N) No

N

Please explain:

(g) Bankruptcy - Have you or any entities you control ever filed for bankruptcy?
If yes, please explain.

(Y) Yes or (N) No

N

Please explain:

**Chapter 40B Site Approval and Final Approval
Applications Additional Required Information**

(h) Project Eligibility - Have you ever applied for a project eligibility letter involving any portion of the site, or are you aware of any prior application for a project eligibility letter involving any portion of the site? If yes, please explain.

(Y) Yes or (N) No

N

Please explain:

(i) Outstanding Litigation - Is there any outstanding litigation relating to the site?
If yes, please explain.

(Y) Yes or (N) No

N

Please explain:

For further information regarding Home Ownership Developments, contact Rich Herlihy, Development Officer, at (617) 854-1335 or rherlihy@masshousing.com; or Sarah Hall, Loan Specialist, at (617) 854-1136 or shall@masshousing.com

For further information regarding Rental Developments, contact Douglas Lloyd, Development Officer, at (617) 854-1372 or dlloyd@masshousing.com

For further information regarding The Affordable Housing Trust Fund, contact Lynn Shields, Manager, Affordable Housing Trust Fund, at (617) 854-1381 or lshields@masshousing.com

DEVELOPER / APPLICANT EXPERIENCE

MILL CREEK

RESIDENTIAL TRUST LLC

CONCORD MEWS

Mill Creek Residential is under construction on 350 luxurious apartment homes in Concord, Massachusetts. Concord Mews will offer a mix of 308 three-story garden flats with six detached garages per building, and 42 two-story townhomes with direct-access garages. In addition to the Leasing Center, the 6,000 square foot Community Clubhouse will provide residents with an expansive lounge featuring billiards, shuffleboard, video gaming room, fireplace, and state-of-the-art fitness center. Residents will also enjoy an expansive outdoor gathering and entertaining area with a gas fire pit and access to a resort style pool.

Situated on approximately 30 acres overlooking the Assabet River, Concord Mews' lush landscaping will provide year-round enjoyment for residents and an inviting welcome to visitors and guests. The grounds will incorporate a number of open green spaces, bocce ball court, outdoor terraced grill areas, dog play area, and children's playgrounds. Large shade trees and evergreens will blend with the open spaces, complementing the existing woodlands to create intimate outdoor social areas.

Leasing at Concord Mews celebrated its grand opening in July 2012.



EXPERIENCE | INNOVATION



KEY FACTS

350 Class A apartment homes located in Concord, Massachusetts

Mix of Garden Flats and Two-Story Townhomes

7,000 square foot Community Clubhouse

Apartment home finishes include stone countertops and wood flooring

Unit delivery: starts winter 2011

Clubhouse Amenities include:

- Billiards and Shuffle Board
- Video Gaming Room
- Social lounge with fireplace
- State of the art fitness center

Outdoor Amenities include:

- Resort style Pool and Sun Deck
- Social Area with Fire Pit
- Bocce Court
- Bark Park
- Generously landscaped green spaces

www.MCRTrust.com

MILL CREEK

RESIDENTIAL TRUST LLC

COMPANY DESCRIPTION

June 2012

Launched in 2010, Mill Creek Residential (MCR) is a new company with a long and rich history. Established by former Trammell Crow Residential executives, who have spent decades working together as a team, we provide the perfect platform to build upon our expertise and bring innovative vision to our investments. Our team of multifamily experts offers a renowned level of experience, integrity, and reliability along with a fresh outlook and strategic new ideas for the future. Together, we have participated in the development and acquisition of over 240,000 apartment units, executed over \$12 billion in transactions since 1993, and have a proven ability to identify and optimally address market conditions.

Operating in major geographic markets across the U.S., Mill Creek Residential employs approximately 160 associates. Our executive management team represents an average of 28 years of industry experience, and our regional development and construction teams' expertise and knowledge also runs deep with numerous years of successful and notable experience.

Mill Creek Residential targets core market areas that have been historically profitable in development, construction, and acquisition endeavors and that demonstrate above-average population growth, strong employment characteristics, and consistent and sizable institutional investment demand. Our team boasts a proven strategy and platform that has historically delivered strong returns to investors.

Mill Creek Residential organizes its business geographically, allowing the executives to be the "local experts" and positioning them to take advantage of local opportunities. This local real estate expertise is coupled with key national operating procedures and standards and is supported by a Management Committee that directs the strategic day-to-day operations of the firm. The MCR Management Committee includes Charlie Brindell, CEO; Bill MacDonald, Executive Managing Director—East Region; Michael Collins, Executive Managing Director—West Region; Mike Hefley, Executive Managing Director—Operations; Mark Dempsey, Executive Managing Director—Acquisitions; Michael Melaugh, Executive Managing Director—National Capital Markets; Kevin Andrade, Senior Managing Director; Chip Bay, Senior Managing Director, and Sherry Brown, Regional CFO.

DEVELOPMENT CAPABILITIES

Our development team is one of the most experienced and successful in the multifamily industry. Our senior management team oversees a development team of 90+ experienced associates.

The West and East regions are supported by divisional Senior Managing Directors (SMD's) who report to the EMD's and oversee the day-to-day operations for their respective divisions. These individuals include:

Northeast	<i>Peter Porraro</i>
Mid-Atlantic/Carolinas	<i>Chip Bay</i>
North Florida/Southeast	<i>Alan Kolar</i>
South Florida	<i>Callum Parrott</i>
Texas & Colorado	<i>Darren Schackman</i>
West Coast	<i>Kevin Andrade</i>
East Acquisitions	<i>Wes Dickerson</i>
West Acquisitions	<i>Alex Gill</i>

CONSTRUCTION CAPABILITY

Mill Creek Residential has one of the most experienced and well-respected construction teams in the multifamily industry. Our construction executives and associates are located in every key region in which we operate and leverage from their many years of experience. They bring expertise in all types of multifamily construction and rehabilitation—including garden product and high-density residential and mixed-use communities—and have a deep knowledge of current construction economics. We support our construction teams via an array of services throughout the development process; and they are an invaluable resource during due diligence, concept analysis, pre-construction, and project design.

The promotion of teamwork, communication, attention to detail, and the highest level of quality construction are a focus for each of our construction executives. Our quality control systems include strict guidelines for budget management, cost control, safety, and communication. We recognize, embrace, and apply the best management practices and standards of care necessary to protect and preserve the environments around us and strive to incorporate green building practices wherever possible. Together, we have executed the construction of more than 228,000 apartments nationwide.

ACQUISITIONS CAPABILITY

Mill Creek Residential is pursuing multifamily acquisitions in targeted markets across the United States. Our competitive advantage exists from a broad and deep reach into primary markets across the country supported by a seasoned team of acquisitions, development, construction, finance, and asset management associates in 16 offices. We possess demonstrated investment expertise in the acquisition of existing assets that have opportunity to improve through physical upgrades or operational improvements, transforming them into exceptional leading-edge properties. We target core markets that have been historically profitable in development, construction, and acquisition endeavors and demonstrate above-average population growth, strong employment characteristics, and consistent and sizeable institutional investment demand.

For additional information on Mill Creek Residential, please visit us at www.MCRTrust.com

MILL CREEK

RESIDENTIAL TRUST LLC

FACT SHEET

June 2012

Name:	Mill Creek Residential Trust LLC
Corporate Office Address:	2001 Bryan Street, Suite 3275 Dallas, TX 75201
Phone:	214.922.8500
Fax:	214.922.8510
Year Formed:	2010
Ownership:	Privately held limited liability corporation
Number of Associates:	Approximately 160
Senior Management:	Charles R. Brindell, Jr.— <i>Chairman and CEO</i> Michael A. Collins— <i>Executive Managing Director, West Region</i> William C. MacDonald— <i>Executive Managing Director, East Region</i> Mark R. Dempsey— <i>Executive Managing Director, Acquisitions</i> Michael M. Hefley— <i>Executive Managing Director, Operations</i> Michael G. Melaugh— <i>Executive Managing Director, Capital Markets</i> Rachel R. Purcell— <i>Chief Financial Officer</i>
Company Focus:	Land entitlement, development, construction, acquisition, and sale of multifamily communities in major U.S. markets
History:	<u>2011 Highlights</u> <ul style="list-style-type: none">• Started construction on over 3,000 multifamily units• Focused on new apartment development and acquisition of existing apartment communities <u>2012 Outlook</u> <ul style="list-style-type: none">• Expect to start construction on more than 6,000 additional multifamily rental units• Focus on value added acquisitions of existing apartment communities

For additional information on Mill Creek Residential, please visit us at www.MCRTrust.com

ALEXAN CITYVIEW



Location: Bayonne, NJ
Size: 7.42 acres
Number of Units: 544 units
Product Type: Rentals
Construction Type: Mid-rise
Completion Date: July 2010
Equity Partner: AIG
Construction Lender: Wachovia



Transit-oriented , LEED-certified development close to the New Jersey Light Rail. Awarded redevelopment of former Military Naval Base by RFP on Peninsula at Bayonne Harbor. 544 market-rate units in 2 four-story buildings around a free-standing precast parking structure.

ALEXAN CITYVIEW



ALEXAN CITYVIEW



ALEXAN CITYVIEW



ALEXAN CITYVIEW



ALEXAN CITYVIEW



ALEXAN CITYVIEW



ALEXAN RIVERDALE

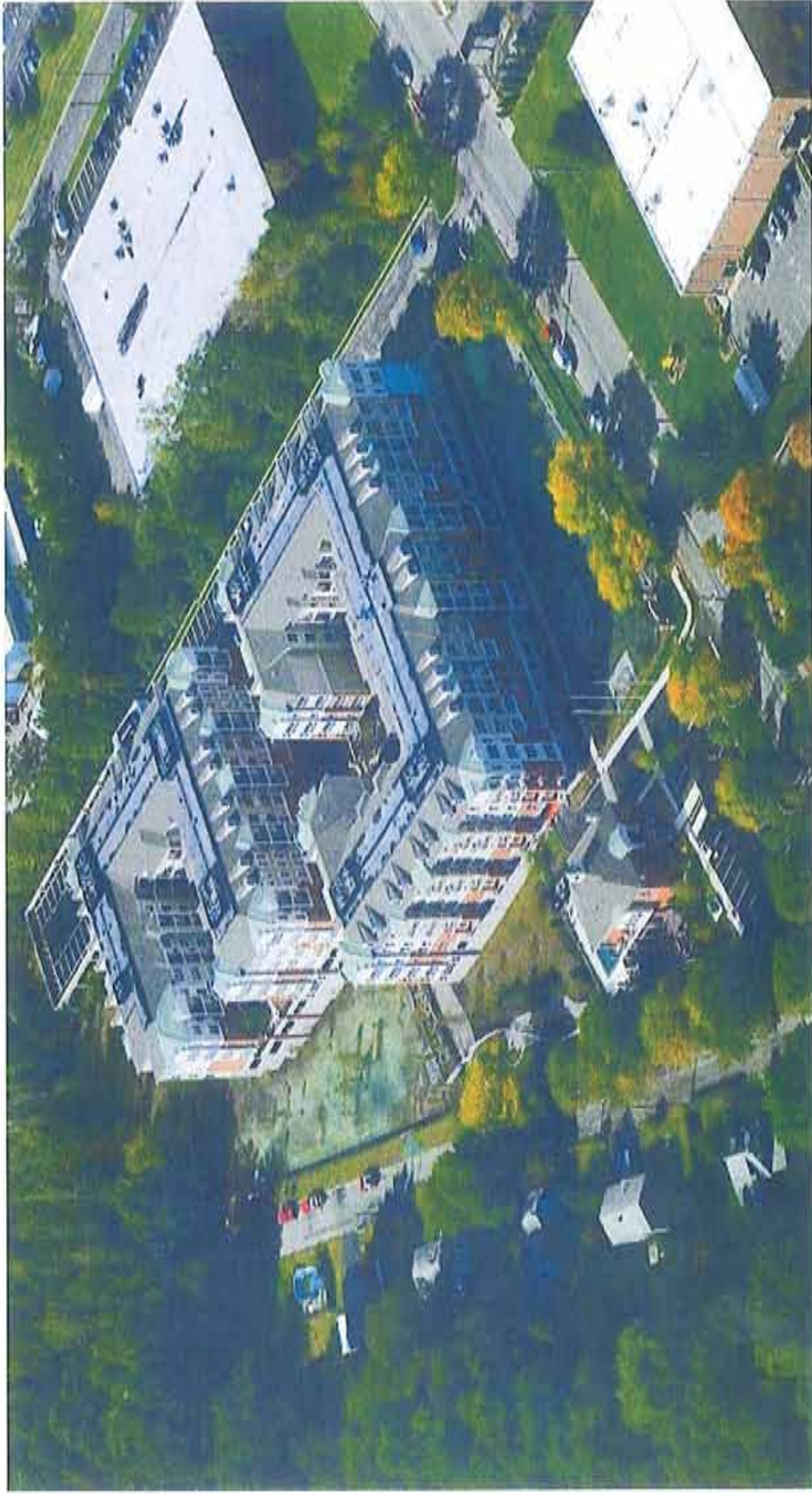


Location: Riverdale, NJ
Size: 15 acres
Number of Units: 212 Units
Product Type: Rentals
Construction Type: Mid-rise
Completion Date: October 2010
Equity Partner: Prudential
Construction Lender: B of A

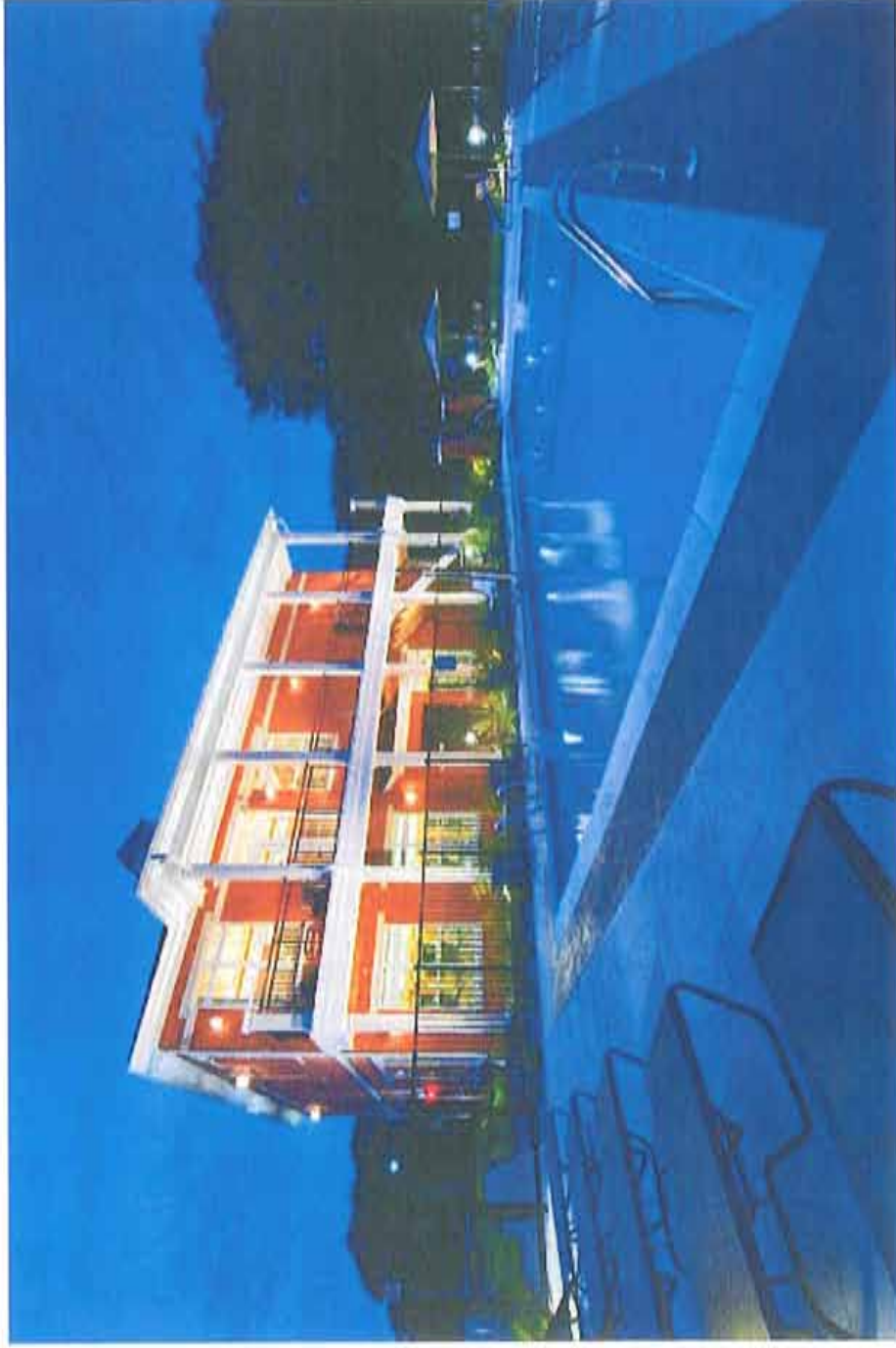


212-unit market rate, Energy-Star luxury apartment community conveniently located off of NJ Routes 287, 202 and 23; close to major employment centers and bus and rail transportation to New York City.

ALEXAN RIVERDALE



ALEXAN RIVERDALE



ALEXAN RIVERDALE



ALEXAN RIVERDALE



ALEXAN RIVERDALE



CONCORD MEWS

Location: Concord, MA
Size: 30.4 acres
Number of Units: 350 Units
Product Type: Rentals
Construction Type: Walk-up and Townhomes
Start Date: March 2011
Equity Partner: Cross Harbor
Construction Lender: TD Bank & First Niagara



308 garden-style three-story flats with a mix of one-car garages and surface parking, and 42 townhomes with attached one- and two-car garages. Superior in-fill site in Boston's desirable Metrowest suburban submarket. Close to Route 2, I-95/Route 128, I-495, and commuter trains to downtown Boston, as well as close proximity to major employment corridors.

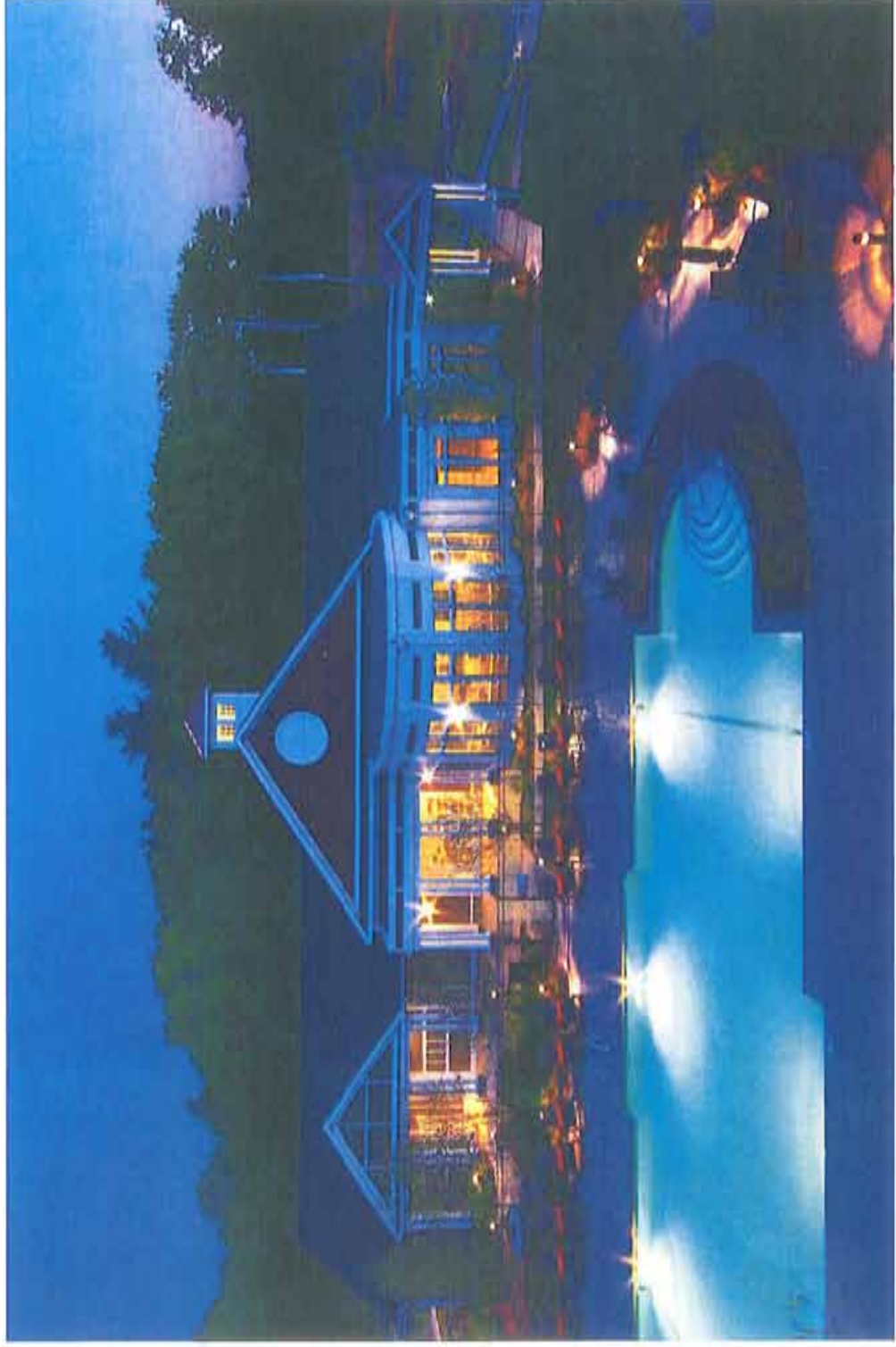
CONCORD MEWS

Concord, MA



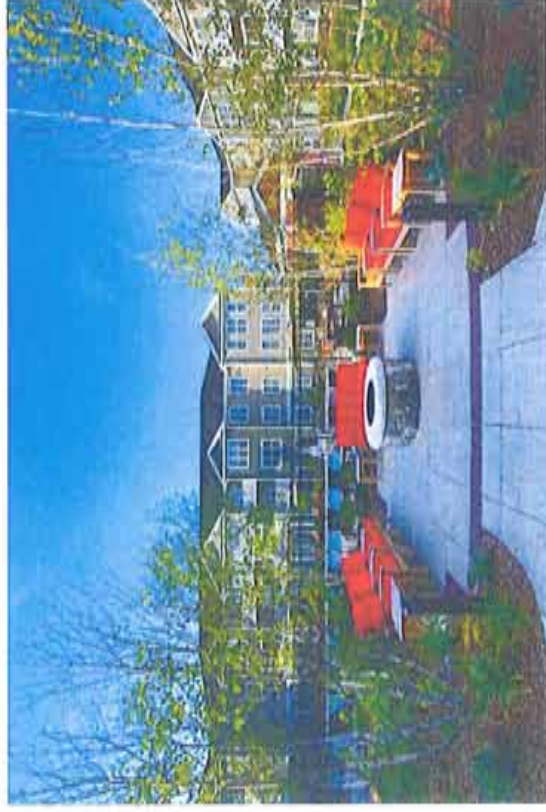
CONCORD MEWS

Concord, MA



CONCORD MEWS

Concord, MA



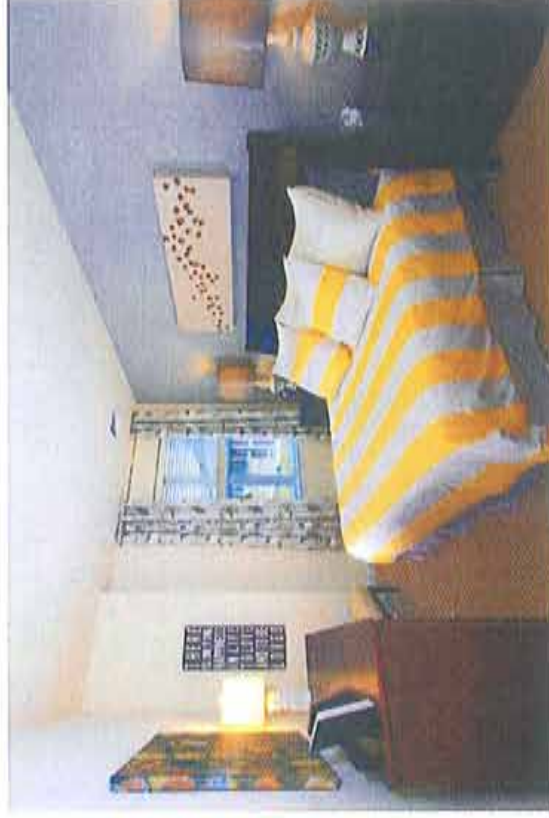
CONCORD MEWS

Concord, MA



CONCORD MEWS

Concord, MA



ALEXAN CARLYLE



Location: Alexandria, VA
Size: 1.6 acres
Units: 280 units
Product Type: Rentals
Construction Type: Mid-rise
Completion Date: July 2010
Equity Partner: Olayan
Construction Lender: PNC

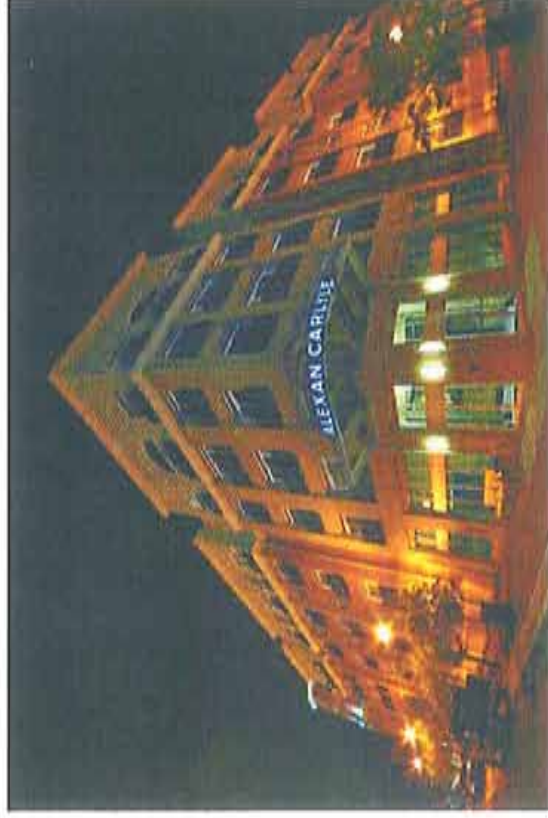


280 Energy-Star rated apartments close to the Metro and major roadways . The community has partnered with the City of Alexandria to create a transportation management plan to encourage the use of public transportation, including discounted fares and free Zipcar membership for residents.

ALEXAN CARLYLE



ALEXAN CARLYLE



ALEXAN CARLYLE



ALEXAN CARLYLE



WEST HEMPSTEAD STATION

Location: W. Hempstead, NY

Size: 3 acres

Units: 150 Units

Product Type: Rentals

Construction Type: Mid-rise

Start Date: Feb. 2011

Equity Partner: JP Morgan

Construction Lender: TD Bank



150-unit transit-oriented development in one 4-story building over 2 levels of structured parking directly adjacent to the West Hempstead LIRR Train Station. Redevelopment of an under-utilized site that formerly housed a blighted, hourly motel. The in-fill site is easily accessible to the Southern State Parkway and local employment and retail centers. West Hempstead Station is designed to achieve LEED Silver Certification.

WEST HEMPSTEAD STATION

(Under Construction)



METRO 303

Location: Hempstead, NY

Size: 1.8 acres

Number of Units: 166 Units

Product Type: Rentals

Construction Type: Mid-rise

Start Date: April 2011

Equity Partner: AEW

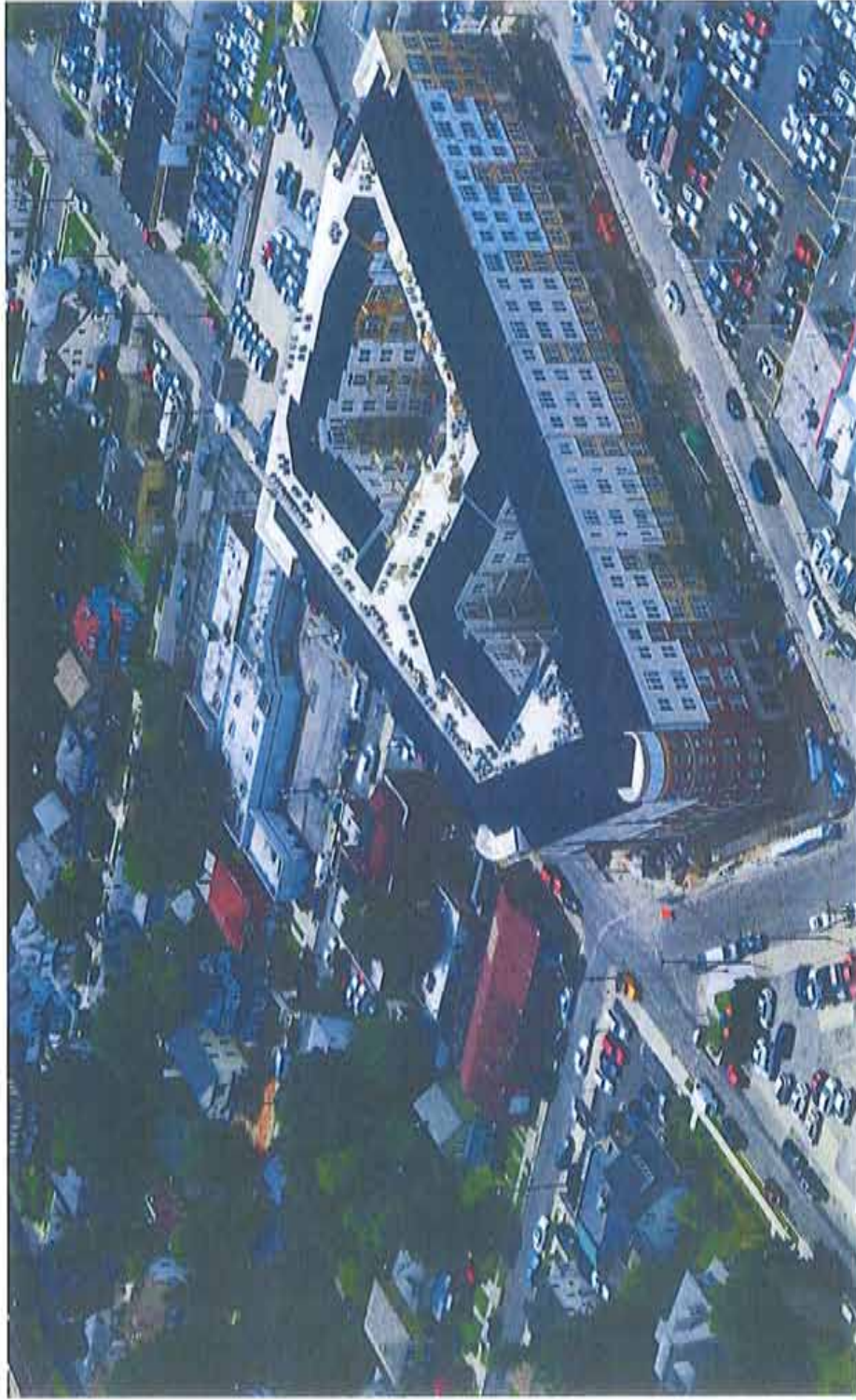
Construction Lender: Sovereign



166 - unit luxury apartment community located on the north end of Hempstead, abutting Garden City. The transit-oriented, in-fill site is conveniently located within walking distance to both the Hempstead and Country Life Press LIRR stations, as well as both Hempstead and Garden City downtown shopping districts. Metro 303 is designed to achieve LEED Silver Certification and is expected to spearhead Hempstead's Main Street Revitalization.

METRO 303

(Under Construction)



NOMA WEST

Location: Washington, DC

Size: 4.3 acres

Number of Units: 603 Units

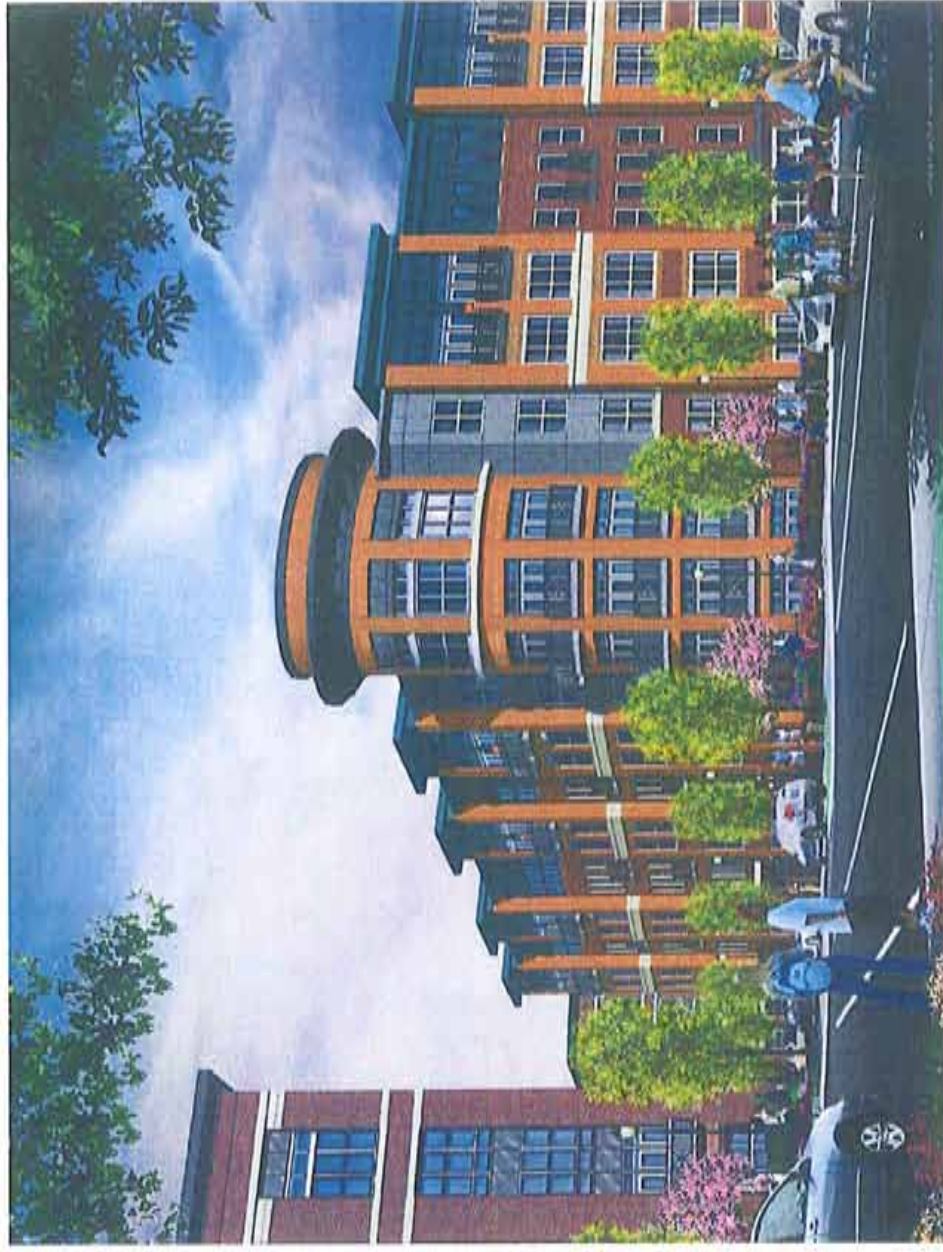
Product Type: Rentals

Construction Type: Mid-rise

Start Date: March 2011

Equity Partner: Berkshire

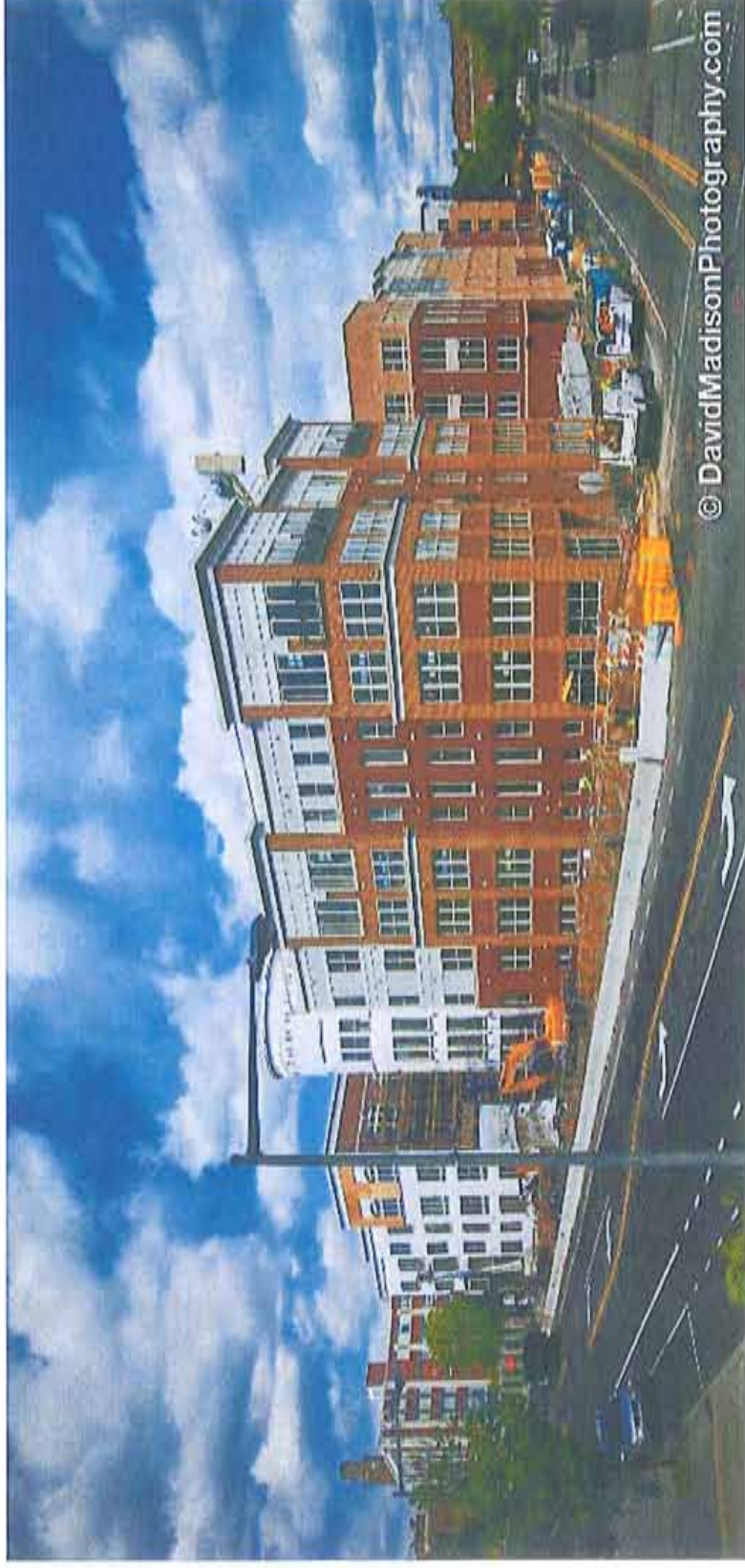
Construction Lender: PNC



603-unit luxury apartment community located within 10 blocks of the US Capitol Building, one block from the New York Avenue Metro Station and six blocks from Union Station, the inter-modal transportation hub of Washington DC. Quick access to highways and the Capital Beltway, as well as several suburban employment centers in Crystal City, Rosslyn & Tyson's Corner, VA.

NoMa West

(Under Construction)



© DavidMadisonPhotography.com

DUNN LORING METRO



Location:	Dunn Loring, VA
Size:	5 acres
Number of Units:	628 Units
Product Type:	Mixed-use - Rentals & Retail
Construction Type:	Mid-rise
Start Date:	May 2011
Equity Partner:	JP Morgan
Construction Lender:	TBD

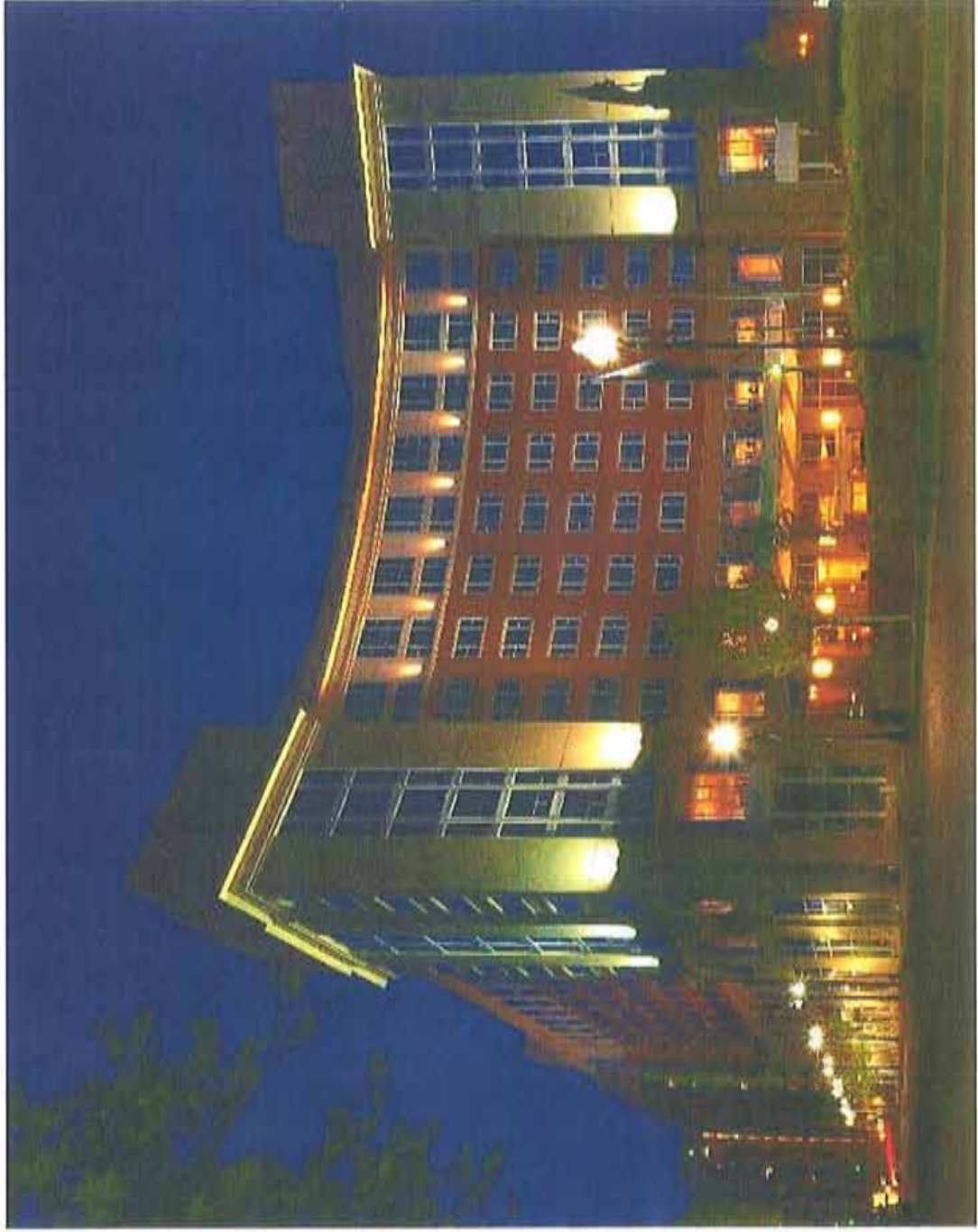
628-unit luxury apartment community , 65,000 square feet of retail and a 2,000-space Metro parking garage directly adjacent to the WMATA. Conveniently located with access to Interstate Route 66 and 495; Close to the Washington, D.C. Metro area.

CONTRACTOR EXPERIENCE

THE RESIDENCES AT HELDRICH



Location: New Brunswick, NJ
Number of Units: 48 units +
garage
Product Type: Condominium
Flats
Construction Type: Mid-rise
Completion Date: April 2007
Construction Cost: \$16 million



ALEXAN RIVERDALE



Location: Riverdale, NJ
Number of Units: 212 Units
Product Type: Rental
Construction Type: 4 over 1
(4-story mid-rise over 1-story
concrete parking structure)
Completion Date: October 2010
Construction Cost: \$34 million



ALEXAN CITYVIEW



Location: Bayonne, NJ
Number of Units: 544 units
Product Type: Rentals
Construction Type: 4 over 1
(4-story mid-rise over 1-story
concrete parking structure)
Completion Date: July 2010
Construction Cost: \$90 million



ALEXAN LIBERTY HOUSE



Location: Jersey City, NJ
Number of Units: 324 units
Product Type: Rentals
Construction Type: 4 over 1
(4-story mid-rise over 1-story
concrete parking structure; Two –
over-two Townhouses)
Completion Date: February 2001
Construction Cost: \$41 million



PIER HOUSE CONDOMINIUMS



Location: Jersey City, NJ
Number of Units: 105 units
Product Type: Condominiums
Construction Type: 4 over 1
(4-story mid-rise over 1-story
concrete parking structure)
Completion Date: May 2003
Construction Cost: \$23 million



ALEXAN BROOKHAVEN



Location: Bellport, NY
Number of Units: 794 units
Product Type: Rental
Construction Type: Mix of
Townhouses and attached flats.
Completion Date: February 2004
Construction Cost: \$



ALEXAN PEMBROKE WOODS



Location: Pembroke, MA
Number of Units: units
Product Type: Rentals
Construction Type: 3-story
enclosed walk-up
Completion Date: Nov. 2006
Construction Cost: \$



HARBORVIEW AT THE NAVY YARD



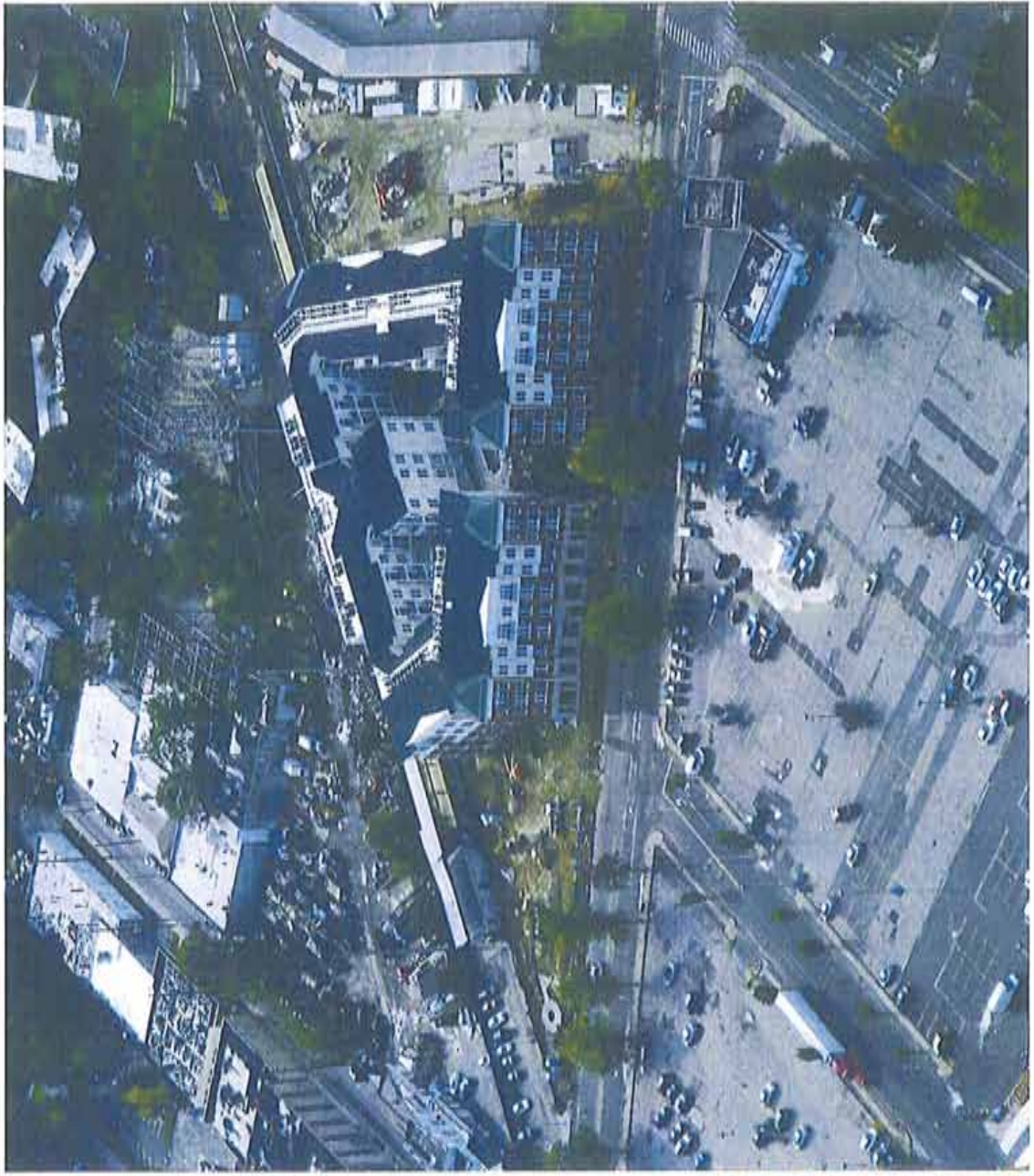
Location: Charlestown, MA
Number of Units:
Product Type: Condominiums
Construction Type: Mid-rise over
structured parking.
Completion Date: August 2007
Construction Cost: \$



WEST 130



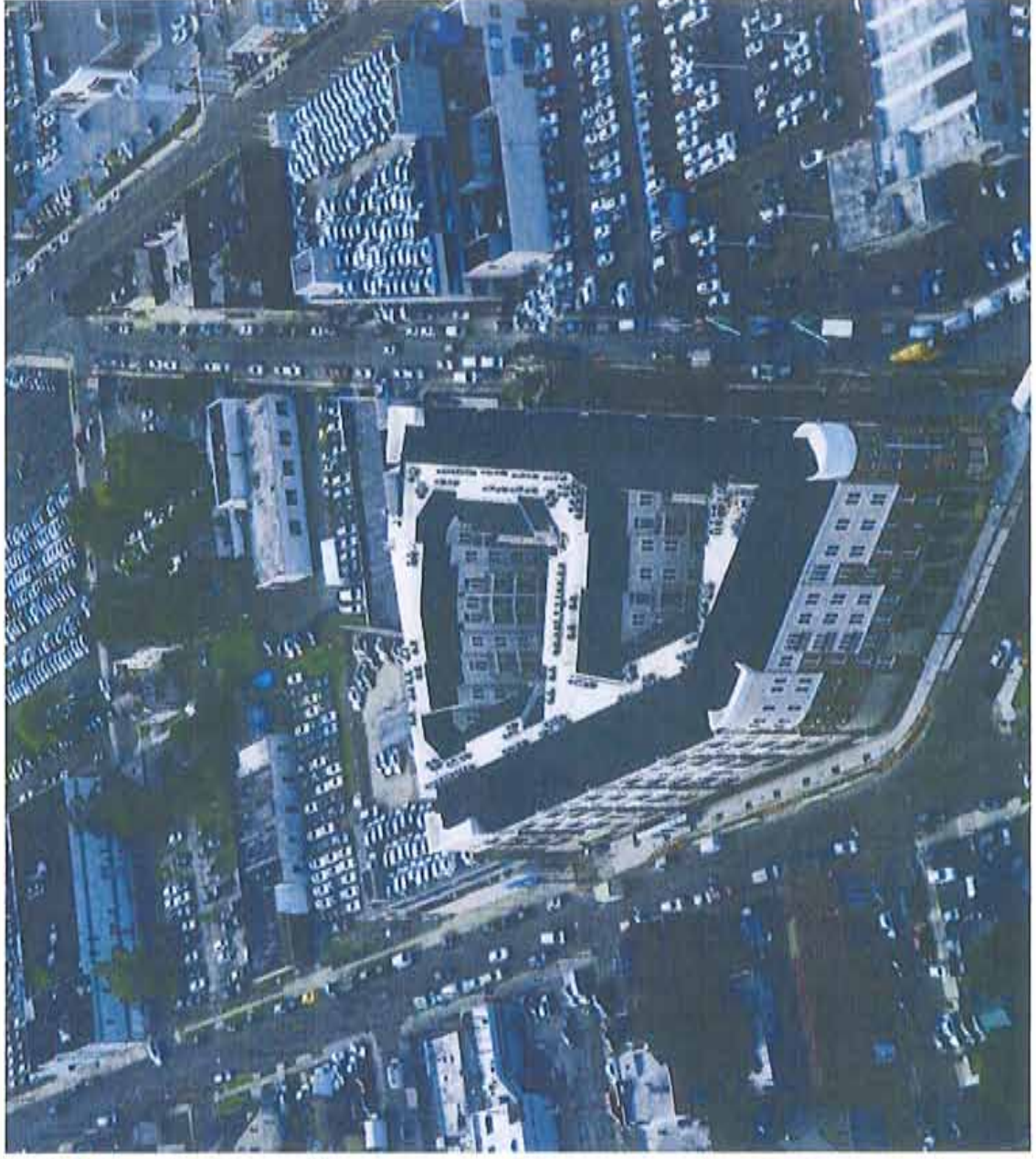
Location: West Hempstead, NY.
Number of Units: 150
Product Type: Condominiums
Construction Type: Mid-rise over
structured parking.
Completion Date: December 2012
Construction Cost: \$44 Million



METRO 303



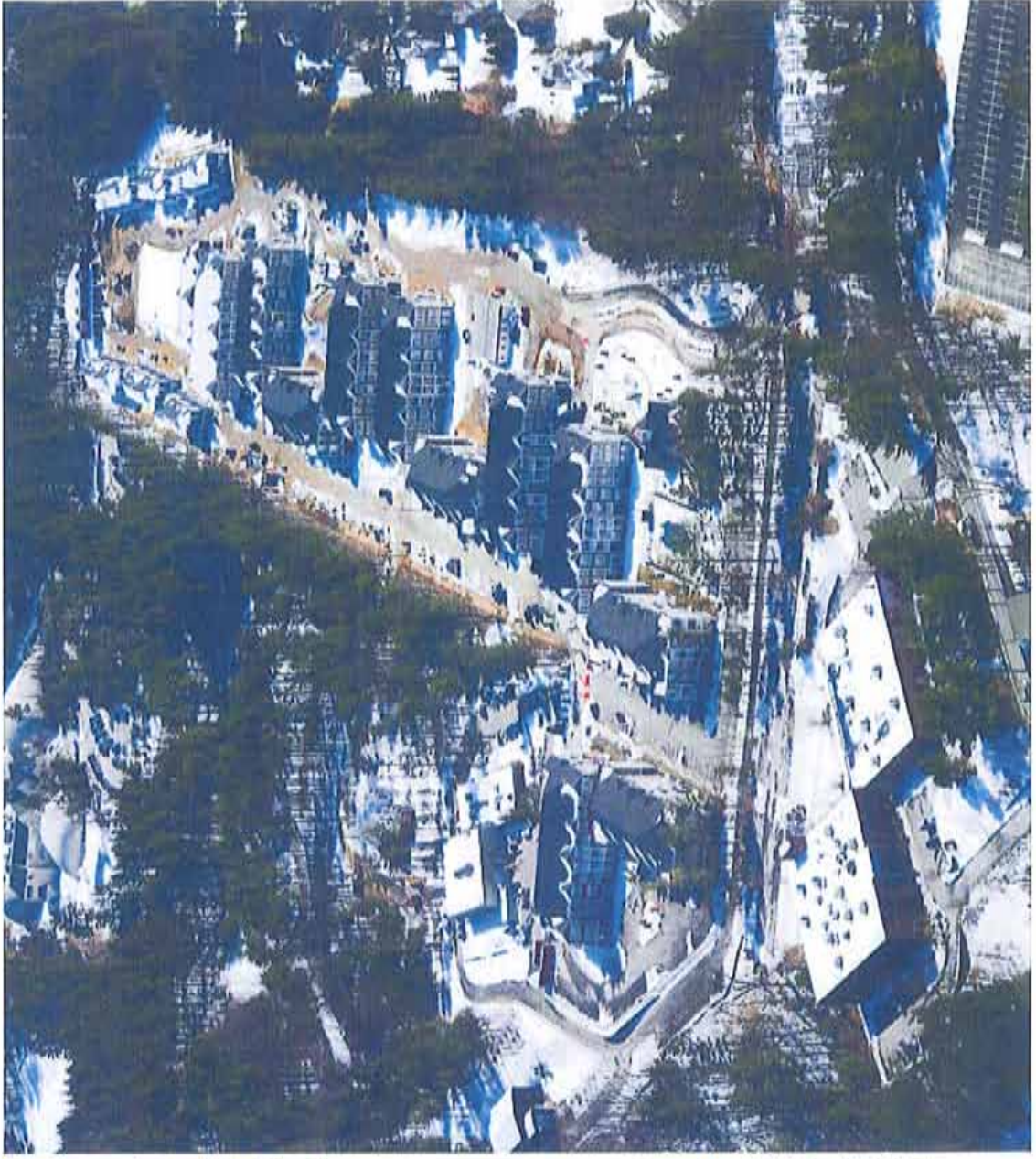
Location: Hempstead, NY.
Number of Units: 166
Product Type: Condominiums
Construction Type: Mid-rise over
structured parking.
Completion Date: January 2013
Construction Cost: \$48 Million



CONCORD MEWS



Location: Concord, MA.
Number of Units: 350
Product Type: Condominiums
Construction Type: Mid-rise over
structured parking.
Completion Date: September 2012
Construction Cost: \$ 46 Million



ARCHITECT EXPERIENCE



Residential Experience

CUBE

3

S T U D I O

architecture
interiors
planning

360 merrimack street
building 5, floor 3
lawrence, ma
978.989.9900
www.cube3studio.com

CUBE 3 Studio

CUBE 3 Studio is a dynamic and responsive design team with the vision to provide thoughtful and innovative design solutions for a wide range of Architectural, Interior Design and Planning challenges.

Creative, intelligent design and unparalleled service are the ultimate goals of our practice. We have an energetic team that is focused on embracing the vision of our clients and delivering outstanding design and documentation on time – every time.

Our commitment and dedication to our work ensures that we will deliver the best design value and overall working experience to every client.



Corporate Core Values

Provide consistently superior service to our clients. Instill design excellence and innovation in all of our work. Make the enthusiasm for our work apparent in all that we do. Ensure that integrity and reliability define our professional practice. Positively impact the lives of all those who come in contact with our work.

Since we got our start in 2004, CUBE 3 Studio has quickly become one of the most successful architectural firms in the United States, winning numerous commissions in a wide variety of sectors and building a reputation for innovation, excellence, integrity and reliability.

Our unique set of strengths distinguishes us in an increasingly crowded field.

- The enthusiasm with which we will embrace your vision
- A positive, "can-do" approach to design and construction challenges
- Unparalleled responsiveness to your needs
- Daily, hands-on involvement from senior level members of staff and partners

If your next project involves architecture, interior design, and planning, we invite you to explore our capabilities and our talents.

Architecture, Interiors + Planning

CUBE 3 provides coordinated design services to companies across all industries.

Architecture

Innovative thinking, creative, intelligent design; and uncompromising attention to detail allow us to create distinctive buildings and interior spaces that are cost-effective and enduring. We help clients realize their design vision through a collaborative process that respects ideas, objectives, timeframes and budgets.

Interiors

We create dynamic, hard-working interior environments that are reflective of our client's unique goals and are tailored to the specific requirements of the space. We seek to provide comfortable, vibrant and cost efficient spaces that do not compromise on quality.

Planning

Shaping the future development of our communities, healthcare and workplace environments requires the comprehensive understanding of all aspects of each planning challenge. Working closely as a team with all the parties involved in the planning effort, we build consensus and provide solutions that are bold and achievable.

Accommodating
evolving
lifestyles



CUBE 3 Studio



Our Office

Located conveniently on Route 405 in Lawrence, MA, CUBE 3 Studio is approximately 35 minutes from downtown Boston and 30 minutes from Manchester, NH.

Our office space is on the top floor of one of the old mill buildings along the Merrimack River.

We have in-house capabilities that include full-size printing, color printing, and 3D modeling. The firm runs Microstation CAD software and has numerous software packages for in-house graphic production.

Our Process

We approach the design and development of new facilities through an open, collaborative process that builds consensus and creative solutions first.

Our innovative, cost-effective solutions manage to balance and support the needs of patients together with the programmatic requirements of the hospital staff.

CUBE 3 Studio has a strong design, production and project management skill set that allows for a rapid and integrated focus on the on-time delivery of project requirements.

A significant focus of our company is attention to detail. This simple idea is manifested in the meticulous manner that project documents are reviewed, the commitment to clear and accurate communication and the delivery of quality project documents. CUBE 3 Studio has extensive experience in handling fast track project management and design production and we are able to smoothly coordinate these efforts with a construction team.

CUBE 3 Studio also puts great emphasis on the establishment of strong professional relationships with consultants that allow our team to foster continued improvement in the design process, and provide superior results for our clients.

Leadership

The original partners of CUBE 3 Studio, Nicholas Middleton, RIBA, and Brian O'Connor, founded one of Boston's leading architectural and interior design firms after working as a team at another large Boston firm.

Each brings singular strengths to the firm while having a wide range of experience and a solid reputation for excellence. As a result, the firm has emerged as one of the fastest growing design firms in United States and has established a national reputation as a powerful new design force.

With complimentary talents and an extremely diverse staff, the firm is able to easily accommodate a wide range of needs, resulting in multidimensional practice that meets a diversity of needs.

Inc. 500

CUBE 3 Studio ranked by Inc. Magazine as one of the nation's fastest growing companies for the fourth year running.

Innovative, marketable combinations of hospitality, dining living and office spaces



CUBE 3
STUDIO
architecture
interiors
planning



Alta Brigham Arlington, MA Square

The former home of a classic New England ice cream brand presents the unique opportunity of 116 units of moderate-density apartments in the heart of Arlington Center. With its vibrant downtown, transit access and proximity to the popular Minuteman Bikeway, this property will offer a village-center lifestyle with easy access to downtown Boston. Apartments include designer finishes such as gorgeous plank flooring in kitchen and bath; granite countertops; stainless steel appliances; upgraded espresso-colored designer cabinetry; oversized kitchen islands; and tile surrounds in baths. Community amenities include a wellness center with cardio salon and an outdoor lounge with fire pits and community grills.

Owner: Wood Partners Size: 135,000 sf





Alta Legacy Farms is a 240-unit development is part of the master-planned Legacy Farms project, a 730-acre suburban community located less than 30 miles from downtown Boston at the intersection of Interstates 90 and 495. Alta Legacy Farms is a garden-style three-story walkup development on 18 acres with six acres of restricted land set aside as permanent conservation land. The master-planned Legacy Farms community includes six miles of walking trails, playing fields and village center. Common amenities include a clubroom with a tasting lounge, billiard room, coffee bar, media room, business center, and cyber-café, theater, and an expansive fitness center. Adjoining the clubhouse is an outdoor lounge area with firepit and built-in grilling stations, and a resort-style pool complete with sundeck.

Owner: Wood Partners

Size: 284,000 sf



Alta Legacy Farms Hopkinton, MA



Located on the banks of the 170 unit Charles River, Riverbend on the Charles offers the perfect balance of convenience and luxury. The 220,000 sf mid-rise community boasts the best in service as well as the most stylish features, including gourmet kitchens complete with espresso stained wood cabinetry and granite countertops, stainless steel appliances, built-in book shelves and computer niche, custom accent walls and more. Amenities include the Community Center with Club Room, Billiards Lounge, State of the Art fitness center and Resort Style Sundeck with heated outdoor pool and spa. You can also utilize the direct boardwalk access to the Charles River Reservation Path; a haven for bicycling, running or just a refreshing stroll.

Owner: Criterion Development Partners

Size: 220,000 sf



Riverbend on the Charles Watertown, MA





V O X o n T w o C a m b r i d g e , M A

Opening in Summer 2013, VOX on Two is a 227-unit apartment community with frontage on the Concord Turnpike and is less than a half mile from the Alewife MBTA subway station, offering residents convenient access to Downtown Boston. The four acre site consists four stories, providing 213,445 sf of living space and will qualify for LEED Silver certification. Apartment amenities include nine-foot ceilings with granite countertops, stainless steel appliances, espresso wood cabinetry, hardwood flooring and ashler & dryers in each unit. The property will feature a 6,500 sf clubhouse with lounge, game room, theater, teaching kitchen, resort-style swimming pool with sundeck and spa, three courtyards including a putting green and a fitness center. The community also sits adjacent to numerous bike paths for outdoor enjoyment.

Owner: Criterion Development Partners /GID Size: 213,445 sf





The Residences at Rivers Edge Malden, MA

The Residences at Rivers Edge offers the finest in luxury living minutes from downtown Boston. The 220 unit community offers underground parking in an elevator building with courtyards, resort style sun deck, and direct access to a 10 acre park along the Malden River. floor-plans including studio, one, two and three bedroom apartment homes are offered featuring minimum 10-foot ceiling heights, oversized windows, superio views, hardwood floors, granite counter tops, internet connections and fireplaces in all fourth floor apartments. Located adjacent to the 10-acre Park at Rivers Edge, the Tuft's Boat House and the Malden River, the 372,000 sf Rivers Edge is just an 8-minute walk to the Wellington Station Orange Line MBTA stop with shuttle service available during peak hours.

Owner: Criterion Development PartnersSize: 372,000 sf



CIVIL ENGINEER EXPERIENCE



Project Highlights:

- Site design
- Water supply and wastewater solutions
- 40B permit assistance

Project Value:

\$3.8M

Project Duration:

2007 to 2009

Project Staff:

Robert Daylor, PLS, PE
Project Director

Nathan Cheal, PE
Project Manager (Site)

Joseph Freeman
Project Manager (Environmental)

Erickson Retirement Communities Linden Ponds in Hingham is a 110-acre with 1,750 independent living apartment units housed residential buildings clustered in three neighborhoods. Each residential neighborhood is accompanied by a community building containing support functions and services such as community dining rooms, medical offices, home health care services, exercise rooms as well as other administrative, support and service areas. The community also offers an extended care center consisting of 192 assisted living units with an accessory skilled nursing facility with 324 beds

Tetra Tech prepared the design plans and performed drainage calculations. The site was divided by three major wetland areas, which precipitated the need for several retention ponds and maintenance of the base flow to the wetlands. The layout of access drives and buildings was also driven by the location of these wetlands. Tetra Tech also worked to resolve water supply and wastewater solutions as the project is estimated to use about 300,000 gallons per day of water. Final design included several miles of new roadways and infrastructure upgrades.

Under MGL Chapter 40B, the Campus qualifies as assisted "low or moderate income housing." Of the 1,750 permitted independent living apartment units, 27% will be made available to households earning no more than 80% of the area median income as required by the Department of Housing & Community Development for utilization of a comprehensive permit under Chapter 40B. Tetra Tech worked with the design team in developing the Zoning Site Plans for comprehensive permit Chapter 40B consideration and approval by the Town of Hingham Zoning Board of Appeals.



TETRA TECH

Hanover Company, Lenox Farms Braintree, MA



Tetra Tech has provided a full range of services in advancing the project through feasibility, local and state permitting and into construction at Lenox Farms in Braintree, Massachusetts. Lenox Farms is a 338 unit luxury apartment community located on 50 acres of land that has been transformed a deteriorating manufacturing site into a residential community that includes 40 two- and three-story apartment buildings and a centrally located Club House/Leasing Office. Initially, Tetra Tech was engaged to delineate wetland resources, including Bordering Vegetated Wetlands and Riverfront Area, to provide a topographic and boundary survey and a site feasibility study. As the project preceded to the design and permitting phase, Tetra Tech prepared site plans and reports necessary to secure the local Special Permit and Wetland Protection Act approvals.

Also, Tetra Tech guided the project through the MEPA process, which required an Expanded Environmental Notification Form and Single Environment Impact Report. During the MEPA process, Tetra Tech worked with the project team to negotiate sewer service for Lenox Farms that met the requirements of a Consent Order issued by the Massachusetts Department of Environmental Protection and Town of Braintree Sewer Connection Policy.

Once Lenox Farms secured the necessary approvals, Tetra Tech prepared construction documents for the site work. During this time, Tetra Tech also completed the design of two traffic roundabouts that were required as part of the project mitigation package. Along with the final design responsibilities for the roundabouts, final approvals were obtained from Braintree's Town Engineer and the Massachusetts Highway Department.

Project Highlights:

- ▣ Feasibility Analysis
- ▣ Secured MEPA, Special Permit and wetlands approvals
- ▣ Design of two roundabouts

Project Value:

\$1.2M (design)

Project Duration:

2004 to 2010

Project Staff:

Nathan Cheal, PE
Project Manager/Site

Erik Maki, PE, PTOE
Project Manager/Traffic

Aleksander Loncarevic
Traffic Design Engineer

James Antonizick, EIT
Traffic Design Engineer



TETRA TECH

Fairfield Residential, West Village Mansfield, MA



Tetra Tech provided preliminary project feasibility analysis, engineering site design, local, state, federal permitting and construction administration and oversight for the 200-unit residential community in Mansfield known as West Village. The project was permitted under the State Chapter 40B Comprehensive Permit Program for Affordable Housing, receiving local approvals from the Mansfield Zoning Board of Appeals and Conservation Commission. Tetra Tech guided the project through the state MEPA permitting process, which required an Expanded Environmental Notification Form and Single Environment Impact Report, as well as DEP Sewer Connection/Extension Permit, and DOT Indirect Access Permit.

The village consists of 200 rental units in seven multi-level buildings, a community clubhouse and leasing office, outdoor pool and pavilion with patio, barbecue areas and playground. The scope of work included the design, permitting and construction oversight of a stormwater management system consisting of detention/infiltration basins; subsurface infiltration/groundwater recharge systems and water quality treatment units. The site's sanitary sewer system included the design, permitting and construction of an on-site pump station facility; sewer force main installation/insertion crossing beneath Interstate-495 utilizing an old abandoned ductile iron water pipe as a sleeve; and connection to the Town's sewer collection system.

Much of the site consists of Bordering Vegetated Wetlands and a perennial stream that required careful design and permitting considerations, including significant lengths of retaining walls and a vehicular/pedestrian bridge to provide the necessary crossing while retaining the natural stream flow pattern and wildlife habitat migration.

Project Highlights:

- ❑ Chapter 40B Comprehensive Permit approval
- ❑ MEPA, DEP Sewer Permit, MDOT Indirect Access Permit, ZBA 40B Comp Special Permit and wetlands approvals
- ❑ Design of roadway bridge stream crossing
- ❑ Sewer Force main pipe sleeve insertion design

Project Value:

\$350,000 (design)

Project Duration:

2002 to 2008

Project Staff:

Glenn Dougherty, PE
Sr. Project Manager/Site

W. Sterling Wall
*Sr. Project Manager/
Environmental*



TETRA TECH

Fairfield Residential LLC
Residential Developments
Marlborough and Dedham, MA



Tetra Tech provided engineering, planning, landscape architecture and environmental services to Fairfield Residential LLC for apartment complexes in Marlborough and Dedham, MA. Both projects were proposed under Massachusetts General Laws Chapter 40B for low or moderate income housing.

Our firm performed environmental permitting, site engineering, transportation planning and landscape architecture services for a 306-unit apartment complex on an existing 22-acre parcel in Marlborough. The project included site access, a bridge, wetlands replication, grading and stormwater management, utility design and landscape architecture. Amenity areas included the design of a clubhouse, pool area with cabana, playground, outdoor fireplace and sport court.

Tetra Tech also provided similar services for the client for an apartment complex in Dedham. The project site comprised 9.5-acres of vacant land located in a mixed-use area of offices, hotels and residences. As part of this project's scope of work, our firm provided a Phase I Environmental Site Assessment, including a review of site history, a site reconnaissance visit and a review of local and regulatory files of the site and surrounding areas.

Project Highlights:

- ▣ Multidisciplinary services for 40B residential developments
- ▣ Developments in semi-urban settings

Project Duration:

2003 to 2007

Project Staff:

Brian Sullivan, PE
Principal-in-Charge

Ed Boiteau, PE
Project Manager

Steve Pavlovich
Project Engineer

APPLICANT CERTIFICATION

1. Applicant's Ownership Entity Information and Certification -- Please identify the applicant's proposed ownership entity, as well as the Managing Entities, Principals and Controlling Entities of each and certify the compliance and good standing of each with state law and affordable housing programs. Note: For the purposes hereof, "Managing Entities" include general partners of limited partnerships, managing general partners of limited liability partnerships, managers of limited liability companies, directors and officers of corporations, trustees of trusts, and other similar entities, which have the power to manage and control the activities of the applicant and/or proposed ownership entity. "Principal or Controlling Entities" shall include all persons and entities (e.g. natural persons, corporations, partnerships, limited liability companies ect.) who shall have the right to:

- (i) approve the terms and conditions of any proposed purchase, sale or mortgage;
- (ii) approve the appointment of a property manager; and/or
- (iii) approve managerial decisions other than a decision to liquidate, file for bankruptcy, or incur additional indebtedness.

Such rights may be exercisable either directly as a result of such person's role within the applicant's proposed ownership entity or its Managing Entities or indirectly through other entities that are included within the organizational structure of the applicant and/or proposed ownership entity and its Managing Entities. In considering an application, MassHousing will presume that there is at least one Principal or Controlling Entity. Any person or persons who have purchased an interest for fair market value in the applicant and/or proposed ownership entity solely for investment purposes shall not be deemed a Principal or Controlling Entity. (Use additional sheets as necessary.)

Name of Applicant: Milton Mews Venture LLC
Address: 15 New England Executive Park
Burlington, MA 01803
Contact Person: Robert D. Hewitt
Phone No. 781-685-4698
Fax No. 781-270-9318
E-Mail Address: rhewitt@MCRTTrust.com

List All Managing Entities of Applicant (use additional pages as necessary):
MCRT Northeast LLC

List All Principals and Controlling Entities of Applicant and its Managing Entities
(use additional pages as necessary):
MCRT Northeast LLC
Mill Creek Residential Trust LLC

List All Affiliates of Applicant and its Managing Entities
(use additional pages as necessary):
See Exhibit A attached hereto

Name of Proposed Ownership Entity: Milton Mews Venture LLC
Organization Type: Delaware limited liability company
Relationship to Applicant: Applicant is the proposed Ownership Entity

List All Managing Entities of Proposed Ownership Entity
(use additional pages as necessary):

MCRT Northeast LLC

List All Principals and Controlling Entities of Proposed Ownership Entity and its Managing Entities
(use additional pages as necessary):

MCRT Northeast LLC

Mill Creek Residential Trust LLC

List All Affiliates of Proposed Ownership Entity and its Managing Entities
(use additional pages as necessary):

See Exhibit A attached hereto

Certification

I hereby certify on behalf of the Proposed Ownership Entity, under penalties of perjury, that:

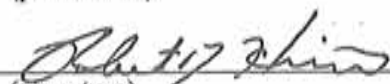
1. the information provided above for the Applicant Entities is, to the best of my knowledge, true and complete; and
2. each of the following questions has been answered correctly to the best of my knowledge and belief.

- (a) Is there pending litigation with respect to any of the Applicant Entities?
☐ No ☒ Yes (attach explanation)

Two employees of a subcontractor were injured while working on a site. The two employees have named Mill Creek Residential Trust LLC in a lawsuit claiming damages. This lawsuit is in the State of New York under its current labor laws. The lawsuit is fully insured and Mill Creek Residential Trust LLC is indemnified by the subcontractor.

- (b) Are there any outstanding liens or judgments against any properties owned by the Applicant Entities?
☒ No ☐ Yes (attach explanation)
- (c) Have any of the Applicant Entities failed to comply with provisions of Massachusetts law related to taxes, reporting of employees and contractors, and withholding of child support?
☒ No ☐ Yes (attach explanation)
- (d) Have any of the Applicant Entities ever been subject of a felony indictment or conviction?
☒ No ☐ Yes (attach explanation)
- (e) During the last 10 years, have any of the Applicant Entities ever been a defendant in a lawsuit involving fraud, gross negligence, misrepresentation, dishonesty, breach of fiduciary responsibility or bankruptcy?
☒ No ☐ Yes (attach explanation)
- (f) Have any of the Applicant Entities failed to carry out obligations in connection with a Comprehensive Permit issued pursuant to M.G.L. c. 40B and any regulations or guidelines promulgated thereunder, including, but not limited to, completion of a cost examination and return of any excess profits or distributions?
☒ No ☐ Yes (attach explanation)
- (g) Are the Applicant Entities current on all existing obligations to the Commonwealth of Massachusetts or any subdivision, agency, authority or instrument thereof?
☒ Yes ☐ No (attach explanation)

Robert D. Hewitt
(print name)


(signature)

February 21, 2013
(date)

EXHIBIT A

Mill Creek Residential Trust LLC
CIP/MCRT Longview Meadows LLC
MCRT Northeast LLC
MCRT Investments LLC
MCRT Longview Meadows LLC
MCRT Northeast Construction LLC
MCRT Northeast LLC
MCRT Repton Place Phase II LLC
MCRT Resources LLC
MCRT/NE 104 Longview Meadows LLC
VRS/MCRT Watertown Mews LLC

MILTON MEWS VENTURE LLC

SECRETARY'S CERTIFICATE

February 21, 2013

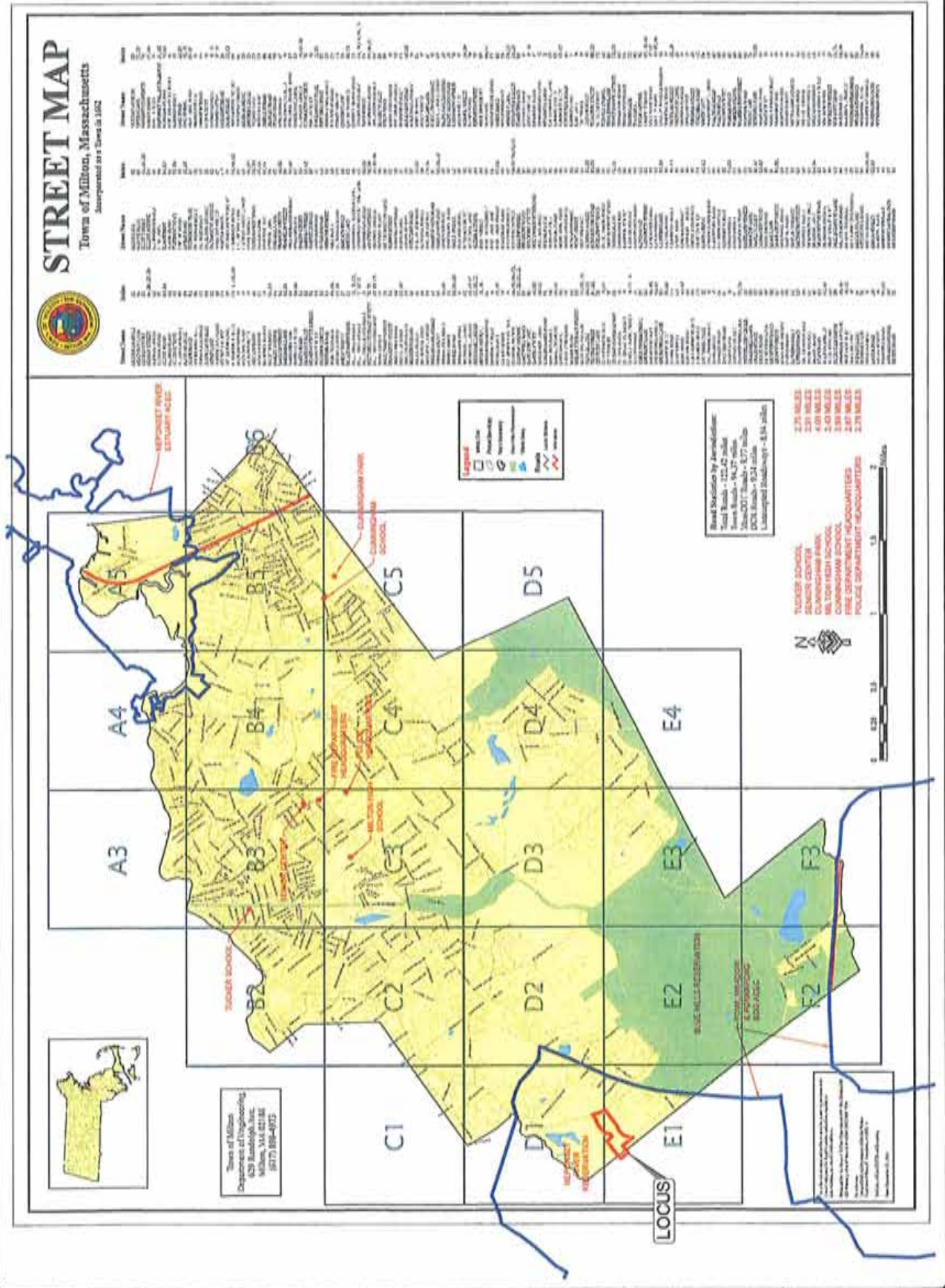
The undersigned hereby certifies that:

1. She is the duly elected, qualified and acting Secretary of Milton Mews Venture LLC, a Delaware limited liability company (the "Company").
2. Peter J. Porraro and Robert D. Hewitt are the Senior Managing Director and the Managing Director of the Company, respectively.
3. Pursuant to the provisions of the Limited Liability Company Agreement of the Company (the "LLC Agreement"), each of Peter J. Porraro and Robert D. Hewitt are individually empowered with the authority to enter into any contract and execute and deliver any instrument in the name and on behalf of the Company, and to sign on behalf of the Company any forms, reports, schedules, applications, certifications, affidavits or filings required to be filed by the Company with any government or regulatory agency.

IN WITNESS WHEREOF, the undersigned has executed this Secretary's Certificate as of the date first set forth above.


Rachel L. Purcell, Secretary

TOWN MAP



SITE DESCRIPTION

1.0 Site Description Narrative

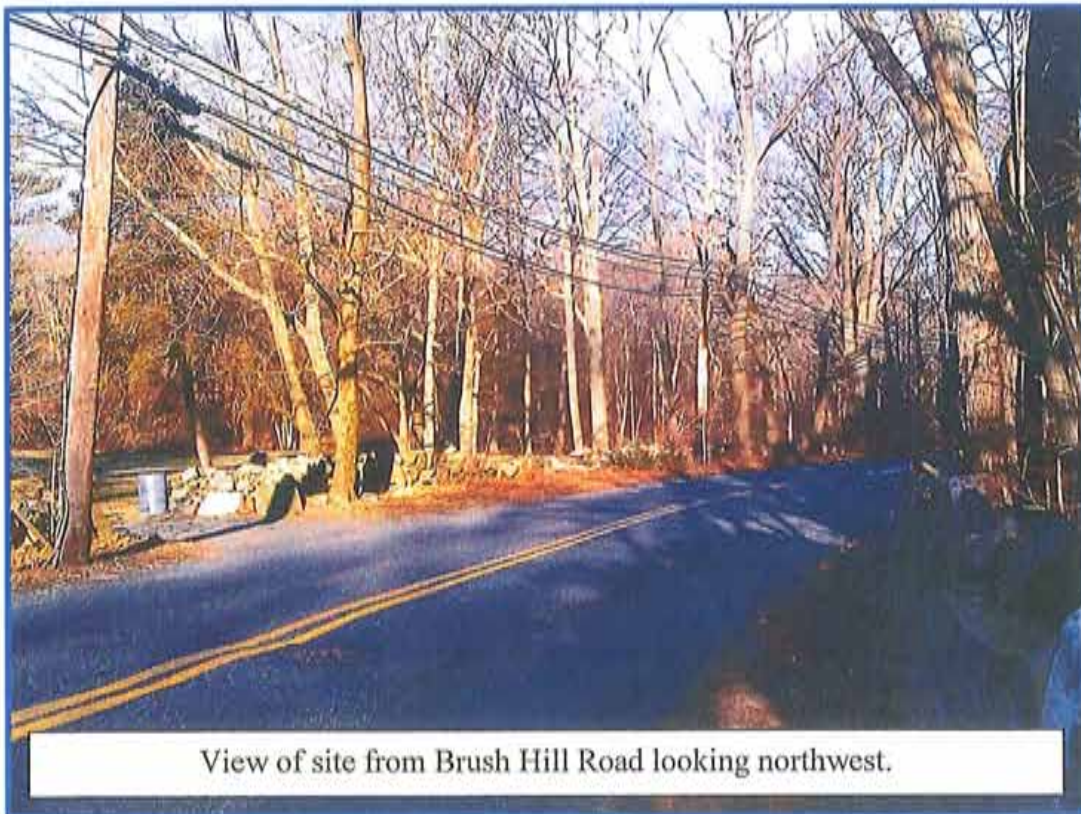
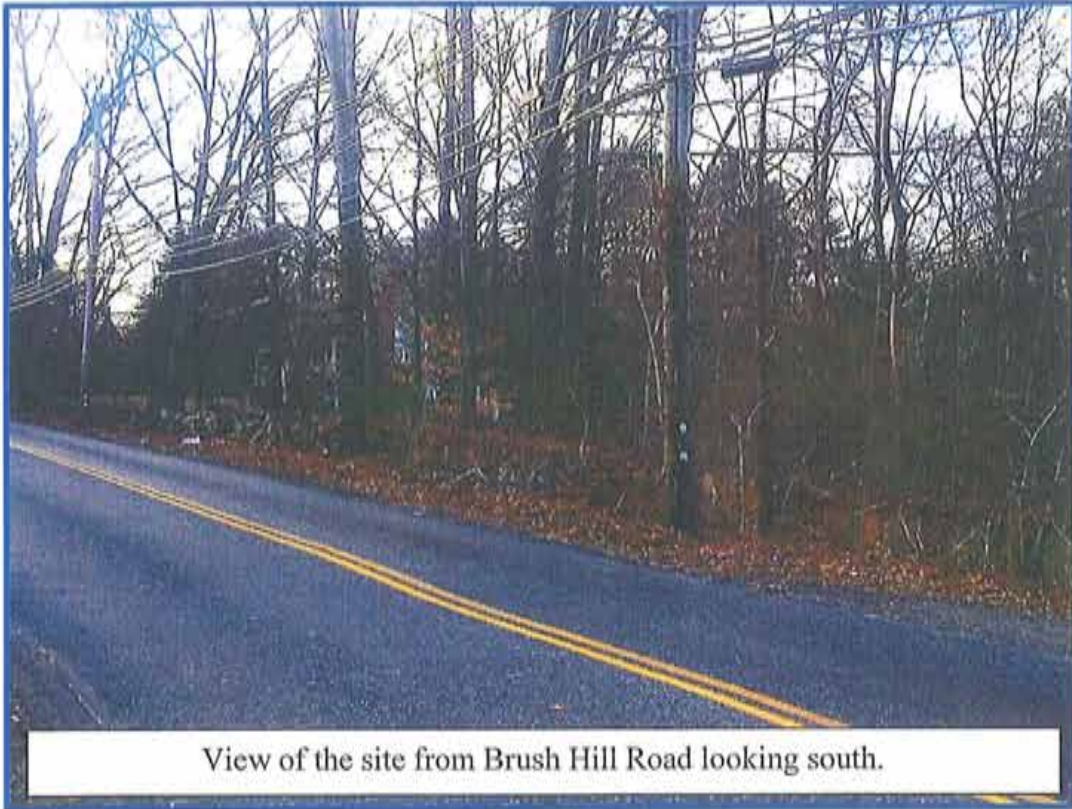
1.1 Existing Lots and Uses

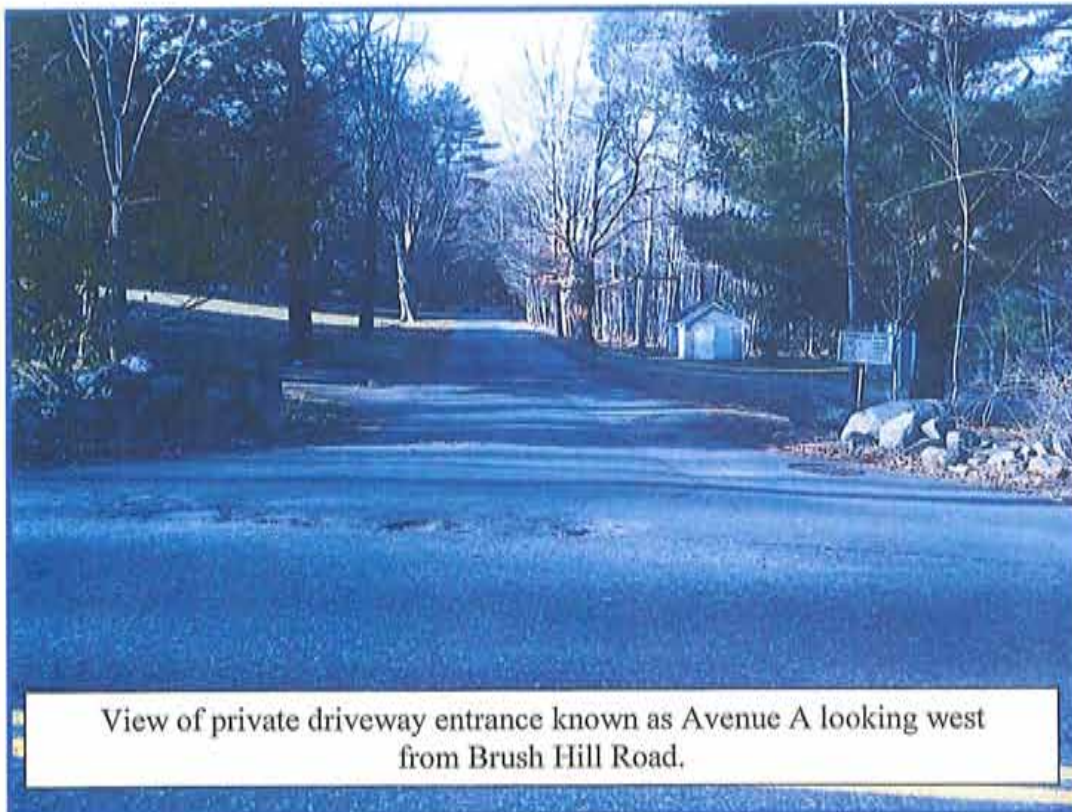
The project site consists of three (3) parcels located at 1259, 1375 and 1383 Brush Hill Road in the Town of Milton. It is bounded to the north by property owned by the Massachusetts Department of Conservation & Recreation; to the west and south by single-family residences; and to the east by Brush Hill Road and Fuller Village in Milton, an independent senior living community of 319 units set on 60 acres of property. Of the overall 20.2 acres of property, approximately one acre is located in the Town of Canton in the western rear portion of the site.

The project site contains three single-family houses on the three separate parcels. The land is generally wooded, has four large areas of bordering vegetated wetlands, and significant topography which slopes across the site from the high-point elevation of 115 adjacent to Brush Hill Road (southeast corner of property) down to elevation 44 in the portion that is located in the Town of Canton (northwest corner of property).

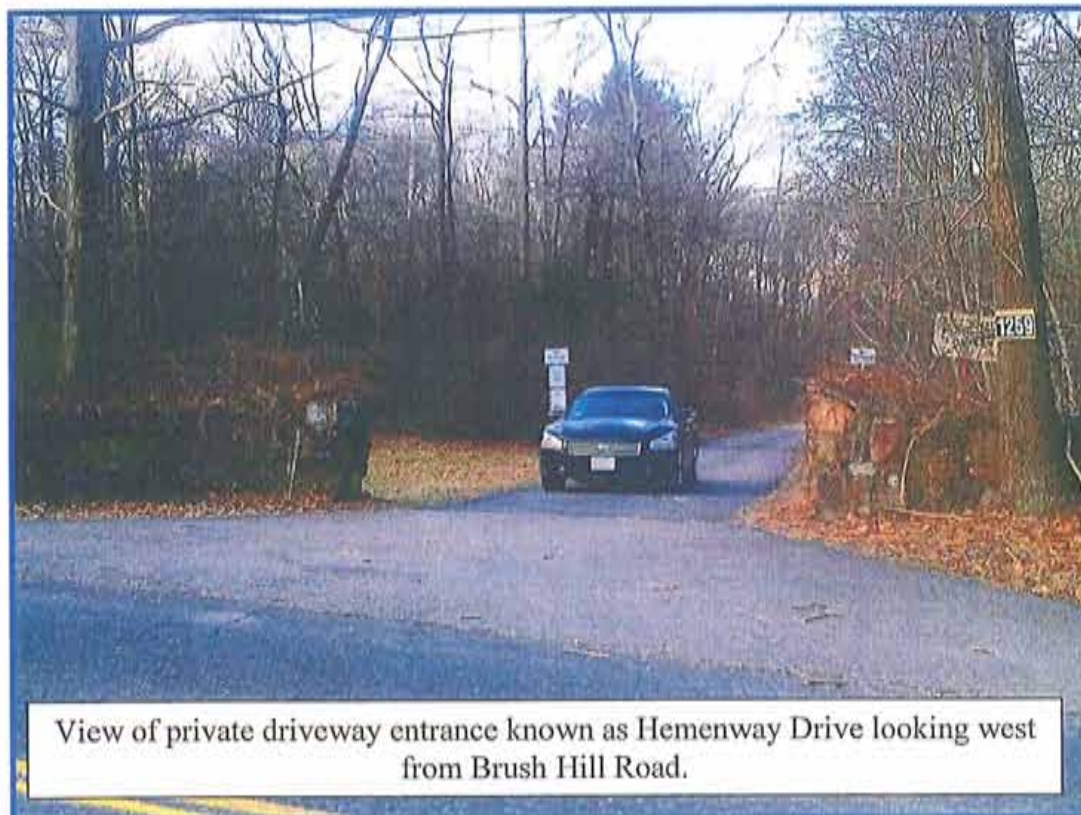
Of the three project site parcels, only the driveway for #1375 is directly on Brush Hill Road, which is a town public way. Access for the other two houses, #1259 and #1383, is provided via one of two private drives from Brush Hill Road, both of which also serve multiple residences to the south and west of the site. One of the private drives known as Hemenway Drive, serves #1259 as well as many other residences to the rear of the site. The 40-foot wide right-of-way with a 10-foot wide paved access drive runs through the northern portion of the project site from east to west. The other right-of-way serves #1383 and many other residences to the south and west of the site, is 30 feet in width with a 10-foot wide paved drive, and runs essentially along the entire southern site boundary, also from east to west.

Please refer to the Site Analysis Plan prepared by DeCelle Burke & Associates, Inc., dated January 22, 2013 for existing site conditions topography and the attached USGS Map and Site Aerial Figure. Context photographs of the project site and abutting parcels are included below.

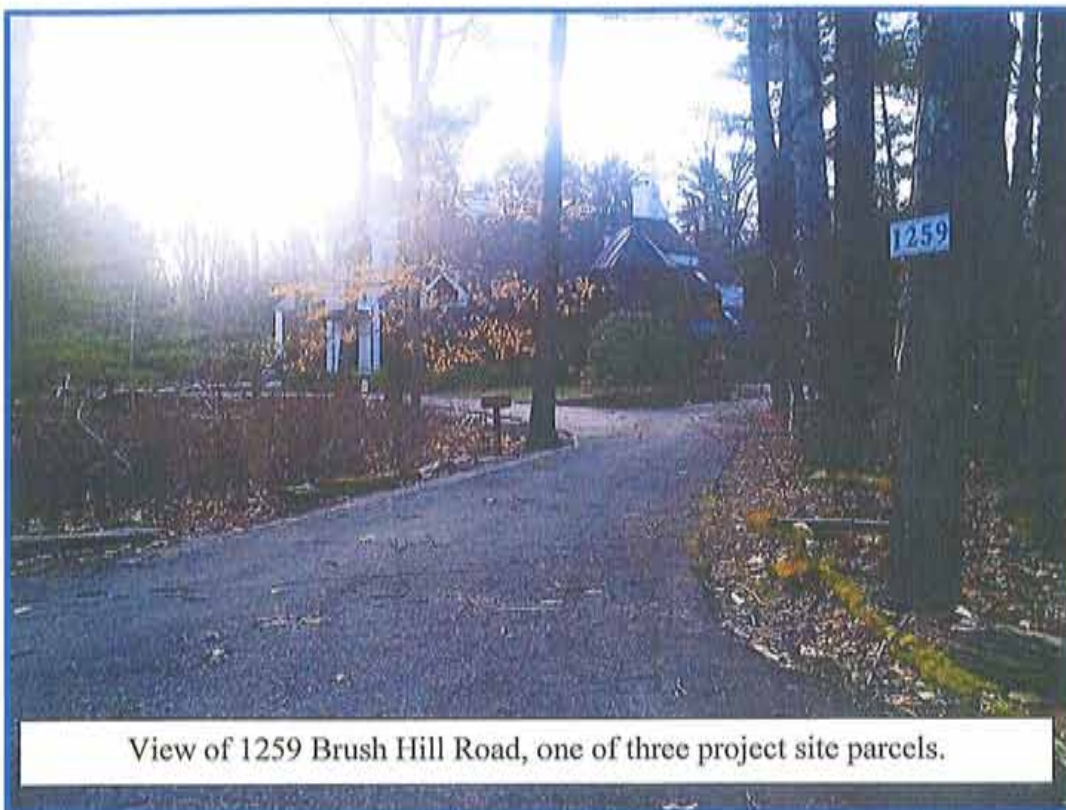




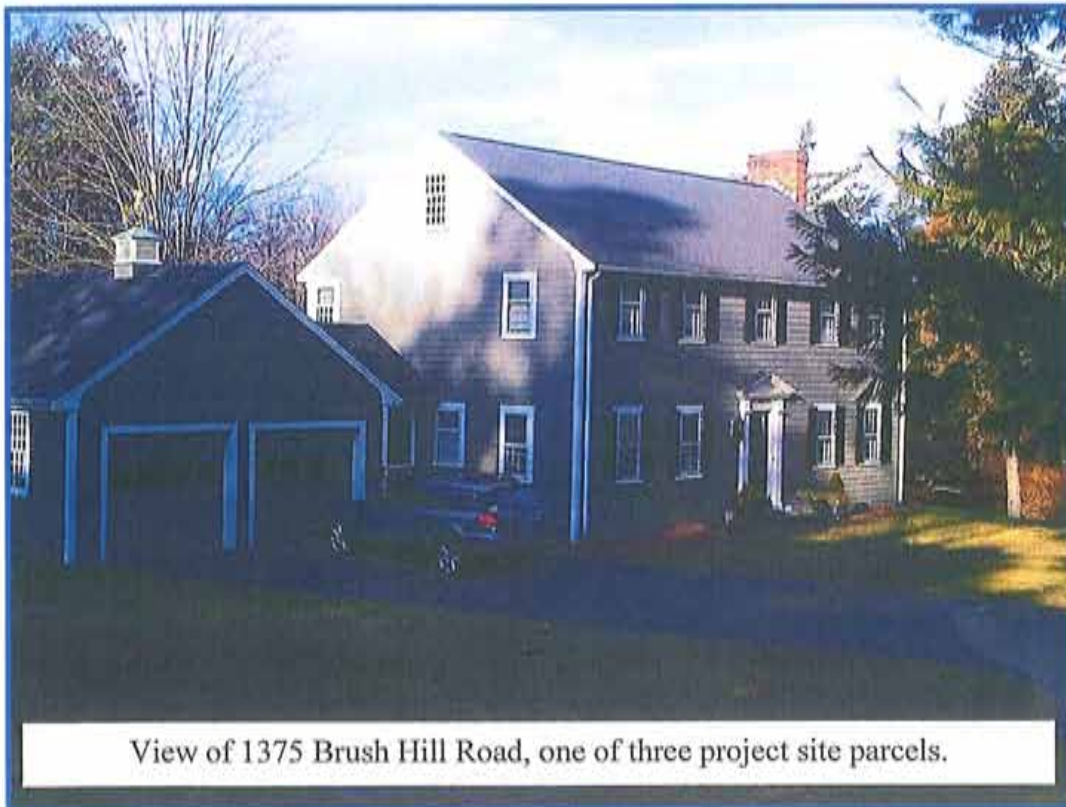
View of private driveway entrance known as Avenue A looking west from Brush Hill Road.



View of private driveway entrance known as Hemenway Drive looking west from Brush Hill Road.



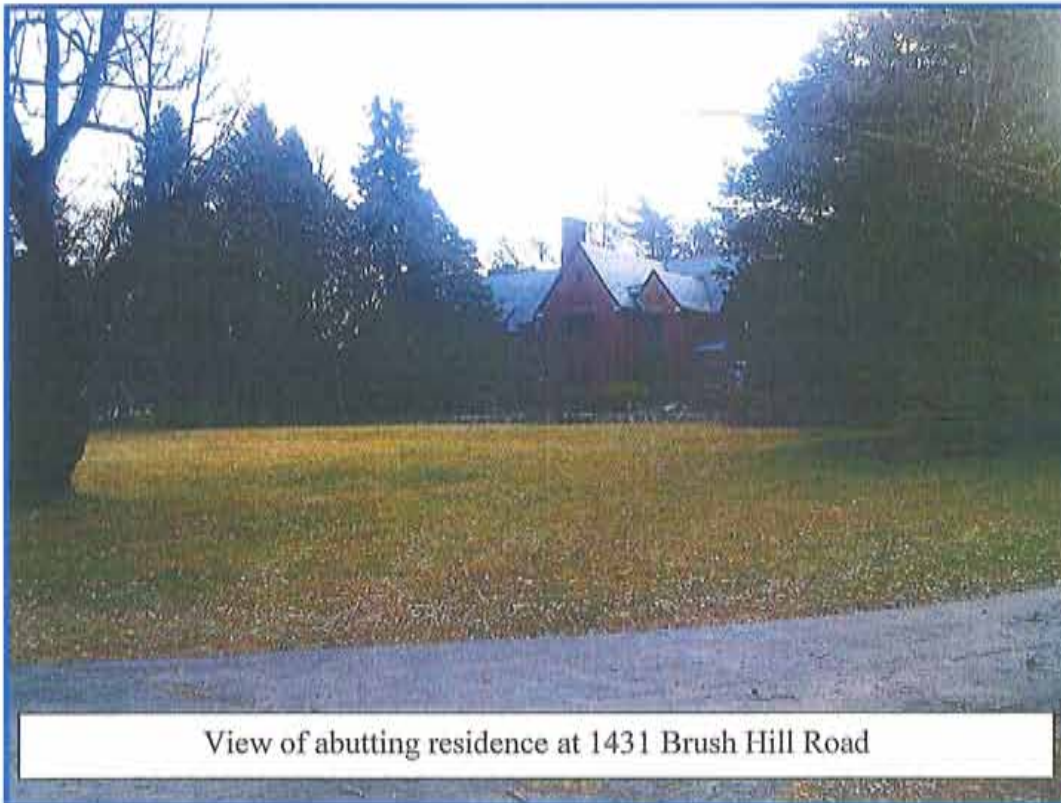
View of 1259 Brush Hill Road, one of three project site parcels.



View of 1375 Brush Hill Road, one of three project site parcels.



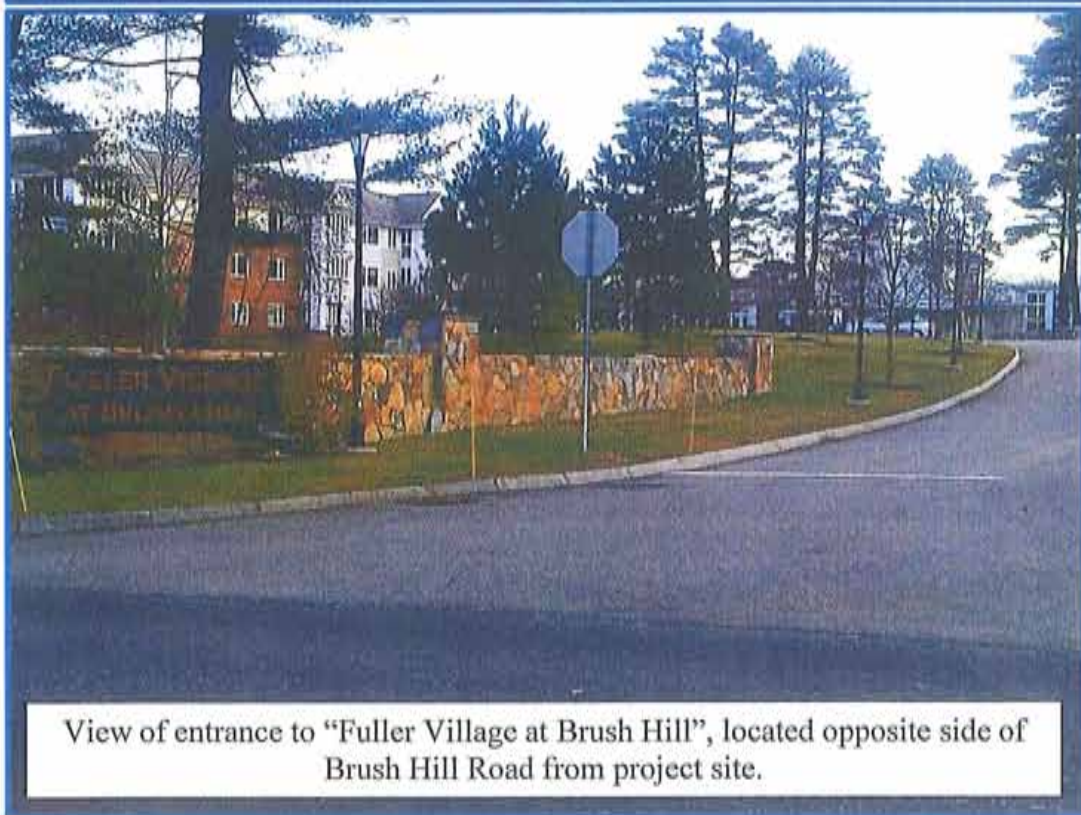
View of 1383 Brush Hill Road, one of three project site parcels.



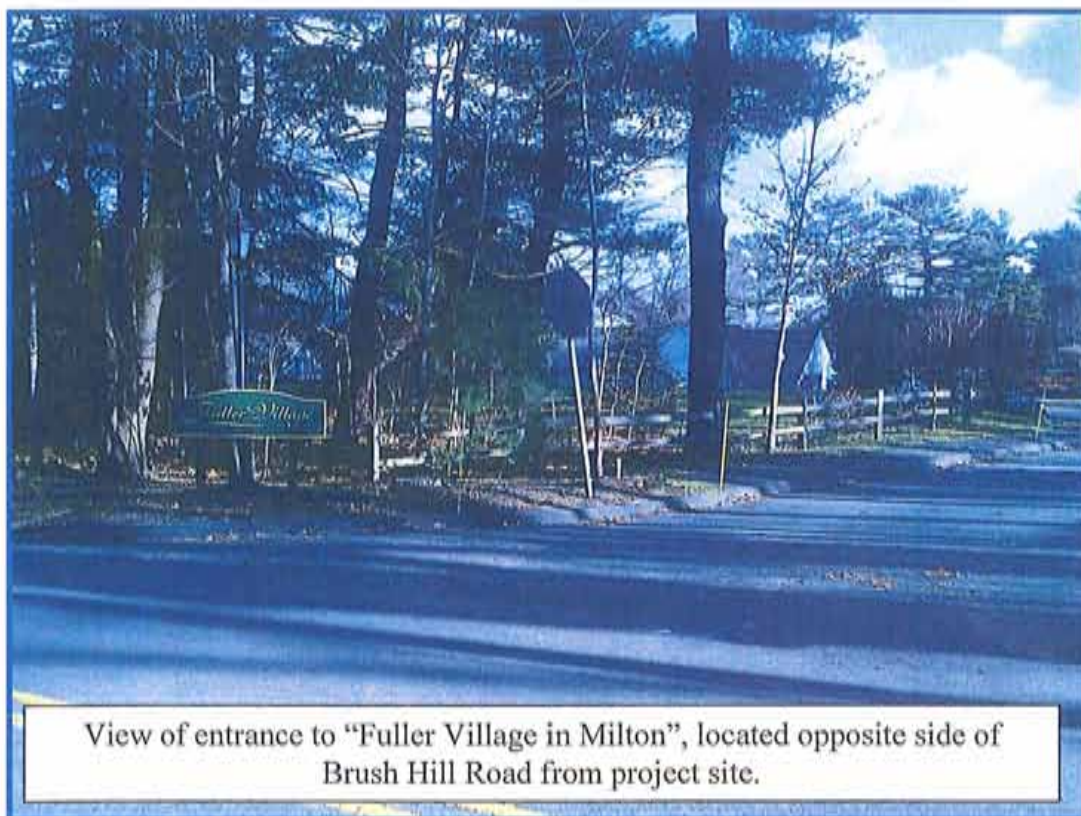
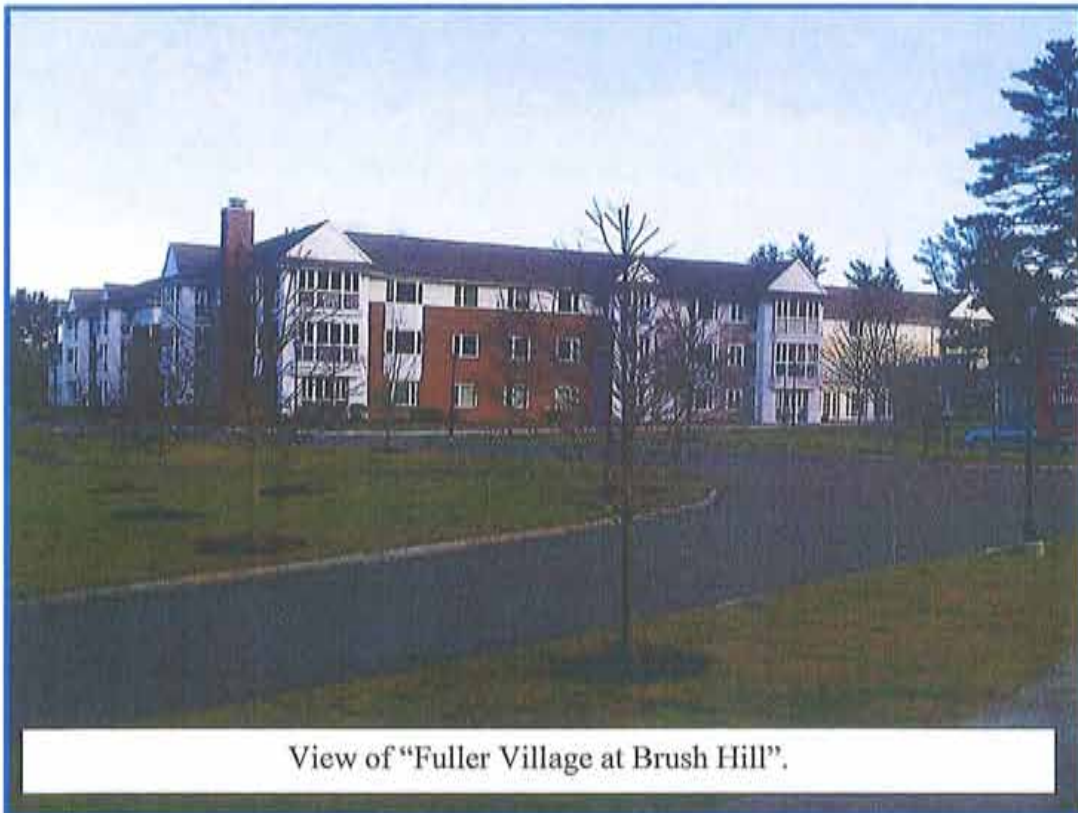
View of abutting residence at 1431 Brush Hill Road

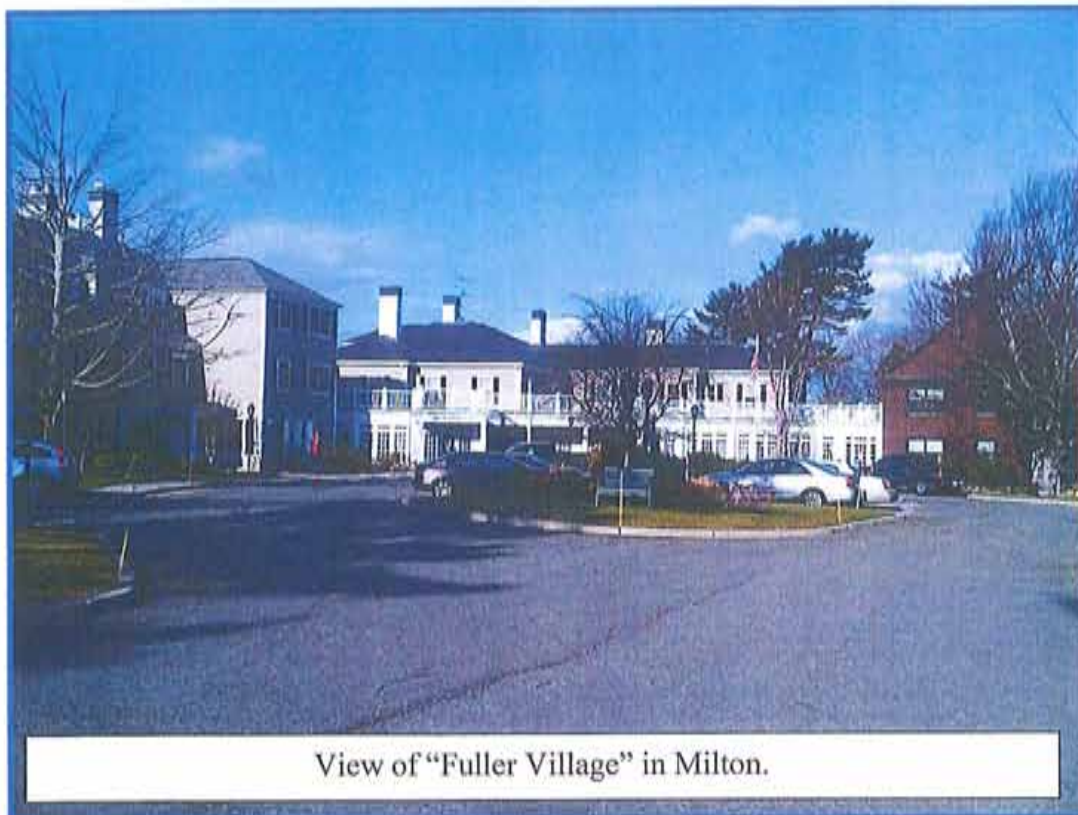


View of abutting residence at 1421 Brush Hill Road



View of entrance to "Fuller Village at Brush Hill", located opposite side of Brush Hill Road from project site.





1.2 Existing Environmental Resources

Based upon site evaluations conducted in October and November 2012 by EcoTec and review of available maps, the following are the existing environmental resources on the site.

Wetland Resource Areas were delineated in October and November, 2012 by EcoTec Inc. under the Milton Wetlands Protection Bylaw, Canton Wetlands Protection Bylaw, the Massachusetts Wetlands Protection Act (M.G.L. Ch. 131, § 40; the "Act") and its implementing regulations (310 CMR 10.00 *et seq.*; the "Regulations"); and the U.S. Clean Water Act (i.e., Section 404 and 401 wetlands). Four northwesterly-flowing unmapped intermittent streams are located on or near the site. These intermittent streams generally bisect the project site, flowing through culverts beneath the existing access drives and ultimately flowing to the Neponset River, which is located a significant distance away from the northwest of the project site. The project site contains the following Wetland Resource Areas as defined under state and/or local wetland regulations:

- Bank: Feature defining intermittent streams;
- Bordering Vegetated Wetland ("BVW"): Area touching an intermittent stream containing a predominance of wetland indicator plants and saturated conditions near the ground surface for a significant portion of the growing season.

Based upon a review of the 2008 *Massachusetts Natural Heritage Atlas*, 13th edition, Blue Hills quadrangle, the northwesterly corner of project site in the vicinity of #1259 Brush Hill Road, is located within a mapped Estimated Habitat [for use with the Wetlands Protection Act and Regulations] and is located within a mapped Priority Habitat [for use with Massachusetts Endangered Species Act (M.G.L. Ch. 131A; "MESA") and MESA Regulations (321 CMR 10.00)]. The remainder of the project site is located outside of Estimated and Priority Habitat. Furthermore, based upon a review of the above referenced Natural Heritage Atlas and the Spring 2001 Massachusetts Aerial Photo Survey of Potential Vernal Pools, there are no mapped Certified Vernal Pools or potential vernal pools on the project site.

The subject site is located within the northeastern corner of the Fowl Meadow portion of the Fowl Meadow and Ponkapoag Bog Area of Critical Environmental Concern ("ACEC"). In the vicinity of the site, Blue Hill Avenue (Route 138) is the eastern boundary of the ACEC and Milton Street West is the northern boundary of the ACEC.

FEMA mapping has been reviewed to determine if there are any flood zones located on the project site. According to the published FEMA mapping, there are not any portions of the project site shown as being within a 100 year flood zone.

1.3 Existing Utilities

Based on the information shown on the Site Analysis Plan prepared by DeCelle Burke, all necessary utilities, other than natural gas, are available along Brush Hill Road for connections to serve the proposed site development. Natural gas is available further south of the project site and a gas main extension is proposed as part of the project.

1.3.1 Water Supply

An 8-inch diameter water main is located along the site frontage in Brush Hill Road and is proposed to serve the project site for domestic water supply and fire protection.

1.3.2 Sanitary Sewer

A 12-inch diameter sewer main is located along the site frontage in Brush Hill Road and is proposed to serve the project site for sanitary sewer.

1.3.3 Electric, Telephone, Cable, Internet

Electric utility poles and overhead wires are located along the site frontage in Brush Hill Road and are proposed to serve the project site for electric, telephone, cable and internet service.

1.3.4 Natural Gas

As previously stated, a gas main is not located along the site frontage in Brush Hill Road and therefore an extension of the gas main that exists to the south of the site toward Blue Hill Avenue, Route 138 is proposed as part of the project.

1.3.5 Easements and Access

As previously stated, there are two right-of-way easements within or adjacent to the project site that provide vehicular access from Brush Hill Road for multiple residences to the west and south of the project site.

The first is known as Hemenway Drive, a 40-foot wide right-of-way with a 10-foot wide paved driveway intersecting Brush Hill Road near the northeast corner of the project site, running in a westerly direction along the northern property boundary of the project site for approximately 1,000 feet and then cutting through the project site for approximately 900 feet, providing access for the project property of 1259 Brush Hill Road prior to crossing into the Town of Canton and providing access for abutting Canton residences to the west of the project site.

The second easement, shown as "Avenue A" on the Site Analysis Plan, is a 30-foot wide right-of-way with a 10-foot wide paved driveway intersecting Brush Hill Road at the southeast corner of the project site and more specifically, at the southeast corner of 1375 Brush Hill Road. It runs in a westerly direction from Brush Hill Road along the entire 1,500-foot length of the southern property boundary and continues on to serve multiple residences to the south and west of the project site. This private drive provides access to the project property of 1383 Brush Hill Road as well.

The rights of third parties in the two right-of-way easements described above burden various portions of the project site in favor of those third parties. Such rights cannot be extended to the entire project site without overburdening and/or overloading the easements. Nor can those third party rights be unilaterally terminated. The project design, therefore, leaves those easements in place but does not incorporate using either right-of-way easement for resident or visitor access to or from the project site.

PLANS AND SPECIFICATIONS

See separate plan set.

DESIGN NARRATIVE

Design and Construction Narrative

The project site is impacted by wetland resources and a sloping site. Due to the wetlands at two large areas in the overall site, the proposed buildings on the site are organized into three distinct "villages": along Brush Hill Road, between the wetlands, and at the rear of the site approximately a quarter mile from Brush Hill Road.

The existing site slopes steeply down from the southeast corner to northeast corner by approximately 20 ft. The buildings and site have been designed to take advantage of this natural slope. Buildings of a lower scale front on Brush Hill Road and along the southerly border of the project site facing the neighboring homes behind these buildings, additional height is picked up as the site slopes down and away from abutting properties. Because the larger central buildings are built into the hill, the total overall top of roof height of all three Buildings B, C and the Townhomes are similar and thus will minimize view impacts to abutters (this can be clearly seen in Site Section Drawing A-300 in the Submission Package).

The first group of buildings consist of a Clubhouse and townhomes. These buildings serve as the gateway to the project directly off of Brush Hill Road. The Clubhouse will be a one-story building with gabled roofs and will serve as the social center of the project, with amenities such as a Fitness Center, in-ground swimming pool, game area, and leasing offices for the project. The other buildings in this group are ten attached two-story gabled townhomes with internal parking in the driveway outside.

The middle group of buildings on the project site has seven clusters of townhomes similar to the ones facing Brush Hill Road. These townhomes frame and shield two larger residential Buildings B and C that range from 3 to 5 stories in height. There are also three one-level parking garages that ring the perimeter, giving residents in this area the option of covered or open parking. The natural topography allows the view of Buildings B and C from the neighboring properties to appear to be a three-story building, similar to the homes in the area.

The third and final group of buildings at the back of the project site consists of a 4 to 5 story Building A with two smaller garage buildings, along with surface parking to support the residential uses on this portion of the project site. These buildings will not be visible from Brush Hill Road or from most abutting properties.

Relationships to Adjacent Properties

As stated above, the buildings along Brush Hill Road, the public frontage to the project site, have been designed to have a lower scale. This allows these buildings to be compatible with the existing buildings along the street and in the neighborhood, including the Fuller Village project. The heights of these buildings range from approximately 25'-40'. These heights are similar to the building height of nearby homes and multi-family buildings at Fuller Village. In addition, the buildings along the southerly project site boundary are also of a lower scale, approximately 40 feet high, similar to the heights of the adjacent residential houses. Site design has incorporated the natural sloping topography to provide for views of

these buildings from the neighboring properties to appear to be a three-story building, similar to the homes and multi-family buildings in the area. Other than the buildings along Brush Hill Road, most of the buildings will not be visible from Brush Hill Road.

The building architecture features articulated walls with balconies and changes in plane on both the large and small buildings to break down the scale and massing. Traditional building elements found throughout Milton such as dormers, porches, and gable roofs are used to further break down and articulate the building elevations. The roofs of the residential buildings will be shingled and exterior walls will be clad in a mix of siding and panels with reveals to provide opportunities for both changes in color and texture. The Clubhouse is intended to be the “jewel” of the design, with complex roof forms, stone accents, glass and vaulted ceilings at the main public spaces within.

AERIAL PHOTOGRAPH

It is the end user's responsibility to verify the accuracy and appropriateness of the data contained herein. Use of this map constitutes agreement with the Terms of Tetra Tech GIS Disclaimer.



One Grant Street
Framingham, MA 01701

Site Aerial (2008)
1259, 1375 & 1383 Brush Hill Road
Milton, Massachusetts

2/5/13
Z
Source: MassGIS

Figure
2

TABULAR ANALYSIS AND WAIVERS

See Schematic Site Development Plans for Tabular Analysis.

Milton Mews

Preliminary List of Requested Zoning Waivers

The Site is located in the Residence AA District.

1. The *Use Restriction* on apartment or multi-family dwellings and accessory uses, including but not limited to clubhouse use, is requested to be waived.
2. The *Sign Restrictions* are requested to be waived to allow project signage.
3. *Maximum Stories* of 2.5 stories (3 stories if building set back an additional 15 feet), is requested to be waived to allow 5 stories.
4. *Maximum Height* of 35 feet is requested to be waived to allow height up to 57 feet.
5. *Maximum One Dwelling Per Lot* is requested to be waived to allow 276 dwelling units.
6. *Front Yard Setback* of 30 feet is requested to be waived to allow retaining wall within approximately 10 feet of street.
7. *Front Yard Accessory Building Setback* of 40 feet is requested to be waived to allow a setback to accessory building of approximately 31 feet.
8. *Enhanced Front Yard Setback* of 50 feet for a building covering more than 5,000 square feet is requested to be waived to allow a setback to the clubhouse, a building of more than 5,000 square feet, of approximately 31 feet.
9. *Side Yard Setback* of 15 feet is requested to be waived to allow a setback to retaining wall of approximately 4 feet.
10. *Side Yard Setback* of $[(H + L)/5]$ is requested to be waived to allow buildings and structures within approximately 58 feet of the side lot line for Building B, approximately 20 feet of the side lot line for the nearby parking garage and approximately 20 feet of the side lot line for Building A of the side lot line.
11. *Side Yard Setback* of 35 feet for buildings covering a ground area of more than 5,000 square feet is requested to be waived to allow buildings to be within approximately 32 feet and 15 feet of the side lot line.
12. *Rear Yard Setback* of 30 feet for accessory building not greater than 20 feet in height is requested to be waived to allow a setback to an accessory parking garage of approximately 13.6 feet.
13. *Rear Yard Setback* of 50 feet for buildings covering a ground area of more than 5,000 square feet is requested to be waived to allow a rear yard setback of approximately 25.1 feet to Building A.

14. *Maximum Building Coverage* of 10% is requested to be waived to allow a maximum building coverage of approximately 11.57%.
15. *Maximum Gross Floor Area* of 20% of lot is requested to be waived to allow a maximum gross floor area of approximately 39.4%.
16. *Parking Ratio Requirement* of two parking spaces for each detached one-family dwelling unit is requested to be waived to allow a parking ratio of approximately 1.65 spaces/unit.
17. *Site Plan Approval Requirement* for multi-family building is requested to be waived.

SITE ASSESSMENT

See plans included herewith for wetlands delineations.



LGCI

Lahlaf Geotechnical Consulting, Inc.

November 30, 2012

Mr. Robert D. Hewitt
Vice President, Northeast
MCRT Investments, LLC
15 New England Executive Park
Burlington, MA 01803
Phone: (781) 685-4698
rhewitt@MCRTTrust.com

**Re. Geotechnical Report Services
Proposed Residential Development
Milton, Massachusetts
LGCI Project 1230**

Dear Mr. Hewitt:

Lahlaf Geotechnical Consulting, Inc. (LGCI) has completed a preliminary geotechnical study for the proposed residential development in Milton, Massachusetts. Our services were performed in accordance with our proposal No. 12073 dated October 16, 2012 and signed by you on October 24, 2012.

The purpose of our services was to perform preliminary subsurface explorations at the site and to provide preliminary foundation design and construction recommendations.

1. Scope of Services

LGCI performed the following services:

- Engaged a drilling subcontractor to advance four (4) soil borings at the site.
- Provided a geotechnical engineer to observe the borings, collect soil sample, and prepare field logs.
- Submitted two (2) soil samples for laboratory testing.
- Prepared this geotechnical letter report containing the results of our subsurface explorations and our preliminary recommendations for foundation design and construction.

We understand that additional explorations will be performed at the site once the development plans are finalized.

LGCI did not perform environmental services for this project. LGCI did not perform an assessment to evaluate the presence or absence of hazardous or toxic materials above or below the ground surface at or around the site. Any statement about the color, odor, or the presence of suspicious materials included in our boring logs or report were made by LGCI for information

only and to support our geotechnical services. No environmental recommendations and/or opinions are included in this report. Recommendations for unsupported slopes, stormwater management, pavement design, erosion control, and detailed cost or quantity estimates are not included in our scope of work.

2. Site Description

Our understanding of the existing site conditions is based on our field observations and on the following drawing:

- “Compilation Plan, Plan of Land in Milton, MA,” prepared by DeCelle Burke & Associates, Inc. of Quincy, MA and dated October 2, 2012.
- GIS Map from by Town of Milton dated October 3, 2012.

The site consists of three (3) lots located at 1259, 1383, and 1375 Brush Hill Road in Milton, Massachusetts as shown in Figure 1. The lots are accessible via and located between two long paved driveways starting at Brush Hill Road. The total area of the lots is about 20 acres. The site topography is generally characterized by gently rolling terrain, covered with open grass areas and thick woods. Based on the GIS Map, a small area near the northern side of the site is a wetland.

3. Project Description

Our understanding of the proposed construction is based on our discussions with you and on the following plan.

- “Site Plan Concept – Option 1,” prepared by Cube3 Studio, and dated October 8, 2012.

Based on the Site Plan Concept, the proposed development will consist of townhouse units on the eastern side near Brush Hill Road and two apartment buildings on the western side at the rear of the site. The layout, size, and height of the proposed buildings are not finalized. Details about the proposed building loads are not available at this time.

Information about the proposed grading is not available. However, based on the existing site topography, we anticipate that slight cuts and fills would be required to achieve level building pads, parking lots, and driveways.

4. Surficial Geology

LGCI reviewed the following surficial geological maps:

- “Surficial Geologic Map of the Blue Hills Quadrangle, Norfolk, Suffolk, and Plymouth Counties, Massachusetts,” prepared by Chute, N. E., U.S. Geological Survey, Map GQ-463, 1965, and



- "Surficial Geologic Map of the Norwood Quadrangle, Massachusetts," prepared by Chute N. E., U.S. Geological Survey, Map, Bulletin 1163-B, Plate 2, 1966.

The maps indicate that the surficial materials on the eastern side of the site consist of ground moraine deposits consisting primarily of till with minor amounts of stratified drift. Near the western side of the site the soils are glaciofluvial deposits consisting of sand, gravel, and boulders. The surficial geologic map is shown in Figure 2.

5. Subsurface Explorations

LGCI staked the boring locations at the site in the presence of the project surveyor and we notified Dig Safe System, Inc. and the Town of Milton for utility clearance before the start of the borings.

LGCI engaged Soil Exploration Corp. of Leominster, Massachusetts to advance four (4) soil borings (B-1 to B-4) at the site on November 9, 2012. The borings were advanced using hollow stem augers with an ATV drill rig. An LGCI engineer observed the excavations and logged the borings in the field.

The borings were advanced to depths ranging between 17 and 19.5 feet beneath the existing ground surface.

The drillers performed Standard Penetration Tests (SPT) and obtained split spoon samples with a safety hammer semi-continuously or at five-foot intervals as noted on the boring logs in general accordance with ASTM D-1586. Unless notified otherwise, we will dispose of the soil samples after three months.

Upon completion, the boreholes were backfilled with the soil cuttings.

Attachment A contains LGCI's boring logs and Figure 3 shows the approximate boring locations.

6. Subsurface Conditions

6.1 Soil Strata

The subsurface description in this letter report is based on a limited number of borings and is intended to highlight the major soil strata encountered during our explorations. The subsurface conditions are known only at the actual boring locations. Variations may occur and should be expected between boring locations. The strata boundaries shown in our boring logs are based on our interpretations and the actual transition may be gradual.

The soil strata encountered in the borings were as follows, starting at the ground surface:

Topsoil/Subsoil – A layer of topsoil between 4 and 9 inches thick was encountered at the ground surface in all borings. Subsoil consisting of silty sand with traces of organics and



roots was encountered beneath the topsoil. The subsoil extended to depths of up to 2.2 feet beneath the ground surface.

Sand and Gravel – Deposits of sand and gravel with cobbles and boulders were encountered beneath the subsoil in all borings and extended to the boring termination depths of 17 to 19.5 feet beneath the ground surface. These deposits were comprised of poorly graded sand (SP), poorly graded sand with silt (SP-SM), silty sand (SM), well graded sand with silt (SW-SM), and well graded gravel with sand (GW). The fines content varied and ranged up to 25 percent. The gravel content in the sand varied up to 30 percent.

The standard penetration test (SPT) N-values in this layer ranged between 11 and more than 100 blows per foot (bpf), with most values between 30 and 89 bpf, indicating dense to very dense soil.

Based on the drilling action and the sampler refusal encountered at various depths, the sand and gravel layer is anticipated to contain numerous cobbles and boulders.

6.2 Laboratory Testing

LGCI submitted two (2) soil samples from the borings for grain-size analyses. The test results are summarized below and the data sheets are included in Attachment B.

Boring	Sample No.	Sample Depth (ft)	Material	Percent Gravel	Percent Sand	Percent Fines
B-2	S3	5 – 7	Sand and Gravel	25.1	51	23.9
B-4	S2 bot. 7"	2 – 4	Sand and Gravel	26.6	66.2	7.2

7. Groundwater

Groundwater was encountered during drilling or at the end of drilling at depths of 5 to 10 feet beneath the ground surface.

The groundwater information reported herein is based on observations made during or shortly after the completion of our explorations and may not represent the actual groundwater level. The groundwater information presented in this report only represents the conditions encountered at the time and location of our explorations. Seasonal fluctuation should be anticipated.



8. Evaluation and Recommendations

8.1 General

Based on the borings, we believe that the subsurface conditions at the site are suitable to support the proposed construction after the topsoil/subsoil are removed and the subgrade is prepared as described in this letter report.

We anticipate that the removal of the topsoil and subsoil would require excavations up to 2.5 feet.

Based on the results of the grain-size analyses, some of the onsite materials are suitable for reuse as Structural Fill and Ordinary Fill after the cobbles and boulders are segregated.

While borings do not provide sufficient information to estimate the proportion of the onsite soils that consist of cobbles and boulders, the boring data clearly indicates that cobbles and boulders will make up a sizeable portion of the excavated materials. The site contractor may mobilize a crusher to the site to crush the cobbles and the boulders with the onsite sand and gravel to produce material suitable for use as backfill.

Rock was not encountered in our borings. However, to reduce the potential for encountering rock unexpectedly during construction, we recommend performing additional explorations at the site including at least two days of test pits to explore for rock. The additional exploration would also provide additional data to better characterize the onsite soils including the proportion of cobbles and boulders.

8.2 Footing Design

- For the design of the proposed foundations placed on the natural sand and gravel, or on Structural Fill placed directly on the natural sand, we recommend an allowable bearing pressure of 5,000 pounds per square foot (psf).
- All foundations should be designed in accordance with *The Commonwealth of Massachusetts State Building Code 780 CMR, Eighth Edition (MSBC 8th Edition)*.
- Exterior footings and footings in unheated areas should be placed at a minimum depth of 4 feet below the final exterior grade to provide adequate frost cover protection. Interior footings in heated areas may be designed and constructed at a minimum depth of 2 feet below finished floor grades.
- We recommend that wall footings have a minimum width of 2 feet, and that column footings have a minimum width of 3 feet. For foundations with a least lateral dimension smaller than 3 feet, the allowable bearing pressure should be reduced to 1/3 of the recommended allowable bearing pressure times the least dimension in feet.
- Wall footings should be designed and constructed with continuous, longitudinal steel reinforcement for greater bending strength to span across small areas of loose or soft soils that may go undetected during construction.



- A representative of LGCI should observe the subgrade of footings to verify that the footing subgrade has been prepared in accordance with our recommendations.

8.3 Settlement

We estimate that for foundations constructed in accordance with the recommendations contained in this report, the total post-construction settlement will be less than about 1 inch and that the differential settlement will be 3/4 inch or less over a distance of 25 feet. Total and differential settlements of these magnitudes are usually considered tolerable for the anticipated construction. However, the tolerance of the proposed structure to the predicted total and differential settlements should be assessed by the structural engineer.

8.4 Concrete Slab Considerations

- The proposed floor slabs can be constructed as a slabs-on-grade.
- The proposed slabs should be placed on a minimum of 12 inches of Structural Fill placed directly on top of the natural sand and gravel.
- The subgrade of the proposed slab should be prepared in accordance with the recommendations in Section 9.
- A vapor retarder could be used beneath the slab. The need for such a membrane should be evaluated by the architect. To reduce the potential for and magnitude of concrete curling, and to protect the vapor retarder, a minimum of three inches of sand should be placed over the membrane.
- For the design of the floor slab bearing on the materials described above, we recommend using a modulus of subgrade reaction, k_{s1} , of 150 tons per cubic foot (pcf). Please note that the values of k_{s1} are for a 1 x 1 square foot area. These values should be adjusted for larger areas using the following expression:

$$\text{Modulus of Subgrade Reaction } (k_s) = k_{s1} * \left(\frac{B+1}{2B} \right)^2$$

where:

- k_s = Coefficient of vertical subgrade reaction for loaded area,
- k_{s1} = Coefficient of vertical subgrade reaction for 1 x 1 square foot area, and
- B = Width of area loaded, in feet.

Please note that cracking of slabs-on-grade can occur as a result of heaving or compression of the underlying soil, but also as a result of concrete curing stresses. To reduce the potential for cracking, the precautions listed below should be closely followed for construction of all slabs-on-grade:



- Construction joints should be provided between the floor slab and the walls and columns in accordance with the American Concrete Institute (ACI) requirements, or other applicable code.
- Backfill in interior and exterior utility trenches should be properly compacted.
- In order for the movement of exterior slabs not to be transmitted to the building foundation or superstructure, exterior slabs such as approach slabs and sidewalks should be isolated from the building superstructure.

8.5 Seismic Recommendations

In accordance with Section 1613 of *MSBC 8th Edition* and based on the boring data, the seismic criteria are as follows:

• Site Class:	D
• Spectral Response Acceleration at short period, S_s (Table 1604.11):	0.27g
• Spectral Response Acceleration at 1 sec., S_1 (Table 1604.11):	0.066g
• Site Coefficient, F_a (Table 1613.5.3(1)):	1.58
• Site Coefficient, F_v (Table 1613.5.3(2)):	2.4
• Adjusted spectral response S_{ms} (Equation 16-36):	0.43g
• Adjusted spectral response S_{m1} (Equation 16-36):	0.158g

Based on the SPT data from the borings, we believe the site soils are not susceptible to liquefaction.

9. *Construction Considerations*

9.1 Subgrade Preparation

- The subgrade in the natural sand and gravel should be compacted with a vibratory roller compactor imparting a minimum dynamic effort of 40 kips before placing backfill.
- Boulders at the bottom of the excavation for footings and slabs should be removed, and the resulting excavation should be backfilled with compacted Structural Fill.
- The proposed slab should be placed on a minimum of 6 inches of Structural Fill placed directly on top of the natural sand and gravel.
- An LGCI geotechnical engineer or his representative should observe the exposed subgrade prior to fill and concrete placement to verify that the exposed bearing materials are suitable for the design soil bearing pressure. If soft or loose pockets are encountered in the footing excavations, the soft or loose materials should be removed, and the bottom of the footing should be placed at a lower elevation on firm soil, or the resulting excavation should be backfilled with Structural Fill, or crushed stone wrapped in a filter fabric.



- Where fill is placed on crushed stone, it should be separated from the underlying crushed stone with a geotextile fabric such as Mirafi 140N.

9.2 Subgrade Protection

The onsite silty sand is frost susceptible. If construction takes place during freezing weather, special measures should be taken to prevent the subgrade from freezing. Such measures should include the use of heat blankets, or excavating the final six inches of soil just before pouring concrete. Footings should be backfilled as soon as possible after footing construction. Soil used as backfill should be free of frozen material, as should the ground on which it is placed.

Materials with high fine contents are typically difficult to handle when wet as they are sensitive to moisture content variations. Subgrade support capacities may deteriorate when such soils become wet and/or disturbed. The contractor should keep exposed subgrades properly drained and free of ponded water. The subgrade should be protected from machine and foot traffic to reduce disturbance.

9.3 Engineered Fill

9.3.1 Structural Fill – Structural Fill should consist of inert, hard, durable sand and gravel, free from organic matter, clay, surface coatings and deleterious materials, and should conform to the gradation requirements shown below. The gradation curve for Structural Fill should fit entirely within the envelope defined by the limits defined below.

The Structural Fill should have a plasticity index of less than 6, should be well graded, and should meet the gradation requirements shown below. Structural Fill should be compacted in maximum 9-inch loose lifts to at least 95 percent of the Modified Proctor maximum dry density (ASTM D1557), with moisture contents within ± 2 percentage points of optimum moisture content.

Sieve Size	Percent Passing by Weight
3 inches	100
1.5 inch	80 - 100
½ inch	50 - 100
No. 4	30 - 85
No. 20	15 - 60
No. 60	5 - 35
No. 200	0 - 10

9.3.2 Ordinary Fill – Ordinary Fill should have a plasticity index of less than 6, and should meet the gradation requirements shown below. Ordinary Fill should be



compacted in maximum 9-inch loose lifts to at least 95 percent of the Modified Proctor maximum dry density (ASTM D1557), with moisture contents within ± 2 percentage points of optimum moisture content.

Sieve Size	Percent Passing by Weight
6 inches	100
1 inch	50 - 100
No. 4	20 - 100
No. 20	10 - 70
No. 60	5 - 45
No. 200	0 - 20

9.4 Reuse of Onsite Materials

The grain-size analyses indicated fines contents of 23.9 and 7.2 percent in samples B-2-S3 and B-4-S2, respectively. Based on these results and on our field observations, we anticipate that some of the natural sand and gravel excavated during construction will meet the gradation requirements for Ordinary Fill and Structural Fill.

The topsoil/subsoil and existing fill are not suitable for reuse. However, due to the presence of cobbles and boulders in the existing sand and gravel, portions of the subsoil free of organics could be processed by crushing the natural sand and gravel, cobble, and boulders with the subsoil to produce a blend that meets the gradation requirements of Ordinary Fill for use under the pavement subbase and in other non-structural areas.

The soils to be reused should be excavated and stockpiled separately. Materials to be used as fill should first be tested and the results should be submitted to the geotechnical engineer for his review.

9.5 Groundwater Control

Based on the groundwater levels encountered in the borings, no major groundwater control will be needed during excavations. However, dewatering will be needed in areas where excavation will be deeper than about 5 feet. We expect that filtered sump pumps installed in pits located at least three feet below the bottom of the excavation may be sufficient to handle groundwater and surface runoff that may enter the excavation. Due to the clean nature of the natural sand and gravel deposits and their expected high hydraulic conductivity, multiple sumps may be needed in deep excavations that may extend beneath the water table.

Groundwater levels should be maintained at a minimum of 1-foot below the bottom of excavations during construction. Placement of reinforcing steel or concrete in standing water should not be permitted.

To reduce the potential for sinkholes developing over sump pump pits after the sump pumps are removed, the crushed stone placed in the sump pump pits should be wrapped in a



geotextile fabric. Alternatively, the crushed stone should be entirely removed after the sump pump is no longer in use and the sump pump pit should be restored with suitable backfill.

9.6 Temporary Excavation

All excavations to receive human traffic, including utility trenches, basement or footing excavations, or others (i.e. underground storage tanks, etc.), should be constructed in accordance with the OSHA guidelines.

The site soils should generally be considered Type "C" and should have a maximum allowable slope of 1.5 Horizontal to 1 Vertical (1.5H:1V) for excavations less than 20 feet deep. Deeper excavations, if needed, should have shoring designed by a professional engineer.

The contractor is solely responsible for designing and constructing stable, temporary excavations and should shore, slope, or bench the sides of the excavations as required to maintain stability of the excavation sides and bottom.

9.7 Public Notification and Pre-Construction Survey

We recommend that the Owner implement a proactive program of public notification and education of neighbors on the physical characteristics of the proposed construction. The owner may consider performing a pre-construction condition survey of structures located within 100 feet of the nearest excavation operation to document the existing conditions of the structures. The Owner may also consider using crack monitoring gauges to monitor large cracks identified during the pre-construction surveys.

10. Limitations

Our analysis and recommendations are based on project information provided to us at the time of our field work. If changes to the type, size, and location of the proposed structure are made, the recommendations contained in this letter report shall not be considered valid unless the changes are reviewed, and the conclusions and recommendations modified in writing by LGCI.

The recommendations in this letter report are based in part on the data obtained from the subsurface explorations. The nature and extent of variations between explorations may not become evident until construction. If variations from anticipated conditions are encountered, it may be necessary to revise the recommendations in this letter report. We cannot accept responsibility for designs based on recommendations in this letter report unless we are engaged to 1) make site visits during construction to check that the subsurface conditions exposed during construction are in general conformance with our design assumptions and 2) ascertain that, in general, the work is being performed in compliance with the contract documents.

It is not part of our scope to perform a more detailed site history; therefore, we have not explored for or researched the locations of buried utilities or other structures in the area of the proposed construction. Our scope did not include environmental services or services related to moisture, mold, or other biological contaminants in or around the site.



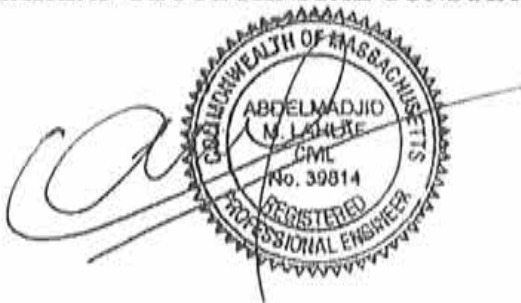
**Geotechnical Report Services
Proposed Residential Development
Milton, Massachusetts
LGCI Project 1230**

Our letter report has been prepared in accordance with generally accepted engineering practices and in accordance with the terms and conditions set forth in our agreement. No other warranty, expressed or implied, is made. This letter report has been prepared for the exclusive use of MCRT Investments, LLC for the specific application to the proposed residential development in Milton, Massachusetts as conceived at this time.

If you have any questions, please call us.

Sincerely,

LAHLAF GEOTECHNICAL CONSULTING, INC.



Abdelmadjid M. Lahlaf, Ph.D., P.E.
Principal Engineer


Attachments: Figure 1 – Site Location Map
Figure 2 – Surficial Geologic Map
Figure 3 - Boring Location Plan
Attachment A – Boring Logs
Attachment B – Laboratory Test Results

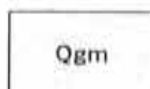
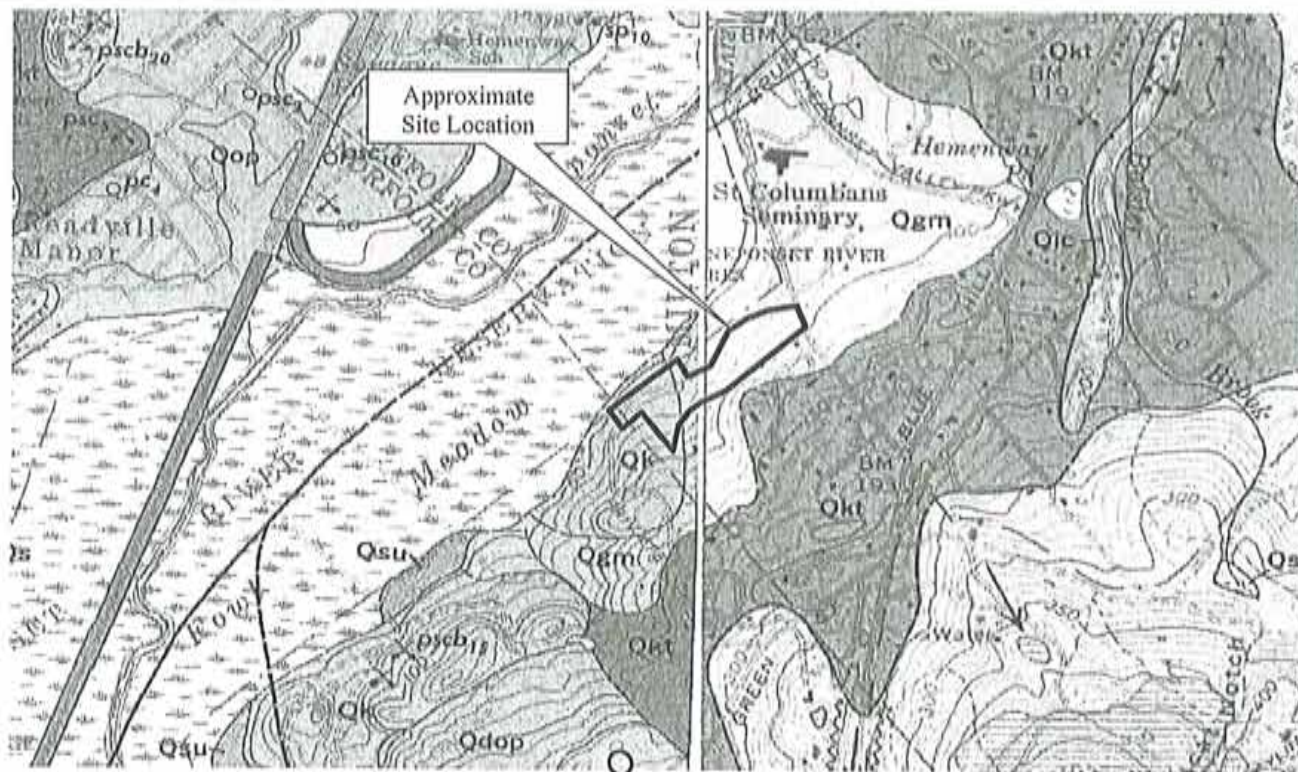




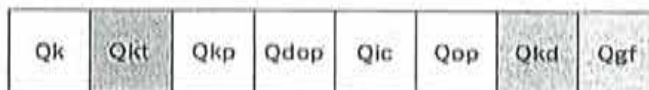
Approximate Scale: 1:25000
Contour intervals: 3 meters

Note: Figure based on USGS topographic map of Milton, MA – from <http://mapserver.mytopo.com>

Client: MCRT Investments, LLC	Project: Proposed Residential Development	Figure 1 – Site Location Map	
 LGCI Lahla Geotechnical Consulting, Inc.	Project Location: Milton, MA	LGCI Project No.: 1230	Date: Nov. 2012



Ground moraine deposits
Widespread layer of till;
includes minor amounts
of stratified drift



Glaciofluvial deposits

Qk, kame or kamefield; isolated knobs and knobby areas of sand and gravel; boulders common

Figure based on maps titled:

"Surficial Geologic Map of the Blue Hills Quadrangle, Norfolk, Suffolk, and Plymouth Counties, Massachusetts," prepared by Chute, N. E., U.S. Geological Survey, Map GQ-463, 1965, and

"Surficial Geologic Map of the Norwood Quadrangle, Massachusetts," prepared by Chute, N. E. U.S. Geological Survey, Map, Bulletin 1163-B. Plate 2, 1966. Digital map prepared by Maria Fernandez, 2004, Office of the Massachusetts State Geologist, University of Massachusetts, Amherst, MA.



Client: MCRT Investments, LLC	Project: Proposed Residential Development	Figure 2 Surficial Geologic Map	
 LGCI Lahla Geotechnical Consulting, Inc.	Project Location: Milton, MA	LGCI Project No.: 1230	Date: Nov. 2012



Figure 3 – Boring Location Plan

Client: MCRT Investments, LLC	Project: Proposed Residential Development	Figure 3 – Boring Location Plan	
 LGCI Landscape Group, Inc.	Project Location: Milton, MA	LGCI Project No.: 1230	Date: Nov. 2012



Attachment A – Boring Logs

Project: Proposed Residential Development , Milton, Massachusetts			
Client: MCRT Investments, Inc.		LGCI Project No.: 1230	
Drilling Subcontractor:	Soil Exploration Corp.	Date Started:	11/9/2012
Drilling Foreman:	George Guinto	Date Completed:	11/9/2012
LGCI Engineer:	Geetha Mathiyalakan	Location:	Driveway to the south of #1375 in grass
Ground Surface El:	NA	Total Depth:	19.5 feet
Groundwater Depth:	~10 feet during drilling (at 6 feet at the end of drilling)	Drill Rig Type:	CME-75 Rubber Tire
		Drilling Method:	4 1/4" HSA
Hammer Weight:	140 lbs	Split Spoon Diameter:	ID - 1.375", OD - 2"
Hammer Type:	Automatic	Rock Core Barrel Size:	N/A
Drop:	30 inches		

Depth Scale	Sample Depth (ft)	Sample No	Blows per 6 inches				Pen (in)	Rec (in)	Remarks	Strata	Sample Description
			0-6	6-12	12-18	18-24					
5ft	0 - 2	S1	2	2	2	3	24	7		Topsoil Subsoil +2.2'	S1 - Topsoil S2 - Top 3": Silty SAND (SM), mostly fine, ~20% fines, traces of organics, traces of roots, dark brown, moist (subsoil) Bot. 10": Poorly Graded SAND with Silt (SP-SM), fine to medium, ~10% fines, traces of subrounded fine to coarse gravel, traces of small roots near the top, brown-tan, moist
	2 - 4	S2	3	3	8	23	24	13			
	5 - 7	S3	35	30	30	28	24	14			S3 - Poorly Graded SAND with Silt and Gravel (SP-SM), fine to medium, trace coarse, 5-10% fines, 25-30% fine to coarse subangular gravel, gray-brown, moist
10ft										Sand and Gravel	
	10 - 12	S4	10	17	14	23	24	11			S4 - Silty SAND (SM), mostly fine, ~15% medium, trace of coarse, 10-15% fines, ~10% subangular fine to coarse gravel, gray-brown, damp to wet (observed wet auger cuttings below 10 feet) (hard augering from 12.5 ft to 14 ft, and possible cobbles)
15ft											
	15 - 17	S5	25	35	54	53	24	15			S5 - Silty SAND (SM), fine to medium, trace coarse, ~15% fines, 5-10% fine gravel, trace coarse gravel near the tip, brown-gray, wet (very hard augering at 17 feet)
20ft	17.5 - 19.5	S6	17	55	32	33	24	13			S6 - Silty SAND (SM), fine to medium, ~10% coarse, ~15% fines, 10-15% fine gravel, brown-gray, wet
											End of boring at 19.5 ft. Backfilled with drill cuttings.

Remarks:

Project: Proposed Residential Development , Milton, Massachusetts			
Client: MCRT Investments, Inc.		LGCI Project No.: 1230	
Drilling Subcontractor:	Soil Exploration Corp.	Date Started:	11/9/2012
Drilling Foreman:	George Guinto	Date Completed:	11/9/2012
LGCI Engineer:	Geetha Mathiyalakan	Location:	In woods 120 feet south of private drive
Ground Surface El:	NA	Total Depth:	17 feet
Groundwater Depth:	Not encountered (damp sample at 10 feet)	Drill Rig Type:	CME-75 Rubber Tire
		Drilling Method:	4 1/4" HSA
Hammer Weight:	140 lbs	Split Spoon Diameter:	ID - 1.375", OD - 2"
Hammer Type:	Automatic	Rock Core Barrel Size:	N/A
Drop:	30 inches		

Depth	Sample	Sample	Blows per 6 inches				Pen	Rec	Remarks	Strata	Sample Description
Scale	Depth (ft)	No	0-6	6-12	12-18	18-24	(in)	(in)			
5ft	0 - 2	S1	2	3	5	5	24	8	Topsoil/ Subsoil ~2'	Sand and Gravel	S1 - Top 4": Topsoil Bot. 4": Silty SAND (SM), fine, trace medium to coarse, ~20% fines, traces of organics, brown, moist (subsoil)
	2 - 3.4	S2	13	25	65/5"		17	3			S2 - Silty SAND with Gravel (SM), mostly fine to medium, trace coarse, ~15% fines, 25-30% fine to coarse gravel, brown, moist (based on drilling possible cobbles from 3 ft to 4.5 ft)
	5 - 7	S3	35	71	53	89	24	17			S3 - Silty SAND with Gravel (SM), mostly fine to medium, trace coarse, ~25% fines, ~25% fine gravel with thin (~3") layer of broken angular coarse gravel near the top, tan, moist
10ft											
	10 - 12	S4	18	18	17	20	24	10			S4 - Well Graded SAND with Silt and Gravel (SW-SM), mostly fine to medium, ~10% coarse, ~10% fines, 10-15% fine gravel, gray-tan, damp
15ft											
	15 - 17	S5	36	25	30	35	24	16			S5 - Silty SAND with Gravel (SM), mostly fine to medium, ~10% coarse, ~15% fines, 10-15% fine gravel, gray-tan with bright brown mottles, moist
20ft											
											End of boring at 17 ft. Backfilled with drill cuttings.

Remarks:

Project: Proposed Residential Development , Milton, Massachusetts			
Client: MCRT Investments, Inc.		LGCI Project No.: 1230	
Drilling Subcontractor:	Soil Exploration Corp.	Date Started:	11/9/2012
Drilling Foreman:	George Guinto	Date Completed:	11/9/2012
LGCI Engineer:	Geetha Mathiyalakan	Location:	In woods 25 feet north of ROW
Ground Surface El:	NA	Total Depth:	17 feet
Groundwater Depth:	~5 feet during drilling	Drill Rig Type:	CME-75 Rubber Tire
		Drilling Method:	4 1/4" HSA
Hammer Weight:	140 lbs	Split Spoon Diameter:	ID - 1.375", OD - 2"
Hammer Type:	Automatic	Rock Core Barrel Size:	N/A
Drop:	30 inches		

Depth Scale	Sample Depth (ft)	Sample No	Blows per 6 inches				Pen (in)	Rec (in)	Remarks	Strata	Sample Description
			0-6	6-12	12-18	18-24					
5ft	0 - 2	S1	3	3	6	6	24	7		Topsoil/ Subsoil ~2'	S1 - Topsoil, trace of coarse gravel
	2 - 4	S2	31	44	41	40	24	5			S2 - Broken angular coarse gravel, traces of topsoil at the top (based on drilling possible cobbles from 2 feet to 3 feet)
	5 - 7	S3	28	74	31	26	24	15			S3 - Top 4": Well Graded SAND with Gravel (SW), fine to coarse, 5-10% fines, 15-20% fine to coarse gravel, gray-brown, wet Bot. 11": Well Graded GRAVEL with Sand (GW), mostly subangular coarse gravel, ~30% fine to coarse sand, ~5% fines, gray-brown, wet (very hard augering from 5 ft to 7 ft, and from 8 ft to 9 ft)
10ft	10 - 12	S4	8	17	29	31	24	13		Sand and Gravel	S4 - Silty SAND with Gravel (SM), mostly fine to medium, trace coarse, 15-20% fines, 15-20% subangular coarse gravel, gray, wet (very hard augering from 13 ft to 15 ft)
15ft	15 - 17	S5	12	40	62	65	24	16			S5 - Silty SAND (SM), mostly fine to medium, trace coarse, ~15% fines, 10-15% fine gravel, gray, wet at the top to damp near the tip
20ft											End of boring at 17 ft. Backfilled with drill cuttings.

Remarks:

Project: Proposed Residential Development , Milton, Massachusetts	
Client: MCRT Investments, Inc.	LGCI Project No.: 1230
Drilling Subcontractor: Soil Exploration Corp.	Date Started: 11/9/2012
Drilling Foreman: George Guinto	Date Completed: 11/9/2012
LGCI Engineer: Geetha Mathiyalakan	Location: ~10 ft east of the #1259 driveway
Ground Surface El: NA	Total Depth: 17 feet
Groundwater Depth: ~10 feet during drilling	Drill Rig Type: CME-75 Rubber Tire
	Drilling Method: 4 1/4" HSA
Hammer Weight: 140 lbs	Split Spoon Diameter: ID - 1.375", OD - 2"
Hammer Type: Automatic	Rock Core Barrel Size: N/A
Drop: 30 inches	

Depth Scale	Sample Depth (ft)	Sample No	Blows per 6 inches				Pen (in)	Rec (in)	Remarks	Strata	Sample Description
			0-6	6-12	12-18	18-24					
5ft	0 - 2	S1	1	1	1	1	24	12		Topsoil/ Subsoil ~2.1'	S1 - Top 9": Topsoil Bot. 3": Silty SAND (SM), fine, ~20% fines, trace of coarse gravel, traces of organics and roots, brown, moist (subsoil) S2 - Top 2": Subsoil
	2 - 4	S2	2	5	8	9	24	9			Bot. 7": Well Graded SAND with Gravel (SW), fine to coarse, 5-10% fines, ~25% fine gravel, brown, moist
	5 - 7	S3	23	24	25	53	24	12			S3 - well Graded SAND with Gravel (SW), fine to coarse, ~5% fines at the top to 5-10% fines near the tip, 10-15% fine gravel, gray-brown, moist
10ft										Sand and Gravel	
	10 - 12	S4	13	16	22	26	24	10			S4 - Well Graded SAND with Silt and Gravel (SW-SM), mostly fine to medium, ~10% coarse, 5-10% fines, ~20% fine to coarse gravel, brown-gray, wet
15ft											
	15 - 17	S5	24	33	48	46	24	13			S5 - Silty SAND (SM), fine to medium, ~15% fines, trace fine gravel, gray, wet
20ft											
											End of boring at 17 ft. Backfilled with drill cuttings.

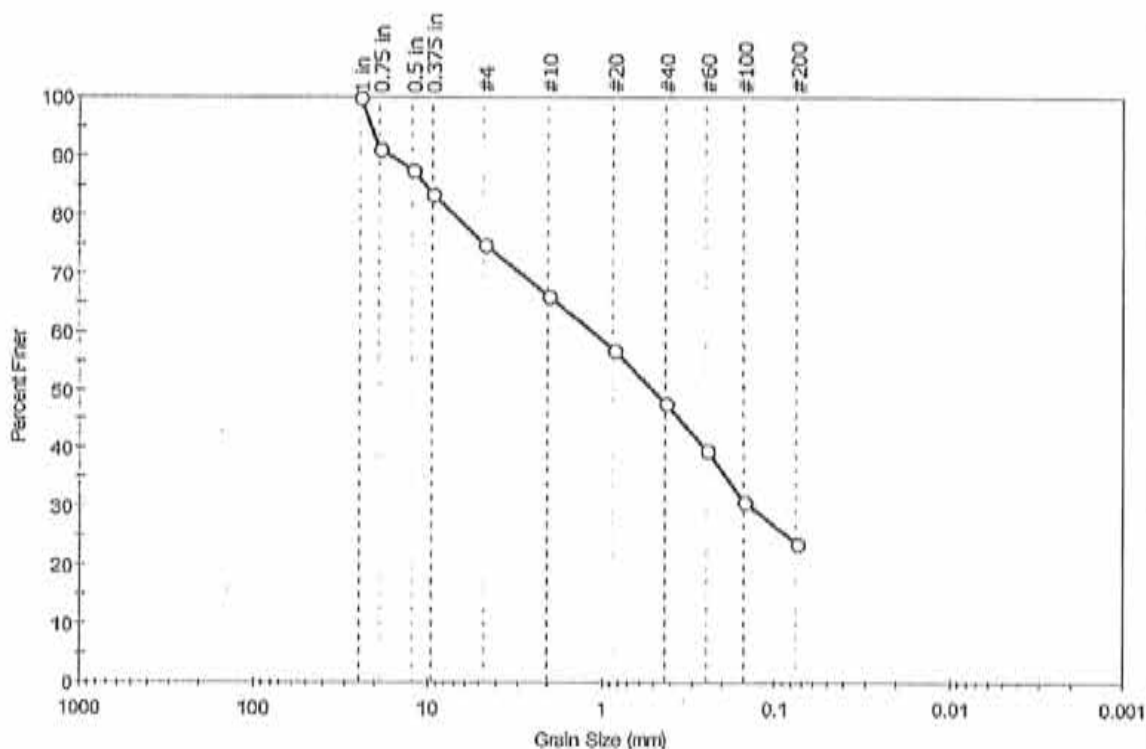
Remarks:

Attachment B – Laboratory Test Results



Client:	Lahiaf Geotechnical Consulting		
Project:	Proposed Housing 1375 Brush Hill Road		
Location:	Milton, MA	Project No:	GTX-300023
Boring ID:	B2	Sample Type:	jbr
Sample ID:	S3	Test Date:	11/29/12
Depth :	5-7 ft.	Test Id:	255367
Test Comment:	---		
Sample Description:	Moist, light olive brown silty sand with gravel		
Sample Comment:	---		

Particle Size Analysis - ASTM D422



% Cobble	% Gravel	% Sand	% Silt & Clay Size
—	25.1	51.0	23.9

Sieve Name	Sieve Size, mm	Percent Finer	Spec. Percent	Complies
1 in	25.00	100		
0.75 in	19.00	95		
0.5 in	12.50	85		
0.375 in	9.50	75		
#4	4.75	65		
#10	2.00	55		
#20	0.85	45		
#40	0.425	35		
#60	0.25	25		
#100	0.15	15		
#200	0.075	10		

Coefficients

$D_{85} = 10.5562$ mm	$D_{30} = 0.1379$ mm
$D_{60} = 1.1331$ mm	$D_{15} = \text{N/A}$
$D_{50} = 0.4995$ mm	$D_{10} = \text{N/A}$
$C_u = \text{N/A}$	$C_c = \text{N/A}$

Classification

ASTM N/A

AASHTO Stone Fragments, Gravel and Sand (A-1-b (0))

Sample/Test Description

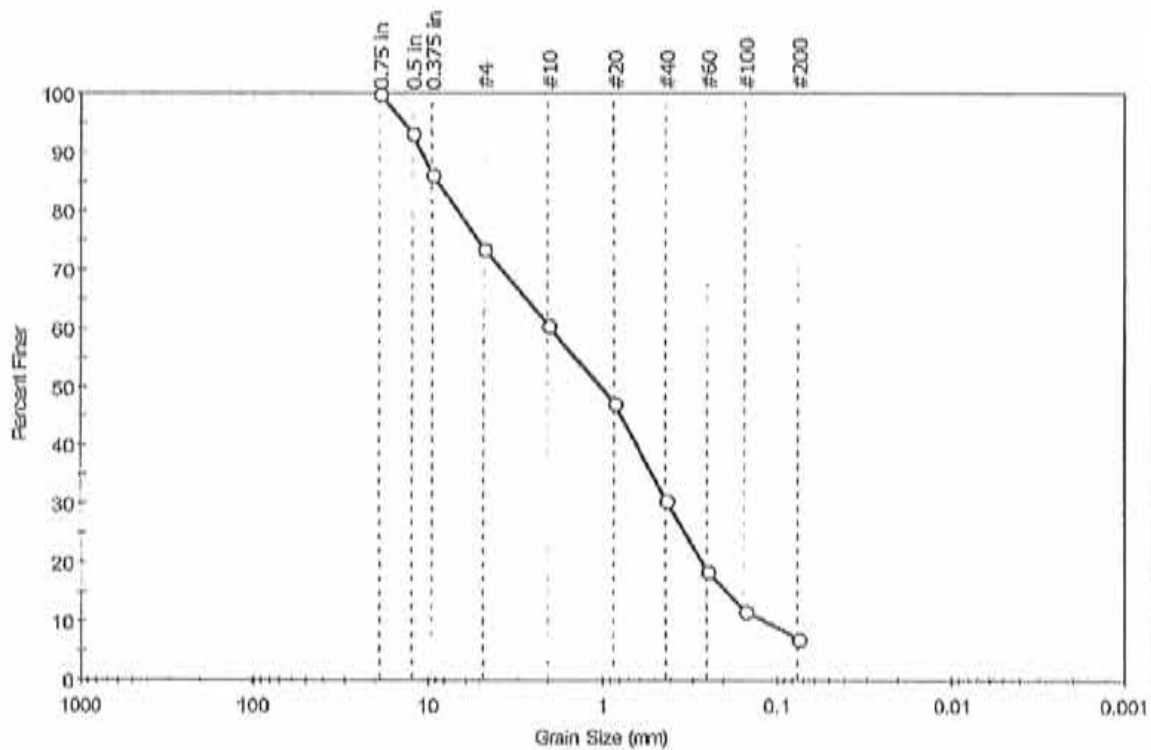
Sand/Gravel Particle Shape : ROUNDED

Sand/Gravel Hardness : HARD



Client:	Lahlaf Geotechnical Consulting		
Project:	Proposed Housing 1375 Brush Hill Road		
Location:	Milton, MA	Project No:	GTX-300023
Boring ID:	B4	Sample Type:	Jar
Sample ID:	S2	Test Date:	11/30/12
Depth:	2-4 ft (bot. 7-in)	Test Id:	255366
Test Comment:	---		
Sample Description:	Moist, grayish brown sand with silt and gravel		
Sample Comment:	---		

Particle Size Analysis - ASTM D422



% Cobble	% Gravel	% Sand	% Silt & Clay Size
—	26.8	60.2	7.2

Sieve Name	Sieve Size, mm	Percent Finer	Spec. Percent	Complies
0.75 in	19.3	100		
0.5 in	12.5	95		
0.375 in	9.5	85		
#4	4.75	75		
#10	2.0	60		
#20	0.85	48		
#40	0.425	30		
#60	0.25	18		
#100	0.15	12		
#200	0.075	7		

Coefficients

$D_{85} = 8.9941$ mm	$D_{30} = 0.4124$ mm
$D_{60} = 1.9289$ mm	$D_{15} = 0.1922$ mm
$D_{50} = 1.0190$ mm	$D_{10} = 0.1156$ mm
$C_u = 16.686$	$C_c = 0.763$

Classification

ASTM N/A

AASHTO Stone Fragments, Gravel and Sand (A-1-b (0))

Sample/Test Description

Sand/Gravel Particle Shape : ROUNDED

Sand/Gravel Hardness : HARD

FEMA FIRM MAP

STATE APPROVALS

None yet. MEPA Review will be requested simultaneously with the Comprehensive Permit application.

NEF LETTER OF INTEREST



February 15, 2013

Mr. Robert D. Hewitt
Vice President, Northeast
Mill Creek Residential Trust, LLC
15 New England Executive Park
Burlington, MA 01803

Re: Brush Hill Road (300 Rental Units)
Milton, MA ("Project")

Dear Mr. Hewitt:

I am writing in connection with the Site Approval Application for Comprehensive Permit Site Approval under Massachusetts General Laws Chapter 40B ("Application") made by Mill Creek Residential Trust LLC, ("Applicant") in connection with the above referenced Project.

Cambridge Savings Bank ("the Bank") is a member bank of the Federal Home Loan Bank of Boston.

We have had preliminary discussions with you regarding the provision of financing for the Project using the New England Fund ("NEF") program. Please consider this letter an expression of the Bank's interest in providing financing for the Project under the NEF program.

If financing were currently obtained for the Project from the Bank under the NEF program, projected loan terms would include:

Maximum Loan to Value: 75%

Maximum Loan to Cost: 75%

Maximum Debt Service Coverage: 1.20X

Maximum Loan Term: 7 years; comprised of a 24-month construction period followed by a five year term loan.

Interest Rate: Floating at 30-day Libor plus 3.00%


Amortization: Interest only throughout the 24-month construction period. Principal plus accrued interest will be payable monthly commencing on the first month of the five year term loan. Principal will be based on a 30-year amortization schedule at a rate equal to 30-day Libor + 3.00%.

However, nothing in this letter should be construed as a commitment or undertaking on the Bank's part either expressed or implied to loan money or take any other action with the respect to the Project.

The Bank is well aware of the Mill Creek Residential Trust, LLC experience as developers of housing, and has no reason to believe they do not have the financial capacity or professional expertise required to succeed in their efforts with respect to this Project.

Please do not hesitate to contact me should you have any questions regarding the above.

Very truly yours,



David A. Ault
Vice President

DEVELOPER QUALIFICATION

See application.

MUNICIPAL AND DHCD LETTERS

February 22, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Thomas Hurley, Chairman
Board of Selectmen
Town of Milton
Town Office Building
525 Canton Avenue
Milton, MA 02186

Annemarie Fagan,
Interim Town Administrator
Town of Milton
Town Office Building
525 Canton Avenue
Milton, MA 02186

Re: Milton Mews, Brush Hill Road – Site Approval Application

Dear Chairman Hurley and Ms. Fagan:

Enclosed are 2 copies of the Site Approval Application submitted today to the Massachusetts Housing Finance Agency on behalf of Milton Mews Venture LLC, an affiliate of Mill Creek Residential (formerly known as Trammell Crow Residential). As we noted in our discussions with various Milton officials and residents over the last few months, Mill Creek is excited about the opportunity in Milton and intends to work as cooperatively as possible with elected officials and residents as we move forward with this proposal. In that regard, although the Town's "official" thirty day comment period will commence on receipt of MassHousing's notice to the Town, we are happy to discuss your questions and comments in the interim as well. Please feel free to contact either me or Robb Hewitt of Mill Creek (rhewitt@mcctrust.com or 781-685-4698).

Sincerely,



Deborah S. Horwitz

cc: Gregory P. Watson, MassHousing

GSDOCS\2183054.3

February 22, 2013

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

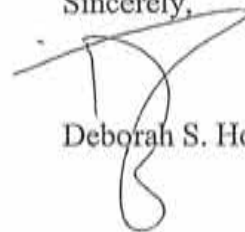
Toni Coyne Hall
Massachusetts Department of Housing and
Community Development
100 Cambridge Street
Suite 300
Boston, MA 02114

Re: New England Fund Site Approval Application -- Milton, MA

Dear Toni:

Please consider this notice pursuant to 760 CMR 56.04(2) of the submission of a Site Approval Application to the Massachusetts Housing Finance Agency for a new rental development off of Brush Hill Road in Milton. The Applicant is Milton Mews Venture LLC, an affiliate of Mill Creek Residential (formerly known as Trammell Crow Residential). The project site is 1259, 1375, 1381-1383 and 1425 Brush Hill Road in Milton, Massachusetts. The proposed development consists of 276 rental units, 25% of which will be affordable pursuant to the New England Fund program.

Sincerely,



Deborah S. Horwitz

Cc: Gregory P. Watson, MassHousing

GSDOCS\2183055.2