

**Supplemental**

**PACKET**

**Feb 8 (AM)**

**2021**

The following list of documents have been added to the Supplemental Packet of the Board of Selectmen Meeting for 2.8.2021 (AM) and are labeled according to their corresponding agenda item.

- 3. Redline – 12<sup>th</sup> Amendment to the Land Disposition Agreement River's Edge
- 3. Clean Version of 12<sup>th</sup> Amendment to the Land Disposition Agreement River's Edge
- 3. Redline – Wastewater Infrastructure Agreement River's Edge
- 3. Clean Version of Wastewater Infrastructure Agreement River's Edge
- 3. Redline – Wastewater Escrow Holdback Agreement River's Edge
- 3. Clean Version of Wastewater Escrow Holdback Agreement River's Edge

**TWELFTH AMENDMENT TO  
LAND DISPOSITION AGREEMENT**

This Twelfth Amendment to Land Disposition Agreement (this “Amendment”) is made and entered into by and between **TOWN OF WAYLAND**, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation, and **ALTA RIVER’S EDGE, LLC**, a Delaware limited liability company (hereinafter “Buyer”). ~~WP EAST ACQUISITIONS, L.L.C., a Georgia limited liability company (“Contract Buyer”), is joining in this Agreement for the limited purposes set forth herein.~~ Each of Seller, ~~Buyer~~ and ~~Contract~~ Buyer is a “Party” and taken together shall be the “Parties”.

Recitals:

A. Seller and WP East Acquisitions, L.L.C. (“Contract Buyer”) previously entered into that certain Land Disposition Agreement with an effective date of July 28, 2017 (the “Original Contract”), as amended by that certain First Amendment to Land Disposition Agreement dated as of October 24, 2017, as further amended by that certain Second Amendment to Land Disposition Agreement dated as of October 31, 2017, as further amended by that certain Third Amendment to Land Disposition Agreement dated as of December 18, 2017, as further amended by that certain Fourth Amendment to Land Disposition Agreement dated as of February 26, 2018, as further amended by that certain Fifth Amendment to the Land Disposition Agreement dated May 23, 2018, as further amended by that certain Sixth Amendment to the Land Disposition Agreement dated August 29, 2018, as further amended by that certain Seventh Amendment to the Land Disposition Agreement dated February 28, 2019, as further amended by that certain Eighth Amendment to Land Disposition Agreement dated March 7, 2019 (the “Eighth Amendment”), as further amended by that certain Ninth Amendment to Land Disposition Agreement dated April 29, 2019 (the “Ninth Amendment”), as further amended by that certain Tenth Amendment to Land Disposition Agreement dated May 31, 2019 (the “Tenth Amendment”), as further amended by that certain Eleventh Amendment (the “Eleventh Amendment”) to Land Disposition Agreement dated March 30, 2020, ~~and~~ as further amended by that certain Amendment 11-A to Land Disposition Agreement dated January 28, 2021 (“Amendment 11-A”), as further amended by that certain Amendment 11-B to Land Disposition Agreement dated February 5, 2021 (“Amendment 11-B”) (as amended, the “Contract”) for the purchase and sale of that certain parcel of land located ~~484-490~~490 Boston Post Road, Wayland, Massachusetts (the “Property”), as is more fully described in the Contract.

B. Pursuant to an Assignment and Assumption of Purchase and Sale Agreement and Intangible Property by and between Contract Buyer and Buyer dated March 22, 2019 (the “Assignment”), Contract Buyer assigned the Contract as then constituted to Buyer, and Buyer assumed the obligations of Contract Buyer under the Contract as provided in the Assignment.

~~C. The Buyer is a Pre-Approved Assignee as described in Section 7.3 of the Original Contract.~~

~~C.~~ ~~D.~~ The Parties wish to amend the Contract to, among other things, ~~confirm the Assignment and ratify prior amendments to the Contract that were inadvertently executed by Contract Buyer after the Assignment and~~ document (i) various matters concerning the Approvals for Buyer's Project, (ii) the Parties' agreement as to certain Site Conditions Estimates and aspects of the Site Conditions Work, and (iii) additional closing documentation that will be necessary to consummate the transactions contemplated by the Contract.

#### Terms and Conditions:

In consideration of the mutual covenants, agreements, and undertakings set forth in the Contract and in this Amendment, the sufficiency of which is hereby acknowledged, and intending to be legally bound, Seller and Buyer agree as follows:

1. Capitalized Terms; Recitals. All capitalized terms used herein but undefined (including those set forth in the Recitals) shall have the meaning as defined in the Contract. The foregoing Recitals are hereby incorporated as agreements of the parties hereto.

~~2. Contract Assignment; Ratification. Buyer and Contract Buyer represent and warrant that (i) Buyer constitutes a Pre-Approved Assignee pursuant to Section 7.3 of the Original Contract; (ii) a Buyer Affiliate owns at least a 5% ownership interest (direct or indirect) in the Buyer; and (iii) a Buyer Affiliate is the designated development partner for the Buyer's Project and shall remain as the designated development partner until the Buyer's Project Completion Date except as otherwise provided in Section 7.3 of the Contract. Seller, in reliance on the foregoing, acknowledges receipt of the Assignment and hereby confirms that the Assignment complies with Section 7.3 of the Original Contract. Contract Buyer inadvertently executed the Ninth Amendment, Tenth Amendment and Eleventh Amendment to the Contract (collectively, the "Typo Amendments") subsequent to the Assignment. Accordingly, Seller, Buyer and Contract Buyer hereby acknowledge and agree that all references in the Typo Amendments to the Contract Buyer (i.e. WP East Acquisitions, LLC, a Georgia limited liability company) shall be deemed to mean and refer to Buyer (i.e. Alta River's Edge, LLC, a Delaware limited liability company), and Seller and Buyer ratify and confirm the Typo Amendments as if Buyer was a party thereto. Buyer hereby expressly assumes all of the obligations of the "Buyer" under the Contract, whether arising before or after the date of the effective date of this Amendment~~Reserved.

3. Status/Pursuit of Approvals.

(a) Municipal Approvals Obtained to Date; Gross Purchase Price Increase. The Parties acknowledge that Buyer has not yet obtained the following permits and approvals from Seller (or its boards, divisions, departments, or agencies or other permit

granting authorities), which are necessary for the Buyer's Project: (i) the water connection approval; and (ii) a WWTP Discharge Permit (Phase II) from the Wayland Board of Health (but only if Buyer undertakes the Buyer's Self-Contained WWTP Improvements, as that term is defined in, and in accordance with, the WWTP Infrastructure Agreement, as hereinafter defined). Buyer has obtained from the Massachusetts Department of Environmental Protection a WWTP Groundwater Discharge Permit (Phase II); *provided, however*, that if any modifications to such permit or new or additional discharge permits are required in connection with the Alternative Wastewater Improvements, Seller will be responsible for obtaining same pursuant to the WWTP Documents (defined below). In connection with municipal Approvals already obtained by Buyer for the Buyer's Project, and notwithstanding anything to the contrary contained in the Contract (including Sections 1.3 and 5.1(a) thereof), Buyer is entitled to construct 218 rental housing units as part of Buyer's Project, which is 28 units more than the maximum number of units previously contemplated for Buyer's Project. As consideration for such unit increase, the "Gross Purchase Price" for the Premises as set forth in Section 2.1 of the Contract shall increase by \$300,000 from Eight Million Ninety-Eight Thousand Five Hundred Fifty Dollars and 00/100 (\$8,098,550.00) to Eight Million Three Hundred Ninety-Eight Thousand Five Hundred Fifty Dollars and 00/100 (\$8,398,550.00).

(b) Updated Exhibit I for Remaining Approvals. Exhibit I to the Contract is hereby deleted and replaced with Exhibit I attached hereto, which shows only the status of the Approvals for Buyer's Project that Buyer believes are outstanding.

(c) Water Main Extension. Seller has completed the Water Main Extension Work in accordance with the Water Line Extension Plans, and Buyer acknowledges that Seller has delivered to Buyer evidence of same as required by Section 4(a) of the Eighth Amendment.

#### 4. Site Conditions Estimates; Modifications to Site Conditions Work; Final Net Purchase Price Calculations for Closing.

(a) Demolition of Wayland/Sudbury Septage Facility. The Parties agree that the final Site Conditions Estimate approved by the Parties for the Demolition of Wayland/Sudbury Septage Facility is \$560,317 (compared to the \$351,876 Site Conditions Estimate set forth in the Original Contract), and the Net Purchase Price is adjusted accordingly as provided in Section 4(d) below.

(b) On-Site Soil Removal Work. The Parties agree that the final Soil Conditions Estimate approved by the Parties for the On-Site Soil Removal Work is \$3,525,267 (the "All-In Soil Estimate") (compared to the \$2,998,110 Site Conditions Estimate set forth in the Original Contract), \$325,267 of which represents "contingency" for hard and soft costs associated with such work that are difficult for the Parties to accurately estimate at this time. The Net Purchase Price is adjusted accordingly as provided in Section 4(d) below. Notwithstanding anything in this Amendment or the Contract to the contrary: (1) nothing in this Amendment shall be deemed to modify Buyer's obligations to track, reconcile and, in some cases, escrow any A/E Differential

with respect to the On-Site Soil Removal Work pursuant to the provisions of Sections 3.1(d) and 3.4 of the Contract, and (2) if the actual cost of the On-Site Soil Removal Work (“Actual Soil Cost”) is less than \$3,200,000, the A/E Differential with respect to such On-Site Soil Removal Work shall only increase by \$0.50 for every \$1.00 that the Actual Soil Cost is less than \$3,200,000, and (3) if the Actual Soil Cost is less than the All-In Soil Estimate, but more than \$3,200,000, the entire amount of such A/E Differential shall be paid to Seller. By way of example, if the Actual Soil Cost is \$3,000,000, then the total A/E Differential for the On-Site Soil Removal Work shall be \$425,267 (or  $(\$3,525,267 - \$3,200,000 = \$325,267) + ((\$3,200,000 - \$3,000,000 = \$200,000) \times .5)$ ), as Buyer will receive 50% of the benefit of each \$1.00 of savings below \$3,200,000.

(c) Wastewater Treatment Plant; WWTP Documents. Notwithstanding anything to the contrary contained in the Contract, the Parties acknowledge and agree as follows as it concerns the Site Conditions Work identified in Section 2.1 of the Original Contract as the Design and Construction of On-Site Package Treatment Plant (the “On-Site WWTP Work”):

(i) Modification of WWTP Work. Seller has applied for and obtained funding (the “Wastewater Treatment Funding”) for the design and construction of (i) a wastewater line, force mains, pumping station, and related improvements and equipment to serve the Buyer’s Project running from the Property to Seller’s Town Center wastewater treatment facility (the “New Town WW Infrastructure”) and (ii) certain alterations or modifications to the Town Center wastewater treatment facility required to receive and treat effluent from Buyer’s Project and return treated effluent (from Buyer’s Project and elsewhere) from Seller’s Town Center wastewater treatment facility (“Returned Effluent”) to the leaching field which will be constructed by Buyer on the Property; *provided, however*, that the Town shall in no event return treated effluent from the Town WW Facility in quantities which exceed the amount that the leaching field is designed to receive (the “Town WWTP Modifications”, and collectively with the New Town WW Infrastructure, the “Alternate Wastewater Improvements” or “Alternate Wastewater System”). Because Seller will construct, at its sole cost and expense, the Alternate Wastewater Improvements to serve the Buyer’s Project, the On-Site WWTP Work for which Buyer is responsible shall be limited to the construction of the leaching field to receive Returned Effluent and the construction and installation of a force main, pumps, and related lines, fixtures and equipment on the Buyer’s Property to effectively connect to the New Town WW Infrastructure at the boundary line of the Buyer’s Property (the “Retained Buyer’s On-Site WWTP Work”), except to the extent Buyer is entitled to and elects to revert to performing *all* of original On-Site WWTP Work in accordance with the WWTP Documents (hereinafter defined).

(ii) Effect of Seller’s Construction of Alternative Wastewater Improvements on Net Purchase Price; WWTP Escrow Funds. As provided above, subject to the terms of the WWTP Documents, the Buyer is only performing the Retained Buyer’s On-Site WWTP Work as opposed to the entirety of the original On-Site WWTP Work upon which the \$2,543,303 cost estimate set forth in Section 2.1 of the Contract is based (the “Original WWTP Work Estimate”). However, because the costs associated

with the Retained Buyer's On-Site WWTP Work are not yet capable of accurate estimation, the parties have agreed that the Gross Purchase Price will be reduced by the Original WWTP Work Estimate at Closing as provided in Section 4(d) below, and once the final cost estimate for the Retained Buyer's On-Site WWTP Work is available, the following will apply:

- (A) ~~Once~~ Within sixty (60) days after the Closing, Buyer ~~obtains~~ shall obtain final pricing and cost estimates for the Retained Buyer's On-Site WWTP Work, and it will deliver notice of same to the Seller together with reasonable supporting documentation therefor (the "Final On-Site WWTP Estimate"). The Final On-Site WWTP Estimate shall include all hard and soft costs associated with the Retained Buyer's On-Site WWTP Work, including without limitation any construction costs and fees, connection fees charged by the Town of Wayland (or its applicable divisions or departments, including the Wayland Wastewater Management District Commission) to connect the Buyer's on-site wastewater facilities to the Alternate Wastewater System, design (or redesign) costs associated with Retained Buyer's On-Site WWTP Work up to a maximum design/redesign cost amount of \$50,000, and legal fees associated with the negotiation of this Amendment and the WWTP Documents which would not have been incurred in the absence of the Seller constructing the Alternative Wastewater System, up to a maximum legal fee cap of \$45,000.
- (B) Upon Seller's receipt of the Final On-Site WWTP Estimate (including without limitation all reasonable supporting documentation therefor), Seller will have ten (10) days to review and approve the Final On-Site WWTP Estimate. If Seller does not approve the Final On-Site WWTP Estimate, it shall notify Buyer, Escrow Agent and the Disbursement Dispute Arbitrator, as that term is defined in, and in accordance with, the WWTP Escrow Agreement (as hereinafter defined), and the determination of the Final On-Site WWTP Estimate shall be subject to the dispute resolution procedures set forth in the WWTP Escrow Agreement as if such disagreement over the Final On-Site WWTP Estimate constitutes a "Disbursement Dispute" thereunder. If Seller fails to so timely notify Buyer, Escrow Agent and the Disbursement Dispute Arbitrator of its objection to the Final On-Site WWTP Estimate, then Seller shall be deemed to have approved the Final On-Site WWTP Estimate submitted by Buyer, and within 10 business days after Seller's approval (or deemed approval) of the same, the Buyer will fund an amount equal to the difference between (1) the Original WWTP Work Estimate and (2) the Final On-Site WWTP Estimate (such difference, the "Final On-Site WWTP Escrow Funds") into the escrow which is the subject of the WWTP Escrow Agreement and such amount will become part of the WWTP Escrow Amount. Additionally, if Seller disputes the Final On-Site WWTP Estimate as aforesaid, Buyer shall fund the Final On-Site

WWTP Escrow Funds into escrow (based on Buyer's submitted Final On-Site WWTP Estimate) within 10 business days after Seller provides its notification of objection, notwithstanding such dispute, and the parties shall proceed with the dispute resolution process as aforesaid. If, through the dispute resolution process, it is determined that Buyer overstated its Final On-Site WWTP Estimate, Buyer will fund in any additional amounts required within 10 business days after such dispute is resolved.

- (C) Other than the Buyer's obligation to fund in the Final On-Site WWTP Escrow Funds (including any amounts required by such dispute resolution process), there will be no further adjustments to the Final On-Site WWTP Estimate, and Section 3.1(d) of the Contract will not apply to the Alternative Wastewater System or the Retained Buyer's On-Site WWTP Work, and the Buyer shall bear the sole risk with respect to the cost of the Buyer's On-Site WWTP Work exceeding the Final On-Site WWTP Estimate. Seller and Buyer agree that the amount of Final On-Site WWTP Escrow Funds (including any amounts required by a dispute resolution process) shall be deemed to increase the Net Purchase Price pursuant to the Contract on a post-Closing basis (similar to an A/E Differential) in like amount(s) of the funds so deposited or required to be deposited, but such funds shall be subject to the WWTP Infrastructure Agreement and the WWTP Escrow Agreement (as hereinafter defined).

(iii) Town Delay; Effect on Completion of Buyer's Project. In the event that completion of the Buyer's Project is delayed as a result of (A) delays in Seller's construction of the Alternative Wastewater Improvements, (B) Seller's failure to comply with Seller's WWTP Performance Obligation (defined below) or (C) Seller's construction activities related to the Alternative Wastewater ~~improvements~~ Improvements (in any case, but only to the extent such delays are not attributable to acts or omissions of the Buyer or its contractor, subcontractors, vendors, or materialmen, "Town Delay"), then the Buyer's Project Completion Date as provided in the Contract will be extended by any periods of Town Delay. To the extent Buyer exercises its Self-Help Remedy (as defined in the WWTP Infrastructure Agreement), Buyer shall not be entitled to make a claim of "Town Delay" for delays which Buyer experiences in prosecuting the completion of the Alternative Wastewater Improvements from and after it exercises such Self-Help Remedy. Further, the defined term "Force Majeure" as defined in Section 7.1 of the Contract shall be modified to insert "epidemics, pandemics" before "other causes beyond the reasonable control...".

(iv) WWTP Escrow Amount. At Closing, the entirety of the Net Purchase Price (to wit, as provided in Section 4(d) below, \$1,769,663) *plus* an amount equal to \$829,275 (the "BP Fee Overage"), for a grand total of \$2,598,938 (subject to any pre-Closing adjustments thereto based on prorations and closing cost payments under Section 4.3 of the Contract as reflected on the final settlement statement, the "Closing WWTP Escrow Amount"), and as may be adjusted after Closing pursuant to the terms



hereof and the WWTP Documents, the “WWTP Escrow Amount”), will be deposited with the Escrow Agent and held as security for Seller’s obligations to (i) timely design, permit and construct the Alternative Wastewater Improvements (“Seller’s WWTP Performance Obligation”), (ii) compensate or reimburse Buyer for remedies that Buyer may elect to exercise should Seller fail to comply with the Seller’s WWTP Performance Obligation, and (iii) compensate or reimburse Buyer for other damages arising out of or relating to Seller’s failure to comply with the Seller’s WWTP Performance Obligation, including without limitation delays in the permitting, development, completion, stabilization and effective operation of Buyer’s Project, all as more particularly provided in the WWTP Documents (clauses (ii) and (iii) being referred to herein collectively as “Buyer’s WWTP Damages”). Buyer covenants and agrees to fund in the BP Fee Overage to the Closing escrow prior to Closing so that same can be disbursed to the Escrow Agent along with the balance of the WWTP Escrow Amount and held and disbursed pursuant to the WWTP Documents. Buyer’s funding of the BP Fee Overage at Closing and disbursement as part of the Closing WWTP Escrow Amount shall be deemed to constitute Buyer’s payment in full of the building permit fee for the Project, and the Seller, which includes its building department, acknowledges and confirms that such building permit fee for the Project will have been paid in full upon the Escrow Agent’s receipt of the BP Fee Overage.

(v) WWTP Documents. At Closing (or as otherwise set forth below with respect to the WWTP Maintenance Agreement), the Parties will enter into the following agreements concerning the construction and ongoing operation and maintenance of the Alternative Wastewater Improvements and the Retained Buyer’s On-Site WWTP Work (collectively, the “WWTP Documents”):

- (A) an Infrastructure Development Agreement (Wastewater Facilities) in the form attached hereto as Exhibit A which addresses, among other things, the obligation of Seller to design, permit and perform all work required to complete the Alternative Wastewater Improvements, as well as Buyer’s remedies with respect to Seller’s failure to timely complete same (including the failure to meet certain interim milestone dates) (the “WWTP Infrastructure Agreement”);
- (B) an escrow holdback agreement in the form attached hereto as Exhibit A-1 pursuant to which the WWTP Escrow Amount shall be held and disbursed during the course of Seller’s construction of the Alternative Wastewater Improvements or, as applicable, the Buyer’s performance of all On-Site WWTP Work (should Buyer be entitled to and elect to perform same under the WWTP Infrastructure Agreement), in order to secure Seller’s WWTP Performance Obligation and potential obligations to pay Buyer’s WWTP Damages (the “WWTP Escrow Agreement”); and
- (C) a maintenance agreement (the “WWTP Maintenance Agreement”, which is referred to in the Development Agreement as the “Buyer’s Project O/M Agreement”) which, among other things, (1) requires that

Seller operate, maintain and keep in good condition and repair, at its cost and expense (subject to Buyer's obligation to pay the Maintenance Fees) the improvements which are the subject of the Retained Buyer's On-Site WWTP Work, including a leaching field, force main, and related lines, conduits, fixtures and equipment, and a pumping station, a wastewater line, force mains, and related conduits, fixtures and equipment and all related equipment and facilities (collectively, the "Buyer's On-Site WWTP Improvements"), and (2) requires that Seller, to the fullest extent permitted by law, indemnify and hold Buyer harmless from and against any and all claims for personal injury or property damage arising from Seller's operation and maintenance thereof, ~~and (3) requires that Buyer pay to Seller certain maintenance fees associated with its use of the Alternative Wastewater Improvements and the ongoing maintenance and repair of the Buyer's On-Site WWTP Improvements (the "Maintenance Fees").~~ The parties shall negotiate in good faith the WWTP Maintenance Agreement in accordance with the WWTP Documents, which shall be entered into prior to the initial operation of the Alternative Wastewater Improvements; and

- (D) a permanent easement (the "WWTP Easement") in the form attached hereto as Exhibit A-23 on and over the Buyer's On-Site WWTP Improvements and areas of the Property reasonably required to gain access thereto in order for Seller to perform the Wastewater O/M Work (as defined in the WWTP Easement), and to discharge Returned Effluent in and to the Leaching Field Improvements.

The WWTP Documents shall be executed and delivered by the Parties at Closing (with proper notarial acknowledgments, as applicable) and, to the extent same are to be recorded, recorded immediately upon Closing.

(d) Final Purchase Price Calculation. Notwithstanding anything to the contrary contained in the Contract, the final, agreed-upon Net Purchase Price to be paid by Buyer at Closing shall be \$1,769,663, calculated as follows:

Gross Purchase Price - \$8,398,550.00

Total Purchase Price Deductions based on Final Site Conditions Estimates  
- \$560,317 (Demolition of Wayland/Sudbury Septage Facility, etc.) +  
\$3,525,267 (On-Site Soil Removal Work) + \$2,543,303 (the Original  
WWTP Work Estimate) = \$6,628,887

Net Purchase Price - **\$1,769,663** (or \$8,398,550.00 - \$6,628,887)

For purposes of clarification, the only Site Conditions Work to which the post-Closing adjustments set forth in Section 3.1(d) and Section 3.4 of the Contract will apply is (i) that work relating to the Demolition of Wayland/Sudbury Septage Facility (for

which the Site Conditions Estimate is \$560,317) and (ii), subject to Section 4(b) above, the On-Site Soil Removal Work, and (iii) if Buyer's elects to make a Buyer's Self-Contained WWTP Work Election pursuant to the Development Agreement. Additionally, the finally-determined costs associated with the Retained Buyer's On-Site WWTP Work will operate to adjust the Net Purchase Price as provided in Section 4(c)(ii)(C) above.

5. Drainage and Access to Serve and/or Construct Buyer's Project; Sudbury License Agreement.

(a) Wayland Access and Drainage Easement. At Closing, the Parties agree to execute and deliver a recordable easement in the form attached hereto as Exhibit B (the "Access and Drainage Easement"), which addresses, among other things, Seller's grant to Buyer of: (i) a perpetual pedestrian and vehicular ingress and egress over, across and through property owned by Seller in the location identified in the Access and Drainage Easement in order for Buyer and its applicable agents, contractors, residents, invitees and licensees to gain access to the Premises and Buyer's Project; (ii) a landscaping easement along the western median of the Access Road; and (iii) the ability to drain surface and stormwater runoff from the Buyer's Project over, across, and through Seller's retained property as provided in the Access and Drainage Easement. The Access and Drainage Easement shall be a closing document executed and delivered by Parties at Closing (with proper notarial acknowledgments) and recorded immediately upon Closing.

(b) Sudbury License. Buyer hereby notifies Seller that Buyer and the Town of Sudbury have finalized the form of a temporary license to allow Buyer to demolish a certain portion of the Wayland/Sudbury Septage Facility and perform certain other work related thereto on the adjoining Town of Sudbury property (the "Temporary Demolition License"), which form is attached hereto at Exhibit C.

6. Regulatory Agreements. Seller hereby agrees to waive the requirement that the Affordable Housing Restriction described in Section 4.5(b) of the Contract be executed and delivered by Seller, Buyer and DHCD at the Time of Closing. Buyer shall, at its sole cost and expense, use commercially reasonable efforts to cause the Regulatory Agreements, in substantially the forms of Exhibit D-1 and Exhibit D-2 attached hereto, to be executed and delivered by Seller (with Seller agreeing to cooperate with the execution and delivery thereof so long as such agreements are consistent with the requirements of the Contract and substantially in the form of the Regulatory Agreements attached hereto), Buyer and DHCD and recorded at the Registry, at Buyer's sole cost and expense, within forty-five (45) days after the Closing, or as soon as practicable thereafter. Further, Buyer acknowledges and agrees that notwithstanding anything in the Contract to the contrary, Seller shall have no obligation to approve, execute, or deliver a certificate of occupancy (temporary or otherwise) for any portion of Buyer's Project, unless and until the Regulatory Agreements have been executed by all of the parties thereto and recorded by Buyer in the Registry.

7. Closing Date. If the Closing does not occur on or before January 29, 2021, Seller and Buyer hereby agree that the Initial Closing Date will be automatically extended

to February 5, 2021 (or any such earlier date that Seller and Buyer may mutually agree on).

8. Ratification. Except as expressly amended by this Amendment, the Contract remains in full force and effect and is hereby expressly ratified and confirmed in its entirety by the parties hereto.

9. Multiple Counterparts. An executed facsimile or “PDF” of this Amendment is an acceptable form of acceptance of this Amendment and the parties may execute this Amendment in counterparts. This Amendment shall from this date forward be considered a part of the Contract.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed under seal by persons duly empowered to bind the parties to perform their respective obligations under this Amendment to be effective on the last date set forth below.

BUYER:

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a  
Delaware limited liability company,  
its sole member

By: WS River's Edge, LLC, a Delaware  
limited liability company, its  
Managing Member

By: WP Massachusetts, LLC, a Delaware  
limited liability company, its sole  
member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

Date: \_\_\_\_\_

SELLER:

TOWN OF WAYLAND,  
By its Board of Selectmen

---

Cherry C. Karlson, Chair

---

David V. Watkins

---

Thomas J. Fay

---

Mary M. Antes

---

Lea T. Anderson

Dated: \_\_\_\_\_, 2021

~~JOINDER BY CONTRACT BUYER~~

~~The undersigned Contract Buyer hereby joins in this Amendment for the purpose of acknowledging and agreeing to the provisions of Section 2 hereof.~~

~~CONTRACT BUYER:~~

~~WP EAST ACQUISITIONS, L.L.C., a Georgia limited liability company~~

\_\_\_\_\_  
\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date: \_\_\_\_

REPLACEMENT EXHIBIT I TO CONTRACT (SHOWING ONLY OUTSTANDING APPROVALS)

EXHIBIT I

**Approvals**

<b>Approval Type</b>	<b>Approval Agency</b>	<b>Timing of Application</b>
Water Connection	Wayland Department of Public Works	In Process
WWTP Groundwater Discharge Permit (Phase II)	Wayland Board of Health	In Process (applicable to Buyer's Self-Contained WWTP Improvements)



EXHIBIT A  
INFRASTRUCTURE AGREEMENT  
[SEE ATTACHED]

EXHIBIT A-1  
WWTP ESCROW AGREEMENT  
[SEE ATTACHED]

EXHIBIT A-2  
WWTP EASEMENT  
[SEE ATTACHED]

**GRANT OF EASEMENTS**  
**(WASTEWATER FACILITIES)**

**ALTA RIVER'S EDGE, LLC**, a Delaware limited liability company ("Grantor"), having an office at c/o WP East Acquisitions, LLC, 91 Hartwell Avenue, Lexington, MA 02421, for consideration paid of One Dollar (\$1.00), grants, with quitclaim covenants, to the **TOWN OF WAYLAND** (the "Town"), a Massachusetts municipal corporation, acting by and through its Board of Selectmen and having an address of Wayland Town Building, 41 Cochituate Road, Wayland, Massachusetts 01778, permanent easements in, on and across parcels of land located in Wayland, Middlesex County, Massachusetts, described below, on the terms and conditions set forth herein. This Grant of Easements is sometimes referred to herein as the "Agreement" or "Easement Agreement".

WHEREAS, Grantor is, as of the date hereof, the owner of a parcel of land located at 490 Boston Post Road (Route 20), Wayland, Massachusetts, described more particularly in Exhibit A attached hereto and incorporated herein (the "Grantor Property");

WHEREAS, Grantor intends to develop and construct a residential, rental housing project upon the Grantor Property (the "Project");

WHEREAS, the Town has received funding for the installation, construction, improvement, alteration and modification of public wastewater treatment facilities, both sub-surface and aboveground (the "New Town Wastewater Infrastructure"), that will serve, among other properties, the Grantor Property;

WHEREAS, a portion of the New Town Wastewater Infrastructure consisting of (1) a leaching field, force main, and related lines, conduits, fixtures and equipment (the "On-Site Leaching Field Infrastructure"); and (2) a pumping station, a wastewater line, force mains, and related conduits, fixtures and equipment located on the Grantor Property (the "On-Site Pumping Station Infrastructure," together with the On-Site Leaching Field Infrastructure, the "On-Site Wastewater Infrastructure"), will be located on the Grantor Property. The current planned location of the On-Site Wastewater Infrastructure on the Grantor Property as well as the accessways required to gain access to such On-Site Wastewater Infrastructure is approximately shown on the sketch plan (the "Sketch Plan")

attached hereto as Exhibit B and incorporated herein (subject to modification as provided herein, the “Easement Premises”);

WHEREAS, Grantor and the Town acknowledge and agree that the construction of the On-Site Wastewater Infrastructure and, upon completion thereof, the ongoing operation, inspection, repair, maintenance and, as necessary, replacement of the On-Site Wastewater Infrastructure, is critical to the viability of the Project;

WHEREAS, as a condition to the Town’s agreement to construct the New Town Wastewater Infrastructure (except those portions that will be constructed by Grantor) and the Town’s agreement to operate, inspect, maintain, repair, and, as necessary, replace the On-Site Wastewater Infrastructure (collectively, the “Wastewater O/M Work”), the Town has required that the Grantor grant to the Town permanent easements on, over, under and across portions of the Grantor Property for the purpose of access to and the right to perform the Wastewater O/M Work and to discharge treated effluent from the Town’s wastewater treatment facility located at Elissa Drive, Wayland, Massachusetts (the “Town WW Facility”) to the leaching field that is to be constructed as part of the On-Site Leaching Field Infrastructure; and

WHEREAS, Grantor has agreed to convey the foregoing easements to the Town, subject to the terms and conditions set forth herein.

NOW, THEREFORE, for consideration paid of One Dollar (\$1.00), and for other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Grantor and the Town, for themselves and their respective successors and assigns, agree as follows:

1. Easement Premises; Permitted Uses. Subject to the terms and conditions hereof, effective upon the WW Operation Date (hereinafter defined), the Grantor hereby grants the Town: (a) a permanent easement over, across, under and through the Easement Premises, for the purpose of performing the Wastewater O/M Work; (b) a permanent easement for pedestrian and vehicular traffic, including heavy equipment over, across and through certain roads, drives and paths located on the Grantor Property and within the Easement Premises which are required to gain access to the On-Site Wastewater Infrastructure in order to perform the Wastewater O/M Work; and (c) a permanent easement and right to discharge treated effluent from the Town WW Facility to the leaching field that is to be constructed as part of the On-Site Leaching Field Infrastructure; *provided, however*, that the Town shall in no event return treated effluent from the Town WW Facility in quantities which exceed the amount that the leaching field is designed to receive (collectively, the “Easement”). For the purposes hereof, the “WW Operation Date” shall mean the date upon which the On-Site Wastewater Infrastructure is fully completed, accepted by the Town, operational and ready to discharge and receive effluent to and from the balance of the New Town Wastewater Infrastructure.

2. Location of the Easement Premises. The Easement Premises, as shown on the Sketch Plan, are shown in their approximate location only based on the current design

plans for the On-Site Wastewater Infrastructure. During the design and construction of the Project and the On-Site Wastewater Infrastructure, the Grantor and the Town shall consult with one another relative to the final location of the Easement Premises, which final location shall be reasonably acceptable to both the Grantor and the Town, and which approval thereof shall not be unreasonably withheld, conditioned or delayed. The Easement Premises will be located substantially where shown on the Sketch Plan, however, the final location will be determined during construction of the Project and the On-Site Wastewater Infrastructure, and the Grantor, after construction thereof, at its sole cost and expense, shall prepare a plan depicting the as-built location of the On-Site Wastewater Infrastructure and the final Easement Premises, providing a copy of the same to the Town. Grantor and the Town agree to amend this Easement Agreement to reflect the final location of the Easement Premises, and record such amendment with the Registry of Deeds with a replacement plan showing the as-built Easement Premises and to make such other changes to this Easement Agreement that may be required by the Massachusetts Department of Environmental Protection.

3. Construction of the On-Site Wastewater Infrastructure. Grantor shall, at its sole cost and expense (subject to the terms of the LDA (hereinafter defined) and the Development Agreement (hereinafter defined)), install and construct all On-Site Wastewater Infrastructure on the Grantor Property, to the boundary line of the Grantor Property. The Grantor shall: (i) construct the On-Site Wastewater Infrastructure in a good and workmanlike manner, using materials of good quality, and in accordance with plans and specifications mutually agreed upon by the parties (to the extent not already approved by the Town and its applicable departments and/or divisions as of the date hereof), (ii) permit no excavation to remain open without the safeguards required by law, and (iii) perform its construction obligations in accordance with all applicable laws, by-laws and regulations and after obtaining all necessary approvals, licenses and permits from government authorities before commencement of work (collectively, the "OS Wastewater Construction Plans and Approvals"). Upon completion of the On-Site Wastewater Infrastructure in accordance with the OS Wastewater Construction Plans and Approvals and final inspection and approval thereof by the Town (or its applicable agency or department), the Grantor and the Town shall take any and all actions necessary to dedicate the On-Site Wastewater Infrastructure to the Town, whereupon it shall be and remain the property of the Town. The Town agrees to inspect (or cause the inspection of) the completed On-Site Wastewater Infrastructure as soon as practicable after receipt of notice of such completion from Grantor.

4. Maintenance and Operation of the On-Site Wastewater Infrastructure.

Subject to there being no default of Grantor under the O&M Agreement (hereinafter defined) beyond any applicable notice and cure period, the Town shall, at its sole cost and expense, have sole responsibility to perform all required Wastewater O/M Work in a good and safe condition at all times in accordance with the O&M Agreement, all applicable laws, by-laws and regulations, including without limitation all Environmental Laws, and otherwise in a manner required to keep the On-Site Wastewater Infrastructure fully-functioning and operational at all times, except to the extent Grantor,

Grantor's representatives, employees, agents, tenants, invitees, and those claiming by or through Grantor, through their negligence or willful misconduct, cause damage to the On-Site Wastewater Infrastructure. In connection with the performance of any Wastewater O/M Work, the Town shall have the right to remove any trees, vegetation or brush within or immediately adjacent to the Easement Premises necessary to perform such work. The Town shall, except in the event of an emergency, provide the Grantor with 48 hours' notice of any anticipated Wastewater O/M Work. For the purposes hereof, "Environmental Laws" means and includes any applicable present and future local, state and federal law relating to the environment and environmental conditions including without limitation, the Resource Conservation and Recovery Act of 1986 ("RCRA"), 42 U.S.C. 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601-9657, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Hazardous Materials Transportation Act, 49 U.S.C. 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; the Clean Air Act, 42 U.S.C. 7410 et seq.; the Clean Water Act, 33 U.S.C. 7101, et seq.; the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.; the Massachusetts Contingency Plan, 310 CMR 40.0000, et seq., and any other state and local analogs or laws regulating pollution and the environment; all as amended, and any regulations promulgated under any of the foregoing statutes, or any similar state law or local ordinance.

5. Operation and Maintenance Agreement. Prior to the commencement of operations of the On-Site Wastewater Infrastructure, the Grantor and Town shall enter into an operation and maintenance agreement (the "O&M Agreement") with respect to the maintenance and operation of the On-Site Wastewater Infrastructure, which shall provide, among other things, that Grantor shall pay a fee to the Town for the Town's maintenance and repair obligations with respect to the On-Site Wastewater Infrastructure. The timing for submission and approval of the O&M Agreement is more fully detailed in an Infrastructure Development Agreement (Wastewater Facilities) between the Grantor and the Town of even date herewith (the "Development Agreement"). A Notice of the O&M Agreement shall be recorded with the Registry of Deeds and the O&M Agreement shall bind and inure to the Grantor Property and shall be a covenant running with the land.

6. Liens. The Town shall not permit any mechanics' liens or similar liens to remain upon or attach to the Grantor Property for labor and material furnished to the Town in connection with work of any character performed by or at the direction of the Town in connection with the easement rights granted hereunder or otherwise and the Town shall cause any such lien to be released of record (or discharged by bonding) forthwith without cost to the Grantor, within thirty (30) days after the Town's receipt of written notice thereof.

7. Reserved Rights, Disclaimer. The Grantor reserves, for itself and its successors and assigns, the right to use the Easement Premises for any and all purposes, provided such use does not interfere unreasonably with the Town's use of the Easement Premises for the purposes set forth herein. The Grantor makes no representation, either

express or implied, with respect to the condition of the Easement Premises. The Town acknowledges that the Town shall use and perform the Wastewater O/M Work within the Easement Premises at its sole risk.

8. Restrictions, Limitations. The Grantor, and its contractors, representatives and agents, shall not: (a) use the Easement Premises in a manner that interferes with the Town's right to access and use the On-Site Wastewater Infrastructure for the purposes hereby granted; (b) except as expressly permitted by this Agreement or contemplated by the plans for the Project and/or the On-Site Wastewater Infrastructure, construct or place any permanent or temporary buildings, structures, or obstructions on, over, across or below the Easement Premises; (c) cause or allow to be caused a release or threat of release of hazardous materials or oil on the Easement Premises; or (d) store or park vehicles, equipment, or other property on the Easement Premises.

9. Release: Responsibility for Liabilities. The Town hereby releases the Grantor, its officers, employees, representatives, contractors, lenders, members, affiliates and agents (collectively, "Grantor Parties") from any responsibility for Liabilities (defined in Section 10 below) related to the condition or use of the Easement Premises for the purposes for which the Town is permitted or required to use the Easement Premises under this Easement Agreement, except to the extent caused by (i) the negligence or willful misconduct of the Grantor or its officers, employees, representatives, contractors and agents; or (ii) a material breach of this Easement Agreement by the Grantor. From and after the Town's approval and acceptance of the On-Site Wastewater Infrastructure as provided in Section 3 above, the Town shall be solely responsible for any and all Liabilities associated with the On-Site Wastewater Infrastructure, and hereby assumes such Liabilities at its own risk, except to the extent such Liabilities arise out of (i) the negligence or willful misconduct of the Grantor or its officers, employees, representatives, contractors and agents; or (ii) a material breach of this Easement Agreement by the Grantor. Notwithstanding the foregoing, nothing in this Section 9 shall be deemed to be a release by the Town of Grantor for any claims or any other cause of action, cost or expense with respect to any contractual obligations that Grantor may have to the Town under the O&M Agreement or the Land Disposition Agreement between Grantor and the Town (as amended, the "LDA"); *provided, however*, that this Easement Agreement shall expressly supersede and override any conflicting provisions of Section 3.4 of the LDA as it concerns the On-Site Wastewater Infrastructure, and the Grantor's covenants and obligations thereunder (including the indemnification obligations) shall expressly exclude any Liabilities associated with the On-Site Wastewater Infrastructure from and after the WW Operation Date, which are borne exclusively by the Town except to the extent expressly set forth in this Agreement.

10. Indemnification. To the extent permitted by law, commencing from and after the date the Town accepts the On-Site Wastewater Infrastructure pursuant to Paragraph 3 above, the Town agrees to indemnify and hold Grantor and any Grantor Parties harmless of and from any and all loss, cost, liability, damage or expense (including reasonable attorneys' fees) (collectively, "Liabilities") arising from or in connection with (i) the exercise of the rights of the Town hereunder; (ii) the Town's



performance of the Wastewater O/M Work (including any liens which are filed on account of such work); or (iii) the Town's breach of this Easement Agreement, including without limitation the Town's failure to perform its obligations under Section 4 above. To the extent that the Town or anyone acting for or through the Town releases or is otherwise responsible for a release of oil or hazardous materials ("OHM") on the Grantor Property in quantities or concentrations requiring reporting to the Massachusetts Department of Environmental Protection (MassDEP) or any other governmental authority with jurisdiction over the Property or the release, the Town shall promptly notify Grantor of the reportable condition. After consultation with and approval from the Grantor the Grantor's Licensed Site Professional (LSP), the Town shall submit a release notification form to MassDEP (or other governmental authority as appropriate), designating itself as the responsible party and shall be responsible at its sole cost and expense for expeditiously achieving a Permanent Solution with no conditions, including no activities and use limitations (the "Permanent Solution"). The Town shall continue to consult with and obtain approval from Grantor and Grantor's LSP on all remedial strategies and submissions until the Permanent Solution is achieved.

11. Insurance Coverages. Before the Town or any party acting by, through or under the Town (including agents, employees, contractors or consultants thereof) enters the Easement Premises for any reason, the Town shall procure, at its own cost and expense, or cause to be procured (i.e., by the contractor the Town engages to perform Wastewater O/M Work), the following minimum insurance: (a) commercial general liability insurance with a minimum coverage amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit (which policy shall include blanket contractual liability insurance for all written contracts in accordance with policy terms afforded under ISO CG 00 01 04 13 (or carrier equivalent ), subject to such coverage being commercially available, and shall include coverage for products through the time period applicable as required by the statute of repose and independent contractor's liability and coverage for property damage); (b) automobile liability insurance for owned and non-owned automobiles, trucks and all other licensed for road use vehicles, and/or hired/rented automobiles, trucks and all other licensed for road use vehicles, in the amount of One Million Dollars (\$1,000,000) combined single limit; (c) workers compensation in the minimum amount of the statutory limit and Employers Liability in the amount of One Million Dollars (\$1,000,000); (d) contractors pollution liability in the amount of Two Million Dollars (\$2,000,000) Each Occurrence and Two Million Dollars (\$2,000,000) in the Aggregate; and (e) umbrella/excess liability in the minimum amount of Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate over all other insurance required by this Agreement (except workers compensation). Required limits may be achieved via combination of primary and excess/umbrella liability policies.

12. General Insurance Requirements. All insurance required hereunder shall name the Grantor and its affiliates and their respective agents, members, managers, directors, officers, employees, successors, assigns and any other party reasonably designated by Grantor as an additional insured (except workers compensation/employers liability). Additional Insured afforded under the General Liability policy shall extend to

ongoing and products/completed operations. All insurance required shall be issued by insurers authorized to transact insurance business in the Commonwealth of Massachusetts and having an A- or better financial rating from a recognized insurance accreditation institution (such as A.M. Best Company). All insurance required hereunder, or with respect to any insurance carried by a party that covers the Easement Premises or the actions or omissions of that party, shall provide a waiver of subrogation in favor of the other. Where commercially available, all insurance policies and certificates shall include a provision requiring thirty (30) days' written notice to the Grantor of any cancellation (except only ten (10) days' written notice for cancellation due to nonpayment of premium). At least annually, and at such other times as the Grantor may reasonably request, the Town shall provide the Grantor with a certificate evidencing the coverages required hereunder. The Town's failure to obtain, procure and/or maintain the required insurance at all times shall constitute a material default hereunder. The Town's obligations to the Grantor under this Easement Agreement shall not be limited by the requirement for, or existence or amount of, insurance coverage. Grantor and the Town agree that (i) the failure of Grantor to demand evidence of such minimum insurance coverages or failure of Grantor to identify a deficiency(ies) therein will not be construed as a waiver of the Town's obligation to maintain the minimum insurance required under this Agreement; (ii) the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect the Town, nor be deemed as a limitation of the Town's liability to Grantor in this Agreement; and (iii) the Town is solely responsible for any deductible and/or self-insured retention.

13. Miscellaneous:

(a) The rights and easements of the Town hereunder shall be deemed to be easements in gross, and neither the rights and easements hereunder nor the Town's obligations hereunder are assignable by the Town, except in connection with the conveyance or transfer by the Town of the New Town Wastewater Infrastructure as part of a larger conveyance or transfer of all or substantially all of the public wastewater infrastructure owned or maintained by the Town in the Town of Wayland, Massachusetts, and provided the O&M Agreement is assigned to and assumed by such successor owner. The rights and easements conferred herein shall be binding upon the Grantor, and its respective successors and assigns, and shall run with the Grantor Property and such provisions shall be deemed to be enforceable covenants running with the Grantor Property and shall bind any person having at any time any interest or estate in all or any portion of the Grantor Property as though such provisions were recited and stipulated in full in each and every deed of conveyance. The terms and provisions hereof shall be binding upon the Grantor hereto only with respect to the periods of time the Grantor is the owner of title to the Grantor Property. Accordingly, from and after such time as the Grantor shall transfer title to the Grantor Property, it shall have no further obligations hereunder except for obligations which accrued prior to the time of such transfer, it being specifically understood that from and after the date of such transfer the Grantor shall have no further rights hereunder nor responsibility for any obligations hereunder which rights and obligations shall, thereafter, be deemed rights and obligations of the party to whom title has been transferred and such transferee shall, by virtue of its acceptance of such

transfer be deemed to have assumed and agreed to perform all obligations of the transferor thereafter accruing under this Agreement.

(b) Any notice required or given under this Agreement shall be deemed duly served if hand-delivered, mailed by registered or certified mail, return receipt requested, postage prepaid, or sent by recognized overnight delivery, addressed to the party at the addresses set forth above, which may be changed with like notice at least ten (10) days in advance of the effective date of the change.

(c) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and any and all legal actions brought in connection with this Agreement shall be brought in courts within the Commonwealth of Massachusetts.

(d) This Agreement contains the entire agreement of the parties and, except for other written agreements between the Grantor and the Town which are not expressly superseded hereby, there are no other agreements or understandings between the parties regarding the subject matter of this Agreement. This Agreement may not be modified except in writing, duly executed by both parties.

(e) The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

(f) Notwithstanding anything to the contrary contained herein, this Agreement shall terminate and be of no further force and effect in the event that the Grantor makes a "Buyer's Self-Contained WWTP Work Election" pursuant to the Development Agreement.

[Signature Pages Follow]

WITNESS the execution hereof under seal this \_\_\_\_ day of January, 2021.

**GRANTOR:**

ALTA RIVER'S EDGE, LLC, a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its managing member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: James Lambert  
Title: Vice President

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of January, 2021, before me, the undersigned Notary Public, personally appeared James Lambert, Vice President of WP Massachusetts, LLC, a Delaware limited liability company, the sole member and manager of WS River's Edge, LLC, a Delaware limited liability company, the managing member Alta River's Edge Venture, LLC, the sole member of Grantor, as aforesaid, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of said entities in such capacities.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Acceptance

The Wayland Board of Selectmen accepts a Grant of Easements (Wastewater Facilities) from ALTA River's Edge, LLC, at property located at 490 Boston Post Road, Wayland, pursuant to G.L. c.83, § 1, on this \_\_\_\_\_ day of January, 2021.

TOWN OF WAYLAND,  
By Its Board of Selectmen

\_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_  
David V. Watkins

\_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_  
Lea T. Anderson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this \_\_\_\_\_ day of January, 2021, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, member of the Wayland Board of Selectmen, as aforesaid, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Wayland.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Exhibit A

Grantor Property

The land on Route 20, a/k/a Boston Post Road, Wayland, Middlesex County, Massachusetts, shown as Lots A, C, and E on a plan entitled "ANR Subdivision Plan Assessor's Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road, Wayland, Massachusetts" prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South District Registry of Deeds as Plan No. 260 of 2017.

Exhibit B

Sketch Plan

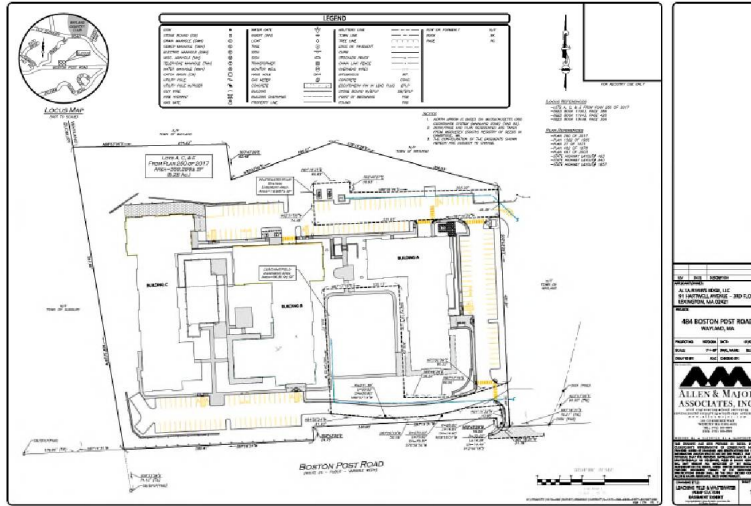


EXHIBIT B  
ACCESS AND DRAINAGE EASEMENT  
[SEE ATTACHED]



**GRANT OF EASEMENTS**

The **TOWN OF WAYLAND** (the "Town"), a Massachusetts municipal corporation, acting by and through its Board of Selectmen pursuant to the vote taken under Article 1 of the September 12, 2020 Special Town Meeting, a certified copy of which is attached hereto, having an address of Wayland Town Building, 41 Cochituate Road, Wayland, Massachusetts 01778, for consideration paid of One Dollar (\$1.00), grants, with quitclaim covenants, to **ALTA RIVER'S EDGE, LLC**, a Delaware limited liability company ("Grantee"), having an office at c/o WP East Acquisitions, LLC, 91 Hartwell Avenue, Lexington, MA 02421, certain permanent, non-exclusive easements in, on and across parcels of land located in Wayland, Middlesex County, Massachusetts, described below, on the terms and conditions set forth herein. This Grant of Easements is sometimes referred to herein as the "Agreement" or "Easement Agreement".

WHEREAS, the Town is the owner of a parcel of land located at Boston Post Road (Route 20), Wayland, described more particularly in an Order of Taking dated November 15, 1965, recorded with the Middlesex South District Registry of Deeds ("Registry of Deeds") in Book 11003, Page 389, and legally described on Exhibit A attached hereto (the "Town Property");

WHEREAS, a private access road is located on the Town Property running from Boston Post Road to other property of the Town (the "Access Road");

WHEREAS, Grantee is, as of the date hereof and by deed of conveyance from the Town, the owner of a certain parcel or parcels of land located at 490 Boston Post Road, Wayland described more particularly on Exhibit B attached hereto (the "Benefited Property"), which Benefited Property is contiguous to the Town Property;

WHEREAS, Grantee intends to create a residential, rental housing project upon the Benefited Property (the "Project");

WHEREAS, Grantee has requested that the Town convey to Grantee a permanent, non-exclusive access easement on, over and across a portion of the Access Road for the purpose of accessing the Benefited Property;

WHEREAS, Grantee has further requested that the Town convey to Grantee a permanent, non-exclusive drainage easement on, over and across a portion of the Town Property;

WHEREAS, Grantee has further requested that the Town convey to Grantee a temporary, non-exclusive construction easement on, over and across a portion of the Town Property (as hereinafter described) in connection with the construction and installation of the Drainage Facilities (hereinafter defined); and

WHEREAS, the Town is amenable to conveying the foregoing easements to Grantee, and its successors and assigns, for the use and enjoyment of Grantee, its successors and assigns and the residents, employees, licensees, guests, contractors, and invitees of the Benefited Property and the Project (together with the Grantee, the "Benefited Parties").

NOW, THEREFORE, for consideration paid of One Dollar (\$1.00), and for other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Town and Grantee, for themselves and their respective successors and assigns, agree as follows:

1. Easement Premises; Permitted Uses. The Town hereby grants Grantee: (a) a permanent, non-exclusive access easement, containing 21,566 S.F., more or less, to use a portion of the Access Road located on the Town Property, and shown as "50' Wide Permanent Access Easement" on a plan entitled "Easement Exhibit – 484 Boston Post Road, Wayland, MA" dated December 17, 2020, prepared by Allen & Majors Associates, Inc. (the "Plan"), a reduced copy of which Plan (together with a blown up depiction of the easement areas) is attached hereto as Exhibit C, and incorporated herein (the "Access Easement Premises"), and as more particularly described in Exhibit D attached hereto and incorporated herein, for the purpose of ingress and egress for pedestrian and vehicular traffic by Grantee, its successors and assigns, including, but not limited to, the Benefited Parties; (b) a permanent, non-exclusive easement to use the western side of the Access Road, shown as "Landscape Easement" on the Plan and as more particularly described in Exhibit E attached hereto and incorporated herein (the "Landscape Easement Premises"), for the purpose of installation, modification, maintenance and removal of trees and other landscaping (the "Landscaping Easement"); (c) a permanent, non-exclusive drainage easement, containing 1,710 S.F., more or less, located on the Town Property, shown as "Permanent Drainage Easement" on the Plan and as more particularly described in Exhibit F attached hereto and incorporated herein (the "Drainage Easement Premises"), for the purpose of installing, operating, inspecting, maintaining, repairing, removing and replacing stormwater drains and any manholes, pipes, catch basins, conduits, culverts, channels and other related structures and/or facilities (collectively, "Drainage Facilities") for the drainage of stormwater from the Benefited Property onto the Drainage Easement Premises; and (d) during the construction of the Drainage Facilities, a temporary, non-exclusive access and construction easement which extends 20-feet from the perimeter boundary of the Drainage Easement Premises on all sides thereof to the extent located on the Town Property (the "Temporary Construction

Premises”, together with the Access Easement Premises, the Landscape Easement Premises, and the Drainage Easement Premises, the “Easement Premises”), for the purpose of constructing the Drainage Facilities (clauses (c) and (d) collectively, the “Drainage Easement,” together with the Access Easement and Landscaping Easement, the “Easements”).

2. Maintenance and Repair of the Access Easement. The Town shall, at its sole cost and expense, maintain and repair the Access Easement Premises in a condition similar to that of other secondary roads within the Town of Wayland (which shall include, without limitation, the obligation to remove snow and ice therefrom), except for the landscaping which is the subject of the Landscaping Easement, which Grantee will maintain at its sole cost and expense. In the event the Town does not maintain and repair the Access Easement Premises in the condition required hereunder and fails to remedy such default within a reasonable time after receipt of notice thereof from Grantee, the Grantee shall have the right to maintain and repair the Access Easement Premises and remove snow and ice therefrom, as needed, and seek reimbursement for the costs associated therewith from the Town. As part of its maintenance obligations hereunder, the Town shall remove any trees, vegetation or brush within or adjacent to the Access Easement Premises necessary to maintain the present width of the Access Easement Premises, maintain adequate sight lines at the apron of Route 20, and shall pave or re-pave the Access Easement Premises as needed to make it safe for passage.

In the event the Town is no longer using the Access Easement Premises to access the Town transfer station or any other Town facility or operation located on or being conducted on the Town Property, the Town may give written notice to Grantee, which shall specify a date no earlier than thirty (30) days after the giving of such notice after which the Town will no longer maintain the Access Easement Premises (but not any portion of the Access Road located outside of the Access Easement Premises, which shall remain the sole responsibility of the Town) (the “Maintenance Obligation Date”), whereupon the Grantee shall have the obligation, at its sole cost and expense, to maintain and repair the Access Easement Premises and maintain adequate sight lines at the apron of Route 20. Upon the Maintenance Obligation Date, and as part of its maintenance and repair obligation pursuant to the foregoing sentence, the Grantee shall have the right to perform routine removal of trees, vegetation and brush within or adjacent to the Access Easement Premises necessary to maintain the present width of the Access Easement Premises and adequate sight lines at the apron of Route 20, and shall pave or re-pave the Access Easement Premises as it deems necessary for safe travel.

3. Maintenance and Repair of the Drainage Easement. The Grantee shall have sole responsibility for maintenance, operation and repair of the Drainage Easement Premises, and shall, at its sole cost and expense, maintain the Drainage Easement Premises in good order and condition, and in a manner consistent with the stormwater operations and maintenance plan approved by the Town and/or its applicable agents, divisions or departments (the “O/M Plan”) upon completion of the drainage infrastructure. The Grantee acknowledges that the stormwater discharge is located in a critical area, and will require maintenance and treatment in accordance with the O/M

Plan. In no event shall the Town be responsible for the condition, maintenance or repair of the Drainage Easement Premises, except to the extent the Town causes damage thereto as a result of its gross negligence or willful misconduct.

4. Construction. All work done within or to the Easement Premises by Grantee shall be done in a good and workmanlike manner, using materials of good quality and, to the maximum extent feasible, at such times that the Town Property is not being used by others. Grantee shall obtain, at its sole cost, any and all permits, licenses or other approvals required to undertake any work within the Easement Premises and provide copies of the same to the Town, at the Town's request. Grantee shall, at the Town's reasonable request, place barriers and/or take other measures to protect persons and property from damage during construction or any work within the Easement Premises. Grantee shall use commercially diligent efforts to complete its work in an expeditious manner and to minimize interference with the use of the Town Property by the Town and others entitled thereto, including, without limitation, during such times as the Town is constructing improvements within the Town Property, including the Easement Premises. Grantee shall provide the Town with three business (3) days' notice of any anticipated work that will materially interfere with the Town's use of the Easement Premises. Grantee shall remove all construction debris or rubble, including any trees, vegetation or brush, which are removed as part of such construction or in connection with the Landscaping Easement from the Easement Premises on a regular basis consistent with construction industry norms during any construction period, but in no event shall Grantee leave construction debris that would interfere with the Town's use of the Easement Premises. Grantee shall forthwith repair and restore any damage or disturbance it causes to the Easement Premises (subject to any temporary damage or disturbance caused by improvements that Grantee is permitted to make pursuant to the terms hereof, including the Drainage Facilities and the landscaping which is the subject of the Landscaping Easement) and/or any improvements made thereto by the Grantee to their condition prior to such disturbance or damage, at Grantee's sole cost and expense.

5. Liens. Grantee shall not permit any mechanics' liens or similar liens to remain upon the Town Property for labor and material furnished to Grantee in connection with work of any character performed at the direction of Grantee and Grantee shall cause any such lien to be released of record (or discharged by bonding) forthwith without cost to the Town.

6. Reserved Rights, Disclaimer. The Town reserves, for itself and its successors and assigns, the right to use the Easement Premises for any and all purposes, provided such use does not interfere unreasonably with Grantee's use of the Easement Premises for the purposes set forth herein. The Town makes no representation, either express or implied, with respect to the condition of the Easement Premises. The Grantee, and on behalf of the Benefited Parties, acknowledge that the Grantee and the Benefited Parties shall use the Easement Premises at its sole risk.

7. Restrictions, Limitations. Grantee expressly acknowledges and agrees that the Easements are intended solely for the benefit of the Benefited Property and for no

other property. The Grantee and the Benefited Parties shall not, and shall not allow its contractors, representatives and agents to: (a) use the Easement Premises in a manner that interferes with the Town's right to use the same for any purpose that does not interfere with the access and other easement rights hereby granted; (b) except as expressly permitted by this Agreement, construct or place any permanent or temporary buildings, structures, or obstructions on, over, across or below the Easement Premises; (c) increase the width or other dimensions of the Easement Premises, or otherwise alter the Access Easement Premises to make it unsafe or difficult for pedestrian and vehicular traffic, without the Town's prior written consent, which consent may be withheld in the Town's sole discretion; (d) cause or allow to be caused a release or threat of release of hazardous materials or oil on the Easement Premises; or (e) store or park vehicles, equipment, or other property on the Easement Premises. Grantee shall inform Town at least three (3) days prior to making any major repairs (however in an emergency shall provide such notice as is reasonable under the circumstances), and shall install reasonable safety measures to protect the safety of others using the Easement Premises during any maintenance, and/or repair of the Easement Premises by the Grantee. The parties agree that filling potholes, grading, removing brush and other vegetation from the Easement Premises, installing and maintaining the landscape which is the subject of the Landscaping Easement, clearing pipes to allow proper drainage and clearing, and cleaning drainage ditches are general maintenance and require no prior notice to the Town.

8. Release. The Grantee, and on behalf of the Benefited Parties, hereby releases the Town, its officers, employees, representatives, contractors and agents from any responsibility for losses or damages related to the condition or use of the Easement Premises, except if caused by (i) the gross negligence or willful misconduct of the Town or its officers, employees, representatives, contractors and agents; or (ii) a material breach of this Agreement by the Town, and the Grantee, and on behalf of the Benefited Parties, agrees and covenants that it will not assert or bring, nor cause any third party to assert or bring, any claim, demand, lawsuit or cause of action against the Town (collectively, "Claims"), including, without limitation, claims for property damage, personal injury damage and any other damage relating to, or arising from, the Grantee's use or activities on or about the Easement Premises, except for any Claims arising out of (x) the gross negligence or willful misconduct of the Town or its officers, employees, representatives, contractors and agents, or (y) a material breach of this Agreement by the Town.

9. Indemnification. The Grantee, and on behalf of the Benefited Parties, agrees to indemnify, defend, and hold the Town harmless from and against all debts, expenses (including reasonable attorneys' fees), actions, causes of action, suits, dues, sums of money, damages, liabilities and any and all claims, demands and liabilities whatsoever of every name and nature, both in law and equity, arising out of or relating to: (a) the discharge, release or threatened release at or from the Benefited Property and/or the Town Property of oil or hazardous materials as defined under federal, state or local law which is caused by the Grantee, the Benefited Parties, or its agents, employees, contractors and representatives (collectively, the "Grantee Parties"); (b) any failure on the

part of the Grantee Parties to comply with this Easement Agreement; and (c) the death, injury or property damage suffered by any person on account of or based upon the negligence or misconduct of any of the Grantee Parties, except to the extent that such death, injury or property damage is caused by the gross negligence or willful misconduct of the Town. To the extent that the Grantee or anyone acting for or through the Grantee releases or is otherwise responsible for a release of oil or hazardous materials on the Town Property in quantities or concentrations requiring reporting to the Massachusetts Department of Environmental Protection (MassDEP) or any other governmental authority with jurisdiction over the Town Property or the release, the Grantee shall promptly notify the Town of the reportable condition. After consultation with and approval from the Town and the Town's Licensed Site Professional (LSP), the Grantee shall submit a release notification form to MassDEP (or other governmental authority as appropriate), designating itself as the responsible party and shall be responsible at its sole cost and expense for expeditiously achieving a Permanent Solution with no conditions, including no activities and use limitations (the "Permanent Solution"). The Grantee shall continue to consult with and obtain approval from the Town and the Town's LSP on all remedial strategies and submissions until the Permanent Solution is achieved.

10. Insurance Coverages. Before Grantee or any of the other Grantee Parties enters the Easement Premises for any reason, Grantee shall procure, at its own cost and expense, or cause to be procured, the following minimum insurance: (a) commercial general liability insurance with a minimum coverage amount of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit. The policy shall include blanket contractual liability insurance for all written contracts in accordance with policy terms afforded under ISO CG 00 01 04 13 (or carrier equivalent), subject to such coverage being commercially available, and shall include coverage for products and completed operations liability through the time period applicable as required by the statute of repose and independent contractor's liability and coverage for property damage; (b) automobile liability insurance for owned and non-owned automobiles, trucks and all other licensed for road use vehicles, and/or hired/rented automobiles, trucks and all other licensed for road use vehicles, in the amount of One Million Dollars (\$1,000,000) combined single limit; (c) workers compensation in the minimum amount of the statutory limit and Employers Liability in the amount of One Million Dollars (\$1,000,000.00); (d) contractors pollution liability in the amount of Two Million Dollars (\$2,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate; and (e) umbrella/excess liability in the minimum amount of Three Million Dollars (\$3,000,000) per occurrence and Three Million Dollars (\$3,000,000) aggregate over all other insurance required by this Agreement (except workers compensation). Required limits may be achieved via combination of primary and excess/umbrella liability policies.

11. General Insurance Requirements. All insurance required hereunder shall name the Town and its officers, employees, representatives, contractors and agents and any other party reasonably designated by the Town as an additional insured (except workers compensation/employers liability). Additional Insured afforded under the General Liability policy shall extend to ongoing and products/completed operations. All

insurance required shall be issued by insurers authorized to transact insurance business in the Commonwealth of Massachusetts and having an A- or better financial rating from a recognized insurance accreditation institution (such as A.M. Best Company). All insurance required hereunder, or with respect to any insurance carried by a party that covers the Easement Premises or the actions or omissions of that party, shall provide a waiver of subrogation in favor of the other. Where commercially available, all insurance policies and certificates shall include a provision requiring thirty (30) days' written notice to the Town of any cancellation (except only ten (10) days' written notice for cancellation due to nonpayment of premium). At least annually, and at such other times as the Town may reasonably request, Grantee shall provide the Town with a certificate evidencing the coverages required hereunder. Grantee's failure to obtain, procure and/or maintain the required insurance at all times shall constitute a material default hereunder. Grantee's obligations to the Town under this Agreement shall not be limited by the requirement for, or existence or amount of, insurance coverage. The Town and Grantee agree that (i) the failure of the Town to demand evidence of such minimum insurance coverages or failure of the Town to identify a deficiency(ies) therein will not be construed as a waiver of Grantee's obligation to maintain the minimum insurance required under this Agreement; (ii) the insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect the Grantee, nor be deemed as a limitation of Grantee's liability to the Town under this Agreement; and (iii) the Grantee is solely responsible for any deductible and/or self-insured retention.

12. Turn-Around Easement. In return for the Easements conveyed to the Grantee herein, the Grantee grants to the Town, and the public, a permanent, non-exclusive easement for the purpose of turning around vehicles within paved areas of the Benefited Property, at or near the gate installed by the Town on the Access Road (the "Turn-Around Easement") in the area shown as "Turn Around Easement" on the Plan and as more particularly described in Exhibit G attached hereto and incorporated herein. Notwithstanding the foregoing, the Turn-Around Easement will be effective only upon completion of the paved areas shown on the Plan and upon confirmation that same are able to accept vehicular traffic for their intended purpose, but no later than the time residents of the Project are permitted to utilize such paved areas for their intended purpose. Upon written request of the Town, the Grantee will provide notice to the Town of the effective date of the Turn-Around Easement. Grantee may not obstruct or interfere with the Turn-Around Easement, but reserves the right, to be exercised solely at the Grantee's option, to relocate the Turn-Around Easement, at its expense, to another portion of the Benefited Property, provided, however, that the relocated easement area shall be reasonably comparable to the existing easement area. The Town acknowledges that there may be periods during the construction of the Project during which Grantee will need to temporarily block or prevent the use of the Turn-Around Easement. Sections 5 and 8 hereof shall apply to the Town's Turn-Around Easement with the same force and effect as they apply to the Easements, but as if the Town and the public at large are the "Grantee" and the "Grantee Parties" thereunder, respectively, and the "Grantee" is the Town.

13. Miscellaneous:

(a) During the exercise of the rights hereby granted, the Grantee shall not, and shall not permit any of the other the Grantee Parties to interfere unreasonably with the operations of the Town in its use of the Town Property, including the Easement Premises, or the operation and/or use by others entitled thereto. During the exercise of the rights hereby granted under Section 12, the Town shall not interfere unreasonably with the operations of the Grantee in its use of the Benefited Property or the construction of the Project, including the Turn-Around Easement Area, or the operation and/or use by others entitled thereto. During the exercise of the rights granted hereunder, Grantee shall not unreasonably interfere with the Town's use and operation of the Town Property.

(b) All provisions of this Agreement, including the benefits and burdens, shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, and such provisions shall be deemed to be enforceable covenants running with the land and shall bind any person having at any time any interest or estate in all or any portion of the Town Property and Benefited Property burdened hereby as though such provisions were recited and stipulated in full in each and every deed of conveyance. The terms and provisions hereof shall be binding upon the parties hereto only with respect to the periods of time such party is the owner of title to the Town Property or the Benefited Property, as the case may be. Accordingly, from and after such time as either party hereto shall transfer title to its respective property, it shall have no further obligations hereunder except for obligations which accrued prior to the time of such transfer, it being specifically understood that from and after the date of such transfer such party shall have no further rights hereunder nor responsibility for any obligations hereunder which rights and obligations shall, thereafter, be deemed rights and obligations of the party to whom title has been transferred and such transferee shall, by virtue of its acceptance of such transfer be deemed to have assumed and agreed to perform all obligations of the transferor thereafter accruing under this Agreement.

(c) Any notice required or given under this Agreement shall be deemed duly served if hand-delivered, mailed by registered or certified mail, return receipt requested, postage prepaid, or sent by recognized overnight delivery, addressed to the parties at the addresses set forth above, which may be changed with like notice at least ten (10) days in advance of the effective date of the change.

(d) This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and any and all legal actions brought in connection with this Agreement shall be brought in courts within the Commonwealth of Massachusetts.

(e) This Agreement contains the entire agreement of the parties and there are no other agreements or understandings between the parties regarding the subject matter of this Agreement. This Agreement may not be modified except in writing, duly executed by both parties.



(f) The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provision of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

[Signature Pages Follow]

WITNESS the execution hereof under seal this \_\_\_\_ day of \_\_\_\_\_, 2021.

TOWN OF WAYLAND,  
By Its Board of Selectmen

\_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_  
David V. Watkins

\_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_  
Lea T. Anderson

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, member of the Wayland Board of Selectmen, as aforesaid, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Wayland.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

746074/WAYL/0103

LEGAL02/40107066v12

WITNESS the execution hereof under seal this \_\_\_\_ day of \_\_\_\_\_, 2021.

**GRANTEE:**

ALTA RIVER'S EDGE, LLC, a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its managing member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: James Lambert  
Title: Vice President

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public, personally appeared James Lambert, Vice President of WP Massachusetts, LLC, a Delaware limited liability company, the sole member and manager of WS River's Edge, LLC, a Delaware limited liability company, the managing member Alta River's Edge Venture, LLC, the sole member of Grantee, as aforesaid, proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of said entities in such capacities.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

Exhibit A

Town Property

The land on Route 20, a/k/a Boston Post Road, Wayland, Middlesex County, Massachusetts, shown as "Map 22, Lot 5," containing 23.92 acres, on a plan entitled "ANR Subdivision Plan Assessor's Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road, Wayland, Massachusetts" prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South District Registry of Deeds as Plan No. 260 of 2017.

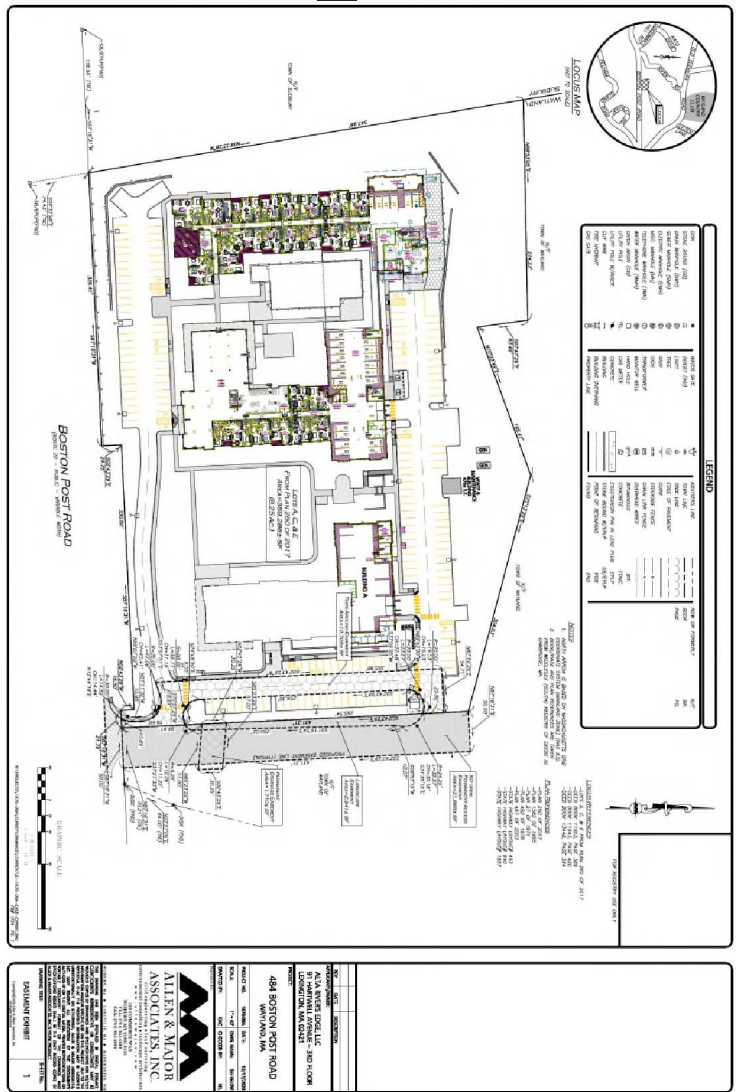
Exhibit B

Benefited Property

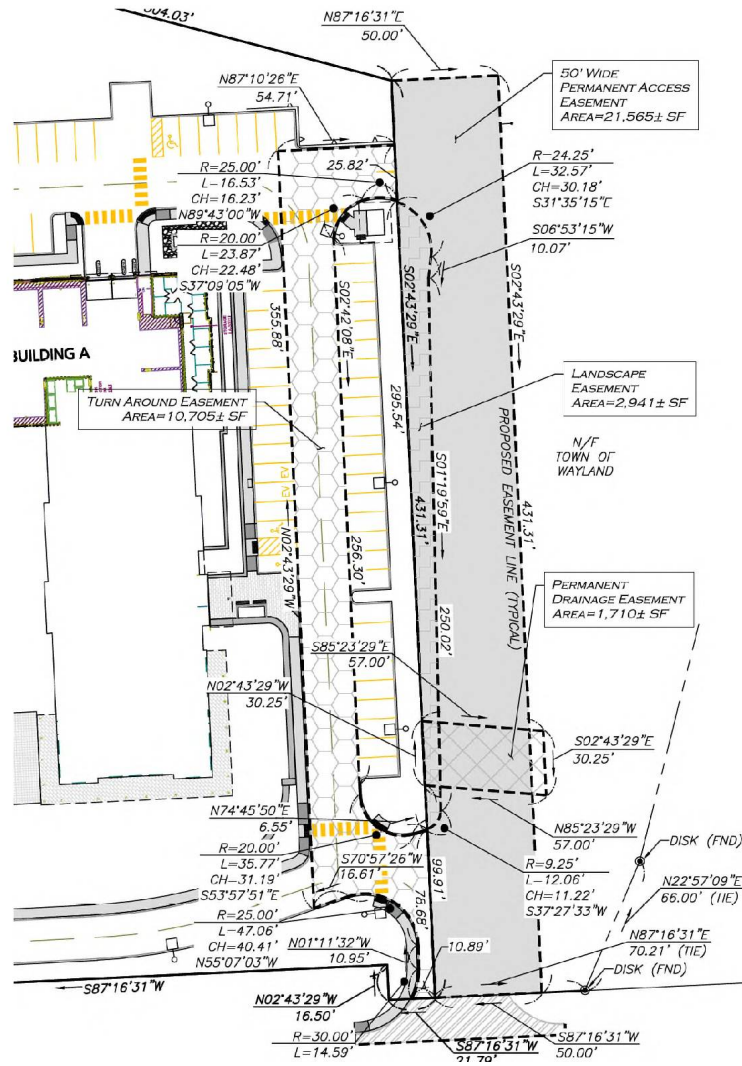
The land on Route 20, a/k/a Boston Post Road, Wayland, Middlesex County, Massachusetts, shown as Lots A, C, and E on a plan entitled "ANR Subdivision Plan Assessor's Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road, Wayland, Massachusetts" prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South District Registry of Deeds as Plan No. 260 of 2017.

Exhibit C\*

Plan



Plan – Blown Up Version of Plan showing Easement Areas



\* Plan shown in Exhibit C does not necessarily reflect existing conditions. Current as-built conditions for the Project may be modified from time to time.

Exhibit D

Access Easement Premises

A certain easement situated along the Northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Northwesterly most corner of the easement to be described hereafter; thence

N87°16'31"E      Fifty and no hundredths feet (50.00') to a point; thence

S02°43'29"E      Four hundred thirty-one and thirty-one hundredths feet (431.31') to a point; thence

S87°16'31"W      Fifty and no hundredths feet (50.00') to a point; thence

N02°43'29"W      Four hundred thirty-one and thirty-one hundredths feet (431.31') to the point of beginning.

The above described easement contains an area of 21,565 square feet, more or less, and is more particularly shown as a "50' Wide Permanent Access Easement" on a plan entitled "Easement Exhibit - 484 Boston Post Road, Wayland, MA", Scale: 1" = 40'. Dated December 17, 2020. Prepared for ALTA River's Edge, LLC. Prepared by Allen & Major Associates, Inc.



Exhibit E

Landscape Easement Premises

A certain easement situated off the Northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Southwesterly most corner of the easement to be described hereafter; thence

- |               |                                                                                                                                                                                                                                                                                                           |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| N02°43'29"W   | Two hundred ninety-five and fifty-four hundredths feet (295.54') to a point of curvature; thence                                                                                                                                                                                                          |
| Southeasterly | Along an arc to the right having a radius of twenty-four and twenty-five hundredths feet (24.25'), an arc length of thirty-two and fifty-seven hundredths feet (32.57'), a chord length of thirty and eighteen hundredths feet (30.18') and a chord bearing of S31°35'15"E to a point of tangency; thence |
| S06°53'15"W   | Ten and seven hundredths feet (10.07') to a point; thence                                                                                                                                                                                                                                                 |
| S01°19'59"E   | Two hundred fifty and two hundredths feet (250.02') to a point of curvature; thence                                                                                                                                                                                                                       |
| Southwesterly | Along an arc to the right having a radius of nine and twenty-five hundredths feet (9.25'), an arc length of twelve and six hundredths feet (12.06'), a chord length of eleven and twenty-two hundredths feet (11.22') and a chord bearing of S37°27'33"W to the point of beginning.                       |

The above described easement contains an area of 2,941 square feet, more or less, and is more particularly shown as a "Landscape Easement" on a plan entitled "Easement Exhibit - 484 Boston Post Road, Wayland, MA". Scale: 1" = 40'. Dated December 17, 2020. Prepared for ALTA River's Edge, LLC. Prepared by Allen & Major Associates, Inc.

Exhibit F

Drainage Easement Premises

A certain easement situated off the Northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Northwesterly most corner of the easement to be described hereafter; thence

S85°23'29"E      Fifty-seven and no hundredths feet (57.00') to a point; thence

S02°43'29"E      Thirty and twenty-five hundredths feet (30.25') to a point; thence

N85°23'29"W      Fifty-seven and no hundredths feet (57.00') to a point; thence

N02°43'29"W      Thirty and twenty-five hundredths feet (30.25') to the point of beginning.

The above described easement contains an area of 1,710 square feet, more or less, and is more particularly shown as a "Permanent Drain Easement" on a plan entitled "Easement Exhibit - 484 Boston Post Road, Wayland, MA". Scale: 1" = 40'. Dated December 17, 2020. Prepared for ALTA River's Edge, LLC. Prepared by Allen & Major Associates, Inc.

Exhibit G

Turn-Around Easement

A certain easement situated along the Northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Northwesternly most corner of the easement to be described hereafter; thence

- N87°10'26"E      Fifty-four and seventy-one hundredths feet (54.71') to a point; thence
- S02°43'29"E      Twenty-five and eighty-two hundredths feet (25.82') to a point of curvature; thence
- Northwesterly      Along an arc to the left having a radius of twenty-five and no hundredths feet (25.00'), an arc length of sixteen and fifty-three hundredths feet (16.53'), a chord length of sixteen and twenty-three hundredths feet (16.23') and a chord bearing of N89°43'00"W to a point of compound curvature; thence
- Southwesterly      Along an arc to the left having a radius of twenty and no hundredths feet (20.00'), an arc length of twenty-three and eighty-seven hundredths feet (23.87'), a chord length of twenty-two and forty-eight hundredths feet (22.48') and a chord bearing of S37°09'05"W to a point of non-tangency; thence
- S02°42'08"E      Two hundred fifty-six and thirty hundredths feet (256.30') to a point; thence
- Southeasterly      Along an arc to the left having a radius of twenty and no hundredths feet (20.00'), an arc length of thirty-five and seventy-seven hundredths feet (35.77'), a chord length of thirty-one and nineteen hundredths feet (31.19') and a chord bearing of S53°57'51"E to a point of non-tangency; thence
- N74°45'50"E      Six and fifty-five hundredths feet (6.55') to a point; thence
- S02°43'29"E      Seventy-eight and sixty-eight hundredths feet (78.68') to a point; thence
- S87°16'31"W      Ten and eighty-nine hundredths feet (10.89') to a point of curvature; thence
- Northeasterly      Along an arc to the left having a radius of thirty and no hundredths feet (30.00'), an arc length of fourteen and fifty-nine hundredths feet (14.59'), a chord length of fourteen and forty-four hundredths feet (14.44') and a chord bearing of N12°44'18"E to a point of tangency; thence
- N01°11'32"W      Ten and ninety-five hundredths feet (10.95') to a point of curvature; thence
- Northwesterly      Along an arc to the left having a radius of twenty-five and no hundredths feet (25.00'), an arc length of forty-seven and six hundredths feet (47.06'), a

chord length of forty and forty-one hundredths feet (40.41') and a chord bearing of N55°07'03"W to a point of tangency; thence

S70°57'26"W Sixteen and sixty-one hundredths feet (16.61') to a point; thence

N02°43'29"W Three hundred fifty-five and eighty-eight hundredths feet (355.88') to the point of beginning.

The above described easement contains an area of 10,705 square feet, more or less, and is more particularly shown as a "Turn Around Easement" on a plan entitled "Easement Exhibit – 484 Boston Post Road, Wayland, MA". Scale: 1" = 40'. Dated December 17, 2020. Prepared for ALTA River's Edge, LLC. Prepared by Allen & Major Associates, Inc.

EXHIBIT C  
TEMPORARY DEMOLITION LICENSE  
[SEE ATTACHED]

## TEMPORARY CONSTRUCTION LICENSE

THIS TEMPORARY CONSTRUCTION LICENSE ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 ("License Date") by and between the TOWN OF SUDBURY, acting by and through its Town Manager, a Massachusetts municipal corporation ("Licensor") and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("Licensee").

### RECITALS

WHEREAS, Licensor is the owner of real property more particularly described on Exhibit A hereto (the "Town Property");

WHEREAS, Licensee intends on developing the property adjoining the Town Property and more particularly described on Exhibit B hereto (the "Licensee Property") as a multi-family housing project with related amenities and common areas (the "Project");

WHEREAS, Licensee needs to access a portion of the Town Property in order to perform the Work (defined below); and

WHEREAS, Licensor has agreed to grant Licensee and its Permittees (defined below) the right and license to perform the Work on the terms hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereby agree to the following terms and conditions:

### AGREEMENTS

1. Temporary Construction License. Licensor hereby grants a non-exclusive, temporary license ("License") to Licensee and its agents, employees, representatives and contractors (collectively, "Permittees"), for a period of nine (9) months from the date upon which Licensee commences construction activities relating to the Project (the "Term"), to enter upon the 70 foot-wide area on the Town Property shown as "License Area" on a plan entitled "License Area Exhibit—484 Boston Post Road, Wayland, MA" dated December 22, 2020, prepared by Allen & Majors Associates, Inc., attached hereto and incorporated herein as Exhibit C ("License Area"), and as more particularly described in Exhibit D attached hereto and incorporated herein, to (a) demolish and remove in its entirety the above-ground structures of the septage facility located within the License Area and all related above-ground fixtures, improvements, utilities and equipment, including without limitation, removal and proper disposal of any and all hazardous materials that are required to be removed based on the Work; (b) locate, cut and cap, as may be necessary, a water line serving the septage facility at the Licensee Property's property line, (c) perform grading activities within the License Area, excluding soil excavation on the Town Property, required in connection with the development of the Project, including filling and blending the grade on the Town Property with the Licensee Property, seeding and restoring the area to the condition it was in prior to the commencement of the Work, except to the extent the condition of the Town Property is modified in connection with the grading and other Work

LEGAL02/40151182v9

permitted hereunder, and (d) perform any incidental activities related to such demolition, grading, and construction activities (collectively, the "Work"), all at Licensee's sole cost and expense. The License shall include the right of Licensee to temporarily remove any fencing and any other above-ground improvements in the License Area which are not permanently demolished and/or removed as part of the Work (collectively, such improvements that are not permanently demolished and/or removed, the "Restorable Improvements") necessary for Licensee to perform the Work, and locate its equipment, materials and workers in the License Area. The Licensee shall advise the Town no less than twenty-four (24) hours prior to entering the License Area of its intent to conduct the Work in the License Area and shall permit the Town or its representative(s) to observe any and all Work conducted under this License.

2. Restoration and Repair. Upon the completion of the Work, Licensee shall, at its sole cost and expense, (a) re-install any Restorable Improvements removed by Licensee to substantially the condition that existed prior to commencement of the Work, (b) repair any damage to the License Area and the Restorable Improvements located therein caused by Licensee or its Permittees and (c) remove all personal property, materials and equipment not belonging to the Town, trash and debris related to the Work from the License Area. Licensee shall pay in full for all Work and satisfy any mechanic's liens related thereto.
3. No Representations or Warranties: Licensor makes no representations or warranties whatsoever regarding the condition of the License Area or the content of any materials located thereon, and Licensee agrees to enter the License Area and to undertake the Work at its sole risk, cost and expense. The provisions of this section shall survive the termination of this Agreement.
4. Indemnification. Licensee hereby agrees to defend, indemnify and hold Licensor harmless for, from and against all claims, actions, liabilities, liens or proceedings, including, without limitation, reasonable attorneys' fees and court costs actually incurred, resulting from any failure on the part of Licensee to comply with any provision or term of this License, and any personal injury, death or property damage (including, without limitation, hazardous materials identified in performance of the Work or caused or introduced at or to the License Area by the Licensee or any of its Permittees), suffered or incurred by Licensor or any person, firm or entity and arising out of the exercise by Licensee or its Permittees of rights under this Agreement, except to the extent arising from the negligent, intentional or willful acts or omissions of Licensor, its agents, contractors or invitees. The obligations of this Section shall survive the expiration or termination of this License.
5. Insurance. Throughout the Term, Licensee shall procure and maintain (or cause its applicable contractors performing the work to procure and maintain):
  - (a) commercial general liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in Section 3 above), death, or property damage occurring upon the Town Property, with limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit;

(b) automobile liability insurance for owned and non-owned automobiles and trucks, and/or rented automobiles and trucks, in the amount of One Million Dollars (\$1,000,000) combined single limit; and

(c) workers compensation coverage in the minimum amount of the statutory limit.

Before any Work shall commence, Licensee and its Permittees shall provide Licensor with a certificate of insurance naming the Town as an additional insured for each of the policies described above, except workers compensation.

6. Restrictions. The License Area shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation by Licensee or its Permittees shall be made, conducted, or permitted on or with respect to all or any portion of the License Area that is illegal.
7. Licensed Contractor: All of the Work will be done by or under the supervision of a licensed contractor.
8. Termination and Revocation: This License may be revoked by the Licensor for "cause," if not cured within ten (10) days after written notice to Licensee. If Licensee cannot reasonably cure the breach or default within ten (10) days, Licensee shall be allowed additional time (not to exceed thirty (30) additional days) as is reasonably necessary to cure such breach or default so long as: (a) Licensee commences the cure within ten (10) days of written notice by Licensor; and (b) Licensee diligently pursues a course of action that will cure such breach or default and bring Licensee back into compliance with the terms of this License. "Cause" shall mean any material breach or default of the terms of this Agreement. Except as stated herein, this License shall be irrevocable for the Term hereof. At the expiration of the Term of this License or its prior termination, the Licensee shall forthwith remove all equipment, materials, and any other personal property from the License Area.
9. Not A Right-Of-Way Dedication: Nothing contained in this License shall create or be deemed to create any rights in the general public, nor be deemed to be a gift or a dedication of any portion of any of the Town Property to or for the general public or for any public purpose whatsoever, it being the intention that this License shall be strictly limited to and for the purposes herein expressed.
10. License, Not Lease. This License and the rights granted to Licensee herein are intended and shall be deemed to constitute merely a license to occupy the License Area upon the terms and conditions set forth herein, and shall not be deemed to constitute a lease, an estate passing out of Licensor or any other interest in real property, and, therefore, Licensee shall not be entitled to any statutory right or benefit afforded to tenants of real property.
11. Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings related to the matters referred to herein are superseded hereby. Any modification of this Agreement shall be in writing duly executed by both parties hereto before it shall become effective.



12. Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, by other national overnight courier company, personal delivery, or by email transmission. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other. The notice addresses of the parties are as follows:

Licensee: Alta River's Edge, LLC  
c/o Wood Partners  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: jim.lambert@woodpartners.com

with a copy to: Andrew R. Allen  
Alston & Bird LLP  
1201 W. Peachtree Street  
Atlanta, GA 3039  
Email: drew.allen@alston.com

Licensor Town of Sudbury  
Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776  
Attn: Henry Hayes, Town Manager  
Email: HayesH@sudbury.ma.us

10. Governing Law. The laws of the Commonwealth of Massachusetts shall govern the interpretation, validity; performance, and enforcement of this License.
11. Counterparts. This Agreement may be executed in multiple counterparts, each of which will constitute an original, but all of which taken together will constitute one and the same agreement.

[Remainder of page left intentionally blank]

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

**LICENSOR:**

TOWN OF SUDBURY, a Massachusetts municipal corporation

By: \_\_\_\_\_  
Henry L. Hayes, Jr.,  
Town Manager

**LICENSEE:**

ALTA RIVER'S EDGE, LLC, a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its managing member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

EXHIBIT A

TOWN PROPERTY

The land on Route 20, a/k/a Boston Post Road, Sudbury, Middlesex County, Massachusetts, as more specifically described in Book 11789, Page 569 and Plan No. 540 of 1983, recorded with the Middlesex South District Registry of Deeds.

LEGAL02/40151182x9

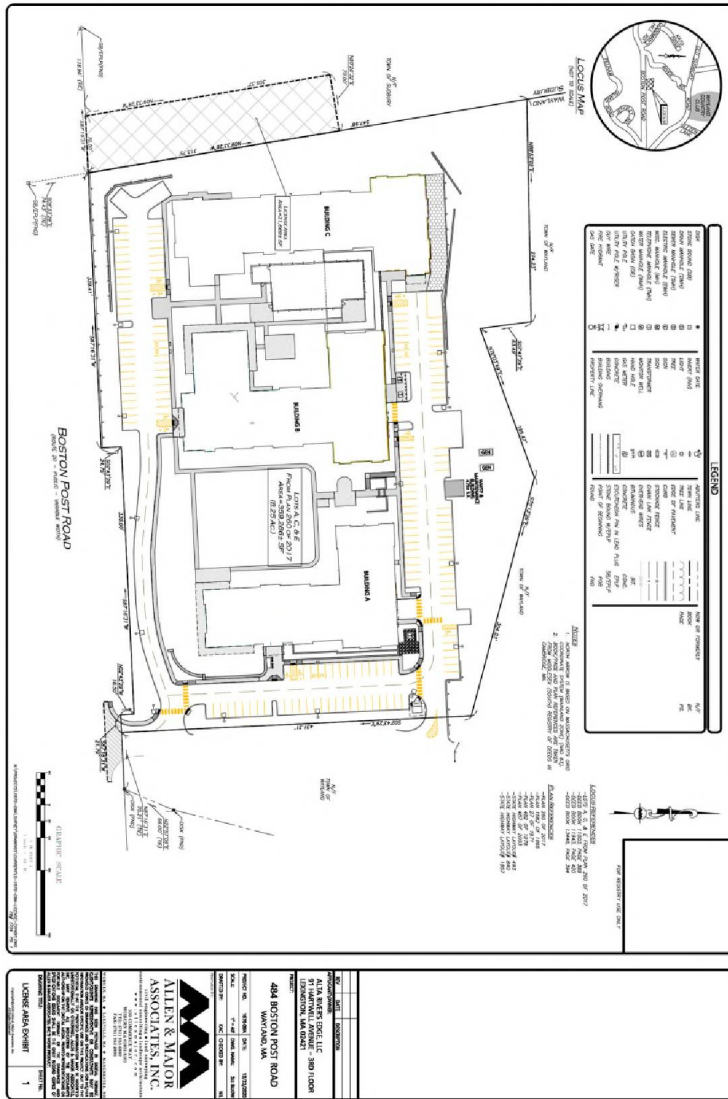
EXHIBIT B

LICENSEE PROPERTY

The land on Route 20, a/k/a Boston Post Road, Wayland, Middlesex County, Massachusetts, shown as Lots A, C, and E on a plan entitled "ANR Subdivision Plan Assessor's Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road, Wayland, Massachusetts" prepared by WSP Transportation & Infrastructure", dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South District Registry of Deeds as Plan No. 260 of 2017.

LEGAL02/40151182x9

**EXHIBIT C**  
**LICENSE AREA**



LEGAL02/40151182x9

EXHIBIT D

LICENSE AREA – LEGAL DESCRIPTION

A certain license area situated along the Northerly side of Boston Post Road in the Town of Wayland, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The Point of Beginning being the Southeasterly most corner of the easement to be described hereafter; thence

S87°16'31"W      Seventy and fifty hundredths feet (70.50') to a point of; thence

N09°33'28"W      Three hundred five and thirty-seven hundredths feet (305.37') to a point; thence

N80°26'32"E      Seventy and no hundredths feet (70.00') to a point of curvature; thence

S09°33'28"E      Three hundred thirteen and seventy-five hundredths feet (313.75') to the point of beginning.

The above described license area contains an area of 21,669 square feet, more or less, and is more particularly shown as a "License Area" on a plan entitled "License Area Exhibit – 484 Boston Post Road, Wayland, MA". Scale: 1" = 40'. Dated December 22, 2020. Prepared for ALTA River's Edge, LLC. Prepared by Allen & Major Associates, Inc.

EXHIBIT D-1

REGULATORY AGREEMENT [NON-AGE RESTRICTED BUILDING]

[SEE ATTACHED]

LOCAL INITIATIVE PROGRAM  
  
**REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
RENTAL PROJECT  
Local Action Units**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Wayland ("the Municipality"), and Alta River's Edge, LLC, a Delaware limited liability company, authorized to do business in Massachusetts, having an address at 3715 Northside Pkwy NW Ste 4-600, Atlanta, GA 30327, and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer intends to construct or cause the construction of a rental housing development known as River's Edge, 490 Boston Post Road, Buildings B and C on a 5.17+/- portion of a 8.25+/- acre site in the Municipality, more particularly described in Exhibit A attached hereto and as shown as "Parcel Two" on the plan attached hereto as Exhibit A-1 (the "Project");

WHEREAS, such Project is to consist of a total number of one hundred fifty-two (152) rental dwellings (the "Units") and thirty-eight (38) of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low and Moderate Income Units");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

September 2, 2016



NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Developer hereby agree and covenant as follows:

1. Construction. The Developer agrees to construct or cause the construction of the Project in accordance with plans and specifications approved by the Municipality (the "Plans and Specifications"). In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the Guidelines) and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

<u>19</u>	of the Low and Moderate Income Units shall be one bedroom units;
<u>19</u>	of the Low and Moderate Income Units shall be two bedroom units;
<u>0</u>	of the Low and Moderate Income Units shall be three bedroom units; and,
<u>0</u>	of the Low and Moderate Income Units shall be four bedroom units.

All Low and Moderate Income Units to be occupied by families must contain two or more bedrooms. Low and Moderate Income Units must have the following minimum areas:

studio units	-	250 square feet
one bedroom units	-	700 square feet
two bedroom units	-	900 square feet
three bedroom units	-	1200 square feet
four bedroom units	-	1400 square feet

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Project and each Low and Moderate Income Unit will remain suitable for occupancy (subject to casualty events and other events of force majeure) and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability.

(a) Throughout the term of this Agreement, each Low and Moderate Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-

September 2, 2016

dependent relationship; or an individual. The "Area" is defined as the Boston-Cambridge-Quincy, MA MSA.

(b) The monthly rents charged to tenants of Low and Moderate Income Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for a Low and Moderate Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low and Moderate Income Units are set forth in Exhibit B attached hereto. If the rent for a Low and Moderate Income Unit is subsidized by a state or federal rental subsidy program, then the rent applicable to the Low and Moderate Income Unit may be limited to that permitted by such rental subsidy program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

Annually as part of the annual report required under Subsection 2(e) below, the Developer shall submit to the Municipality and DHCD a proposed schedule of monthly rents and utility allowances for all Low and Moderate Income Units in the Project. Such schedule shall be subject to the approval of the Municipality and DHCD for compliance with the requirements of this Section. Rents for Low and Moderate Income Units shall not be increased without the Municipality's and DHCD's prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Developer to all affected tenants. If an annual request for a new schedule of rents for the Low and Moderate Income Units as set forth above is based on a change in the Area median income figures published by HUD, and the Municipality and DHCD fail to respond to such a submission within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Municipality and DHCD shall be deemed to have approved the submission. If an annual request for a new schedule of rents for the Low and Moderate Income Units is made for any other reason, and the Municipality and DHCD fail to respond within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Developer may send DHCD and the Municipality a notice of reminder, and if the Municipality and DHCD fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and DHCD shall be deemed to have approved the submission.

Without limiting the foregoing, the Developer may request a rent increase for the Low and Moderate Units to reflect an increase in the Area median income published by HUD between the date of this Agreement and the date that the Units begin to be marketed or otherwise made available for rental pursuant to Section 4 below; if the Municipality and DHCD approve such rent increase in accordance with this subsection, the Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units in Exhibit B of the Agreement shall be deemed to be modified accordingly.

(c) If, after initial occupancy, the income of a tenant of a Low and Moderate Income Unit increases and, as a result of such increase, exceeds the maximum income permitted  
September 2, 2016

hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low and Moderate Income Unit in conformance with Section 2(a) of this Agreement, or otherwise demonstrates compliance with Section 2(a) of this Agreement.

(d) If, after initial occupancy, the income of a tenant in a Low and Moderate Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of each Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2(g), below.

(f) The Developer shall enter into a written lease with each tenant of a Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be Low and Moderate Income Unit as provided in sections 2 (a) and(c), above; and that the Project and the Low and Moderate Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

3. Subsidized Housing Inventory.

(a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). All of the Units will be deemed low and moderate income housing to be included in the Subsidized Housing Inventory.

(b) Units included in the Subsidized Housing Inventory will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and each of the Low and Moderate Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time and (3) each Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2(c), above.

4. Marketing. Prior to marketing or otherwise making available for rental any of the Units, the Developer must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly

September 2, 2016

described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low and Moderate Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the last Low and Moderate Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, disability, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

September 2, 2016

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Project is located (collectively hereinafter, the "Registry of Deeds"), and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a duly organized Delaware limited liability company duly authorized to conduct business under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, or other permitted encumbrances which do not materially, adversely affect the marketability of title to the premises and/or the obligations of Developer hereunder, including mortgages referred to in paragraph 17, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) Except for rental of Units to Low or Moderate Income Tenants and market rate units in the ordinary course of business as permitted by the terms of this Agreement, the Developer will not sell, transfer, lease, or exchange the Project or any portion thereof or interest

September 2, 2016

therein (collectively, a "Sale") or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of DHCD and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Developer's obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Development is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Developer within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Developer shall provide DHCD and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Developer's interest in the Project or any party of the Project.

September 2, 2016

For purposes hereof, the term “Beneficial Interest” shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, DHCD’s consent under this Section 9 shall not be required with respect to the grant by the Developer of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

Developer hereby agrees that it shall provide copies of any and all written notices received by Developer from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Casualty; Demolition; Change of Use.

(a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not, without prior written approval of DHCD and the Municipality and an amendment to this Agreement, change the type or number of Low and Moderate Income Units. The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project, or permit the use of the dwelling accommodations of the Project for any purpose except residences and any other uses permitted by the applicable zoning then in effect;

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

September 2, 2016

DHCD: Department of Housing and Community Development  
Attention: Local Initiative Program Director  
100 Cambridge Street, 3rd Floor  
Boston, MA 02114

Municipality: Louise Miller, Town Administrator  
41 Cochichuate Road  
Wayland, MA 01778

Developer: Jim Lambert  
c/o WP East Acquisition, LLC  
91 Hartwell Avenue  
Lexington, MA 02421

13. Term.

(a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, Developer and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of DHCD and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Lender Foreclosure. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

15. Further Assurances. The Developer and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

September 2, 2016



16. Default.

(a) The Developer and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

The Municipality and the DHCD agree that if and so long as the Project is encumbered by any first or second mortgages, to give to the holder of such mortgages copies of any Default Notice or DHCD Default Notice, as applicable, simultaneously with the delivery thereof to the Developer, and the holder of any such mortgages shall have the right, within the same period afforded the Developer hereunder plus an additional period of thirty (30) days, to cure such default on behalf of the Developer, it being the intention of the parties hereto that the DHCD shall not exercise its rights and remedies under this subsection (a) without affording to the holder of any such mortgages the same rights and the same notices with respect to any such default, and the same period or periods of time within which to cure the same, as are afforded to the Developer hereunder, plus the aforesaid additional period thereafter. The obligation herein imposed upon the Municipality and DHCD to give written notice of the existence of any default by the Developer to the holder of any mortgage, shall be limited to such first and second mortgagees who shall have given to the Municipality and DHCD written notice of the existence of such mortgages, and the address to which notices hereunder are to be sent to it. The Municipality and the DHCD acknowledge receipt of the identity of the mortgagee executing the Consent and Subordination attached hereto, as well as the notice address specified therein.

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16, then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce

September 2, 2016

the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse DHCD for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

September 2, 2016

Executed as a sealed instrument as of the date first above written.

DEVELOPER

ALTA RIVER'S EDGE, LLC, a Delaware limited liability company

By: WS River's Edge, LLC, a Delaware limited liability company, its managing member

By: WP Massachusetts, LLC, a Delaware limited liability company, its manager

By: \_\_\_\_\_  
Name: James Lambert  
Its: \_\_\_\_\_

DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT

By: \_\_\_\_\_  
Its: \_\_\_\_\_

MUNICIPALITY

By: \_\_\_\_\_  
Its Chief Executive Officer

Attachments: Exhibit A - Legal Property Description  
Exhibit A-1 - Plan of Land  
Exhibit B - Rents for Low and Moderate Income Units

September 2, 2016

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2020

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of the \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the City/Town of \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016

**CONSENT AND SUBORDINATION OF MORTGAGE  
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated \_\_\_\_\_ given by \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ (“Mortgage”).

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

(If the Development has more than one mortgagee, add additional consent forms.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of \_\_\_\_\_ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016

**EXHIBIT A**

Re: River's Edge, 490 Boston Post Road  
(Project name)

\_\_\_\_\_  
Wayland  
(City/Town)

\_\_\_\_\_  
Alta River's Edge, LLC  
(Developer)

Property Description

Parcel Two

A certain parcel of land situated on the Northerly side of Boston Post Road, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The point of beginning being the Northeasterly most point at of the lot to be described hereafter; thence

S02°43'29"E Five hundred six and twenty-three hundredths feet (506.23') to a point; thence

S87°16'31"W Sixty-one and eighty-three hundredths feet (61.83') to a point; thence

S02°43'29"E Twenty-four and seventy-five hundredths feet (24.75') to a point; thence

S87°16'31"W Three hundred thirty-nine and forty-one hundredths feet (339.41') to a point; thence

N09°33'28"W Five hundred forty-seven and ninety-eight hundredths feet (547.98') to a point; thence

N88°53'05"E Two hundred seventy-four and twenty-three hundredths feet (274.23') to a point; thence

S07°47'29"E Sixty-three and forty-nine hundredths feet (63.49') to a point; thence

N70°03'49"E One hundred ninety-five and forty-seven hundredths feet (195.47') to the point of beginning.

The above described parcel contains an area of 225,394 square feet, more or less, and is more particularly shown as "Parcel Two" on a plan entitled "Building Exhibit – ALTA at River's Edge, 490 Boston Post Road, Wayland, MA". Dated 02/26/20. Prepared for WP East Acquisitions, LLC. Prepared by Allen & Major Associates, Inc.

September 2, 2016

**EXHIBIT A-1**

September 2, 2016



**EXHIBIT B**

Re: River's Edge, 490 Boston Post Road  
(Project name)

Wayland  
(City/Town)

Alta River's Edge, LLC  
(Developer)

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units

	<u>Rents</u>	<u>Utility Allowance</u>
Studio units	N/A	N/A
One bedroom units	\$1,785	\$142
Two bedroom units	\$2,007	\$173
Three bedroom units	N/A	N/A
Four bedroom units	N/A	N/A

4686310.10

September 2, 2016

EXHIBIT D-2

REGULATORY AGREEMENT [AGE-RESTRICTED BUILDING]

[SEE ATTACHED]

LOCAL INITIATIVE PROGRAM  
  
**REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
RENTAL PROJECT  
Local Action Units**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Wayland ("the Municipality"), and Alta River's Edge Tenant, LLC, a Delaware limited liability company, authorized to do business in Massachusetts, having an address at 3715 Northside Pkwy NW Ste 4-600, Atlanta, GA 30327, as the holder of a ground lease interest in the real estate associated with the Project (as defined below), and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer intends to construct or cause the construction of a community of 55+ rental housing development known as Senior Living at River's Edge, 490 Boston Post Road, Building A on a 3.07+/- acre portion of a 8.25+/- acre site in the Municipality, more particularly described in Exhibit A attached hereto and as shown as "Parcel One" on the plan attached hereto as Exhibit A-1 (the "Project");

WHEREAS, the Developer desires to own and operate the Project as a rental housing project for persons 55 years of age or over, in compliance with Federal Fair Housing Act, 42 USC §3601 *et seq.* and the Massachusetts Fair Housing Act, M.G.L. c. 151B, and its implementing regulations, and the DHCD's "Local Initiative Program Policy Restriction on children in Age Restricted 55+ Housing;"

WHEREAS, such Project is to consist of a total number of sixty-six (66) rental dwellings (the "Units") and seventeen (17) of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low and Moderate Income Units");

September 2, 2016

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to DHCD to certify that the units in the Project are Local Action Units (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, DHCD, the Municipality, and the Developer hereby agree and covenant as follows:

1. Construction. The Developer agrees to construct or cause the construction of the Project in accordance with plans and specifications approved by the Municipality (the "Plans and Specifications"). In addition, all Low and Moderate Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the Guidelines) and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

<u>8</u>	of the Low and Moderate Income Units shall be one bedroom units;
<u>9</u>	of the Low and Moderate Income Units shall be two bedroom units;
<u>0</u>	of the Low and Moderate Income Units shall be three bedroom units; and,
<u>0</u>	of the Low and Moderate Income Units shall be four bedroom units.

All Low and Moderate Income Units to be occupied by families must contain two or more bedrooms. Low and Moderate Income Units must have the following minimum areas:

studio units	-	250 square feet
one bedroom units	-	700 square feet
two bedroom units	-	900 square feet
three bedroom units	-	1200 square feet
four bedroom units	-	1400 square feet

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Project and each Low and Moderate Income Unit will remain suitable for occupancy (subject to casualty events and other events of force majeure) and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability.

September 2, 2016

(a) Throughout the term of this Agreement, each Low and Moderate Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live regularly in the Low and Moderate Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable interdependent relationship; or an individual. The "Area" is defined as the Boston-Cambridge-Quincy, MA MSA.

(b) The monthly rents charged to tenants of Low and Moderate Income Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for a Low and Moderate Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low and Moderate Income Units are set forth in Exhibit B attached hereto. If the rent for a Low and Moderate Income Unit is subsidized by a state or federal rental subsidy program, then the rent applicable to the Low and Moderate Income Unit may be limited to that permitted by such rental subsidy program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

Annually as part of the annual report required under Subsection 2(e) below, the Developer shall submit to the Municipality and DHCD a proposed schedule of monthly rents and utility allowances for all Low and Moderate Income Units in the Project. Such schedule shall be subject to the approval of the Municipality and DHCD for compliance with the requirements of this Section. Rents for Low and Moderate Income Units shall not be increased without the Municipality's and DHCD's prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by Developer to all affected tenants. If an annual request for a new schedule of rents for the Low and Moderate Income Units as set forth above is based on a change in the Area median income figures published by HUD, and the Municipality and DHCD fail to respond to such a submission within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Municipality and DHCD shall be deemed to have approved the submission. If an annual request for a new schedule of rents for the Low and Moderate Income Units is made for any other reason, and the Municipality and DHCD fail to respond within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Developer may send DHCD and the Municipality a notice of reminder, and if the Municipality and DHCD fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and DHCD shall be deemed to have approved the submission.

Without limiting the foregoing, the Developer may request a rent increase for the Low and Moderate Units to reflect an increase in the Area median income published by HUD between the date of this Agreement and the date that the Units begin to be marketed or otherwise made

September 2, 2016

available for rental pursuant to Section 4 below; if the Municipality and DHCD approve such rent increase in accordance with this subsection, the Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units in Exhibit B of the Agreement shall be deemed to be modified accordingly.

(c) If, after initial occupancy, the income of a tenant of a Low and Moderate Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low and Moderate Income Unit in conformance with Section 2(a) of this Agreement, or otherwise demonstrates compliance with Section 2(a) of this Agreement.

(d) If, after initial occupancy, the income of a tenant in a Low and Moderate Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of each Low and Moderate Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to DHCD as provided in section 2(g), below.

(f) The Developer shall enter into a written lease with each tenant of a Low and Moderate Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to DHCD that each of the Low and Moderate Income Units continues to be Low and Moderate Income Unit as provided in sections 2 (a) and(c), above; and that the Project and the Low and Moderate Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

### 3. Subsidized Housing Inventory.

(a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). All of the Units will be deemed low and moderate income housing to be included in the Subsidized Housing Inventory.

(b) Units included in the Subsidized Housing Inventory will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and each of the Low and Moderate Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time and (3) each Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2(c), above.

September 2, 2016

4. Marketing. Prior to marketing or otherwise making available for rental any of the Units, the Developer must obtain DHCD's approval of a marketing plan (the "Marketing Plan") for the Low and Moderate Income Units. Such Marketing Plan must describe the tenant selection process for the Low and Moderate Income Units and must set forth a plan for affirmative fair marketing of Low and Moderate Income Units to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low and Moderate Income Units, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to DHCD for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and DHCD directives reflecting the agreement between DHCD and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low and Moderate Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the last Low and Moderate Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by DHCD which may be inspected at any time by DHCD. All Marketing Documentation must be approved by DHCD prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low and Moderate Income Units, DHCD determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by DHCD.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, disability, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants except as permitted to develop and operate as housing for persons who are 55 years of age or older by 42 U.S.C. §  
September 2, 2016

3607(b)(2)(C), 24 C.F.R. §§ 100.304-306 and any relevant federal or state laws, statutes and regulations; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. DHCD and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Project is located (collectively hereinafter, the "Registry of Deeds"), and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a duly organized Delaware limited liability company duly authorized to conduct business under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable leasehold title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by DHCD, any resident leases, the ground lease or other permitted encumbrances which do not materially, adversely affect the marketability of title to the premises and/or the obligations of the Developer hereunder, including mortgages referred to in paragraph 17, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the  
September 2, 2016



Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) Except for rental of Units to Low or Moderate Income Tenants and market rate units in the ordinary course of business as permitted by the terms of this Agreement, the Developer will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a "Sale") or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of DHCD and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Developer's obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Development is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Developer within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Developer shall provide DHCD and the Municipality with thirty (30) day's prior written notice of the following:

September 2, 2016

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Developer's interest in the Project or any party of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, DHCD's consent under this Section 9 shall not be required with respect to the grant by the Developer of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

Developer hereby agrees that it shall provide copies of any and all written notices received by Developer from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Casualty; Demolition; Change of Use.

(a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not, without prior written approval of DHCD and the Municipality and an amendment to this Agreement, change the type or number of Low and Moderate Income Units. The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project, or permit the use of the dwelling accommodations of the Project for any purpose except residences and any other uses permitted by the applicable zoning then in effect;

September 2, 2016

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

DHCD: Department of Housing and Community Development  
Attention: Local Initiative Program Director  
100 Cambridge Street, 3rd Floor  
Boston, MA 02114

Municipality: Louise Miller, Town Administrator  
41 Cochichuate Road  
Wayland, MA 01778

Developer: Jim Lambert  
c/o WP East Acquisition, LLC  
91 Hartwell Avenue  
Lexington, MA 02421

13. Term.

(a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, Developer and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns. DHCD has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of DHCD and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be

September 2, 2016

satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Lender Foreclosure. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

15. Further Assurances. The Developer and the Municipality each agree to submit any information, documents, or certifications requested by DHCD which DHCD shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. Default.

(a) The Developer and the Municipality each covenant and agree to give DHCD written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If DHCD becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, DHCD shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "DHCD Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of DHCD within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the DHCD Default Notice, then at DHCD's option, and without further notice, DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

The Municipality and the DHCD agree that if and so long as the Project is encumbered by any first or second mortgages, to give to the holder of such mortgages copies of any Default Notice or DHCD Default Notice, as applicable, simultaneously with the delivery thereof to the Developer, and the holder of any such mortgages shall have the right, within the same period afforded the Developer hereunder plus an additional period of thirty (30) days, to cure such default on behalf of the Developer, it being the intention of the parties hereto that the DHCD shall not exercise its rights and remedies under this subsection (a) without affording to the holder of any such mortgages the same rights and the same notices with respect to any such default, and the same period or periods of time within which to cure the same, as are afforded to the Developer hereunder, plus the aforesaid additional period thereafter. The obligation herein imposed upon the Municipality and DHCD to give written notice of the existence of any default by the Developer to the holder of any mortgage, shall be limited to such first and second mortgagees who shall have given to the Municipality and DHCD written notice of the existence of such mortgages, and the address to which notices hereunder are to be sent to it. The Municipality and the DHCD acknowledge receipt of the identity of the mortgagee executing the Consent and Subordination attached hereto, as well as the notice address specified therein.

September 2, 2016

(b) If DHCD elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16, then the Low and Moderate Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed low and moderate income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that DHCD or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse DHCD for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

September 2, 2016

Executed as a sealed instrument as of the date first above written.

DEVELOPER

ALTA RIVER'S EDGE TENANT, LLC,  
a Delaware limited liability company

By: Alta River's Edge, LLC, a Delaware limited liability company, its sole member

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its managing member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: James Lambert  
Title: Vice President

DEPARTMENT OF HOUSING AND  
COMMUNITY DEVELOPMENT

By: \_\_\_\_\_  
Its:

MUNICIPALITY

By: \_\_\_\_\_  
Its Chief Executive Officer

Attachments: Exhibit A - Legal Property Description  
Exhibit A-1 - Plan of Land  
Exhibit B - Rents for Low and Moderate Income Units

September 2, 2016

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 2020

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of the \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the City/Town of \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016



**CONSENT AND SUBORDINATION OF MORTGAGE  
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated \_\_\_\_\_ given by \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ (“Mortgage”).

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

(If the Development has more than one mortgagee, add additional consent forms.)

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of \_\_\_\_\_ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
Print Name:  
My Commission Expires:

September 2, 2016

**EXHIBIT A**

Re: River's Edge, 490 Boston Post Road  
(Project name)

\_\_\_\_\_  
Wayland  
(City/Town)

\_\_\_\_\_  
Alta River's Edge Tenant, LLC  
(Developer)

Property Description

Parcel One

A certain parcel of land situated on the Northerly side of Boston Post Road, County of Middlesex, Commonwealth of Massachusetts, bounded and described as follows:

The point of beginning being the Northeasterly most point of the lot to be described hereafter; thence

S02°43'29"E Four hundred thirty-one and thirty-one hundredths feet (431.31') to a point; thence

S87°16'31"W Twenty-one and seventy-nine hundredths feet (21.79') to a point; thence

N02°43'29"W Sixteen and fifty hundredths feet (16.50') to a point; thence

S87°16'31"W Two hundred sixty-eight and seventeen hundredths feet (268.17') to a point; thence

N02°43'29"W Five hundred six and twenty-three hundredths feet (506.23') to a point; thence

S75°13'29"E Three hundred four and three hundredths feet (304.03') to the point of beginning.

The above described parcel is a portion of the property shown as Lots A, C, and E on a plan entitled "ANR Subdivision Plan Assessor's Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road, Wayland, Massachusetts" prepared by WSP Transportation and Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South District Registry of Deeds in Plan 260 or 2017, and more particularly is all of Lot C, and the easterly portion of Lot A.

The above described parcel contains an area of 133,892 square feet, more or less, and is more particularly shown as "Parcel One" on a plan entitled "Building Exhibit - ALTA at River's Edge, 490 Boston Post Road, Wayland, MA", dated 02/26/20, prepared for WP East Acquisitions, LLC and prepared by Allen & Major Associates, Inc.

September 2, 2016

**EXHIBIT A-1**

September 2, 2016



**EXHIBIT B**

Re: River's Edge, 490 Boston Post Road  
(Project name)

Wayland  
(City/Town)

Alta River's Edge Tenant, LLC  
(Developer)

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units

	<u>Rents</u>	<u>Utility Allowance</u>
Studio units	N/A	N/A
One bedroom units	\$1,785	\$142
Two bedroom units	\$2,007	\$173
Three bedroom units	N/A	N/A
Four bedroom units	N/A	N/A

4763082.7

September 2, 2016

Document comparison by Workshare 10.0 on Sunday, February 7, 2021 10:26:14 AM

Input:	
Document 1 ID	iManage://akllp-mobility.imatech.com/akllp/1243413/1
Description	#1243413v1<akllp-mobility.imatech.com> - 490 Boston Post - 12th Amendment to LDA
Document 2 ID	iManage://akllp-mobility.imatech.com/AKLLP/1230766/17
Description	#1230766v17<akllp-mobility.imatech.com> - 12th Amendment to LDA - River's Edge
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:
-------------

	Count
Insertions	45
Deletions	74
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	119

**TWELFTH AMENDMENT TO  
LAND DISPOSITION AGREEMENT**

This Twelfth Amendment to Land Disposition Agreement (this “Amendment”) is made and entered into by and between **TOWN OF WAYLAND**, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation, and **ALTA RIVER’S EDGE, LLC**, a Delaware limited liability company (hereinafter “Buyer”). Each of Seller and Buyer is a “Party” and taken together shall be the “Parties”.

Recitals:

A. Seller and WP East Acquisitions, L.L.C. (“Contract Buyer”) previously entered into that certain Land Disposition Agreement with an effective date of July 28, 2017 (the “Original Contract”), as amended by that certain First Amendment to Land Disposition Agreement dated as of October 24, 2017, as further amended by that certain Second Amendment to Land Disposition Agreement dated as of October 31, 2017, as further amended by that certain Third Amendment to Land Disposition Agreement dated as of December 18, 2017, as further amended by that certain Fourth Amendment to Land Disposition Agreement dated as of February 26, 2018, as further amended by that certain Fifth Amendment to the Land Disposition Agreement dated May 23, 2018, as further amended by that certain Sixth Amendment to the Land Disposition Agreement dated August 29, 2018, as further amended by that certain Seventh Amendment to the Land Disposition Agreement dated February 28, 2019, as further amended by that certain Eighth Amendment to Land Disposition Agreement dated March 7, 2019 (the “Eighth Amendment”), as further amended by that certain Ninth Amendment to Land Disposition Agreement dated April 29, 2019 (the “Ninth Amendment”), as further amended by that certain Tenth Amendment to Land Disposition Agreement dated May 31, 2019 (the “Tenth Amendment”), as further amended by that certain Eleventh Amendment (the “Eleventh Amendment”) to Land Disposition Agreement dated March 30, 2020, as further amended by that certain Amendment 11-A to Land Disposition Agreement dated January 28, 2021 (“Amendment 11-A”), as further amended by that certain Amendment 11-B to Land Disposition Agreement dated February 5, 2021 (“Amendment 11-B”) (as amended, the “Contract”) for the purchase and sale of that certain parcel of land located 490 Boston Post Road, Wayland, Massachusetts (the “Property”), as is more fully described in the Contract.

B. Pursuant to an Assignment and Assumption of Purchase and Sale Agreement and Intangible Property by and between Contract Buyer and Buyer dated March 22, 2019 (the “Assignment”), Contract Buyer assigned the Contract as then constituted to Buyer, and Buyer assumed the obligations of Contract Buyer under the Contract as provided in the Assignment.

C. The Parties wish to amend the Contract to, among other things, document (i) various matters concerning the Approvals for Buyer’s Project, (ii) the Parties’ agreement as to certain Site Conditions Estimates and aspects of the Site Conditions



Work, and (iii) additional closing documentation that will be necessary to consummate the transactions contemplated by the Contract.

Terms and Conditions:

In consideration of the mutual covenants, agreements, and undertakings set forth in the Contract and in this Amendment, the sufficiency of which is hereby acknowledged, and intending to be legally bound, Seller and Buyer agree as follows:

1. Capitalized Terms; Recitals. All capitalized terms used herein but undefined (including those set forth in the Recitals) shall have the meaning as defined in the Contract. The foregoing Recitals are hereby incorporated as agreements of the parties hereto.

2. Reserved.

3. Status/Pursuit of Approvals.

(a) Municipal Approvals Obtained to Date; Gross Purchase Price Increase. The Parties acknowledge that Buyer has not yet obtained the following permits and approvals from Seller (or its boards, divisions, departments, or agencies or other permit granting authorities), which are necessary for the Buyer's Project: (i) the water connection approval; and (ii) a WWTP Discharge Permit (Phase II) from the Wayland Board of Health (but only if Buyer undertakes the Buyer's Self-Contained WWTP Improvements, as that term is defined in, and in accordance with, the WWTP Infrastructure Agreement, as hereinafter defined). Buyer has obtained from the Massachusetts Department of Environmental Protection a WWTP Groundwater Discharge Permit (Phase II); *provided, however*, that if any modifications to such permit or new or additional discharge permits are required in connection with the Alternative Wastewater Improvements, Seller will be responsible for obtaining same pursuant to the WWTP Documents (defined below). In connection with municipal Approvals already obtained by Buyer for the Buyer's Project, and notwithstanding anything to the contrary contained in the Contract (including Sections 1.3 and 5.1(a) thereof), Buyer is entitled to construct 218 rental housing units as part of Buyer's Project, which is 28 units more than the maximum number of units previously contemplated for Buyer's Project. As consideration for such unit increase, the "Gross Purchase Price" for the Premises as set forth in Section 2.1 of the Contract shall increase by \$300,000 from Eight Million Ninety-Eight Thousand Five Hundred Fifty Dollars and 00/100 (\$8,098,550.00) to Eight Million Three Hundred Ninety-Eight Thousand Five Hundred Fifty Dollars and 00/100 (\$8,398,550.00).

(b) Updated Exhibit I for Remaining Approvals. Exhibit I to the Contract is hereby deleted and replaced with Exhibit I attached hereto, which shows only the status of the Approvals for Buyer's Project that Buyer believes are outstanding.

(c) Water Main Extension. Seller has completed the Water Main Extension Work in accordance with the Water Line Extension Plans, and Buyer acknowledges that Seller has delivered to Buyer evidence of same as required by Section 4(a) of the Eighth Amendment.

4. Site Conditions Estimates; Modifications to Site Conditions Work; Final Net Purchase Price Calculations for Closing.

(a) Demolition of Wayland/Sudbury Septage Facility. The Parties agree that the final Site Conditions Estimate approved by the Parties for the Demolition of Wayland/Sudbury Septage Facility is \$560,317 (compared to the \$351,876 Site Conditions Estimate set forth in the Original Contract), and the Net Purchase Price is adjusted accordingly as provided in Section 4(d) below.

(b) On-Site Soil Removal Work. The Parties agree that the final Soil Conditions Estimate approved by the Parties for the On-Site Soil Removal Work is \$3,525,267 (the "All-In Soil Estimate") (compared to the \$2,998,110 Site Conditions Estimate set forth in the Original Contract), \$325,267 of which represents "contingency" for hard and soft costs associated with such work that are difficult for the Parties to accurately estimate at this time. The Net Purchase Price is adjusted accordingly as provided in Section 4(d) below. Notwithstanding anything in this Amendment or the Contract to the contrary: (1) nothing in this Amendment shall be deemed to modify Buyer's obligations to track, reconcile and, in some cases, escrow any A/E Differential with respect to the On-Site Soil Removal Work pursuant to the provisions of Sections 3.1(d) and 3.4 of the Contract, and (2) if the actual cost of the On-Site Soil Removal Work ("Actual Soil Cost") is less than \$3,200,000, the A/E Differential with respect to such On-Site Soil Removal Work shall only increase by \$0.50 for every \$1.00 that the Actual Soil Cost is less than \$3,200,000, and (3) if the Actual Soil Cost is less than the All-In Soil Estimate, but more than \$3,200,000, the entire amount of such A/E Differential shall be paid to Seller. By way of example, if the Actual Soil Cost is \$3,000,000, then the total A/E Differential for the On-Site Soil Removal Work shall be \$425,267 (or  $(\$3,525,267 - \$3,200,000 = \$325,267) + ((\$3,200,000 - \$3,000,000 = \$200,000) \times .5)$ ), as Buyer will receive 50% of the benefit of each \$1.00 of savings below \$3,200,000.

(c) Wastewater Treatment Plant; WWTP Documents. Notwithstanding anything to the contrary contained in the Contract, the Parties acknowledge and agree as follows as it concerns the Site Conditions Work identified in Section 2.1 of the Original Contract as the Design and Construction of On-Site Package Treatment Plant (the "On-Site WWTP Work"):

(i) Modification of WWTP Work. Seller has applied for and obtained funding (the "Wastewater Treatment Funding") for the design and construction of (i) a wastewater line, force mains, pumping station, and related improvements and equipment to serve the Buyer's Project running from the Property to Seller's Town Center wastewater treatment facility (the "New Town WW Infrastructure") and (ii) certain

alterations or modifications to the Town Center wastewater treatment facility required to receive and treat effluent from Buyer's Project and return treated effluent (from Buyer's Project and elsewhere) from Seller's Town Center wastewater treatment facility ("Returned Effluent") to the leaching field which will be constructed by Buyer on the Property; *provided, however*, that the Town shall in no event return treated effluent from the Town WW Facility in quantities which exceed the amount that the leaching field is designed to receive (the "Town WWTP Modifications", and collectively with the New Town WW Infrastructure, the "Alternate Wastewater Improvements" or "Alternate Wastewater System"). Because Seller will construct, at its sole cost and expense, the Alternate Wastewater Improvements to serve the Buyer's Project, the On-Site WWTP Work for which Buyer is responsible shall be limited to the construction of the leaching field to receive Returned Effluent and the construction and installation of a force main, pumps, and related lines, fixtures and equipment on the Buyer's Property to effectively connect to the New Town WW Infrastructure at the boundary line of the Buyer's Property (the "Retained Buyer's On-Site WWTP Work"), except to the extent Buyer is entitled to and elects to revert to performing *all* of original On-Site WWTP Work in accordance with the WWTP Documents (hereinafter defined).

(ii) Effect of Seller's Construction of Alternative Wastewater Improvements on Net Purchase Price; WWTP Escrow Funds. As provided above, subject to the terms of the WWTP Documents, the Buyer is only performing the Retained Buyer's On-Site WWTP Work as opposed to the entirety of the original On-Site WWTP Work upon which the \$2,543,303 cost estimate set forth in Section 2.1 of the Contract is based (the "Original WWTP Work Estimate"). However, because the costs associated with the Retained Buyer's On-Site WWTP Work are not yet capable of accurate estimation, the parties have agreed that the Gross Purchase Price will be reduced by the Original WWTP Work Estimate at Closing as provided in Section 4(d) below, and once the final cost estimate for the Retained Buyer's On-Site WWTP Work is available, the following will apply:

- (A) Within sixty (60) days after the Closing, Buyer shall obtain final pricing and cost estimates for the Retained Buyer's On-Site WWTP Work, and it will deliver notice of same to the Seller together with reasonable supporting documentation therefor (the "Final On-Site WWTP Estimate"). The Final On-Site WWTP Estimate shall include all hard and soft costs associated with the Retained Buyer's On-Site WWTP Work, including without limitation any construction costs and fees, connection fees charged by the Town of Wayland (or its applicable divisions or departments, including the Wayland Wastewater Management District Commission) to connect the Buyer's on-site wastewater facilities to the Alternate Wastewater System, design (or redesign) costs associated with Retained Buyer's On-Site WWTP Work up to a maximum design/redesign cost amount of \$50,000, and legal fees associated with the negotiation of this Amendment and the WWTP Documents which would not have been

incurred in the absence of the Seller constructing the Alternative Wastewater System, up to a maximum legal fee cap of \$45,000.

- (B) Upon Seller's receipt of the Final On-Site WWTP Estimate (including without limitation all reasonable supporting documentation therefor), Seller will have ten (10) days to review and approve the Final On-Site WWTP Estimate. If Seller does not approve the Final On-Site WWTP Estimate, it shall notify Buyer, Escrow Agent and the Disbursement Dispute Arbitrator, as that term is defined in, and in accordance with, the WWTP Escrow Agreement (as hereinafter defined), and the determination of the Final On-Site WWTP Estimate shall be subject to the dispute resolution procedures set forth in the WWTP Escrow Agreement as if such disagreement over the Final On-Site WWTP Estimate constitutes a "Disbursement Dispute" thereunder. If Seller fails to so timely notify Buyer, Escrow Agent and the Disbursement Dispute Arbitrator of its objection to the Final On-Site WWTP Estimate, then Seller shall be deemed to have approved the Final On-Site WWTP Estimate submitted by Buyer, and within 10 business days after Seller's approval (or deemed approval) of the same, the Buyer will fund an amount equal to the difference between (1) the Original WWTP Work Estimate and (2) the Final On-Site WWTP Estimate (such difference, the "Final On-Site WWTP Escrow Funds") into the escrow which is the subject of the WWTP Escrow Agreement and such amount will become part of the WWTP Escrow Amount. Additionally, if Seller disputes the Final On-Site WWTP Estimate as aforesaid, Buyer shall fund the Final On-Site WWTP Escrow Funds into escrow (based on Buyer's submitted Final On-Site WWTP Estimate) within 10 business days after Seller provides its notification of objection, notwithstanding such dispute, and the parties shall proceed with the dispute resolution process as aforesaid. If, through the dispute resolution process, it is determined that Buyer overstated its Final On-Site WWTP Estimate, Buyer will fund in any additional amounts required within 10 business days after such dispute is resolved.
- (C) Other than the Buyer's obligation to fund in the Final On-Site WWTP Escrow Funds (including any amounts required by such dispute resolution process), there will be no further adjustments to the Final On-Site WWTP Estimate, and Section 3.1(d) of the Contract will not apply to the Alternative Wastewater System or the Retained Buyer's On-Site WWTP Work, and the Buyer shall bear the sole risk with respect to the cost of the Buyer's On-Site WWTP Work exceeding the Final On-Site WWTP Estimate. Seller and Buyer agree that the amount of Final On-Site WWTP Escrow Funds (including any amounts required by a dispute resolution process) shall be deemed to increase the Net Purchase Price pursuant to the Contract

on a post-Closing basis (similar to an A/E Differential) in like amount(s) of the funds so deposited or required to be deposited, but such funds shall be subject to the WWTP Infrastructure Agreement and the WWTP Escrow Agreement (as hereinafter defined).

(iii) Town Delay; Effect on Completion of Buyer's Project. In the event that completion of the Buyer's Project is delayed as a result of (A) delays in Seller's construction of the Alternative Wastewater Improvements, (B) Seller's failure to comply with Seller's WWTP Performance Obligation (defined below) or (C) Seller's construction activities related to the Alternative Wastewater Improvements (in any case, but only to the extent such delays are not attributable to acts or omissions of the Buyer or its contractor, subcontractors, vendors, or materialmen, "Town Delay"), then the Buyer's Project Completion Date as provided in the Contract will be extended by any periods of Town Delay. To the extent Buyer exercises its Self-Help Remedy (as defined in the WWTP Infrastructure Agreement), Buyer shall not be entitled to make a claim of "Town Delay" for delays which Buyer experiences in prosecuting the completion of the Alternative Wastewater Improvements from and after it exercises such Self-Help Remedy. Further, the defined term "Force Majeure" as defined in Section 7.1 of the Contract shall be modified to insert "epidemics, pandemics" before "other causes beyond the reasonable control...".

(iv) WWTP Escrow Amount. At Closing, the entirety of the Net Purchase Price (to wit, as provided in Section 4(d) below, \$1,769,663) *plus* an amount equal to \$829,275 (the "BP Fee Overage"), for a grand total of \$2,598,938 (subject to any pre-Closing adjustments thereto based on prorations and closing cost payments under Section 4.3 of the Contract as reflected on the final settlement statement, the "Closing WWTP Escrow Amount", and as may be adjusted after Closing pursuant to the terms hereof and the WWTP Documents, the "WWTP Escrow Amount"), will be deposited with the Escrow Agent and held as security for Seller's obligations to (i) timely design, permit and construct the Alternative Wastewater Improvements ("Seller's WWTP Performance Obligation"), (ii) compensate or reimburse Buyer for remedies that Buyer may elect to exercise should Seller fail to comply with the Seller's WWTP Performance Obligation, and (iii) compensate or reimburse Buyer for other damages arising out of or relating to Seller's failure to comply with the Seller's WWTP Performance Obligation, including without limitation delays in the permitting, development, completion, stabilization and effective operation of Buyer's Project, all as more particularly provided in the WWTP Documents (clauses (ii) and (iii) being referred to herein collectively as "Buyer's WWTP Damages"). Buyer covenants and agrees to fund in the BP Fee Overage to the Closing escrow prior to Closing so that same can be disbursed to the Escrow Agent along with the balance of the WWTP Escrow Amount and held and disbursed pursuant to the WWTP Documents. Buyer's funding of the BP Fee Overage at Closing and disbursement as part of the Closing WWTP Escrow Amount shall be deemed to constitute Buyer's payment in full of the building permit fee for the Project, and the Seller, which includes its building department, acknowledges and confirms that such building permit fee for the Project will have been paid in full upon the Escrow Agent's receipt of the BP Fee Overage.

(v) WWTP Documents. At Closing (or as otherwise set forth below with respect to the WWTP Maintenance Agreement), the Parties will enter into the following agreements concerning the construction and ongoing operation and maintenance of the Alternative Wastewater Improvements and the Retained Buyer's On-Site WWTP Work (collectively, the "WWTP Documents"):

- (A) an Infrastructure Development Agreement (Wastewater Facilities) in the form attached hereto as Exhibit A which addresses, among other things, the obligation of Seller to design, permit and perform all work required to complete the Alternative Wastewater Improvements, as well as Buyer's remedies with respect to Seller's failure to timely complete same (including the failure to meet certain interim milestone dates) (the "WWTP Infrastructure Agreement");
- (B) an escrow holdback agreement in the form attached hereto as Exhibit A-1 pursuant to which the WWTP Escrow Amount shall be held and disbursed during the course of Seller's construction of the Alternative Wastewater Improvements or, as applicable, the Buyer's performance of all On-Site WWTP Work (should Buyer be entitled to and elect to perform same under the WWTP Infrastructure Agreement), in order to secure Seller's WWTP Performance Obligation and potential obligations to pay Buyer's WWTP Damages (the "WWTP Escrow Agreement"); and
- (C) a maintenance agreement (the "WWTP Maintenance Agreement", which is referred to in the Development Agreement as the "Buyer's Project O/M Agreement") which, among other things, (1) requires that Seller operate, maintain and keep in good condition and repair, at its cost and expense (subject to Buyer's obligation to pay the Maintenance Fees) the improvements which are the subject of the Retained Buyer's On-Site WWTP Work, including a leaching field, force main, and related lines, conduits, fixtures and equipment, and a pumping station, a wastewater line, force mains, and related conduits, fixtures and equipment and all related equipment and facilities (collectively, the "Buyer's On-Site WWTP Improvements"), and (2) requires that Seller, to the fullest extent permitted by law, indemnify and hold Buyer harmless from and against any and all claims for personal injury or property damage arising from Seller's operation and maintenance thereof. The parties shall negotiate in good faith the WWTP Maintenance Agreement in accordance with the WWTP Documents, which shall be entered into prior to the initial operation of the Alternative Wastewater Improvements; and
- (D) a permanent easement (the "WWTP Easement") in the form attached hereto as Exhibit A-3 on and over the Buyer's On-Site WWTP Improvements and areas of the Property reasonably required to gain access thereto in order for Seller to perform the Wastewater

O/M Work (as defined in the WWTP Easement), and to discharge Returned Effluent in and to the Leaching Field Improvements.

The WWTP Documents shall be executed and delivered by the Parties at Closing (with proper notarial acknowledgments, as applicable) and, to the extent same are to be recorded, recorded immediately upon Closing.

(d) Final Purchase Price Calculation. Notwithstanding anything to the contrary contained in the Contract, the final, agreed-upon Net Purchase Price to be paid by Buyer at Closing shall be \$1,769,663, calculated as follows:

Gross Purchase Price - \$8,398,550.00

Total Purchase Price Deductions based on Final Site Conditions Estimates - \$560,317 (Demolition of Wayland/Sudbury Septage Facility, etc.) + \$3,525,267 (On-Site Soil Removal Work) + \$2,543,303 (the Original WWTP Work Estimate) = \$6,628,887

Net Purchase Price - **\$1,769,663** (or \$8,398,550.00 - \$6,628,887)

For purposes of clarification, the only Site Conditions Work to which the post-Closing adjustments set forth in Section 3.1(d) and Section 3.4 of the Contract will apply is (i) that work relating to the Demolition of Wayland/Sudbury Septage Facility (for which the Site Conditions Estimate is \$560,317) and (ii), subject to Section 4(b) above, the On-Site Soil Removal Work, and (iii) if Buyer's elects to make a Buyer's Self-Contained WWTP Work Election pursuant to the Development Agreement. Additionally, the finally-determined costs associated with the Retained Buyer's On-Site WWTP Work will operate to adjust the Net Purchase Price as provided in Section 4(c)(ii)(C) above.

5. Drainage and Access to Serve and/or Construct Buyer's Project; Sudbury License Agreement.

(a) Wayland Access and Drainage Easement. At Closing, the Parties agree to execute and deliver a recordable easement in the form attached hereto as Exhibit B (the "Access and Drainage Easement"), which addresses, among other things, Seller's grant to Buyer of: (i) a perpetual pedestrian and vehicular ingress and egress over, across and through property owned by Seller in the location identified in the Access and Drainage Easement in order for Buyer and its applicable agents, contractors, residents, invitees and licensees to gain access to the Premises and Buyer's Project; (ii) a landscaping easement along the western median of the Access Road; and (iii) the ability to drain surface and stormwater runoff from the Buyer's Project over, across, and through Seller's retained property as provided in the Access and Drainage Easement. The Access and Drainage Easement shall be a closing document executed and delivered by Parties at Closing (with proper notarial acknowledgments) and recorded immediately upon Closing.

(b) Sudbury License. Buyer hereby notifies Seller that Buyer and the Town of Sudbury have finalized the form of a temporary license to allow Buyer to demolish a certain portion of the Wayland/Sudbury Septage Facility and perform certain other work related thereto on the adjoining Town of Sudbury property (the “Temporary Demolition License”), which form is attached hereto at Exhibit C.

6. Regulatory Agreements. Seller hereby agrees to waive the requirement that the Affordable Housing Restriction described in Section 4.5(b) of the Contract be executed and delivered by Seller, Buyer and DHCD at the Time of Closing. Buyer shall, at its sole cost and expense, use commercially reasonable efforts to cause the Regulatory Agreements, in substantially the forms of Exhibit D-1 and Exhibit D-2 attached hereto, to be executed and delivered by Seller (with Seller agreeing to cooperate with the execution and delivery thereof so long as such agreements are consistent with the requirements of the Contract and substantially in the form of the Regulatory Agreements attached hereto), Buyer and DHCD and recorded at the Registry, at Buyer’s sole cost and expense, within forty-five (45) days after the Closing, or as soon as practicable thereafter. Further, Buyer acknowledges and agrees that notwithstanding anything in the Contract to the contrary, Seller shall have no obligation to approve, execute, or deliver a certificate of occupancy (temporary or otherwise) for any portion of Buyer’s Project, unless and until the Regulatory Agreements have been executed by all of the parties thereto and recorded by Buyer in the Registry.

7. Closing Date. If the Closing does not occur on or before January 29, 2021, Seller and Buyer hereby agree that the Initial Closing Date will be automatically extended to February 5, 2021 (or any such earlier date that Seller and Buyer may mutually agree on).

8. Ratification. Except as expressly amended by this Amendment, the Contract remains in full force and effect and is hereby expressly ratified and confirmed in its entirety by the parties hereto.

9. Multiple Counterparts. An executed facsimile or “PDF” of this Amendment is an acceptable form of acceptance of this Amendment and the parties may execute this Amendment in counterparts. This Amendment shall from this date forward be considered a part of the Contract.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed under seal by persons duly empowered to bind the parties to perform their respective obligations under this Amendment to be effective on the last date set forth below.

BUYER:

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a  
Delaware limited liability company,  
its sole member

By: WS River's Edge, LLC, a Delaware  
limited liability company, its  
Managing Member

By: WP Massachusetts, LLC, a Delaware  
limited liability company, its sole  
member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

Date: \_\_\_\_\_

SELLER:

TOWN OF WAYLAND,  
By its Board of Selectmen

---

Cherry C. Karlson, Chair

---

David V. Watkins

---

Thomas J. Fay

---

Mary M. Antes

---

Lea T. Anderson

Dated: \_\_\_\_\_, 2021

REPLACEMENT EXHIBIT I TO CONTRACT (SHOWING ONLY OUTSTANDING APPROVALS)

EXHIBIT I

**Approvals**

<b>Approval Type</b>	<b>Approval Agency</b>	<b>Timing of Application</b>
Water Connection	Wayland Department of Public Works	In Process
WWTP Groundwater Discharge Permit (Phase II)	Wayland Board of Health	In Process (applicable to Buyer's Self-Contained WWTP Improvements)

EXHIBIT A  
INFRASTRUCTURE AGREEMENT  
[SEE ATTACHED]

EXHIBIT A-1

WWTP ESCROW AGREEMENT

[SEE ATTACHED]

EXHIBIT A-1

EXHIBIT A-2  
WWTP EASEMENT  
[SEE ATTACHED]

EXHIBIT B  
ACCESS AND DRAINAGE EASEMENT  
[SEE ATTACHED]

EXHIBIT C  
TEMPORARY DEMOLITION LICENSE  
[SEE ATTACHED]



EXHIBIT D-1

REGULATORY AGREEMENT [NON-AGE RESTRICTED BUILDING]

[SEE ATTACHED]

EXHIBIT D-2

REGULATORY AGREEMENT [AGE-RESTRICTED BUILDING]

[SEE ATTACHED]

**INFRASTRUCTURE DEVELOPMENT AGREEMENT**

(Wastewater Facilities)

THIS INFRASTRUCTURE DEVELOPMENT AGREEMENT (this “Agreement”) is entered into as of the \_\_\_ day of ~~January~~February, 2021 (the “Effective Date”), by and between TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter “Buyer”). Each of Seller and Buyer are sometimes individually referred to herein as a “Party” and collectively as the “Parties”.

## RECITALS

A. Concurrently with the execution of this Agreement, Seller has conveyed to Buyer that certain property commonly known as 490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as “Lot A”, “Lot C”, and “Lot E” (the “Buyer’s Property”) on that certain plan entitled “ANR Subdivision Plan Assessors Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road Wayland, Massachusetts” prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South Registry of Deeds (the “Registry”) as Plan No. 260 of 2017 (the “ANR Plan”). The acquisition of the Buyer’s Property was consummated pursuant to a Land Disposition Agreement for the Sale and Redevelopment of Land between Seller and Buyer dated as of ~~March 20, 2018~~July 28, 2017 (as amended from time to time, most recently by a Twelfth Amendment dated \_\_\_\_\_, 2021 on or about the date hereof (the “Twelfth Amendment”), the “LDA”). Capitalized Terms which are not otherwise defined herein shall have the meanings ascribed thereto in the LDA.

B. Buyer intends to construct a development of 218 multi-family apartment units on the Buyer’s Property, together with required parking, landscaping, curb cuts, street openings and related amenities, all as more particularly provided in the plans and Approvals for the Buyer’s Project (collectively, the “Buyer’s Project”).

C. Pursuant to the Twelfth Amendment, Seller has agreed, at its sole cost and expense, to design, permit and construct the Seller’s WWTP Improvements (hereinafter defined) which are required to bring sanitary sewer service to Buyer’s Project.

D. Prior to Seller agreeing to construct the Seller’s WWTP Improvements, it was contemplated under the LDA that Buyer would permit and construct an on-site wastewater treatment facility, leaching field, and associated force mains, lines, pumps, equipment and facilities which would allow for the receipt, treatment and disposal or dispersion of sewerage effluent from the Buyer’s Project on a private, self-contained basis (the “Buyer’s Self-Contained WWTP Improvements”).

E. The Seller’s WWTP Improvements will, among other things, receive and treat ~~sewerage~~wastewater effluent from Buyer’s Project (“Buyer’s Project Effluent”) and return treated effluent from the Seller’s Town Center wastewater treatment facility (the “Town Wastewater Treatment Plant”) to the Buyer’s Leaching Field (hereinafter defined); *provided, however*, that the Town shall in no event return treated effluent from the Town Wastewater Treatment Plant in quantities which exceed the amount that the leaching field is designed to receive (“Returned Effluent”).

F. Buyer will be constructing the Buyer’s Retained WWTP Improvements (hereinafter defined) on the Buyer’s Property which will allow for the release and pumping of Buyer’s Project

Effluent into the Seller's WWTP Improvements at the point of connection with the Buyer's Retained WWTP Improvements on the Buyer's Property and the receipt of Returned Effluent after being treated at the Town Wastewater Treatment Plant.

G. This Agreement is the Infrastructure Development Agreement contemplated by the Twelfth Amendment to the LDA and addresses, among other things, Seller's obligation to timely design, permit and construct the Seller's WWTP Improvements and Buyer's remedies in the event Seller fails to comply with such obligation.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Purpose/Definitions. The purpose of this Agreement is described in the Recitals and said Recitals are incorporated herein by reference. Additionally, the following capitalized terms used in this Agreement have the respective meanings assigned to them below:

"Applicable Legal Requirements" means, collectively, all laws, rules, statutes, ordinances, regulations and codes of any governmental or quasi-governmental body, authority, department or agency, including, but not limited to, the terms of all permits and other governmental approvals required to legally carry out and complete the work which is the subject of this Agreement or any portion thereof.

"Approvals and Contracts" shall have the meaning set forth in Section 5.2(d) hereof.

"Buyer's Construction Schedule" shall mean the construction schedule for the Buyer's Project attached hereto as Exhibit D, as the same may be updated from time to time by Buyer's Contractor. Notwithstanding anything in this Agreement to the contrary, in no event shall any modifications to Buyer's Construction Schedule be deemed to accelerate any Seller's WWTP Work Milestone Deadline.

"Buyer's Contractor" shall mean River's Edge Builders LLC, a Delaware limited liability company and Buyer's general contractor for Buyer's Project, any successor or assignee thereof, or any replacement general contractor retained by Buyer for Buyer's Project.

"Buyer's Increased Project Costs" shall mean additional or incremental increases in contractor general conditions costs and related fees and expenses which Buyer incurs as a result of (i) Seller's failure to cause Seller's WWTP Work Final Completion to occur by the Seller's WWTP Work Final Completion Milestone Deadline established therefor or (ii) otherwise on account of a Seller Event of Default, provided Buyer has not made the Buyer's Self-Contained WWTP Work Election on the terms hereof, in which case other remedies and provisions of this Agreement shall control.

"Buyer's Increased Project Costs Requisition" shall have the meaning assigned thereto in the WWTP Escrow Agreement.

"Buyer's Project Completion" means that (i) applicable Governmental Authorities have issued a certificate of occupancy (which may be a temporary certificate of occupancy) for the entirety of Buyer's Project or its functional equivalent permitting the lawful use of the Buyer's Project for its intended purpose; and (ii) Buyer's Project is otherwise "Complete" as provided in the LDA.

"Buyer's Project Delay" shall mean the number of days, as determined by Buyer's Contractor in its good faith and reasonable discretion with reasonable documentation in support thereof, and as

reflected on Buyer's Construction Schedule, that Buyer's Project Initial T/C/O Date is actually delayed on account of a Seller Event of Default.

"Buyer's Project Delay LD Requisition" shall have the meaning assigned thereto in the WWTP Escrow Agreement.

"Buyer's Project Delay Liquidated Damages" shall mean \$12,000 per day for every day of Buyer's Project Delay, which, if Buyer is entitled thereto pursuant to the provisions of this Agreement, are intended to compensate Buyer for any and all damages and losses which Buyer sustains or may sustain on account of a Buyer's Project Delay, specifically excluding Buyer's Increased Project Costs which, if applicable, shall be in addition to and not includable within Buyer's Project Delay Liquidated Damages (collectively, subject to such exclusion, "Anticipated Buyer Project Delay Losses"), including without limitation lost income and revenues from the leasing and operation of Buyer's Project (including impacts of seasonality on lease-up and stabilization of the Buyer's Project), additional interest and other carry costs and expenses associated with the Buyer's financing and otherwise in connection with the maintenance and operation of the Buyer's Project prior to Buyer's Project Completion (including insurance costs, taxes, utilities and other operational expenses), and the negative impact on investment returns for Buyer's capital partners. The Parties acknowledge and agree that the Anticipated Buyer Project Delay Losses are uncertain and difficult to estimate, and that therefore the Buyer's Project Delay Liquidated Damages constitute a reasonable pre-estimate and liquidation of such Anticipated Buyer Project Delay Losses and are not intended as a penalty, but as full liquidated damages associated with any Buyer's Project Delay.

"Buyer's Project Initial T/C/O Date" means the date upon which applicable Governmental Authorities issue (or plan to issue, as the case may be) the first temporary certificate of occupancy for Buyer's Project (or applicable portion thereof).

"Buyer's Project O/M Agreement" shall mean an agreement between the Seller (~~or including~~ its applicable divisions or departments, including the Wayland Wastewater Management District Commission (in any case, the "Wastewater Governing Authority")) and the Buyer which addresses ~~Buyer's obligation to pay certain sanitary sewer service fees (including any applicable sewer~~ the ongoing operation and maintenance of the Buyer's Retained WWTP Improvements, on terms mutually approved by the Wastewater Governing Authority and the Buyer.

"Buyer's Project O/M Fees" shall mean ~~any and all annual user rates and fees charged or to be charged by the Seller and/or the Wastewater Governing Authority in connection fees) in consideration for~~ with the Seller's ongoing operation and maintenance of the Buyer's Retained WWTP Improvements and the WWTP System in general as applied to the Buyer's Project, on terms mutually approved by the Seller and taking into account any credits, discounts, or offsets which Buyer may receive based on the construction of the Buyer's Retained WWTP Improvements or otherwise.

"Buyer's Retained WWTP Improvements" shall mean the following improvements to be constructed by Buyer on the Buyer's Property, as detailed or will be further detailed in Buyer's Retained WWTP Work Plans: (i) a force main, pumps, and related lines, fixtures and equipment which will carry and pump Buyer's Project Effluent to the point of connection with the Seller's WWTP Improvements at the property line for Buyer's Property; and (ii) a leaching field and related equipment and facilities (the "Buyer's Leaching Field") which will receive Returned Effluent from the Seller's WWTP Improvements after being treated at the Town Wastewater Treatment Plant.

"Buyer's Retained WWTP Work" shall mean the work to be performed by Buyer to install or construct the Buyer's Retained WWTP Improvements.

“Buyer’s Retained WWTP Work Plans” shall mean the plans and specifications prepared by Buyer’s architect or engineer for the Buyer’s Retained WWTP Improvements.

“Buyer’s Self-Contained WWTP Improvements” shall have the meaning set forth in the Recitals hereto, and as the same are more fully detailed in the plans, specifications, permits and other Approvals therefor.

“Buyer’s Self-Contained WWTP Work” shall mean the work to be performed by Buyer to install or construct the Buyer’s Self-Contained WWTP Improvements, if Buyer is entitled to and elects to install or construct same pursuant to the provisions of this Agreement by making the Buyer’s Self-Contained WWTP Work Election.

“Buyer’s Self-Contained WWTP Work Contractor” shall mean Ricciardi Bros., Inc. (the “Chosen WWTP Work Contractor”), or such other contractor which Buyer or Buyer’s Contractor engages for the performance of the Buyer’s Self-Contained WWTP Work, if applicable on the terms hereof, which shall be subject to Seller’s prior written approval, not to be unreasonably withheld, conditioned or delayed.

“Buyer’s Self-Contained WWTP Work Costs” shall mean any and all hard and soft costs and expenses incurred by Buyer in connection with the design, permitting and construction of the Buyer’s Self-Contained WWTP Improvements should Buyer make the Buyer’s Self-Contained WWTP Work Election, which shall include without limitation all costs, expenses and damages which, but for the Buyer’s Self-Contained WWTP Work Deferral Period, Buyer would not have incurred had Buyer proceeded with the Buyer’s Self-Contained WWTP Work from and after the Effective Date, including: (i) price escalations during the Buyer’s Self-Contained WWTP Deferral Period; (ii) costs associated with Buyer’s Self-Contained WWTP Work which the Buyer is forced to perform out-of-sequence relative to other components of Buyer’s Project due to the Buyer’s Self-Contained WWTP Work Deferral Period; (iii) contractor general conditions costs; (iv) increased costs associated with engagement of a Buyer’s Self-Contained WWTP Contractor (including increased redesign costs and expenses) if the Chosen WWTP Work Contractor cannot accommodate Buyer’s Construction Schedule and Buyer must engage another Buyer’s Self-Contained WWTP Contractor; and (v) additional or incremental increases in contractor fees associated with any of the foregoing. In the event of a Buyer O/M Failure Event, Buyer shall use commercially reasonable efforts to provide its estimate of Buyer’s Self-Contained WWTP Work Costs to Seller within ninety (90) days after the Permit Deadline.

“Buyer’s Self-Contained WWTP Work Costs Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Buyer’s Self-Contained WWTP Work Costs Requisition Threshold” shall mean an amount equal to (A) \$2,543,303 (i.e. the Original WWTP Work Estimate), less (B) the amount of Final On-Site WWTP Escrow Funds actually funded into the escrow which is the subject of the WWTP Escrow Agreement pursuant to the Twelfth Amendment and Section 4 hereof.

“Buyer’s Self-Contained WWTP Work Deferral Period” shall mean the period commencing on the Effective Date and continuing until the date Buyer (i) makes a Buyer’s Self-Contained WWTP Work Election, (ii) finalizes using all reasonable due diligence all relevant design and construction contracts associated therewith and obtain all required permits and approvals therefor, and (iii) is prepared to provide a notice to proceed to Buyer’s Self-Contained WWTP Contractor for the performance of the Buyer’s Self-Contained WWTP Work promptly after obtaining all permits and approvals therefor.

“Buyer’s Self-Contained WWTP Work Election” shall have the meaning set forth in Section 5.2(a) hereof.

“Buyer’s WWTP Damages” shall collectively mean, as applicable pursuant to the terms of this Agreement and the LDA, (i) Buyer’s Project Delay Liquidated Damages, (ii) Buyer’s Increased Project Costs, (iii) Buyer’s Self-Contained WWTP Work Costs which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold, and (iv) Buyer’s WWTP Self-Help Costs. Buyer’s WWTP Damages (and each component comprising such damages in the foregoing clauses (i) through (iv)) shall specifically exclude any costs, expenses, damages, liabilities or losses incurred or sustained by Buyer which are attributable to delays caused by Buyer or its applicable agents, consultants, engineers, or contractors with respect to the development, design or construction of the Buyer’s Project which are independent of and unrelated to Seller’s performance of the Seller’s WWTP Work.

“Buyer’s WWTP Damages Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Buyer’s WWTP Self-Help Costs” shall have the meaning set forth in Section 5.2(d) hereof.

“Buyer’s WWTP Self-Help Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Construction Schedule” means each of Buyer’s Construction Schedule and Seller’s Construction Schedule, as applicable.

“Escrow Agent” shall have the meaning set forth in Section 4 hereof.

“Force Majeure Delay” shall mean a delay or stoppage of each of Seller’s WWTP Work and the development of Buyer’s Project (including the Buyer’s Retained WWTP Work) caused by a state-imposed shutdown or statewide restrictions on the permitting and/or performance of construction activities. In no event shall a party’s financial condition or inability to fund or obtain funding or financing constitute a Force Majeure Delay.

“Governmental Authorities” shall mean any and all governmental or quasi-governmental authorities with jurisdiction over the Seller’s WWTP Work or any other applicable work which is the subject of this Agreement.

“Seller’s Construction Schedule” means the construction schedule for the Seller’s WWTP Work as provided on Exhibit B attached hereto, as the same may be updated by Seller’s Work Contractor from time to time, and which updates shall be promptly delivered to Buyer.

“Seller’s Groundwater Discharge Permit” shall mean the permit that Seller will require from Massachusetts Department of Environmental Protection (“DEP”) to discharge Returned Effluent into the Buyer’s Leaching Field.

“Seller’s Work Contract” means the contract(s) entered into with the Seller’s Work Contractor for the Seller’s WWTP Work, as the same may be amended from time to time.

“Seller’s Work Contractor” means the contractor(s) engaged by Seller to perform the Seller’s WWTP Work.

“Seller’s WWTP Escrow Release Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Seller’s WWTP Improvements” shall mean all utility lines, equipment, facilities, force mains, pumps, meters and related improvements which are required to effectively and legally receive, carry and treat Buyer’s Project Effluent, to return Returned Effluent to the Buyer’s Leaching Field and to otherwise bring and appropriately measure public sanitary sewer service to Buyer’s Project (collectively, “Buyer’s Project Wastewater Requirements”), as more fully (or will be more fully) detailed in the Seller’s WWTP Work Plans, including without limitation: (i) certain alterations or modifications to the Town Wastewater Treatment Plant required to receive and treat effluent from Buyer’s Project and return the Returned Effluent to Buyer’s Leaching Field (the “Town WWTP Modifications”), and (ii) force mains, meters, pumps and related fixtures, equipment and improvements which will generally run along or in close proximity to U.S. Route 20, will carry (and appropriately measure) Buyer’s Project Effluent from the boundary line of Buyer’s Property at the point of connection with the Buyer’s Retained WWTP Improvements to the Town Wastewater Treatment Plant and will carry (and appropriately measure) Returned Effluent from the Town Wastewater Treatment Plant once treated to Buyer’s Leaching Field (the “Force Main Improvements”). For avoidance of doubt, the Town WWTP Modifications shall not include those elective upgrades which Seller may make to the Town Wastewater Treatment Plant that are not necessary to satisfy the Buyer’s Project Wastewater Requirements.

“Seller’s WWTP Work” (also referred to herein sometimes as the “Seller’s Work”) means the work to be performed by Seller to install or construct the Seller’s WWTP Improvements as detailed in the Seller’s WWTP Work Plans and Seller’s WWTP Work Permits.

“Seller’s WWTP Work 50% Completion” means, collectively, Seller’s WWTP Work 50% Force Main Completion and Seller’s WWTP Work 50% Town WWTP Modifications Completion.

“Seller’s WWTP Work 50% Force Main Completion” means that 50% of the total linear feet of the force mains required to be installed as part of the Force Main Improvements, including 50% of those force mains which are to be located within Massachusetts DOT jurisdictional rights-of-way (“MA DOT ROWs”) as part of Seller’s WWTP Work (the “DOT Force Mains”), have been installed in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved, along with an updated version of Seller’s Construction Schedule evidencing same.

“Seller’s WWTP Work 50% Town WWTP Modifications Completion” means that 50% of the Town WWTP Modifications are completed in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved, along with an updated version of Seller’s Construction Schedule evidencing same.

“Seller’s WWTP Work Acceptance and Disposal Completion” shall mean that Seller’s WWTP Improvements are completed to such a level that they can legally accept and dispose of Buyer’s Project Effluent, all in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved.



“Seller’s WWTP Work Final Completion” means that (i) all Seller’s WWTP Improvements are fully completed in a lien-free manner in accordance with the Seller’s WWTP Work Plans, Seller’s WWTP Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved; (ii) applicable Governmental Authorities have issued a certificate of completion respecting the Seller’s WWTP Work or its functional equivalent permitting the lawful use of the Seller’s WWTP Improvements for their intended purpose; ~~and~~ (iii) the Seller’s WWTP Improvements are otherwise fully functional and ready to receive, carry and treat all Buyer’s Project Effluent and return the Returned Effluent to the Buyer’s Project subject only to the completion of any unfinished Buyer’s Retained WWTP Work; and (iv) subject to Buyer’s compliance with Section 2(e) below, Seller shall have been issued a Seller’s Groundwater Discharge Permit.

“Seller’s WWTP Work Milestone” shall mean each of the following: (i) submission of all required applications, documents ~~(including an initial draft of the Buyer’s Project O/M Agreement)~~, requests or other filings for the Seller’s WWTP Work Permits (“Seller’s WWTP Permit Submissions”); (ii) (1) receipt of all Seller’s WWTP Work Permits and (2) (y) a draft of Buyer’s Project O/M Agreement shall have been provided to Buyer and (z) the consent of Seller’s engineer for Seller’s WWTP Work substantially in the form attached hereto as Exhibit C (or in such other form mutually agreed to by Seller, Buyer, and such engineer) shall have been provided to Buyer (collectively, clauses (y) and (z), the “Additional WWTP Documents”); (iii) the full execution and delivery of Seller’s Work Contract by Seller and Seller’s Work Contractor for the full scope of the Seller’s WWTP Work, together with the issuance of a notice to proceed to Seller’s Contractor (collectively, “Seller’s Work Contract Execution”); (iv) Seller’s WWTP Work 50% Completion; (v) Seller’s WWTP Work Acceptance and Disposal Completion; and (vi) Seller’s WWTP Work Final Completion.

“Seller’s WWTP Work Milestone Achievement Evidence” shall be mean evidence in a written notification from Seller to Buyer (including all requisite supporting documentation therefor described in the definition of each applicable milestone) confirming that Seller has achieved a particular Seller’s WWTP Work Milestone.

“Seller’s WWTP Work Milestone Deadline” shall mean each of the following dates for each applicable Seller’s WWTP Work Milestone:

**February 15, 2021** – Seller’s WWTP Permit Submissions

**April 30, 2021** (the “Permit Deadline”) - Receipt of all Seller’s WWTP Work Permits (other than the Seller’s Groundwater Discharge Permit) and Delivery of the Additional WWTP Documents

**May 15, 2021** – Seller’s Work Contract Execution

**September 1, 2021** – Seller’s WWTP Work 50% Completion

**October 1, 2021** – Seller’s WWTP Work Acceptance and Disposal Completion

**January 15, 2022** – Seller’s WWTP Work Final Completion

“Seller’s WWTP Work Permits” shall mean all any and all permits, approvals, easements, licenses, right-of-way condemnation actions, and consents required from any applicable Governmental Authorities or any other third parties which are required in order to allow for the performance and completion of the Seller’s WWTP Work and the effective operation of the WWTP System once completed, including without limitation (i) any and all permits ~~and/or~~ approvals required from or under the Massachusetts Department of Transportation; and the Massachusetts Department of Environmental Protection; ~~the Town of Wayland Wastewater commission;~~ and (ii) any approvals, easements, or licenses required from third-party property owners in order to construct the Seller’s WWTP Improvements.

“Seller’s WWTP Work Plans” means the plans and specifications for the Seller’s WWTP Work described in Exhibit A attached hereto and made a part hereof, as the same may be updated or advanced from time to time in accordance with this Agreement and are deemed to include the Final Plans once approved pursuant to the provisions hereof.

“WWTP Easement Agreement” shall mean the Grant of Easements (Wastewater Facilities) entered into between the Buyer and Seller on or about the date hereof which, among other things, includes a grant of certain easements by Buyer to Seller (and attendant covenants of Seller) for the ongoing operation and maintenance of the Buyer’s Retained WWTP Improvements once completed.

“WWTP Escrow Agreement” shall have the meaning set forth in Section 4 hereof.

“WWTP Escrow Funds” shall have the meaning set forth in Section 4 hereof.

“WWTP System” shall mean, collectively, the Buyer’s Retained WWTP Improvements and the Seller’s WWTP Improvements.

## 2. CONSTRUCTION PLANNING, PERMITTING AND CONSTRUCTION OF THE SELLER’S WWTP IMPROVEMENTS.

### (a) Preparation and Approval of Plans for Seller’s WWTP Work.

- i. 50% Plans. ~~Buyer hereby approves the current version of Seller’s WWTP Work Plans attached at Exhibit A hereto [NTD: PLEASE PROVIDE]. Based on the existing Seller’s WWTP Work Plans, and by January [ ], 2021, Seller shall, at its sole cost and expense, cause~~ Attached as Exhibit A to this Agreement are 50% complete engineered working drawings for all of the Seller’s WWTP Improvements (the “50% Plans”) ~~to be prepared. Seller shall submit the 50% Plans to~~ Buyer for ~~shall grant or deny~~ its approval of the 50% Plans, which shall not be unreasonably withheld, conditioned or delayed ~~so long as the 50% Plans are materially consistent with the Seller’s WWTP Work Plans. Buyer shall grant or deny its approval of the 50% Plans within ten (10) business days after Buyer’s receipt of same, by February 17, 2021.~~ by February 17, 2021. If Buyer fails to grant or deny its consent to the 50% Plans ~~within such 10-business-day period~~ by February 17, 2021, it shall be deemed that Buyer has approved the 50% Plans. If Buyer withholds its consent to the 50% Plans, Buyer shall provide reasonably detailed comments setting out the specific reasons that Buyer has not approved (or is deemed to approved) the 50% Plans. This process shall continue until Buyer has approved the 50% Plans, except that Buyer shall only have five (5) business days to approve or withhold its consent to each submittal to Buyer of subsequent drafts of the 50% Plans following the initial submittal thereof, and failure of Buyer to timely approve or withhold its consent within such 5-business day period shall mean that the 50% Plans are deemed approved. Buyer’s approval of the 50% Plans hereunder will in no event constitute a representation or warranty by Buyer as to the adequacy or sufficiency of such plans, or the improvements to which they relate, for any use, purpose or condition, but such approval shall constitute Buyer’s confirmation

that, among other things, the 50% Plans depict appropriate connections to and with the Buyer's Retained WWTP Improvements at the boundary line of Buyer's Property. During any period of time the Buyer is reviewing and commenting on the 50% Plans beyond the initial ~~10-business day~~ February 17, 2021 review period noted above, the period(s) of time of such review and commentary beyond the initial ~~10-business day~~ February 17, 2021 review period (until the 50% Plans are approved or deemed approved by Buyer) shall be added to Seller's WWTP Work Milestone Deadline with respect to Seller's WWTP Permit Submissions.

- ii. Final Plans. Seller shall, at its sole cost and expense, cause complete engineered working drawings for all of the Seller's WWTP Improvements (the "Final Plans") to be prepared by ~~February~~ March 1, 2021. Seller shall submit the Final Plans to Buyer for its approval, which shall not be unreasonably withheld, conditioned or delayed so long as the Final Plans are materially consistent with the Seller's 50% Plans. Buyer shall grant or deny its approval of the Final Plans within three (3) business days after Buyer's receipt of same. If Buyer fails to grant or deny its consent to the Final Plans within such 3-business day period, it shall be deemed that Buyer has approved the Final Plans. If Buyer withholds its consent to the Final Plans, Buyer shall provide reasonably detailed comments setting out the specific reasons that Buyer has not approved (or is deemed to approved) the Final Plans. This process shall continue until Buyer has approved the Final Plans, ~~except that Buyer shall only have five (5) business days to approve or withhold its consent to each submittal to Buyer of subsequent drafts of the Final Plans following the initial submittal thereof, and failure of Buyer to timely approve or withhold its consent within such 5-business day period shall mean that the Final Plans are deemed approved.~~ Buyer's approval of the Final Plans hereunder will in no event constitute a representation or warranty by Buyer as to the adequacy or sufficiency of such plans, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Buyer to such plans so that Buyer can confirm, among other things, appropriate connections to and with the Buyer's Retained WWTP Improvements at the boundary line of Buyer's Property; *provided, however*, that if Seller constructs the Seller's WWTP Improvements in accordance with the Final Plans as approved by Buyer, the Buyer shall be precluded from later making a claim that the Seller's WWTP Improvements are not compatible for connection to and with the Buyer's Retained WWTP Improvements. Once the Final Plans are approved or deemed approved pursuant to the foregoing process, Seller will not modify such plans in a manner that would negatively impact the Buyer's Project or the Buyer's Retained WWTP Improvements (including the scope, timing or cost thereof) without again complying with the approval requirements set forth hereinabove with respect to any such proposed changes. During any period of time the Buyer is reviewing and commenting on the Final Plans beyond the initial 3-business day

review period noted above, the period(s) of time of such review and commentary beyond the initial 3-business day period (until the Final Plans are approved or deemed approved by Buyer) shall be added to Seller's WWTP Work Milestone Deadline with respect to Seller's WWTP Permit Submissions.

(b) Permitting and Construction of Seller's WWTP Improvements. Once the Final Plans are approved or deemed approved pursuant to subsection (a) above, Seller will, at its sole cost and expense, diligently and expeditiously prepare all relevant Seller's WWTP Permit Submissions and otherwise pursue the procurement of all Seller's WWTP Work Permits. Upon receipt of all Seller's WWTP Work Permits, Seller shall, at its sole costs and expense, construct Seller's WWTP Improvements in compliance with all Applicable Legal Requirements, the Final Plans, the Seller's WWTP Work Permits and otherwise in a good and workmanlike manner employing new materials of good quality. Seller agrees to diligently prosecute the design, permitting, construction and completion of the Seller's WWTP Improvements, and without limiting the generality of the foregoing, agrees to cause all Seller's WWTP Work Milestones to be achieved by the applicable Seller's WWTP Work Milestones established therefor, subject to Section 8 hereof and any Gas Line Work Priority Stoppage (as hereinafter defined). Seller acknowledges and agrees that it shall be solely responsible for any and all costs associated with the design, permitting and construction of the WWTP Seller's Work Improvements, without any compensation or remuneration due from Buyer, subject only to those Release Amounts which Seller may be entitled to receive pursuant to subsection (c) below. If, during the course of the performance of the Seller's WWTP Work, the company responsible for bringing gas service to the Buyer's Project, including applicable contractors engaged thereby, are prepared to begin installing gas lines and other infrastructure ("Gas Line Work") in MA DOT ROWs (including U.S. Route 20) to serve Buyer's Project and the Massachusetts Department of Transportation ("MassDOT") or any other applicable Governmental Authority will not allow applicable portions of the Seller's WWTP Work and the Gas Line Work to occur simultaneously within the MA DOT ROWs, the Gas Line Work will take priority over Seller's WWTP Work and Seller will cause Seller's Work Contractor to stop work in the applicable portions of the MA DOT ROWs while such Gas Line Work is being performed (a "Gas Line Work Priority Stoppage"). Upon the occurrence of any Gas Line Work Priority Stoppage, each of Seller's WWTP Work ~~Milestones~~Milestone Deadlines (beginning with the Seller's WWTP Work Milestone ~~on~~Deadline of September 1, 2021) shall be delayed on a day-for-day basis for the duration of any Gas Line Work Priority Stoppage. Seller agrees to use reasonable efforts to coordinate its work plan for Seller's WWTP Work with MassDOT and such Gas Line Work company in an attempt to allow the Seller's WWTP Work and the Gas Line Work to occur contemporaneously so as to avoid a Gas Line Work Priority Stoppage, and Buyer agrees to use reasonable efforts to cause such Gas Line Work company to coordinate its work plan for the Gas Line Work with MassDOT and Seller accordingly.

(c) Release of WWTP Escrow Funds Upon Satisfaction of Certain Seller's WWTP Work Milestones. Provided that Buyer has not already made a Buyer's Self-Contained WWTP Work Election or exercised the Self-Help Remedy in accordance with the terms of this Agreement, Seller may deliver to Buyer and Escrow Agent a Seller's WWTP Escrow Release Requisition demanding the release of WWTP Escrow Funds in the following amounts (each, a "Release Amount"; collectively, the "Release Amounts") *after* achieving each of the following Seller's WWTP Work Milestones:

- \$829,275 (the "Building Permit Fee"), upon Seller's receipt of all Seller's WWTP Work Permits (other than the Seller's Groundwater Discharge Permit);
- \$905,725, upon Seller's WWTP Work 50% Completion; and
- The balance of the WWTP Escrow Funds

Notwithstanding the foregoing or anything herein to the contrary, subject to the last sentence of this Section 2, (w) upon the occurrence of a Seller Event of Default, no Release Amounts shall be disbursed from the WWTP Escrow Funds unless and until Seller's WWTP Work Final Completion occurs, at which time the remaining WWTP Escrow Funds will be released to Seller pursuant to a final Seller's WWTP Escrow Release Requisition, subject to the ensuing provisions of this Section 2, and the terms of the WWTP Escrow Agreement, (x) in the event Seller fails to achieve either Seller's WWTP Acceptance and Disposal Completion or Seller's WWTP Work Final Completion on or prior to the Seller's WWTP Work Milestone ~~Deadline~~Deadlines established therefor, no Release Amounts shall be disbursed from the WWTP Escrow Funds until the Buyer's Project Initial T/C/O Date, so as to afford Buyer sufficient time to calculate any and all applicable Buyer's WWTP Damages and make requisition therefor under the WWTP Escrow Agreement as applicable, (y) if there are insufficient funds to satisfy any Release Amount(s) due to Buyer's exercise of remedies set forth in Section 5.2 below, the applicable Release Amount(s) shall be reduced accordingly so that it only equals the amount of WWTP Escrow Funds then remaining; and (z) if Buyer has made requisitions pursuant to the WWTP Escrow Agreement to draw down WWTP Escrow Funds to pay or reimburse Buyer for Buyer's Project Delay Liquidated Damages and/or Buyer's Increased Project Costs pursuant to Section 5(b-c) below and such draws are either (1) pending at the time of Seller's WWTP Escrow Release Requisition, or (2) requisitioned within five (5) business days after Seller's WWTP Escrow Release Requisition, Seller shall only be entitled to receive as Release Amount(s) that portion of the WWTP Escrow Funds which are not the subject of such Buyer requisition(s), and the applicable Release Amount(s) shall be reduced accordingly. Notwithstanding the foregoing, the Building Permit Fee shall be released to Seller on the earlier to occur of (i) Seller's receipt of all Seller's WWTP Work Permits, and (ii) June 30, 2021.

(d) Buyer's Project O/M Fees and Buyer's Project O/M Agreement. Prior to the Permit Deadline, Buyer shall use commercially reasonable, good faith efforts to finalize the Buyer's Project O/M Fees and Buyer's Project O/M Agreement with the Wastewater Governing Authority on terms reasonably acceptable to Buyer. In the event that, despite its good faith efforts, Buyer is unable to reach an agreement with the Wastewater Governing Authority regarding the Buyer's Project O/M Fees by the Permit Deadline (a "Buyer O/M Failure Event"), Buyer shall have the right to make a Buyer's Self-Contained WWTP Work Election pursuant to Section 5.2(a) below, which election must be made, if at all, by the date which is 10 business days after the Permit Deadline. If Buyer fails to make such election within the foregoing 10-business day period, it will forfeit the right to make a Buyer's Self-Contained WWTP Work Election under this Section 2(d).

(e) Release of Permit for Buyer's Self-Contained WWTP Improvements. Buyer has obtained a groundwater discharge permit from DEP for Buyer's Self-Contained WWTP Improvements ("Buyer's Groundwater Discharge Permit"). DEP has informed Seller that DEP will issue Seller's Groundwater Discharge Permit only after Buyer releases Buyer's Groundwater Discharge Permit. Accordingly, at such time as DEP has indicated to Seller that it is prepared to issue to the Seller's Groundwater Discharge Permit, but in no event earlier than the date upon which Seller has achieved Seller's WWTP Work Acceptance and Disposal Completion, Seller may request that Buyer release the Buyer's Groundwater Discharge Permit to DEP (a "Discharge Permit Tender Request"), and promptly upon receipt of a timely-delivered Discharge Permit Tender Request, Buyer shall release to DEP (or as otherwise directed by DEP) Buyer's Groundwater Discharge Permit.

3. CONSTRUCTION REPRESENTATIVES. Seller appoints the following person(s) as Seller's representative ("Seller's Representative") to act for Seller in all matters covered by this Agreement, including the receipt of applicable notices hereunder:

Louise L.E. Miller, J.D.  
Town Administrator

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
O: (508) 358-3620  
Email: ~~lmiller@wayland.ma.us~~[lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Buyer appoints the following person(s) as Buyer's representative ("Buyer's Representative") to act for Buyer in all matters covered by this Agreement, including the receipt of applicable notices hereunder.

Jim Lambert  
c/o WP East Acquisitions, L.L.C.  
91 Hartwell Avenue  
Lexington, MA 02421  
Phone: 781.541.5822  
Email: jim.lambert@woodpartners.com

All communications with respect to the matters covered by this Agreement are to be made to Seller's Representative or Buyer's Representative, as the case may be, in writing, in compliance with the notice provisions of the LDA (except that only Seller's Representative and Buyer's Representative are the only parties that need be named in any applicable notification). Either party may change its representative and/or address under this Agreement at any time by written notice to the other party in compliance with the notice provisions of the LDA.

4. WWTP ESCROW AGREEMENT. Concurrently with the execution of this Agreement and the acquisition by Buyer of Buyer's Property, Buyer, Seller and First American Title Insurance Company ("Escrow Agent") are entering into an agreement entitled WWTP Escrow Agreement (the "WWTP Escrow Agreement") pursuant to which \$[2,548,909.56] are being funded into escrow by Seller and Buyer (through a combination of Net Purchase Price proceeds and sources of funds outside of the Closing escrow) (collectively, the "WWTP Escrow Funds"), and such funds will be held and disbursed pursuant to this Agreement and the WWTP Escrow Agreement. At such time as Buyer deposits the Final On-Site WWTP Escrow Funds pursuant to Section 4(c)(ii) of the Twelfth Amendment, such funds shall become part of the WWTP Escrow Funds for all purposes under this Agreement and the WWTP Escrow Agreement.

5. SELLER DEFAULT; BUYER REMEDIES.

5.1 Seller Events of Default. Subject to Section 8 hereof, the occurrence of any one or more of the following shall constitute a "Seller Event of Default" under this Agreement:

(a) Seller or Seller's Work Contractor shall file any bankruptcy proceeding; or any proceeding under bankruptcy laws or other debtor-relief or similar laws shall be brought against Seller or Seller's Work Contractor and is not dismissed within 60 days after the filing thereof; or Seller or Seller's Work Contractor shall make an assignment for the benefit of creditors or file for any form of reorganization or arrangement under any bankruptcy law or other debtor-relief a similar law or proceeding;

(b) Once commenced, (1) any portion of the Seller's WWTP Work shall cease and not be resumed within 30 days thereafter; or (2) construction of the Seller's WWTP Work is abandoned;

(c) Seller falls behind schedule for completion of the Seller's WWTP Improvements by more than 30 days and does not, within 10 business days after receipt of notice from Buyer, deliver to Buyer a critical path recovery schedule updating Seller's Construction Schedule to reflect that Seller's WWTP Work Final Completion will still occur by the Seller's WWTP Milestone Deadline established therefor;

(d) Seller fails to deliver Seller's WWTP Work Milestone Achievement Evidence for any Seller's WWTP Work Milestone by the applicable Seller's WWTP Work Milestone Deadline established therefor. For avoidance of doubt, the Seller's WWTP Work Milestone will actually need to be satisfied or completed in order for a Seller's WWTP Work Milestone Achievement Evidence to be valid pursuant to the foregoing sentence.

5.2 Buyer Remedies. Upon a Seller Event of Default (or, in the case of a Buyer O/M Failure Event pursuant to Section 2(d) above as it concerns and is limited to a Buyer's Self-Contained WWTP Work Election), Buyer will have the following rights and remedies:

(a) Buyer's Self-Contained WWTP Work Election. Buyer shall have the right (but not the obligation), upon written notice to Seller, to elect to perform the Buyer's Self-Contained WWTP Work (the "Buyer's Self-Contained WWTP Work Election"). In the event the Buyer makes the Buyer's Self-Contained WWTP Work Election, (i) Seller will no longer be required to complete the Seller's WWTP Improvements, (ii) Buyer shall construct the Buyer's Self-Contained WWTP Improvements in accordance with the plans, permits and other Approvals therefor and Applicable Legal Requirements, (iii) Buyer shall have the right to draw down on the WWTP Escrow Funds in order to pay for Buyer's Self-Contained WWTP Work Costs in excess of the Buyer's Self-Contained WWTP Work Costs Requisition Threshold as and when incurred pursuant to one or more Buyer's Self-Contained WWTP Work Costs Requisitions, and (iv) the WWTP Easement Agreement shall automatically terminate and be of no further force and effect, and Seller shall cooperate with Buyer in executing and recording any documentation necessary to terminate such WWTP Easement Agreement of record. Seller acknowledges and agrees that it will have no right to object to or disapprove any Buyer's Self-Contained WWTP Work Costs Requisition absent manifest error, so long as such requisition includes the Supporting Documentation required by the WWTP Escrow Agreement (and even then Seller's ability to object to the requisition will be as limited by the WWTP Escrow Agreement).

(b) Buyer's Project Delay Liquidated Damages. In the event of a Seller Event of Default with respect to Seller's failure to timely achieve the Seller's WWTP Work Milestone for Seller's WWTP Work ~~Final~~Acceptance and Disposal Completion and such failure causes a Buyer's Project Delay with respect to delay of the issuance of a temporary certificate of occupancy for Buyer's Project by the Buyer's Project Initial T/C/O Date, Buyer will have the right to make a requisition on the WWTP Escrow Funds to pay or compensate Buyer for Buyer's Project Delay Liquidated Damages pursuant to a Buyer's Project Delay LD Requisition. At such time as the actual duration of Buyer's Project Delay is known based on when Buyer's Project Initial T/C/O Date actually occurs or is scheduled to occur, Buyer may make a Buyer's Project Delay LD Requisition within five (5) business days after the determination of such actual duration of Buyer's Project Delay.

(c) Buyer's Increased Project Costs. In the event of a Seller Event of Default which results in Buyer's Increased Project Costs, Buyer will have the right to draw down on the WWTP Escrow Funds to pay or compensate Buyer for Buyer's Increased Project Costs, as and when such Buyer's Increased Project Costs are finally determined, by making a Buyer's Project Increased Project Costs Requisition.

(d) Self-Help Remedy. Buyer shall have the right (but not the obligation) to assume control of all or a portion of the Seller's WWTP Work (the "Self-Help Remedy") upon at least 10 business days'

written notice to Seller (a “Takeover Notice”). Upon issuance of a Takeover Notice, (i) Seller shall cease the performance of any Seller’s WWTP Work so taken over, (ii) Buyer shall promptly and diligently prosecute and complete the Seller’s WWTP Work, (iii) Buyer shall be entitled to draw down from the WWTP Escrow Funds under the WWTP Escrow Agreement pursuant to one or more Buyer’s WWTP Self-Help Requisitions in accordance with the terms thereof to pay for all costs and expenses associated with the work taken over as if Buyer were Seller thereunder (collectively, “Buyer’s WWTP Self-Help Costs”), (iv) [intentionally omitted]; and (v) to the extent deemed necessary by the applicable permit granting authority to complete the portion of the Seller’s WWTP Work taken over, Seller hereby assigns to Buyer its interest under (A) any and all permits, licenses, variances, plans and approvals required in order to complete the work taken over and (B) any and all design, engineering, construction and development contracts related to same (collectively, “Approvals and Contracts”). ~~As a condition to the execution of this Agreement, Seller shall cause the civil engineer for the Seller’s WWTP Work to deliver a consent in the form attached as Exhibit C hereto acknowledging and approving the foregoing assignment and otherwise agreeing to the terms set forth therein.~~ Additionally, within five (5) business days after entering into Seller’s Work Contract, to the extent such language is not included within the Seller’s Work Contract itself, Seller will cause Seller’s Work Contractor to deliver a consent document in a form reasonably agreed to by Buyer and Seller’s Work Contractor which, ~~in addition to acknowledging~~ shall acknowledge Buyer’s rights should it exercise the Self-Help Remedy hereunder. Seller hereby covenants that it shall, at any time and from time to time upon written request thereof, promptly execute and deliver to Buyer any new or confirmatory instruments and do and perform any other acts which Buyer may reasonably request in order to fully assign and transfer to and vest in Buyer, and protect Buyer’s right, title and interest in and to each and all of the Approvals and Contracts intended to be transferred and assigned hereby. Additionally, if Buyer exercises the Self-Help Remedy, Buyer shall provide or cause Buyer’s Contractor (or, as the case may be, Seller’s Work Contractor as engaged by Buyer) to provide to Seller, within a reasonable time after Seller’s request for the same, all necessary documentation, in order to satisfy requirements imposed upon Seller by Seller’s MassWorks’s infrastructure funding grant for the Seller’s WWTP Improvements so that Seller can continue to receive such funding under the terms of such grant (“Seller’s Grant Funds”). Seller agrees to use commercially reasonable efforts to cause Seller’s Work Contractor to provide all such necessary documentation with respect to Seller’s Grant Funds, and Seller agrees that it shall be a requirement of Seller’s Work Contract that Seller’s Work Contractor provide such necessary documentation.

(e) Other Recourse; WWTP Escrow Funds Exhausted. Buyer may pursue any other rights and remedies at law or equity in connection with such Seller Event of Default; *provided, however*, that Buyer will first seek recourse pursuant to one or more of the remedies set forth above and through Buyer’s WWTP Damages Requisitions made pursuant to the WWTP Escrow Agreement prior to resorting to this subsection (e). Without limiting the foregoing, to the extent the funds then remaining in the WWTP Escrow Agreement are not sufficient to pay for any Buyer’s WWTP Damages, Buyer shall have the right to submit invoices to Seller for direct reimbursement, which shall be paid by Seller within 30 days of written demand therefor and if such amounts are not timely paid. Notwithstanding the foregoing, Seller’s liability for Buyer’s Project Delay Liquidated Damages shall be limited to an amount equal to (i) the WWTP Escrow Funds then being held in escrow at the time Buyer makes a Buyer’s Project Delay LD Requisition, *plus* (ii) any amounts previously released to Seller as Released Amounts hereunder (excluding the Building Permit Fee).

(f) Cumulative Rights; No Election of Remedies. All rights, remedies, powers, and privileges conferred hereunder upon the Buyer will be cumulative. An exercise of one remedy by Buyer shall not be deemed an election of remedies by Buyer, and Buyer will have the right to pursue any and all other remedies available to it; *provided, however*, Buyer acknowledges and agrees that the exercise of one remedy may preclude the exercise of another, as certain remedies set forth above are mutually exclusive (e.g. Buyer cannot make a Buyer’s Self-Contained WWTP Work Election and then exercise a



Self-Help Remedy, as such remedies are mutually exclusive, but the Buyer may incur Buyer's Self-Contained WWTP Work Costs or Buyer's Increased Project Costs while also sustaining Buyer's Project Delay Liquidated Damages and pursue remedies with respect to same on a cumulative basis).

6. COUNTERPARTS; SEVERABILITY. This Agreement may be executed in multiple counterparts and on separate counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same agreement. Electronic, facsimile or .pdf signatures shall have the same force and effect as original signatures. The parties hereto intend to be bound by the signatures on the electronic, facsimile or .pdf document, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the use of an electronic, facsimile or .pdf signature. If any provisions of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement by the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law; provided, however, that if any of the provisions of this Agreement or the application thereof shall to any extent be invalid or unenforceable to one or more but not all of the parties, then this Agreement shall be valid and enforceable as to the other party or parties only to the extent that the same is equitable and consistent with the overall purposes of this Agreement.

7. ATTORNEYS' FEES. If any action is brought by a party to this Agreement against another party, relating to or arising out of this Agreement, the transaction described herein or the enforcement hereof, the prevailing party shall be entitled to recover from such party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action. The provisions of this Section 7 shall survive the entry of any judgment, and shall not merge, or be deemed to have merged, into any judgment.

8. FORCE MAJEURE DELAY. The duties and obligations of Seller to observe or perform any of the terms or provisions of this Agreement shall be excused and extended for a period equal to the period of any Force Majeure Delay; *provided, however*, the period for which Seller may claim a Force Majeure Delay hereunder shall only extend for the period of time that Buyer is also prohibited or restricted from performing work on Buyer's Project due to such Force Majeure Delay (the "Max FM Period"). Without limiting the foregoing, all Seller's WWTP Work Milestone Deadlines shall be extended for the duration of any Force Majeure Delay, subject to the Max FM Period. If Seller is invoking a Force Majeure Delay in order to extend any applicable deadlines hereunder, it must provide prompt notice to Buyer within 10 days after the commencement thereof and advise of its anticipated duration, and Seller shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.

9. GOVERNING LAW; VENUE FOR LITIGATION. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts. Any litigation based on or arising out of this Agreement shall be brought exclusively in state or federal courts located in the Commonwealth of Massachusetts.

10. TIME. Time is of the essence of this Agreement.

11. AUTHORITY. Each Party certifies to the other that it authorized by all required corporate, limited liability company, partnership action or Board of Selectmen action, as applicable, to enter into this Agreement and the individual(s) signing this Agreement on behalf of such Party are each authorized to bind such Party. Buyer certifies to Seller that it is duly organized, validly existing and in

good standing under the laws of its state of organization, and duly qualified to do business in the Commonwealth of Massachusetts.

12. ASSIGNMENT. No Party to this Agreement shall assign or in any manner sell or transfer any of its rights or interest in this Agreement without the prior written consent of the other Party, which consent may be withheld in the non-requesting Party's sole discretion; *provided, however*: (i) that Buyer shall have the right in connection with any existing or future financing secured by Buyer's Property or Buyer's Project to assign for collateral purposes its interest hereunder to any lender(s) providing such financing, and the Seller hereby agrees to execute and deliver any consent or acknowledgment to any such collateral assignment on a commercially reasonable form; and (ii) Buyer, following the issuance of the initial temporary certificate of occupancy for Buyer's Project or otherwise in connection with a permitted assignment under the LDA, will have the right to assign this Agreement to successor(s) in title to the Buyer's Property and/or Buyer's Project.

13. NO WAIVER. Neither the failure of any Party to exercise any power or right given such Party hereunder or to insist upon strict compliance by any other Party with its obligations hereunder, nor any custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of any Party's right to demand exact compliance with the terms hereof.

14. WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS AGREEMENT.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Seller and Buyer have caused this Agreement to be duly executed by their duly authorized representatives as of the date hereof.

BUYER:

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

SELLER:

**TOWN OF WAYLAND,**  
By its Board of Selectmen

\_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_  
David V. Watkins

\_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_  
Lea T. Anderson

**EXHIBIT A**

**SELLER'S WWTP WORK PLANS**

**[TOWN TO PROVIDE EXISTING SEE ATTACHED FOR 50% PLANS, IF ANY]**

**EXHIBIT B**

**SELLER'S CONSTRUCTION SCHEDULE**

**[SELLER TO PROVIDE]**

**EXHIBIT C**

**FORM OF ENGINEER/ARCHITECT CONSENT**

**Engineer/Architect Consent**

**ARCHITECT'S/ENGINEER'S CONSENT, CERTIFICATE AND AGREEMENT**

(LETTERHEAD OF ARCHITECTURAL/ENGINEERING FIRM)

\_\_\_\_\_, 2021

ALTA RIVER'S EDGE, LLC  
c/o WP East Acquisitions, LLC  
91 Hartwell Avenue  
Lexington, Massachusetts 02421  
Attention: Jim Lambert  
Phone No.: (781) 541-5822  
Email: Jim.Lambert@woodpartners.com

Re: Infrastructure Development Agreement ("**Agreement**") dated \_\_\_\_\_ by and among TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter "**Buyer**") for the completion of the Seller's WWTP Work (as defined in the Agreement, and also referred to herein as the "**Project**"), and [describe contract/agreement] dated \_\_, 202\_\_ between Seller and [contractor] ("**Contractor**" or "**we**") regarding the Project (together with any assignments and amendments thereof, the "**Contract**") attached as **Exhibit "A"** hereto.

Ladies and Gentlemen:

We understand that the Contract and the plans and specifications for the Project (as may be amended from time to time and including all drawings and related papers, the "**Plans**") have been or will be collaterally assigned by Seller to Buyer in connection with the Agreement. In consideration of the Agreement and as an inducement thereto, we hereby (a) consent to such assignment and (b) agree that in the event (i) of a default by Seller under the terms of any of the Agreement or the Contract or any other circumstances thereunder whereby which it is reasonably likely that Seller will be in default under the terms of any of the Agreement or the Contract or (ii) we receive a copy of Buyer's Takeover Notice (as defined in the Agreement), (1) we shall, at Buyer's request, provide to Buyer the services as required of us under the Contract, provided that we are compensated as provided in the Contract for all such services rendered at Buyer's request, and (2) whether or not you request our continued services under the Contract, you shall be entitled to use the Plans in accordance with and as provided in the Contract in connection with the Project, without payment of additional fees or charges to us (provided that if we are due any amounts under the Contract for any services rendered in connection with changes to the initial Plans ("**Plan Changes**"), you shall not be entitled to use the Plan Changes until we are compensated therefor.

As the architectural or engineering firm responsible for performing the work regarding the Project described in the Contract, the undersigned is duly licensed and in good standing under the laws of the State in which the Project is located.

If Seller defaults in payment or performance of the Contract or if the Contract is terminated for any reason, the undersigned will give Buyer prompt written notice thereof and prior to exercising any remedy as a result thereof, will afford Buyer the same opportunity to cure such default to which Seller is entitled, but at least thirty (30) days in any event (it being acknowledged that Buyer shall have no obligation to cure any such default). Any notice of default or termination will be delivered by personal delivery, by nationally recognized overnight courier service or by certified mail, return receipt requested, to the address set forth above, and be effective upon receipt or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified. Any curative act done by Buyer shall be as effective as if done by Seller.

This letter shall bind and benefit Buyer and the undersigned and their respective heirs, successors and assigns, and shall be governed by the laws of the state where the Land is located. "Buyer" as used in this letter includes Buyer's successors or assigns, any receiver in possession of the Buyer's Property, any purchaser upon foreclosure of Buyer's Property, or any corporation or other nominee formed by or on Buyer's behalf. Time is of the essence of this letter agreement.

Sincerely,

[ARCHITECT'S/ENGINEERS SIGNATURE BLOCK]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit "A"

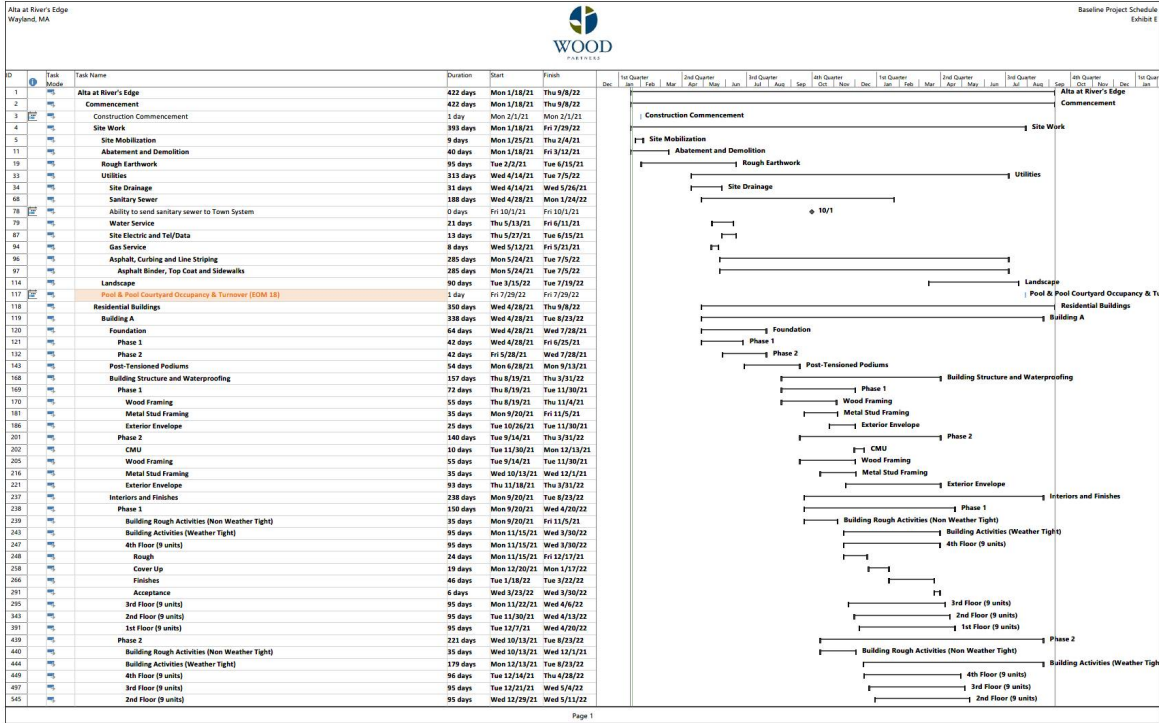
CONTRACT

(Attach Contract, including assignments, amendments and supplements)



# EXHIBIT D

## BUYER'S CONSTRUCTION SCHEDULE





ID	Task Name	Duration	Start	Finish	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
					Dec   Jan   Feb   Mar	Apr   May   Jun   Jul	Aug   Sep   Oct   Nov	Dec   Jan   Feb   Mar
935	1st Floor (9 units)	95 days	Thu 1/6/22	Wed 5/18/22				
941	Clubhouse	112 days	Mon 12/13/21	Thu 5/19/22				
679	Occupancy (EOM 16)	17 days	Fri 5/6/22	Tue 5/31/22				
687	Building B & C Shared Foundation	108 days	Wed 6/30/21	Wed 12/21/21				
792	Building B	214 days	Wed 9/29/21	Fri 7/29/22				
793	Building Structure and Waterproofing	98 days	Wed 9/29/21	Wed 2/16/22				
794	Phase 1	82 days	Wed 9/29/21	Tue 1/25/22				
795	CMU	8 days	Wed 9/29/21	Fri 10/8/21				
796	Wood Framing	52 days	Fri 10/15/21	Wed 12/29/21				
809	Metal Stud Framing	20 days	Mon 11/15/21	Mon 12/13/21				
814	Exterior Envelope	26 days	Fri 12/17/21	Tue 1/25/22				
830	Phase 2	70 days	Mon 11/8/21	Wed 2/16/22				
831	Building Structure and Waterproofing	70 days	Mon 11/8/21	Wed 2/16/22				
832	Wood Framing	52 days	Mon 11/8/21	Fri 1/21/22				
843	Metal Stud Framing	20 days	Wed 12/8/21	Thu 1/6/22				
848	Exterior Envelope	26 days	Wed 1/12/22	Wed 2/16/22				
864	Interiors and Finishes	181 days	Mon 11/29/21	Fri 7/7/22				
865	Phase 1	150 days	Mon 11/29/21	Thu 6/16/22				
866	Building Rough Activities (Non Weather Tight)	35 days	Mon 11/15/21	Wed 1/19/22				
870	Building Activities (Weather Tight)	95 days	Mon 1/10/22	Fri 5/20/22				
875	4th Floor (9 units)	95 days	Thu 1/13/22	Wed 5/26/22				
923	3rd Floor (9 units)	95 days	Thu 1/20/22	Thu 6/2/22				
971	2nd Floor (9 units)	95 days	Thu 1/27/22	Thu 6/9/22				
1019	1st Floor (9 units)	95 days	Thu 2/3/22	Thu 6/16/22				
1067	Phase 2	156 days	Wed 12/8/21	Mon 7/18/22				
1068	Building Rough Activities (Non Weather Tight)	35 days	Wed 12/8/21	Thu 1/27/22				
1072	Building Activities (Weather Tight)	95 days	Tue 2/1/22	Tue 6/14/22				
1076	4th Floor (7 units)	96 days	Thu 2/10/22	Fri 6/24/22				
1124	3rd Floor (10 units)	95 days	Thu 2/17/22	Thu 6/30/22				
1172	2nd Floor (10 units)	95 days	Thu 2/24/22	Thu 7/7/22				
1201	1st Floor (5 units)	95 days	Thu 3/3/22	Thu 7/14/22				
1268	Clubhouse	112 days	Thu 2/10/22	Mon 7/18/22				
1306	Occupancy (EOM 18)	20 days	Mon 7/18/22	Fri 7/29/22				
1314	Building C	243 days	Wed 9/29/21	Thu 9/8/22				
1315	Building Structure and Waterproofing	137 days	Wed 9/29/21	Tue 4/12/22				
1386	Interiors and Finishes	174 days	Fri 1/7/22	Thu 9/8/22				
1387	Phase 1	154 days	Fri 1/7/22	Thu 8/12/22				
1388	Building Rough Activities (Non Weather Tight)	35 days	Fri 1/7/22	Thu 2/24/22				
1392	Building Activities (Weather Tight)	95 days	Fri 3/4/22	Fri 7/15/22				
1397	4th Floor (11 units)	95 days	Thu 3/10/22	Thu 7/21/22				
1442	3rd Floor (11 units)	95 days	Thu 3/17/22	Thu 7/28/22				
1493	2nd Floor (11 units)	95 days	Thu 3/24/22	Thu 8/4/22				
1541	1st Floor (11 units)	95 days	Thu 3/31/22	Thu 8/11/22				
1589	Phase 2	158 days	Mon 1/31/22	Thu 9/8/22				
1590	Building Rough Activities (Non Weather Tight)	95 days	Mon 1/31/22	Fri 3/18/22				
1594	Building Activities (Weather Tight)	95 days	Mon 3/28/22	Mon 8/8/22				
1598	4th Floor (7 units)	96 days	Thu 4/7/22	Fri 8/19/22				
1642	3rd Floor (11 units)	95 days	Thu 4/14/22	Thu 8/25/22				
1694	2nd Floor (11 units)	95 days	Thu 4/21/22	Thu 9/2/22				
1742	1st Floor (11 units)	95 days	Thu 4/28/22	Thu 9/9/22				
1790	Occupancy (EOM 19)	3 days	Mon 8/29/22	Wed 8/31/22				

Document comparison by Workshare 10.0 on Sunday, February 7, 2021  
10:34:56 AM

Input:	
Document 1 ID	iManage://akllp-mobility.imatech.work/akllp/1243603/1
Description	#1243603v1<akllp-mobility.imatech.work> - 490 Boston Post - Wastewater Infrastructure Development Agreement
Document 2 ID	iManage://akllp-mobility.imatech.work/AKLLP/1232037/20
Description	#1232037v20<akllp-mobility.imatech.work> - Wastewater Infrastructure Development Agreement
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	83
Deletions	68
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	155



## INFRASTRUCTURE DEVELOPMENT AGREEMENT

(Wastewater Facilities)

THIS INFRASTRUCTURE DEVELOPMENT AGREEMENT (this “Agreement”) is entered into as of the \_\_\_\_ day of February, 2021 (the “Effective Date”), by and between TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter “Buyer”). Each of Seller and Buyer are sometimes individually referred to herein as a “Party” and collectively as the “Parties”.

### RECITALS

A. Concurrently with the execution of this Agreement, Seller has conveyed to Buyer that certain property commonly known as 490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as “Lot A”, “Lot C”, and “Lot E” (the “Buyer’s Property”) on that certain plan entitled “ANR Subdivision Plan Assessors Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road Wayland, Massachusetts” prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South Registry of Deeds (the “Registry”) as Plan No. 260 of 2017 (the “ANR Plan”). The acquisition of the Buyer’s Property was consummated pursuant to a Land Disposition Agreement for the Sale and Redevelopment of Land between Seller and Buyer dated as of July 28, 2017 (as amended from time to time, most recently by a Twelfth Amendment dated on or about the date hereof (the “Twelfth Amendment”), the “LDA”). Capitalized Terms which are not otherwise defined herein shall have the meanings ascribed thereto in the LDA.

B. Buyer intends to construct a development of 218 multi-family apartment units on the Buyer’s Property, together with required parking, landscaping, curb cuts, street openings and related amenities, all as more particularly provided in the plans and Approvals for the Buyer’s Project (collectively, the “Buyer’s Project”).

C. Pursuant to the Twelfth Amendment, Seller has agreed, at its sole cost and expense, to design, permit and construct the Seller’s WWTP Improvements (hereinafter defined) which are required to bring sanitary sewer service to Buyer’s Project.

D. Prior to Seller agreeing to construct the Seller’s WWTP Improvements, it was contemplated under the LDA that Buyer would permit and construct an on-site wastewater treatment facility, leaching field, and associated force mains, lines, pumps, equipment and facilities which would allow for the receipt, treatment and disposal or dispersion of sewerage effluent from the Buyer’s Project on a private, self-contained basis (the “Buyer’s Self-Contained WWTP Improvements”).

E. The Seller’s WWTP Improvements will, among other things, receive and treat wastewater effluent from Buyer’s Project (“Buyer’s Project Effluent”) and return treated effluent from the Seller’s Town Center wastewater treatment facility (the “Town Wastewater Treatment Plant”) to the Buyer’s Leaching Field (hereinafter defined); *provided, however*, that the Town shall in no event return treated effluent from the Town Wastewater Treatment Plant in quantities which exceed the amount that the leaching field is designed to receive (“Returned Effluent”).

F. Buyer will be constructing the Buyer’s Retained WWTP Improvements (hereinafter defined) on the Buyer’s Property which will allow for the release and pumping of Buyer’s Project Effluent into the Seller’s WWTP Improvements at the point of connection with the Buyer’s Retained

WWTP Improvements on the Buyer's Property and the receipt of Returned Effluent after being treated at the Town Wastewater Treatment Plant.

G. This Agreement is the Infrastructure Development Agreement contemplated by the Twelfth Amendment to the LDA and addresses, among other things, Seller's obligation to timely design, permit and construct the Seller's WWTP Improvements and Buyer's remedies in the event Seller fails to comply with such obligation.

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Purpose/Definitions. The purpose of this Agreement is described in the Recitals and said Recitals are incorporated herein by reference. Additionally, the following capitalized terms used in this Agreement have the respective meanings assigned to them below:

"Applicable Legal Requirements" means, collectively, all laws, rules, statutes, ordinances, regulations and codes of any governmental or quasi-governmental body, authority, department or agency, including, but not limited to, the terms of all permits and other governmental approvals required to legally carry out and complete the work which is the subject of this Agreement or any portion thereof.

"Approvals and Contracts" shall have the meaning set forth in Section 5.2(d) hereof.

"Buyer's Construction Schedule" shall mean the construction schedule for the Buyer's Project attached hereto as Exhibit D, as the same may be updated from time to time by Buyer's Contractor. Notwithstanding anything in this Agreement to the contrary, in no event shall any modifications to Buyer's Construction Schedule be deemed to accelerate any Seller's WWTP Work Milestone Deadline.

"Buyer's Contractor" shall mean River's Edge Builders LLC, a Delaware limited liability company and Buyer's general contractor for Buyer's Project, any successor or assignee thereof, or any replacement general contractor retained by Buyer for Buyer's Project.

"Buyer's Increased Project Costs" shall mean additional or incremental increases in contractor general conditions costs and related fees and expenses which Buyer incurs as a result of (i) Seller's failure to cause Seller's WWTP Work Final Completion to occur by the Seller's WWTP Work Final Completion Milestone Deadline established therefor or (ii) otherwise on account of a Seller Event of Default, provided Buyer has not made the Buyer's Self-Contained WWTP Work Election on the terms hereof, in which case other remedies and provisions of this Agreement shall control.

"Buyer's Increased Project Costs Requisition" shall have the meaning assigned thereto in the WWTP Escrow Agreement.

"Buyer's Project Completion" means that (i) applicable Governmental Authorities have issued a certificate of occupancy (which may be a temporary certificate of occupancy) for the entirety of Buyer's Project or its functional equivalent permitting the lawful use of the Buyer's Project for its intended purpose; and (ii) Buyer's Project is otherwise "Complete" as provided in the LDA.

"Buyer's Project Delay" shall mean the number of days, as determined by Buyer's Contractor in its good faith and reasonable discretion with reasonable documentation in support thereof, and as reflected on Buyer's Construction Schedule, that Buyer's Project Initial T/C/O Date is actually delayed on account of a Seller Event of Default.

“Buyer’s Project Delay LD Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Buyer’s Project Delay Liquidated Damages” shall mean \$12,000 per day for every day of Buyer’s Project Delay, which, if Buyer is entitled thereto pursuant to the provisions of this Agreement, are intended to compensate Buyer for any and all damages and losses which Buyer sustains or may sustain on account of a Buyer’s Project Delay, specifically excluding Buyer’s Increased Project Costs which, if applicable, shall be in addition to and not includable within Buyer’s Project Delay Liquidated Damages (collectively, subject to such exclusion, “Anticipated Buyer Project Delay Losses”), including without limitation lost income and revenues from the leasing and operation of Buyer’s Project (including impacts of seasonality on lease-up and stabilization of the Buyer’s Project), additional interest and other carry costs and expenses associated with the Buyer’s financing and otherwise in connection with the maintenance and operation of the Buyer’s Project prior to Buyer’s Project Completion (including insurance costs, taxes, utilities and other operational expenses), and the negative impact on investment returns for Buyer’s capital partners. The Parties acknowledge and agree that the Anticipated Buyer Project Delay Losses are uncertain and difficult to estimate, and that therefore the Buyer’s Project Delay Liquidated Damages constitute a reasonable pre-estimate and liquidation of such Anticipated Buyer Project Delay Losses and are not intended as a penalty, but as full liquidated damages associated with any Buyer’s Project Delay.

“Buyer’s Project Initial T/C/O Date” means the date upon which applicable Governmental Authorities issue (or plan to issue, as the case may be) the first temporary certificate of occupancy for Buyer’s Project (or applicable portion thereof).

“Buyer’s Project O/M Agreement” shall mean an agreement between the Seller (including its applicable divisions or departments, including the Wayland Wastewater Management District Commission (in any case, the “Wastewater Governing Authority”)) and the Buyer which addresses the ongoing operation and maintenance of the Buyer’s Retained WWTP Improvements, on terms mutually approved by the Wastewater Governing Authority and the Buyer.

“Buyer’s Project O/M Fees” shall mean any and all annual user rates and fees charged or to be charged by the Seller and/or the Wastewater Governing Authority in connection with the ongoing operation and maintenance of the Buyer’s Retained WWTP Improvements and the WWTP System in general as applied to the Buyer’s Project, taking into account any credits, discounts, or offsets which Buyer may receive based on the construction of the Buyer’s Retained WWTP Improvements or otherwise.

“Buyer’s Retained WWTP Improvements” shall mean the following improvements to be constructed by Buyer on the Buyer’s Property, as detailed or will be further detailed in Buyer’s Retained WWTP Work Plans: (i) a force main, pumps, and related lines, fixtures and equipment which will carry and pump Buyer’s Project Effluent to the point of connection with the Seller’s WWTP Improvements at the property line for Buyer’s Property; and (ii) a leaching field and related equipment and facilities (the “Buyer’s Leaching Field”) which will receive Returned Effluent from the Seller’s WWTP Improvements after being treated at the Town Wastewater Treatment Plant.

“Buyer’s Retained WWTP Work” shall mean the work to be performed by Buyer to install or construct the Buyer’s Retained WWTP Improvements.

“Buyer’s Retained WWTP Work Plans” shall mean the plans and specifications prepared by Buyer’s architect or engineer for the Buyer’s Retained WWTP Improvements.

“Buyer’s Self-Contained WWTP Improvements” shall have the meaning set forth in the Recitals hereto, and as the same are more fully detailed in the plans, specifications, permits and other Approvals therefor.

“Buyer’s Self-Contained WWTP Work” shall mean the work to be performed by Buyer to install or construct the Buyer’s Self-Contained WWTP Improvements, if Buyer is entitled to and elects to install or construct same pursuant to the provisions of this Agreement by making the Buyer’s Self-Contained WWTP Work Election.

“Buyer’s Self-Contained WWTP Work Contractor” shall mean Ricciardi Bros., Inc. (the “Chosen WWTP Work Contractor”), or such other contractor which Buyer or Buyer’s Contractor engages for the performance of the Buyer’s Self-Contained WWTP Work, if applicable on the terms hereof, which shall be subject to Seller’s prior written approval, not to be unreasonably withheld, conditioned or delayed.

“Buyer’s Self-Contained WWTP Work Costs” shall mean any and all hard and soft costs and expenses incurred by Buyer in connection with the design, permitting and construction of the Buyer’s Self-Contained WWTP Improvements should Buyer make the Buyer’s Self-Contained WWTP Work Election, which shall include without limitation all costs, expenses and damages which, but for the Buyer’s Self-Contained WWTP Work Deferral Period, Buyer would not have incurred had Buyer proceeded with the Buyer’s Self-Contained WWTP Work from and after the Effective Date, including: (i) price escalations during the Buyer’s Self-Contained WWTP Deferral Period; (ii) costs associated with Buyer’s Self-Contained WWTP Work which the Buyer is forced to perform out-of-sequence relative to other components of Buyer’s Project due to the Buyer’s Self-Contained WWTP Work Deferral Period; (iii) contractor general conditions costs; (iv) increased costs associated with engagement of a Buyer’s Self-Contained WWTP Contractor (including increased redesign costs and expenses) if the Chosen WWTP Work Contractor cannot accommodate Buyer’s Construction Schedule and Buyer must engage another Buyer’s Self-Contained WWTP Contractor; and (v) additional or incremental increases in contractor fees associated with any of the foregoing. In the event of a Buyer O/M Failure Event, Buyer shall use commercially reasonable efforts to provide its estimate of Buyer’s Self-Contained WWTP Work Costs to Seller within ninety (90) days after the Permit Deadline.

“Buyer’s Self-Contained WWTP Work Costs Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Buyer’s Self-Contained WWTP Work Costs Requisition Threshold” shall mean an amount equal to (A) \$2,543,303 (i.e. the Original WWTP Work Estimate), less (B) the amount of Final On-Site WWTP Escrow Funds actually funded into the escrow which is the subject of the WWTP Escrow Agreement pursuant to the Twelfth Amendment and Section 4 hereof.

“Buyer’s Self-Contained WWTP Work Deferral Period” shall mean the period commencing on the Effective Date and continuing until the date Buyer (i) makes a Buyer’s Self-Contained WWTP Work Election, (ii) finalizes using all reasonable due diligence all relevant design and construction contracts associated therewith and obtain all required permits and approvals therefor, and (iii) is prepared to provide a notice to proceed to Buyer’s Self-Contained WWTP Contractor for the performance of the Buyer’s Self-Contained WWTP Work promptly after obtaining all permits and approvals therefor.

“Buyer’s Self-Contained WWTP Work Election” shall have the meaning set forth in Section 5.2(a) hereof.



“Buyer’s WWTP Damages” shall collectively mean, as applicable pursuant to the terms of this Agreement and the LDA, (i) Buyer’s Project Delay Liquidated Damages, (ii) Buyer’s Increased Project Costs, (iii) Buyer’s Self-Contained WWTP Work Costs which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold, and (iv) Buyer’s WWTP Self-Help Costs. Buyer’s WWTP Damages (and each component comprising such damages in the foregoing clauses (i) through (iv)) shall specifically exclude any costs, expenses, damages, liabilities or losses incurred or sustained by Buyer which are attributable to delays caused by Buyer or its applicable agents, consultants, engineers, or contractors with respect to the development, design or construction of the Buyer’s Project which are independent of and unrelated to Seller’s performance of the Seller’s WWTP Work.

“Buyer’s WWTP Damages Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Buyer’s WWTP Self-Help Costs” shall have the meaning set forth in Section 5.2(d) hereof.

“Buyer’s WWTP Self-Help Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Construction Schedule” means each of Buyer’s Construction Schedule and Seller’s Construction Schedule, as applicable.

“Escrow Agent” shall have the meaning set forth in Section 4 hereof.

“Force Majeure Delay” shall mean a delay or stoppage of each of Seller’s WWTP Work and the development of Buyer’s Project (including the Buyer’s Retained WWTP Work) caused by a state-imposed shutdown or statewide restrictions on the permitting and/or performance of construction activities. In no event shall a party’s financial condition or inability to fund or obtain funding or financing constitute a Force Majeure Delay.

“Governmental Authorities” shall mean any and all governmental or quasi-governmental authorities with jurisdiction over the Seller’s WWTP Work or any other applicable work which is the subject of this Agreement.

“Seller’s Construction Schedule” means the construction schedule for the Seller’s WWTP Work as provided on Exhibit B attached hereto, as the same may be updated by Seller’s Work Contractor from time to time, and which updates shall be promptly delivered to Buyer.

“Seller’s Groundwater Discharge Permit” shall mean the permit that Seller will require from Massachusetts Department of Environmental Protection (“DEP”) to discharge Returned Effluent into the Buyer’s Leaching Field.

“Seller’s Work Contract” means the contract(s) entered into with the Seller’s Work Contractor for the Seller’s WWTP Work, as the same may be amended from time to time.

“Seller’s Work Contractor” means the contractor(s) engaged by Seller to perform the Seller’s WWTP Work.

“Seller’s WWTP Escrow Release Requisition” shall have the meaning assigned thereto in the WWTP Escrow Agreement.

“Seller’s WWTP Improvements” shall mean all utility lines, equipment, facilities, force mains, pumps, meters and related improvements which are required to effectively and legally receive, carry and treat Buyer’s Project Effluent, to return Returned Effluent to the Buyer’s Leaching Field and to otherwise bring and appropriately measure public sanitary sewer service to Buyer’s Project (collectively, “Buyer’s Project Wastewater Requirements”), as more fully (or will be more fully) detailed in the Seller’s WWTP Work Plans, including without limitation: (i) certain alterations or modifications to the Town Wastewater Treatment Plant required to receive and treat effluent from Buyer’s Project and return the Returned Effluent to Buyer’s Leaching Field (the “Town WWTP Modifications”), and (ii) force mains, meters, pumps and related fixtures, equipment and improvements which will generally run along or in close proximity to U.S. Route 20, will carry (and appropriately measure) Buyer’s Project Effluent from the boundary line of Buyer’s Property at the point of connection with the Buyer’s Retained WWTP Improvements to the Town Wastewater Treatment Plant and will carry (and appropriately measure) Returned Effluent from the Town Wastewater Treatment Plant once treated to Buyer’s Leaching Field (the “Force Main Improvements”). For avoidance of doubt, the Town WWTP Modifications shall not include those elective upgrades which Seller may make to the Town Wastewater Treatment Plant that are not necessary to satisfy the Buyer’s Project Wastewater Requirements.

“Seller’s WWTP Work” (also referred to herein sometimes as the “Seller’s Work”) means the work to be performed by Seller to install or construct the Seller’s WWTP Improvements as detailed in the Seller’s WWTP Work Plans and Seller’s WWTP Work Permits.

“Seller’s WWTP Work 50% Completion” means, collectively, Seller’s WWTP Work 50% Force Main Completion and Seller’s WWTP Work 50% Town WWTP Modifications Completion.

“Seller’s WWTP Work 50% Force Main Completion” means that 50% of the total linear feet of the force mains required to be installed as part of the Force Main Improvements, including 50% of those force mains which are to be located within Massachusetts DOT jurisdictional rights-of-way (“MA DOT ROWs”) as part of Seller’s WWTP Work (the “DOT Force Mains”), have been installed in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved, along with an updated version of Seller’s Construction Schedule evidencing same.

“Seller’s WWTP Work 50% Town WWTP Modifications Completion” means that 50% of the Town WWTP Modifications are completed in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved, along with an updated version of Seller’s Construction Schedule evidencing same.

“Seller’s WWTP Work Acceptance and Disposal Completion” shall mean that Seller’s WWTP Improvements are completed to such a level that they can legally accept and dispose of Buyer’s Project Effluent, all in accordance with the Seller’s WWTP Work Plans, Seller’s Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that such level of completion has been achieved.

“Seller’s WWTP Work Final Completion” means that (i) all Seller’s WWTP Improvements are fully completed in a lien-free manner in accordance with the Seller’s WWTP Work Plans, Seller’s WWTP Work Permits and all Applicable Legal Requirements, as confirmed by receipt and delivery to Buyer of a certification by the Seller’s architect or engineer of record and Seller’s Work Contractor that

such level of completion has been achieved; (ii) applicable Governmental Authorities have issued a certificate of completion respecting the Seller's WWTP Work or its functional equivalent permitting the lawful use of the Seller's WWTP Improvements for their intended purpose; (iii) the Seller's WWTP Improvements are otherwise fully functional and ready to receive, carry and treat all Buyer's Project Effluent and return the Returned Effluent to the Buyer's Project subject only to the completion of any unfinished Buyer's Retained WWTP Work; and (iv) subject to Buyer's compliance with Section 2(e) below, Seller shall have been issued a Seller's Groundwater Discharge Permit.

"Seller's WWTP Work Milestone" shall mean each of the following: (i) submission of all required applications, documents, requests or other filings for the Seller's WWTP Work Permits ("Seller's WWTP Permit Submissions"); (ii) (1) receipt of all Seller's WWTP Work Permits and (2) (y) a draft of Buyer's Project O/M Agreement shall have been provided to Buyer and (z) the consent of Seller's engineer for Seller's WWTP Work substantially in the form attached hereto as Exhibit C (or in such other form mutually agreed to by Seller, Buyer, and such engineer) shall have been provided to Buyer (collectively, clauses (y) and (z), the "Additional WWTP Documents"); (iii) the full execution and delivery of Seller's Work Contract by Seller and Seller's Work Contractor for the full scope of the Seller's WWTP Work, together with the issuance of a notice to proceed to Seller's Contractor (collectively, "Seller's Work Contract Execution"); (iv) Seller's WWTP Work 50% Completion; (v) Seller's WWTP Work Acceptance and Disposal Completion; and (vi) Seller's WWTP Work Final Completion.

"Seller's WWTP Work Milestone Achievement Evidence" shall be mean evidence in a written notification from Seller to Buyer (including all requisite supporting documentation therefor described in the definition of each applicable milestone) confirming that Seller has achieved a particular Seller's WWTP Work Milestone.

"Seller's WWTP Work Milestone Deadline" shall mean each of the following dates for each applicable Seller's WWTP Work Milestone:

**February 15, 2021** – Seller's WWTP Permit Submissions

**April 30, 2021** (the "Permit Deadline") - Receipt of all Seller's WWTP Work Permits (other than the Seller's Groundwater Discharge Permit) and Delivery of the Additional WWTP Documents

**May 15, 2021** – Seller's Work Contract Execution

**September 1, 2021** – Seller's WWTP Work 50% Completion

**October 1, 2021** – Seller's WWTP Work Acceptance and Disposal Completion

**January 15, 2022** – Seller's WWTP Work Final Completion

"Seller's WWTP Work Permits" shall mean all any and all permits, approvals, easements, licenses, right-of-way condemnation actions, and consents required from any applicable Governmental Authorities or any other third parties which are required in order to allow for the performance and completion of the Seller's WWTP Work and the effective operation of the WWTP System once completed, including without limitation (i) any and all permits or approvals required from or under the Massachusetts Department of Transportation and the Massachusetts Department of Environmental Protection; and (ii) any approvals, easements, or licenses required from third-party property owners in order to construct the Seller's WWTP Improvements.

"Seller's WWTP Work Plans" means the plans and specifications for the Seller's WWTP Work described in Exhibit A attached hereto and made a part hereof, as the same may be updated or advanced from time to time in accordance with this Agreement and are deemed to include the Final Plans once approved pursuant to the provisions hereof.

“WWTP Easement Agreement” shall mean the Grant of Easements (Wastewater Facilities) entered into between the Buyer and Seller on or about the date hereof which, among other things, includes a grant of certain easements by Buyer to Seller (and attendant covenants of Seller) for the ongoing operation and maintenance of the Buyer’s Retained WWTP Improvements once completed.

“WWTP Escrow Agreement” shall have the meaning set forth in Section 4 hereof.

“WWTP Escrow Funds” shall have the meaning set forth in Section 4 hereof.

“WWTP System” shall mean, collectively, the Buyer’s Retained WWTP Improvements and the Seller’s WWTP Improvements.

2. CONSTRUCTION PLANNING, PERMITTING AND CONSTRUCTION OF THE SELLER’S WWTP IMPROVEMENTS.

(a) Preparation and Approval of Plans for Seller’s WWTP Work.

- i. 50% Plans. Attached as Exhibit A to this Agreement are 50% complete engineered working drawings for all of the Seller’s WWTP Improvements (the “50% Plans”). Buyer shall grant or deny its approval of the 50% Plans, which shall not be unreasonably withheld, conditioned or delayed, by February 17, 2021. If Buyer fails to grant or deny its consent to the 50% Plans by February 17, 2021, it shall be deemed that Buyer has approved the 50% Plans. If Buyer withholds its consent to the 50% Plans, Buyer shall provide reasonably detailed comments setting out the specific reasons that Buyer has not approved (or is deemed to approved) the 50% Plans. This process shall continue until Buyer has approved the 50% Plans, except that Buyer shall only have five (5) business days to approve or withhold its consent to each submittal to Buyer of subsequent drafts of the 50% Plans following the initial submittal thereof, and failure of Buyer to timely approve or withhold its consent within such 5-business day period shall mean that the 50% Plans are deemed approved. Buyer’s approval of the 50% Plans hereunder will in no event constitute a representation or warranty by Buyer as to the adequacy or sufficiency of such plans, or the improvements to which they relate, for any use, purpose or condition, but such approval shall constitute Buyer’s confirmation that, among other things, the 50% Plans depict appropriate connections to and with the Buyer’s Retained WWTP Improvements at the boundary line of Buyer’s Property. During any period of time the Buyer is reviewing and commenting on the 50% Plans beyond the initial February 17, 2021 review period noted above, the period(s) of time of such review and commentary beyond the initial February 17, 2021 review period (until the 50% Plans are approved or deemed approved by Buyer) shall be added to Seller’s WWTP Work Milestone Deadline with respect to Seller’s WWTP Permit Submissions.
- ii. Final Plans. Seller shall, at its sole cost and expense, cause complete engineered working drawings for all of the Seller’s WWTP Improvements (the “Final Plans”) to be prepared by March 1, 2021.

Seller shall submit the Final Plans to Buyer for its approval, which shall not be unreasonably withheld, conditioned or delayed so long as the Final Plans are materially consistent with the Seller's 50% Plans. Buyer shall grant or deny its approval of the Final Plans within three (3) business days after Buyer's receipt of same. If Buyer fails to grant or deny its consent to the Final Plans within such 3-business day period, it shall be deemed that Buyer has approved the Final Plans. If Buyer withholds its consent to the Final Plans, Buyer shall provide reasonably detailed comments setting out the specific reasons that Buyer has not approved (or is deemed to approved) the Final Plans. This process shall continue until Buyer has approved the Final Plans. Buyer's approval of the Final Plans hereunder will in no event constitute a representation or warranty by Buyer as to the adequacy or sufficiency of such plans, or the improvements to which they relate, for any use, purpose or condition, but such approval will merely be the consent of Buyer to such plans so that Buyer can confirm, among other things, appropriate connections to and with the Buyer's Retained WWTP Improvements at the boundary line of Buyer's Property; *provided, however,* that if Seller constructs the Seller's WWTP Improvements in accordance with the Final Plans as approved by Buyer, the Buyer shall be precluded from later making a claim that the Seller's WWTP Improvements are not compatible for connection to and with the Buyer's Retained WWTP Improvements. Once the Final Plans are approved or deemed approved pursuant to the foregoing process, Seller will not modify such plans in a manner that would negatively impact the Buyer's Project or the Buyer's Retained WWTP Improvements (including the scope, timing or cost thereof) without again complying with the approval requirements set forth hereinabove with respect to any such proposed changes. During any period of time the Buyer is reviewing and commenting on the Final Plans beyond the initial 3-business day review period noted above, the period(s) of time of such review and commentary beyond the initial 3-business day period (until the Final Plans are approved or deemed approved by Buyer) shall be added to Seller's WWTP Work Milestone Deadline with respect to Seller's WWTP Permit Submissions.

(b) Permitting and Construction of Seller's WWTP Improvements. Once the Final Plans are approved or deemed approved pursuant to subsection (a) above, Seller will, at its sole cost and expense, diligently and expeditiously prepare all relevant Seller's WWTP Permit Submissions and otherwise pursue the procurement of all Seller's WWTP Work Permits. Upon receipt of all Seller's WWTP Work Permits, Seller shall, at its sole costs and expense, construct Seller's WWTP Improvements in compliance with all Applicable Legal Requirements, the Final Plans, the Seller's WWTP Work Permits and otherwise in a good and workmanlike manner employing new materials of good quality. Seller agrees to diligently prosecute the design, permitting, construction and completion of the Seller's WWTP Improvements, and without limiting the generality of the foregoing, agrees to cause all Seller's WWTP Work Milestones to be achieved by the applicable Seller's WWTP Work Milestones established therefor, subject to Section 8 hereof and any Gas Line Work Priority Stoppage (as hereinafter defined). Seller acknowledges and agrees that it shall be solely responsible for any and all costs associated with the design, permitting and construction of the WWTP Seller's Work Improvements, without any

compensation or remuneration due from Buyer, subject only to those Release Amounts which Seller may be entitled to receive pursuant to subsection (c) below. If, during the course of the performance of the Seller's WWTP Work, the company responsible for bringing gas service to the Buyer's Project, including applicable contractors engaged thereby, are prepared to begin installing gas lines and other infrastructure ("Gas Line Work") in MA DOT ROWs (including U.S. Route 20) to serve Buyer's Project and the Massachusetts Department of Transportation ("MassDOT") or any other applicable Governmental Authority will not allow applicable portions of the Seller's WWTP Work and the Gas Line Work to occur simultaneously within the MA DOT ROWs, the Gas Line Work will take priority over Seller's WWTP Work and Seller will cause Seller's Work Contractor to stop work in the applicable portions of the MA DOT ROWs while such Gas Line Work is being performed (a "Gas Line Work Priority Stoppage"). Upon the occurrence of any Gas Line Work Priority Stoppage, each of Seller's WWTP Work Milestone Deadlines (beginning with the Seller's WWTP Work Milestone Deadline of September 1, 2021) shall be delayed on a day-for-day basis for the duration of any Gas Line Work Priority Stoppage. Seller agrees to use reasonable efforts to coordinate its work plan for Seller's WWTP Work with MassDOT and such Gas Line Work company in an attempt to allow the Seller's WWTP Work and the Gas Line Work to occur contemporaneously so as to avoid a Gas Line Work Priority Stoppage, and Buyer agrees to use reasonable efforts to cause such Gas Line Work company to coordinate its work plan for the Gas Line Work with MassDOT and Seller accordingly.

(c) Release of WWTP Escrow Funds Upon Satisfaction of Certain Seller's WWTP Work Milestones. Provided that Buyer has not already made a Buyer's Self-Contained WWTP Work Election or exercised the Self-Help Remedy in accordance with the terms of this Agreement, Seller may deliver to Buyer and Escrow Agent a Seller's WWTP Escrow Release Requisition demanding the release of WWTP Escrow Funds in the following amounts (each, a "Release Amount"; collectively, the "Release Amounts") *after* achieving each of the following Seller's WWTP Work Milestones:

- \$829,275 (the "Building Permit Fee"), upon Seller's receipt of all Seller's WWTP Work Permits (other than the Seller's Groundwater Discharge Permit);
- \$905,725, upon Seller's WWTP Work 50% Completion; and
- The balance of the WWTP Escrow Funds

Notwithstanding the foregoing or anything herein to the contrary, subject to the last sentence of this Section 2, (w) upon the occurrence of a Seller Event of Default, no Release Amounts shall be disbursed from the WWTP Escrow Funds unless and until Seller's WWTP Work Final Completion occurs, at which time the remaining WWTP Escrow Funds will be released to Seller pursuant to a final Seller's WWTP Escrow Release Requisition, subject to the ensuing provisions of this Section 2, and the terms of the WWTP Escrow Agreement, (x) in the event Seller fails to achieve either Seller's WWTP Acceptance and Disposal Completion or Seller's WWTP Work Final Completion on or prior to the Seller's WWTP Work Milestone Deadlines established therefor, no Release Amounts shall be disbursed from the WWTP Escrow Funds until the Buyer's Project Initial T/C/O Date, so as to afford Buyer sufficient time to calculate any and all applicable Buyer's WWTP Damages and make requisition therefor under the WWTP Escrow Agreement as applicable, (y) if there are insufficient funds to satisfy any Release Amount(s) due to Buyer's exercise of remedies set forth in Section 5.2 below, the applicable Release Amount(s) shall be reduced accordingly so that it only equals the amount of WWTP Escrow Funds then remaining; and (z) if Buyer has made requisitions pursuant to the WWTP Escrow Agreement to draw down WWTP Escrow Funds to pay or reimburse Buyer for Buyer's Project Delay Liquidated Damages and/or Buyer's Increased Project Costs pursuant to Section 5(b-c) below and such draws are either (1) pending at the time of Seller's WWTP Escrow Release Requisition, or (2) requisitioned within five (5) business days after Seller's WWTP Escrow Release Requisition, Seller shall only be entitled to receive as Release Amount(s) that portion of the WWTP Escrow Funds which are not the subject of such Buyer requisition(s), and the applicable Release Amount(s) shall be reduced accordingly.

Notwithstanding the foregoing, the Building Permit Fee shall be released to Seller on the earlier to occur of (i) Seller's receipt of all Seller's WWTP Work Permits, and (ii) June 30, 2021.

(d) Buyer's Project O/M Fees and Buyer's Project O/M Agreement. Prior to the Permit Deadline, Buyer shall use commercially reasonable, good faith efforts to finalize the Buyer's Project O/M Fees and Buyer's Project O/M Agreement with the Wastewater Governing Authority on terms reasonably acceptable to Buyer. In the event that, despite its good faith efforts, Buyer is unable to reach an agreement with the Wastewater Governing Authority regarding the Buyer's Project O/M Fees by the Permit Deadline (a "Buyer O/M Failure Event"), Buyer shall have the right to make a Buyer's Self-Contained WWTP Work Election pursuant to Section 5.2(a) below, which election must be made, if at all, by the date which is 10 business days after the Permit Deadline. If Buyer fails to make such election within the foregoing 10-business day period, it will forfeit the right to make a Buyer's Self-Contained WWTP Work Election under this Section 2(d).

(e) Release of Permit for Buyer's Self-Contained WWTP Improvements. Buyer has obtained a groundwater discharge permit from DEP for Buyer's Self-Contained WWTP Improvements ("Buyer's Groundwater Discharge Permit"). DEP has informed Seller that DEP will issue Seller's Groundwater Discharge Permit only after Buyer releases Buyer's Groundwater Discharge Permit. Accordingly, at such time as DEP has indicated to Seller that it is prepared to issue to the Seller's Groundwater Discharge Permit, but in no event earlier than the date upon which Seller has achieved Seller's WWTP Work Acceptance and Disposal Completion, Seller may request that Buyer release the Buyer's Groundwater Discharge Permit to DEP (a "Discharge Permit Tender Request"), and promptly upon receipt of a timely-delivered Discharge Permit Tender Request, Buyer shall release to DEP (or as otherwise directed by DEP) Buyer's Groundwater Discharge Permit.

3. CONSTRUCTION REPRESENTATIVES. Seller appoints the following person(s) as Seller's representative ("Seller's Representative") to act for Seller in all matters covered by this Agreement, including the receipt of applicable notices hereunder:

Louise L.E. Miller, J.D.  
Town Administrator  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
O: (508) 358-3620  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Buyer appoints the following person(s) as Buyer's representative ("Buyer's Representative") to act for Buyer in all matters covered by this Agreement, including the receipt of applicable notices hereunder.

Jim Lambert  
c/o WP East Acquisitions, L.L.C.  
91 Hartwell Avenue  
Lexington, MA 02421  
Phone: 781.541.5822  
Email: [jim.lambert@woodpartners.com](mailto:jim.lambert@woodpartners.com)

All communications with respect to the matters covered by this Agreement are to be made to Seller's Representative or Buyer's Representative, as the case may be, in writing, in compliance with the notice provisions of the LDA (except that only Seller's Representative and Buyer's Representative are the only

parties that need be named in any applicable notification). Either party may change its representative and/or address under this Agreement at any time by written notice to the other party in compliance with the notice provisions of the LDA.

4. WWTP ESCROW AGREEMENT. Concurrently with the execution of this Agreement and the acquisition by Buyer of Buyer's Property, Buyer, Seller and First American Title Insurance Company ("Escrow Agent") are entering into an agreement entitled WWTP Escrow Agreement (the "WWTP Escrow Agreement") pursuant to which \$[2,548,909.56] are being funded into escrow by Seller and Buyer (through a combination of Net Purchase Price proceeds and sources of funds outside of the Closing escrow) (collectively, the "WWTP Escrow Funds"), and such funds will be held and disbursed pursuant to this Agreement and the WWTP Escrow Agreement. At such time as Buyer deposits the Final On-Site WWTP Escrow Funds pursuant to Section 4(c)(ii) of the Twelfth Amendment, such funds shall become part of the WWTP Escrow Funds for all purposes under this Agreement and the WWTP Escrow Agreement.

5. SELLER DEFAULT; BUYER REMEDIES.

5.1 Seller Events of Default. Subject to Section 8 hereof, the occurrence of any one or more of the following shall constitute a "Seller Event of Default" under this Agreement:

(a) Seller or Seller's Work Contractor shall file any bankruptcy proceeding; or any proceeding under bankruptcy laws or other debtor-relief or similar laws shall be brought against Seller or Seller's Work Contractor and is not dismissed within 60 days after the filing thereof; or Seller or Seller's Work Contractor shall make an assignment for the benefit of creditors or file for any form of reorganization or arrangement under any bankruptcy law or other debtor-relief a similar law or proceeding;

(b) Once commenced, (1) any portion of the Seller's WWTP Work shall cease and not be resumed within 30 days thereafter; or (2) construction of the Seller's WWTP Work is abandoned;

(c) Seller falls behind schedule for completion of the Seller's WWTP Improvements by more than 30 days and does not, within 10 business days after receipt of notice from Buyer, deliver to Buyer a critical path recovery schedule updating Seller's Construction Schedule to reflect that Seller's WWTP Work Final Completion will still occur by the Seller's WWTP Milestone Deadline established therefor;

(d) Seller fails to deliver Seller's WWTP Work Milestone Achievement Evidence for any Seller's WWTP Work Milestone by the applicable Seller's WWTP Work Milestone Deadline established therefor. For avoidance of doubt, the Seller's WWTP Work Milestone will actually need to be satisfied or completed in order for a Seller's WWTP Work Milestone Achievement Evidence to be valid pursuant to the foregoing sentence.

5.2 Buyer Remedies. Upon a Seller Event of Default (or, in the case of a Buyer O/M Failure Event pursuant to Section 2(d) above as it concerns and is limited to a Buyer's Self-Contained WWTP Work Election), Buyer will have the following rights and remedies:

(a) Buyer's Self-Contained WWTP Work Election. Buyer shall have the right (but not the obligation), upon written notice to Seller, to elect to perform the Buyer's Self-Contained WWTP Work (the "Buyer's Self-Contained WWTP Work Election"). In the event the Buyer makes the Buyer's Self-Contained WWTP Work Election, (i) Seller will no longer be required to complete the Seller's WWTP



Improvements, (ii) Buyer shall construct the Buyer's Self-Contained WWTP Improvements in accordance with the plans, permits and other Approvals therefor and Applicable Legal Requirements, (iii) Buyer shall have the right to draw down on the WWTP Escrow Funds in order to pay for Buyer's Self-Contained WWTP Work Costs in excess of the Buyer's Self-Contained WWTP Work Costs Requisition Threshold as and when incurred pursuant to one or more Buyer's Self-Contained WWTP Work Costs Requisitions, and (iv) the WWTP Easement Agreement shall automatically terminate and be of no further force and effect, and Seller shall cooperate with Buyer in executing and recording any documentation necessary to terminate such WWTP Easement Agreement of record. Seller acknowledges and agrees that it will have no right to object to or disapprove any Buyer's Self-Contained WWTP Work Costs Requisition absent manifest error, so long as such requisition includes the Supporting Documentation required by the WWTP Escrow Agreement (and even then Seller's ability to object to the requisition will be as limited by the WWTP Escrow Agreement).

(b) Buyer's Project Delay Liquidated Damages. In the event of a Seller Event of Default with respect to Seller's failure to timely achieve the Seller's WWTP Work Milestone for Seller's WWTP Work Acceptance and Disposal Completion and such failure causes a Buyer's Project Delay with respect to delay of the issuance of a temporary certificate of occupancy for Buyer's Project by the Buyer's Project Initial T/C/O Date, Buyer will have the right to make a requisition on the WWTP Escrow Funds to pay or compensate Buyer for Buyer's Project Delay Liquidated Damages pursuant to a Buyer's Project Delay LD Requisition. At such time as the actual duration of Buyer's Project Delay is known based on when Buyer's Project Initial T/C/O Date actually occurs or is scheduled to occur, Buyer may make a Buyer's Project Delay LD Requisition within five (5) business days after the determination of such actual duration of Buyer's Project Delay.

(c) Buyer's Increased Project Costs. In the event of a Seller Event of Default which results in Buyer's Increased Project Costs, Buyer will have the right to draw down on the WWTP Escrow Funds to pay or compensate Buyer for Buyer's Increased Project Costs, as and when such Buyer's Increased Project Costs are finally determined, by making a Buyer's Project Increased Project Costs Requisition.

(d) Self-Help Remedy. Buyer shall have the right (but not the obligation) to assume control of all or a portion of the Seller's WWTP Work (the "Self-Help Remedy") upon at least 10 business days' written notice to Seller (a "Takeover Notice"). Upon issuance of a Takeover Notice, (i) Seller shall cease the performance of any Seller's WWTP Work so taken over, (ii) Buyer shall promptly and diligently prosecute and complete the Seller's WWTP Work, (iii) Buyer shall be entitled to draw down from the WWTP Escrow Funds under the WWTP Escrow Agreement pursuant to one or more Buyer's WWTP Self-Help Requisitions in accordance with the terms thereof to pay for all costs and expenses associated with the work taken over as if Buyer were Seller thereunder (collectively, "Buyer's WWTP Self-Help Costs"), (iv) [intentionally omitted]; and (v) to the extent deemed necessary by the applicable permit granting authority to complete the portion of the Seller's WWTP Work taken over, Seller hereby assigns to Buyer its interest under (A) any and all permits, licenses, variances, plans and approvals required in order to complete the work taken over and (B) any and all design, engineering, construction and development contracts related to same (collectively, "Approvals and Contracts"). Additionally, within five (5) business days after entering into Seller's Work Contract, to the extent such language is not included within the Seller's Work Contract itself, Seller will cause Seller's Work Contractor to deliver a consent document in a form reasonably agreed to by Buyer and Seller's Work Contractor which shall acknowledge Buyer's rights should it exercise the Self-Help Remedy hereunder. Seller hereby covenants that it shall, at any time and from time to time upon written request thereof, promptly execute and deliver to Buyer any new or confirmatory instruments and do and perform any other acts which Buyer may reasonably request in order to fully assign and transfer to and vest in Buyer, and protect Buyer's right, title and interest in and to each and all of the Approvals and Contracts intended to be transferred and assigned hereby. Additionally, if Buyer exercises the Self-Help Remedy, Buyer shall provide or cause

Buyer's Contractor (or, as the case may be, Seller's Work Contractor as engaged by Buyer) to provide to Seller, within a reasonable time after Seller's request for the same, all necessary documentation, in order to satisfy requirements imposed upon Seller by Seller's MassWorks's infrastructure funding grant for the Seller's WWTP Improvements so that Seller can continue to receive such funding under the terms of such grant ("Seller's Grant Funds"). Seller agrees to use commercially reasonable efforts to cause Seller's Work Contractor to provide all such necessary documentation with respect to Seller's Grant Funds, and Seller agrees that it shall be a requirement of Seller's Work Contract that Seller's Work Contractor provide such necessary documentation.

(e) Other Recourse; WWTP Escrow Funds Exhausted. Buyer may pursue any other rights and remedies at law or equity in connection with such Seller Event of Default; *provided, however*, that Buyer will first seek recourse pursuant to one or more of the remedies set forth above and through Buyer's WWTP Damages Requisitions made pursuant to the WWTP Escrow Agreement prior to resorting to this subsection (e). Without limiting the foregoing, to the extent the funds then remaining in the WWTP Escrow Agreement are not sufficient to pay for any Buyer's WWTP Damages, Buyer shall have the right to submit invoices to Seller for direct reimbursement, which shall be paid by Seller within 30 days of written demand therefor and if such amounts are not timely paid. Notwithstanding the foregoing, Seller's liability for Buyer's Project Delay Liquidated Damages shall be limited to an amount equal to (i) the WWTP Escrow Funds then being held in escrow at the time Buyer makes a Buyer's Project Delay LD Requisition, *plus* (ii) any amounts previously released to Seller as Released Amounts hereunder (excluding the Building Permit Fee).

(f) Cumulative Rights; No Election of Remedies. All rights, remedies, powers, and privileges conferred hereunder upon the Buyer will be cumulative. An exercise of one remedy by Buyer shall not be deemed an election of remedies by Buyer, and Buyer will have the right to pursue any and all other remedies available to it; *provided, however*, Buyer acknowledges and agrees that the exercise of one remedy may preclude the exercise of another, as certain remedies set forth above are mutually exclusive (e.g. Buyer cannot make a Buyer's Self-Contained WWTP Work Election and then exercise a Self-Help Remedy, as such remedies are mutually exclusive, but the Buyer may incur Buyer's Self-Contained WWTP Work Costs or Buyer's Increased Project Costs while also sustaining Buyer's Project Delay Liquidated Damages and pursue remedies with respect to same on a cumulative basis).

6. COUNTERPARTS; SEVERABILITY. This Agreement may be executed in multiple counterparts and on separate counterparts, each of which shall be deemed to be an original and all of which shall together constitute one and the same agreement. Electronic, facsimile or .pdf signatures shall have the same force and effect as original signatures. The parties hereto intend to be bound by the signatures on the electronic, facsimile or .pdf document, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the use of an electronic, facsimile or .pdf signature. If any provisions of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement by the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law; provided, however, that if any of the provisions of this Agreement or the application thereof shall to any extent be invalid or unenforceable to one or more but not all of the parties, then this Agreement shall be valid and enforceable as to the other party or parties only to the extent that the same is equitable and consistent with the overall purposes of this Agreement.

7. ATTORNEYS' FEES. If any action is brought by a party to this Agreement against another party, relating to or arising out of this Agreement, the transaction described herein or the enforcement hereof, the prevailing party shall be entitled to recover from such party reasonable attorneys'

fees, costs and expenses incurred in connection with the prosecution or defense of such action. The provisions of this Section 7 shall survive the entry of any judgment, and shall not merge, or be deemed to have merged, into any judgment.

8. FORCE MAJEURE DELAY. The duties and obligations of Seller to observe or perform any of the terms or provisions of this Agreement shall be excused and extended for a period equal to the period of any Force Majeure Delay; *provided, however*, the period for which Seller may claim a Force Majeure Delay hereunder shall only extend for the period of time that Buyer is also prohibited or restricted from performing work on Buyer's Project due to such Force Majeure Delay (the "Max FM Period"). Without limiting the foregoing, all Seller's WWTP Work Milestone Deadlines shall be extended for the duration of any Force Majeure Delay, subject to the Max FM Period. If Seller is invoking a Force Majeure Delay in order to extend any applicable deadlines hereunder, it must provide prompt notice to Buyer within 10 days after the commencement thereof and advise of its anticipated duration, and Seller shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.

9. GOVERNING LAW; VENUE FOR LITIGATION. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts. Any litigation based on or arising out of this Agreement shall be brought exclusively in state or federal courts located in the Commonwealth of Massachusetts.

10. TIME. Time is of the essence of this Agreement.

11. AUTHORITY. Each Party certifies to the other that it authorized by all required corporate, limited liability company, partnership action or Board of Selectmen action, as applicable, to enter into this Agreement and the individual(s) signing this Agreement on behalf of such Party are each authorized to bind such Party. Buyer certifies to Seller that it is duly organized, validly existing and in good standing under the laws of its state of organization, and duly qualified to do business in the Commonwealth of Massachusetts.

12. ASSIGNMENT. No Party to this Agreement shall assign or in any manner sell or transfer any of its rights or interest in this Agreement without the prior written consent of the other Party, which consent may be withheld in the non-requesting Party's sole discretion; *provided, however*: (i) that Buyer shall have the right in connection with any existing or future financing secured by Buyer's Property or Buyer's Project to assign for collateral purposes its interest hereunder to any lender(s) providing such financing, and the Seller hereby agrees to execute and deliver any consent or acknowledgment to any such collateral assignment on a commercially reasonable form; and (ii) Buyer, following the issuance of the initial temporary certificate of occupancy for Buyer's Project or otherwise in connection with a permitted assignment under the LDA, will have the right to assign this Agreement to successor(s) in title to the Buyer's Property and/or Buyer's Project.

13. NO WAIVER. Neither the failure of any Party to exercise any power or right given such Party hereunder or to insist upon strict compliance by any other Party with its obligations hereunder, nor any custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of any Party's right to demand exact compliance with the terms hereof.

14. WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR

COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS AGREEMENT.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Seller and Buyer have caused this Agreement to be duly executed by their duly authorized representatives as of the date hereof.

BUYER:

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

SELLER:

**TOWN OF WAYLAND,**  
By its Board of Selectmen

\_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_  
David V. Watkins

\_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_  
Lea T. Anderson

**EXHIBIT A**

**SELLER'S WWTP WORK PLANS**

**[SEE ATTACHED FOR 50% PLANS]**

**EXHIBIT B**

**SELLER'S CONSTRUCTION SCHEDULE**

**[SELLER TO PROVIDE]**

**EXHIBIT C**

**FORM OF ENGINEER/ARCHITECT CONSENT**

**Engineer/Architect Consent**

**ARCHITECT'S/ENGINEER'S CONSENT, CERTIFICATE AND AGREEMENT**

(LETTERHEAD OF ARCHITECTURAL/ENGINEERING FIRM)

\_\_\_\_\_, 2021

ALTA RIVER'S EDGE, LLC  
c/o WP East Acquisitions, LLC  
91 Hartwell Avenue  
Lexington, Massachusetts 02421  
Attention: Jim Lambert  
Phone No.: (781) 541-5822  
Email: Jim.Lambert@woodpartners.com

Re: Infrastructure Development Agreement ("**Agreement**") dated \_\_\_\_\_ by and among TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter "**Buyer**") for the completion of the Seller's WWTP Work (as defined in the Agreement, and also referred to herein as the "**Project**"), and [describe contract/agreement] dated \_\_, 202\_\_ between Seller and [contractor] ("**Contractor**" or "**we**") regarding the Project (together with any assignments and amendments thereof, the "**Contract**") attached as **Exhibit "A"** hereto.

Ladies and Gentlemen:

We understand that the Contract and the plans and specifications for the Project (as may be amended from time to time and including all drawings and related papers, the "**Plans**") have been or will be collaterally assigned by Seller to Buyer in connection with the Agreement. In consideration of the Agreement and as an inducement thereto, we hereby (a) consent to such assignment and (b) agree that in the event (i) of a default by Seller under the terms of any of the Agreement or the Contract or any other circumstances thereunder whereby which it is reasonably likely that Seller will be in default under the terms of any of the Agreement or the Contract or (ii) we receive a copy of Buyer's Takeover Notice (as defined in the Agreement), (1) we shall, at Buyer's request, provide to Buyer the services as required of us under the Contract, provided that we are compensated as provided in the Contract for all such services rendered at Buyer's request, and (2) whether or not you request our continued services under the Contract, you shall be entitled to use the Plans in accordance with and as provided in the Contract in connection with the Project, without payment of additional fees or charges to us (provided that if we are due any amounts under the Contract for any services rendered in connection with changes to the initial Plans ("**Plan Changes**"), you shall not be entitled to use the Plan Changes until we are compensated therefor.



As the architectural or engineering firm responsible for performing the work regarding the Project described in the Contract, the undersigned is duly licensed and in good standing under the laws of the State in which the Project is located.

If Seller defaults in payment or performance of the Contract or if the Contract is terminated for any reason, the undersigned will give Buyer prompt written notice thereof and prior to exercising any remedy as a result thereof, will afford Buyer the same opportunity to cure such default to which Seller is entitled, but at least thirty (30) days in any event (it being acknowledged that Buyer shall have no obligation to cure any such default). Any notice of default or termination will be delivered by personal delivery, by nationally recognized overnight courier service or by certified mail, return receipt requested, to the address set forth above, and be effective upon receipt or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified. Any curative act done by Buyer shall be as effective as if done by Seller.

This letter shall bind and benefit Buyer and the undersigned and their respective heirs, successors and assigns, and shall be governed by the laws of the state where the Land is located. "Buyer" as used in this letter includes Buyer's successors or assigns, any receiver in possession of the Buyer's Property, any purchaser upon foreclosure of Buyer's Property, or any corporation or other nominee formed by or on Buyer's behalf. Time is of the essence of this letter agreement.

Sincerely,

[ARCHITECT'S/ENGINEERS SIGNATURE BLOCK]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

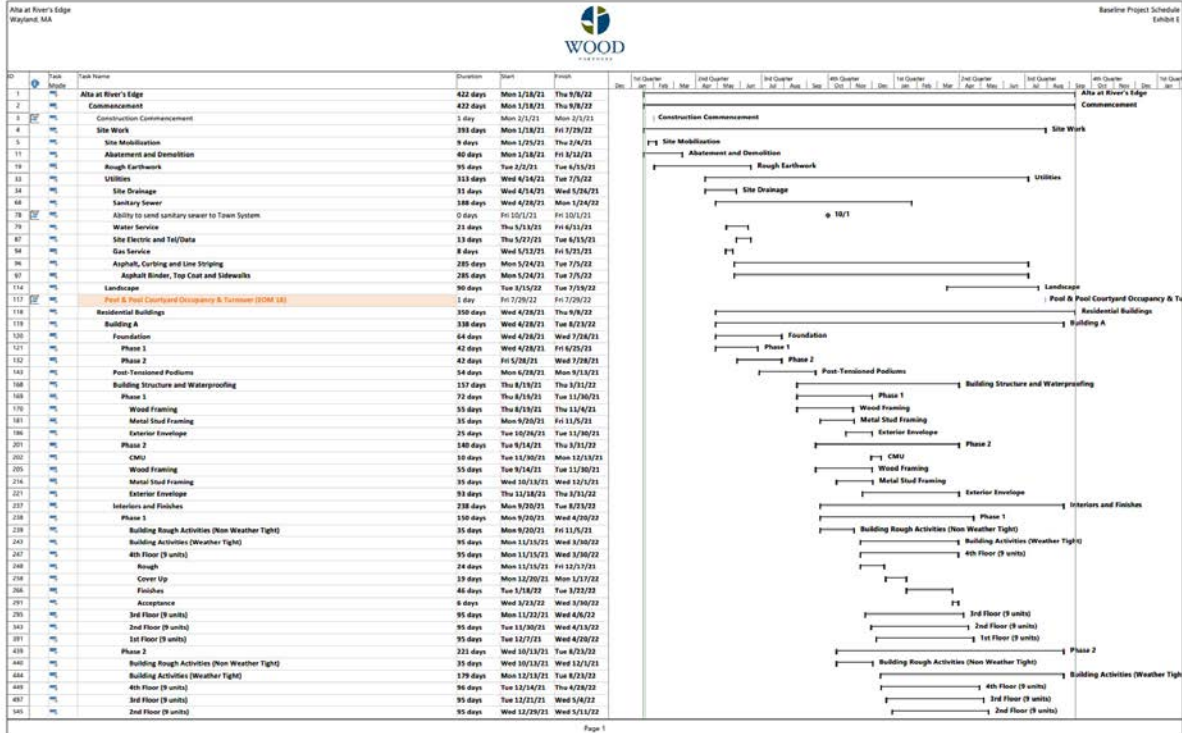
Exhibit "A"

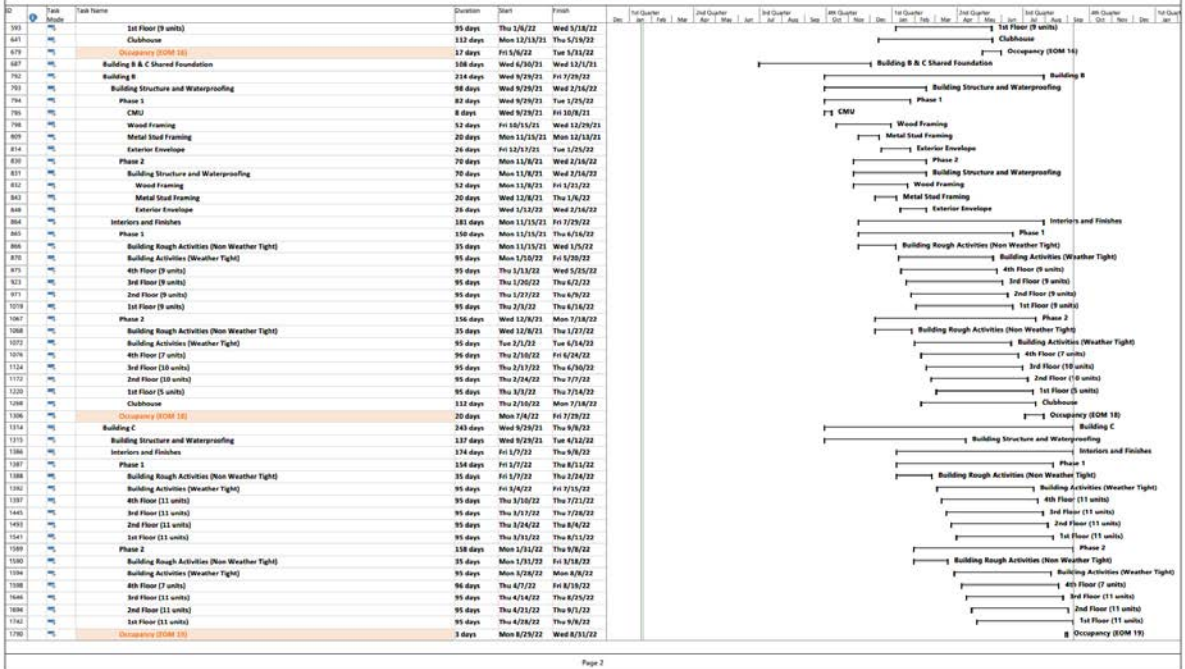
CONTRACT

(Attach Contract, including assignments, amendments and supplements)

# EXHIBIT D

## BUYER'S CONSTRUCTION SCHEDULE





## WWTP ESCROW AGREEMENT

(Wastewater Facilities)

THIS WWTP ESCROW AGREEMENT (the “Agreement”) is made and entered into this \_\_\_ day of ~~January~~February, 2021 (the “Effective Date”), by and among TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter “Buyer”), and FIRST AMERICAN TITLE INSURANCE COMPANY (hereinafter referred to as “Escrow Agent”).

### RECITALS:

A. Concurrently with the execution of this Agreement, Seller has conveyed to Buyer that certain property commonly known as 490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as “Lot A”, “Lot C”, and “Lot E” (the “Buyer’s Property”) on that certain plan entitled “ANR Subdivision Plan Assessors Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road Wayland, Massachusetts” prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South Registry of Deeds (the “Registry”) as Plan No. 260 of 2017 (the “ANR Plan”). The acquisition of the Buyer’s Property was consummated pursuant to a Land Disposition Agreement for the Sale and Redevelopment of Land between Seller and Buyer dated as of ~~March 20~~July 28, 2018~~2017~~ (as amended from time to time, most recently by a Twelfth Amendment dated \_\_\_\_\_, ~~2021~~on or about the date hereof (the “Twelfth Amendment”), the “LDA”).

B. Pursuant to the Twelfth Amendment, at closing under the LDA, Seller and Buyer agreed to enter into an Infrastructure Development Agreement (the “Development Agreement”) and this Agreement to among other things, address and secure Seller’s obligations to (i) timely design permit and construct the Seller’s WWTP Improvements (as defined in the Development Agreement), and (ii) compensate or reimburse Buyer for Buyer’s WWTP Damages sustained on account of (A) Seller’s failure to remain on schedule in performing such work, and/or (B) Seller otherwise triggering a “Seller Event of Default” under the Development Agreement, and/or (C) a Buyer’s O/M Failure Event.

C. In order to secure the aforesaid obligations of Seller and provide Buyer with recourse when and if it is entitled to pursue Buyer’s WWTP Damages pursuant to the Development Agreement, Seller is depositing with Escrow Agent simultaneously with the execution and delivery hereof the sum of [\$2,548,909.56][TO BE CONFIRMED BY FINAL CLOSING STATEMENT] (the “WWTP Escrow Amount”).

D. This Agreement is the WWTP Escrow Agreement referred to in the LDA and the Development Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Recitals; Capitalized Terms. The above Recitals are true and correct and are incorporated herein by reference. Capitalized terms which are not otherwise defined herein shall have the meanings assigned thereto in the Development Agreement. Additionally, the following capitalized terms used in this Agreement have the respective meanings assigned to them below:

“Buyer’s Increased Project Costs Requisition” shall mean a disbursement request for Buyer’s Increased Project Costs in the form attached hereto as Exhibit A and incorporated herein by reference.

“Buyer’s Project Delay LD Requisition” shall mean a disbursement request for Buyer’s Project Delay Liquidated Damages in the form attached hereto as Exhibit C and incorporated herein by reference.

“Buyer’s Self-Contained WWTP Work Costs Requisition” shall mean a disbursement request for Buyer’s Self-Contained WWTP Work Costs which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold in the form attached hereto as Exhibit D and incorporated herein by reference.

“Buyer’s WWTP Damages Requisition” shall mean, as applicable based on the nature of the Buyer’s WWTP Damages which are the subject of a particular request for disbursement of the WWTP Escrow Funds pursuant to Section 4(a) below, any one of a Buyer’s Increased Project Costs Requisition, Buyer’s Project Delay LD Requisition, Buyer’s Self-Contained WWTP Work Costs Requisition and/or Buyer’s WWTP Self-Help Requisition.

“Buyer’s WWTP Self-Help Requisition” shall mean a disbursement request to compensate Buyer for Buyer’s WWTP Self-Help Costs incurred on account of Buyer exercising the Self-Help Remedy (as defined in Section 5.2(d) of the Development Agreement) in the form attached hereto as Exhibit E and incorporated herein by reference.

“Objection Notice” shall mean each of a Seller Objection Notice and Buyer Objection Notice, as applicable.

“Seller’s WWTP Escrow Release Requisition” shall mean a disbursement request for a Release Amount in the form attached hereto as Exhibit F and incorporated herein by reference.

2. Appointment and Acceptance of Escrow Agent. By execution of this Agreement, Seller and Buyer hereby appoint and engage Escrow Agent, and Escrow Agent hereby accepts such appointment and engagement, to serve as Escrow Agent and to perform the duties set forth herein, subject to the terms and conditions of this Agreement.

3. WWTP Escrow Funds. Seller agrees to deliver to Escrow Agent at Closing the sum of the WWTP Escrow Amount, which shall be held and distributed by Escrow Agent subject to the conditions set forth herein. The monies held by Escrow Agent pursuant to this Agreement from time to time are sometimes referred to as the “WWTP Escrow Funds”. At such time(s) as Buyer deposits the Final On-Site WWTP Escrow Funds pursuant to Section 4(c)(ii) of the Twelfth Amendment (including any amounts determined through the dispute resolution process concerning the Final On-Site WWTP Estimate referenced therein and Section 5(d) hereof), such funds shall become part of the WWTP Escrow Funds for all purposes under this Agreement and the Development Agreement.

4. Disbursement of the WWTP Escrow Funds. The WWTP Escrow Funds shall be released to, and upon the following:

(a) Disbursement to Buyer. The WWTP Escrow Funds shall be disbursed to Buyer, in whole or in part, at any time and from time to time, in accordance with the following procedures:

(i) Buyer’s WWTP Damages Requisitions; Seller Objection Notices. Buyer may, from time to time and in accordance with applicable terms of the Development Agreement,

submit to Escrow Agent and Seller a written request for disbursement of the WWTP Escrow Funds in the form of a Buyer's WWTP Damages Requisition for the payment of Buyer's WWTP Damages actually incurred or sustained by Buyer pursuant to the terms of the Development Agreement. Buyer shall provide to Seller and Escrow Agent copies of any and all supporting documentation (if any) contemplated by the applicable Buyer's WWTP Damages Requisition form attached hereto (such supporting documentation, along with any supporting documentation contemplated by Exhibit H attached hereto in connection with a Seller's WWTP Escrow Release Requisition made pursuant to Section 4(b) below, as applicable, "Supporting Documentation"). Seller shall have ten (10) business days after receipt of a Buyer's WWTP Damages Requisition to object to any Buyer's WWTP Damages Requisition by written notice to Escrow Agent and Buyer in substantially the form of Exhibit G attached hereto (a "Seller Objection Notice"); *provided, however*, that Seller acknowledges and agrees that Seller shall only have the right to object to a particular Buyer's WWTP Damages Requisition (i) if the requisition does not contain sufficient Supporting Documentation (it being acknowledged by Seller that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Seller, in good faith, reasonably believes that the Buyer's WWTP Damages Requisition (or the Buyer's WWTP Damages that are the subject to the Buyer's WWTP Damages Requisition) are inaccurate, erroneous, or not consistent with the terms and provisions of the Development Agreement, or (iii) if Seller in good faith disputes the allegation of the occurrence (or the extent of the occurrence) of a Seller Event of Default or Buyer's Project Delay, if alleged in Buyer's WWTP Damages Requisition. If a Seller Objection Notice is not received by Escrow Agent within such 10-business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Buyer's payment instructions contained in the Buyer's WWTP Damages Requisition. If, however, Seller timely serves a Seller Objection Notice to Escrow Agent and Buyer with respect to a Buyer's WWTP Damages Requisition, then Section 5 hereof shall apply.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Buyer's WWTP Damages Requisition provided hereunder. Escrow Agent shall rely only on the objection of Seller or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Buyer's WWTP Damages Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Buyer's WWTP Damages Requisition.

(b) Disbursement to Seller. The WWTP Escrow Funds (or applicable portions thereof) shall be disbursed to Seller in accordance with the following procedures:

(i) Seller's WWTP Escrow Release Requisitions; Buyer Objection Notices. Upon achievement of an applicable Seller's WWTP Work Milestone, but subject to the terms of Section 2(c) of the Development Agreement, Seller may submit to Escrow Agent and Buyer a Seller's WWTP Escrow Release Requisition for disbursement to Seller of the applicable Release Amount pursuant to the terms of the Development Agreement. Seller shall provide to Buyer and Escrow Agent copies of any and all Supporting Documentation contemplated by the applicable Seller's WWTP Escrow Release Requisition. Buyer shall have ten (10) business days after receipt of a Seller's WWTP Escrow Release Requisition to object to any Seller's WWTP Escrow Release Requisition by written notice to Escrow Agent and Seller in substantially the form of Exhibit H attached hereto (a "Buyer Objection Notice"). Buyer shall only have the right to object

to a particular Seller's WWTP Escrow Release Requisition (i) if the requisition does not contain the applicable Supporting Documentation (it being acknowledged by Buyer that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Buyer, in good faith, reasonably believes that Seller's WWTP Escrow Release Requisition is inaccurate, erroneous, and/or not consistent with the terms and provisions of the Development Agreement. If a Buyer Objection Notice is not received by Escrow Agent within such ten (10) business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Seller's payment instructions contained in the Seller's WWTP Escrow Release Requisition. If, however, Buyer timely serves a Buyer Objection Notice to Escrow Agent and Seller with respect to a Seller's WWTP Escrow Release Requisition, then Section 5 hereof shall apply. For the avoidance of doubt, and notwithstanding anything in this Agreement to the contrary, Escrow Agent shall release to Seller, and Buyer shall not have the right to interpose any objection or dispute with respect to the release of, the Building Permit Fee from escrow, upon Escrow Agent's receipt of a Seller's WWTP Escrow Release Requisition for such Building Permit Fee on or ~~before~~after June ~~30~~24, 2021.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Seller's WWTP Escrow Release Requisition provided hereunder. Escrow Agent shall rely only on the objection of Buyer or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Seller's WWTP Escrow Release Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Seller's WWTP Escrow Release Requisition.

(iv) Final Disbursement. The remaining portion of the WWTP Escrow Funds, if any, that has not been disbursed to Buyer and is not the subject of a pending claim for disbursement to Buyer pursuant to Section 4(a) above shall be released by Escrow Agent to Seller within two (2) business days after the expiration of the Escrow Period.

5. Objection Notice Procedure; Expedited Dispute Resolution. If either party provides an Objection Notice in accordance with Section 4 above (such objecting party being referred to for the purposes of this Section 5 as the "Objecting Party," and each party receiving the objection being referred to for the purposes of this Section 5 as the "Non-Objecting Party"), then the following shall apply:

(a) Escrow Agent shall not disburse the portion of the WWTP Escrow Funds in dispute until either (i) Seller and Buyer (or their respective counsel) jointly instruct Escrow Agent to disburse funds in accordance with the applicable request for disbursement from the Non-Objecting Party, or (ii) the dispute has been resolved (including pursuant to the terms of Section 5(c) below).

(b) Seller and Buyer shall direct Escrow Agent to disburse any portion of the proposed disbursement as to which no objection is made. For example, if Buyer requests in a Buyer's WWTP Damages Requisition that \$50,000 be disbursed to Buyer, but Seller claims in a Seller Objection Notice that Buyer is only entitled to \$40,000, then Escrow Agent shall disburse \$40,000 to Buyer pursuant to the instructions set forth in the Buyer's WWTP Damages Requisition (without prejudice to the rights of Buyer as to the remaining unfunded WWTP Escrow Funds), and the remaining \$10,000 shall be subject to Section 5(a) above.



(c) In the event the Parties cannot resolve a dispute over a particular disbursement hereunder within ten (10) business days after delivery of an Objection Notice (as evidenced by a joint instruction to the Escrow Agent to disburse or hold the applicable WWTP Escrow Funds as instructed by Seller and Buyer), either Seller or Buyer shall thereafter have the right, in lieu of pursuing recourse through the courts, to assert that a “Disbursement Dispute” exists on the terms hereof, in which case the following provisions shall apply:

(1) If Seller or Buyer asserts that a Disbursement Dispute has arisen, such asserting party shall give prompt written notice thereof to the other party, the Escrow Agent and to the Disbursement Dispute Arbitrator (defined in subsection (4) below). The Disbursement Dispute Arbitrator shall, no later than five (5) business days after receipt of such notice, hold a preliminary, informal mediation meeting with both Buyer and Seller in an attempt to mediate such Disbursement Dispute. The Disbursement Dispute Arbitrator shall be instructed to give due regard to the language of this Agreement, the LDA, and the Development Agreement when determining the merits of the applicable Objection Notice which is the subject of a Disbursement Dispute. If such Disbursement Dispute shall not be resolved at that mediation meeting, the Disbursement Dispute Arbitrator shall, at such informal mediation meeting, establish a date, not earlier than ten (10) business days after such informal mediation meeting nor later than thirty (30) days after such informal mediation meeting, for a hearing (a “Hearing”) to be held in accordance with this Agreement to resolve such Disbursement Dispute. Notwithstanding the foregoing, upon the existence of a prior commitment on the part of the Disbursement Dispute Arbitrator, or upon reasonable cause shown by Buyer or Seller (or both), the Disbursement Dispute Arbitrator may make a reasonable extension to one or both time periods set forth in this Section 5(c).

(2) Buyer and Seller shall have the right to make one (1) written submission to the Disbursement Dispute Arbitrator prior to the Hearing. Such submission shall be received by the Disbursement Dispute Arbitrator and the other party not later than two (2) Business days prior to the Hearing date. Buyer and Seller hereby agree that all Hearings shall have a mutually agreeable scope of discovery and exchange of information reasonably necessary for the parties to evaluate and resolve the Disbursement Dispute. The Hearing shall be conducted by the Disbursement Dispute Arbitrator. It is the intention of the parties hereto that the Hearing shall be conducted in an informal and expeditious manner. No transcript or recording shall be made. Buyer and Seller shall have the opportunity to make a brief statement and to present documentary and other support for its position, which may include the testimony of not more than two (2) individuals, one (1) of whom may be outside experts. There shall be no presumption in favor of either party’s position.

(3) The Disbursement Dispute Arbitrator shall render a decision, in writing, as to any Disbursement Dispute not later than five (5) business days following the conclusion of the Hearing regarding such Disbursement Dispute (the “DD Decision”) and shall provide a brief written basis for its decision not later than five (5) business days after the issuance of the DD Decision. The Disbursement Dispute Arbitrator may not award any other or different relief. The DD Decision shall be final and binding on Seller and Buyer for all purposes and may be entered in any court of competent jurisdiction. Seller and Buyer hereby authorize and direct Escrow Agent to disburse (or hold) the WWTP Escrow Funds which are the subject of a particular Disbursement Dispute in accordance with the DD Decision.

(4) Following the Closing, Buyer and Seller hereby ~~designate~~ ~~[agree to work expeditiously to engage]~~ Wally McDonough of ELK Consulting Services LLC as the Disbursement Dispute Arbitrator with regard to all Disbursement Disputes that may arise. ~~[Contemporaneously with the execution of this Agreement,]~~ if for any reason, within thirty (30) days after Closing, (a) such individual has acknowledged in writing its agreement, shall be unwilling or unable to serve ~~act~~ as the Disbursement Dispute Arbitrator]. ~~If for any reason such individual shall be unwilling to act as~~ and the parties cannot

~~agree on a replacement or (b) the parties are unable to agree on the engagement terms of the Disbursement Dispute Arbitrator, then Buyer and Seller shall mutually agree on a replacement to be selected to serve in its place. If for any reason Mr. McDonough shall be unwilling to act as the parties, within forty-five (45) days after the Closing, are unable to agree on a mutually acceptable Disbursement Dispute Arbitrator as an alternative to Mr. McDonough, or the parties cannot agree on a replacement,~~ then any party may ask the AAA Boston, Massachusetts office to select a substitute with such qualifications and experience who will act as Disbursement Dispute Arbitrator ~~of that Disbursement Dispute~~. The actual party designated pursuant to this Section 5(c) shall be the “Disbursement Dispute Arbitrator”. The fees and costs of the Disbursement Dispute Arbitrator and the AAA shall be borne by the non-prevailing party in the applicable Disbursement Dispute at issue.

(d) In addition to its role adjudicating Disbursement Disputes, the Disbursement Dispute Arbitrator shall also act in accordance with the rules and procedures set forth in this Section 5 with respect to any dispute between Seller and Buyer regarding the Final On-Site WWTP Estimate, as more particularly described in Section 4(c)(ii) of the Twelfth Amendment

6. Dispute and Litigation Generally. If prior to the delivery of all or any part of the WWTP Escrow Funds described herein, Seller or Buyer shall have brought a suit to enjoin said delivery or for declaratory judgment with respect to an alleged breach and have served Escrow Agent with a summons making it a party to such action (provided that neither party shall be entitled to bring such a suit with respect to WWTP Escrow Funds that are the subject of a Disbursement Dispute pursuant to Section 5(c) above, in which case the terms of Section 5(c) shall govern the treatment of the applicable WWTP Escrow Funds upon the resolution of such Disbursement Dispute), Escrow Agent shall have the right in its sole discretion to either retain the money until the court directs the proper disposition thereof, or to deposit the same with the court. Further, if prior to the delivery of the WWTP Escrow Funds, Escrow Agent has been notified in writing by Seller or Buyer that a dispute exists with respect to the disposition of the WWTP Escrow Funds, then Escrow Agent shall retain such funds until the dispute is resolved. If Seller and Buyer do not notify Escrow Agent in writing within ten (10) business days from the notice of such dispute that such dispute has been resolved, then the Escrow Agent may file a bill of interpleader and deposit the WWTP Escrow Funds with the court; *provided, however*, if Escrow Agent shall have received notice of a Disbursement Dispute with respect to such dispute pursuant to Section 5(c) above, Escrow Agent shall hold and disburse the WWTP Escrow Funds which are the subject of such dispute in accordance with said Section 5(c). Seller and Buyer shall be jointly and severally liable to Escrow Agent for all reasonable expenses of any such suit for injunctive relief, declaratory judgment, or interpleader, including but not limited to reasonable attorneys’ fees and costs. As between Seller and Buyer, such expenses shall be the responsibility of the non-prevailing party, excluding the Escrow Agent. The parties agree that if Escrow Agent is made a party to any litigation under this Agreement (other than a suit against Escrow Agent for willful neglect, intentional misconduct or breach of trust), upon the deposit by Escrow Agent of the WWTP Escrow Funds in the registry of the court, it shall be dropped from the litigation as a party and both parties shall agree that Escrow Agent has, in so doing, fully discharged its obligations under this Agreement and this Agreement shall be terminated as to Escrow Agent. In the event of any litigation between the Seller and Buyer to enforce any provision and right hereunder, the unsuccessful party to such litigation covenants and agrees to pay the successful party therein all costs and expenses, expressly including, but not limited to, reasonable attorneys’ fees actually incurred therein by such successful party (including through any appeal), which costs, expenses and reasonable attorneys’ fees shall be included in and as a part of any judgment rendered in such litigation.

7. Liability of Escrow Agent. Escrow Agent shall not be liable for the failure of any of the conditions of this escrow, or for damages caused or omission done in good faith, or for any claim or loss, claimed or suffered by any party hereto by the exercise of Escrow Agent’s discretion, or for any reason whatsoever, except for intentional misconduct or willful neglect or breach of trust. Escrow Agent shall

not be deemed to have notice or knowledge of any fact hereunder unless written notice thereof has been given to it pursuant to Section 10 below. Further, Escrow Agent shall not incur liability to any party for damages, losses or expenses, except for such arising out of its intentional misconduct or willful neglect or breach of trust. Seller's federal taxpayer identification (FEIN) number is ~~\_\_\_\_\_~~ **TOWN** **TO PROVIDE** 046001341 for purposes of tax reporting requirements.

8. Miscellaneous.

(a) Escrow Agent may act in reliance upon any instruction or signature reasonably believed by it to be genuine and may assume that any person purporting to give any writing, notice, instruction or direction in accordance with the provisions hereof has been duly authorized to do so.

(b) Escrow Agent may consult with and obtain advice from legal counsel, auditors and other experts in connection with this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in good faith in accordance with the written opinions and instructions of such counsel, auditors or other experts rendered within the areas of their respective expertise.

(c) Escrow Agent may execute any of its powers or responsibilities hereunder and exercise any rights hereunder either directly or by or through its agents or attorneys.

9. Investment of Escrow Funds. Escrow Agent shall invest the WWTP Escrow Funds in an interest-bearing account maintained by Escrow Agent in a bank or savings and loan association, or in some other financial institution or brokerage house, that is FDIC insured. Interest, dividends, capital gains and other earnings (collectively "Earnings") on the WWTP Escrow Funds shall be added to and become a part of the WWTP Escrow Funds. Seller shall be responsible for all income taxes, if any, imposed upon the Earnings.

10. Notices. Wherever in this Agreement it shall be required or permitted that notice, request, consent, or demand be given by any party to this Agreement to or on the other (hereafter collectively "Notice" for the purpose of this paragraph), such Notice shall not be deemed to have been duly given unless in writing, and either personally delivered, mailed by certified mail, return receipt requested, e-mail of a letter in "pdf" format (with Request for Delivery Receipt (or similar function) activated) or sent via commonly accepted overnight delivery service as follows:

Buyer:  
c/o Wood Partners  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

With copies to:  
c/o Wood Partners  
636 W. Yale Street  
Orlando, Florida 32804  
Attention: Sean Reynolds  
Telephone: (407) 982-2517  
E-mail: [sean.reynolds@woodpartners.com](mailto:sean.reynolds@woodpartners.com)

And

Alston & Bird LLP  
One Atlantic Center

1201 W. Peachtree Street  
Atlanta, Georgia 30309  
Attention: Drew Allen  
Telephone: (404) 881-4522  
E-mail: [drew.allen@alston.com](mailto:drew.allen@alston.com)

SELLER:

Louise L.E. Miller, J.D.  
Town Administrator  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

With copies to:

Katharine Lord Klein  
KP | LAW  
101 Arch Street, 12<sup>TH</sup> Floor  
Boston, MA 02110  
Telephone: (617) 654 1834  
Email: [kklein@k-plaw.com](mailto:kklein@k-plaw.com)

And

David L. Wiener  
Anderson & Kreiger LLP  
50 Milk Street, 21<sup>st</sup> floor  
Boston, MA 02109  
Telephone: (617) 621-6570  
Email: [dwiener@andersonkreiger.com](mailto:dwiener@andersonkreiger.com)

Escrow Agent:

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: [juhlir@firstam.com](mailto:juhlir@firstam.com)

Counsel for the parties set forth herein may deliver notice on behalf of the parties.

All Notices shall be deemed delivered only upon actual delivery at the address (or e-mail address) set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day shall be regarded as delivered on the next business day. Saturdays, Sundays and legal holidays of the United States government shall not be regarded as business days.

If any time for giving Notice or other time period contained in this Agreement would otherwise expire on a non-business day, the Notice period or time period shall be extended to the next succeeding business day. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in address or addresses by written Notice in accordance herewith to the parties and addressees set forth herein.

11. Severability. The invalidity or unenforceability of a specific provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

12. Modification. No additions, alterations or variations to the terms of this Agreement shall be valid nor can the provisions or the terms of this Agreement be waived by either party unless such additions, alterations, variations or waivers are expressly set forth in writing and signed by the parties hereto.

13. Waiver. The failure of any party hereto in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereof, or to exercise any remedy, privilege, or option herein conferred upon or served to such party, shall not operate and not be construed as a relinquishment or waiver for the future of such covenant or condition of or the right to enforce the same or to exercise such privilege, option, or remedy, but the same shall continue in full force and effect.

14. Venue and Applicable Law. In the event that legal action is instituted under, or to enforce any provision of, this agreement, the parties hereto submit themselves to the jurisdiction of the courts of the Commonwealth of Massachusetts, and, notwithstanding the place of residence of any of them or the place of execution of this instrument, such litigation shall be brought in Middlesex County, Massachusetts. This Agreement shall be controlled, construed and interpreted according to the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws rules of such State.

15. Persons Bound; Permitted Assignments. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. This Agreement shall not be assigned by Seller, Escrow Agent or Buyer without the written consent of the other parties to this Agreement; *provided, however*, that Seller or Buyer may assign this Agreement in connection with an assignment permitted under the Development Agreement (including any permitted collateral assignments in connection with Buyer's financing of the Buyer's Project as set forth therein).

16. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters contained herein, and supersedes all previous agreements or representations, either verbal or written heretofore in effect between the parties made with respect to the matters contained herein.

17. Term/Termination. The "Escrow Period" for the purposes hereof shall mean the period commencing on the Effective Date and continuing until the date which is the earlier to occur of (i) the five (5) year anniversary of the Effective Date, provided that if Buyer has delivered a Buyer's WWTP Damages Requisition or Seller has delivered a Seller's WWTP Escrow Release Requisition prior to such anniversary, the Escrow Period shall continue until payment is made on such requisition and/or any disputes surrounding such requisition are resolved pursuant to this Agreement; (ii) full disbursement of the WWTP Escrow Funds in accordance with the provisions of this Agreement; and (iii) Buyer providing notice to Escrow Agent and Seller that Seller's WWTP Improvements are completed and all applicable Buyer's WWTP Damages (if any) have been accounted for and paid. Upon expiration of the Escrow Period, this Agreement will terminate and be of no further force and effect.

18. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all such counterparts shall constitute one instrument. Signatures to this Agreement transmitted by e-mail or .pdf file shall be valid and effective to bind the party so signing.

19. WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS AGREEMENT.

[Signatures appear on following page]

IN WITNESS WHEREOF, Seller, Buyer and Escrow Agent have entered into this Agreement on the Effective Date.

**BUYER:**

**ALTA RIVER'S EDGE, LLC,**  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

[signatures continue on following page]

**SELLER:**

**TOWN OF WAYLAND,**  
By its Board of Selectmen

\_\_\_\_\_  
Cherry C. Karlson, Chair

\_\_\_\_\_  
David V. Watkins

\_\_\_\_\_  
Thomas J. Fay

\_\_\_\_\_  
Mary M. Antes

\_\_\_\_\_  
Lea T. Anderson

[signatures continue on following page]



**ESCROW AGENT:**

**FIRST AMERICAN TITLE INSURANCE  
COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S INCREASED PROJECT COSTS REQUISITION**

**BUYER'S INCREASED PROJECT COSTS REQUISITION**

REQUISITION NOTICE #[\_\_\_]

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: [juhlir@firstam.com](mailto:juhlir@firstam.com)

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Increased Project Costs on account of the Seller Event of Default [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$ \_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Increased Project Costs on account of such Seller Event of Default; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's Increased Project Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT B**

Reserved

**EXHIBIT C**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S PROJECT DELAY LD REQUISITION**

**BUYER'S PROJECT DELAY LD REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: [juhler@firstam.com](mailto:juhler@firstam.com)

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) claims a period of \_\_\_ days of Buyer's Project Delay on account of the Seller Event of Default, based on the updated Buyer's Construction Schedule enclosed with this Buyer's Project Delay LD Requisition [ENCLOSE UPDATED BUYER'S CONSTRUCTION SCHEDULE]; and

- (iii) directs Escrow Agent to disburse \$ \_\_\_\_\_ (the “**Disbursement Amount**”) from the WWTP Escrow Funds to pay for Buyer’s Project Delay Liquidated Damages on account of the Buyer’s Project Delay.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER’S EDGE, LLC,  
a Delaware limited liability company

By: Alta River’s Edge Venture, LLC, a  
Delaware limited liability company, its sole  
member

By: WS River’s Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT D**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a [\[Seller Event of Default\]](#)[\[Buyer O/M Failure Event\]](#) exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT [OR BUYER O/M FAILURE EVENT](#)];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Self-Contained WWTP Work Costs on account of the [\[Seller Event of Default\]](#)[\[Buyer O/M Failure Event\]](#) [which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold](#) [ENCLOSE SUPPORTING DOCUMENTATION];

- (iii) directs Escrow Agent to disburse \$ \_\_\_\_\_ (the “**Disbursement Amount**”) from the WWTP Escrow Funds to pay for Buyer’s Self-Contained WWTP Work Costs on account of such [\[Seller Event of Default\]\[Buyer O/M Failure Event\] which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold](#); and
- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer’s Self-Contained WWTP Work Costs [which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold](#) pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER’S EDGE, LLC,  
a Delaware limited liability company

By: Alta River’s Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River’s Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]



**EXHIBIT E**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S WWTP SELF-HELP REQUISITION**

**BUYER'S WWTP SELF-HELP REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: [juhler@firstam.com](mailto:juhler@firstam.com)

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's WWTP Self-Help Costs incurred in connection with Buyer's exercise of the Self-Help Remedy pursuant to Section 5.2(d) of the Development Agreement [ENCLOSE SUPPORTING DOCUMENTATION];

- (iii) directs Escrow Agent to disburse \$ \_\_\_\_\_ (the “**Disbursement Amount**”) from the WWTP Escrow Funds to pay for such Buyer’s WWTP Self-Help Costs; and
- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer’s WWTP Self-Help Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER’S EDGE, LLC,  
a Delaware limited liability company

By: Alta River’s Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River’s Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT F**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER'S WWTP ESCROW RELEASE REQUISITION**

**SELLER'S WWTP ESCROW RELEASE REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: [juhler@firstam.com](mailto:juhler@firstam.com)

Alta River's Edge, LLC  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Buyer and Escrow Agent:

Pursuant to Section 2(c) of the Development Agreement and Section 4(b) of the Escrow Agreement, Seller hereby:

- (i) encloses the Seller's WWTP Work Milestone Achievement Evidence relating to the following Seller's WWTP Work Milestone(s) (the "**Applicable Seller Milestone**"): [SELLER TO INSERT APPLICABLE MILESTONE(S) FROM DEVELOPMENT AGREEMENT AND ENCLOSE EVIDENCE OF MILESTONE ACHIEVEMENT];
- (ii) directs Escrow Agent to disburse \$ \_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds, which is the Release Amount(s) for the Applicable Seller Milestone(s) as provided in Section 2(c) of the Development Agreement; and
- (iii) certifies to Buyer and Escrow Agent that the Disbursement Amount constitutes the correct Release Amount pursuant to the terms of the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator

**EXHIBIT G**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR BUYER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Buyer and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the “**Escrow Agreement**”) by and among First American Title Insurance Company (“**Escrow Agent**”), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “**Seller**”), a Massachusetts municipal corporation, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company (“**Buyer**”). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Buyer’s WWTP Damages Requisition, dated \_\_\_\_\_ (the “**Subject Buyer’s WWTP Damages Requisition**”), submitted by Buyer under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Buyer in the Subject Buyer’s WWTP Damages Requisition, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Buyer’s WWTP Damages Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following: \_\_\_\_\_..

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator

**EXHIBIT H**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR SELLER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Seller and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the “**Escrow Agreement**”) by and among First American Title Insurance Company (“**Escrow Agent**”), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “**Seller**”), a Massachusetts municipal corporation, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company (“**Buyer**”). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Seller’s WWTP Escrow Release Requisition, dated \_\_\_\_\_ (the “**Subject Seller’s WWTP Escrow Release Requisition**”), submitted by Seller under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Seller in the Subject Seller’s WWTP Escrow Release Requisition based on the following facts:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Seller’s WWTP Escrow Release Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

[signature on following page]

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a  
Delaware limited liability company, its sole  
member

By: WS River's Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

Document comparison by Workshare 10.0 on Sunday, February 7, 2021  
10:45:01 AM

Input:	
Document 1 ID	iManage://akllp-mobility.imatech.work/akllp/1243415/1
Description	#1243415v1<akllp-mobility.imatech.work> - 490 Boston Post - Wastewater Escrow Holdback Agreement
Document 2 ID	iManage://akllp-mobility.imatech.work/AKLLP/1239527/17
Description	#1239527v17<akllp-mobility.imatech.work> - Wastewater Escrow Holdback Agreement
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	50
Deletions	40
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	92





## WWTP ESCROW AGREEMENT

(Wastewater Facilities)

THIS WWTP ESCROW AGREEMENT (the “Agreement”) is made and entered into this \_\_\_\_ day of February, 2021 (the “Effective Date”), by and among TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “Seller”), a Massachusetts municipal corporation having an address of 41 Cochituate Road, Wayland, MA 01778, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company having its business address c/o Wood Partners, 91 Hartwell Avenue, Lexington, MA 02421, Attn: Jim Lambert (hereinafter “Buyer”), and FIRST AMERICAN TITLE INSURANCE COMPANY (hereinafter referred to as “Escrow Agent”).

### RECITALS:

A. Concurrently with the execution of this Agreement, Seller has conveyed to Buyer that certain property commonly known as 490 Boston Post Road in the Town of Wayland, Middlesex County, Commonwealth of Massachusetts, shown as “Lot A”, “Lot C”, and “Lot E” (the “Buyer’s Property”) on that certain plan entitled “ANR Subdivision Plan Assessors Map 22, Lot 3, Lot 6 & Lot 7 Boston Post Road Wayland, Massachusetts” prepared by WSP Transportation & Infrastructure, dated June 1, 2015, endorsed by the Wayland Planning Board on June 2, 2015, and recorded with the Middlesex South Registry of Deeds (the “Registry”) as Plan No. 260 of 2017 (the “ANR Plan”). The acquisition of the Buyer’s Property was consummated pursuant to a Land Disposition Agreement for the Sale and Redevelopment of Land between Seller and Buyer dated as of July 28, 2017 (as amended from time to time, most recently by a Twelfth Amendment dated on or about the date hereof (the “Twelfth Amendment”), the “LDA”).

B. Pursuant to the Twelfth Amendment, at closing under the LDA, Seller and Buyer agreed to enter into an Infrastructure Development Agreement (the “Development Agreement”) and this Agreement to among other things, address and secure Seller’s obligations to (i) timely design permit and construct the Seller’s WWTP Improvements (as defined in the Development Agreement), and (ii) compensate or reimburse Buyer for Buyer’s WWTP Damages sustained on account of (A) Seller’s failure to remain on schedule in performing such work, (B) Seller otherwise triggering a “Seller Event of Default” under the Development Agreement, and/or (C) a Buyer’s O/M Failure Event.

C. In order to secure the aforesaid obligations of Seller and provide Buyer with recourse when and if it is entitled to pursue Buyer’s WWTP Damages pursuant to the Development Agreement, Seller is depositing with Escrow Agent simultaneously with the execution and delivery hereof the sum of **[\$2,548,909.56][TO BE CONFIRMED BY FINAL CLOSING STATEMENT]** (the “WWTP Escrow Amount”).

D. This Agreement is the WWTP Escrow Agreement referred to in the LDA and the Development Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Recitals; Capitalized Terms. The above Recitals are true and correct and are incorporated herein by reference. Capitalized terms which are not otherwise defined herein shall have the meanings assigned thereto in the Development Agreement. Additionally, the following capitalized terms used in this Agreement have the respective meanings assigned to them below:

“Buyer’s Increased Project Costs Requisition” shall mean a disbursement request for Buyer’s Increased Project Costs in the form attached hereto as Exhibit A and incorporated herein by reference.

“Buyer’s Project Delay LD Requisition” shall mean a disbursement request for Buyer’s Project Delay Liquidated Damages in the form attached hereto as Exhibit C and incorporated herein by reference.

“Buyer’s Self-Contained WWTP Work Costs Requisition” shall mean a disbursement request for Buyer’s Self-Contained WWTP Work Costs which exceed the Buyer’s Self-Contained WWTP Work Costs Requisition Threshold in the form attached hereto as Exhibit D and incorporated herein by reference.

“Buyer’s WWTP Damages Requisition” shall mean, as applicable based on the nature of the Buyer’s WWTP Damages which are the subject of a particular request for disbursement of the WWTP Escrow Funds pursuant to Section 4(a) below, any one of a Buyer’s Increased Project Costs Requisition, Buyer’s Project Delay LD Requisition, Buyer’s Self-Contained WWTP Work Costs Requisition and/or Buyer’s WWTP Self-Help Requisition.

“Buyer’s WWTP Self-Help Requisition” shall mean a disbursement request to compensate Buyer for Buyer’s WWTP Self-Help Costs incurred on account of Buyer exercising the Self-Help Remedy (as defined in Section 5.2(d) of the Development Agreement) in the form attached hereto as Exhibit E and incorporated herein by reference.

“Objection Notice” shall mean each of a Seller Objection Notice and Buyer Objection Notice, as applicable.

“Seller’s WWTP Escrow Release Requisition” shall mean a disbursement request for a Release Amount in the form attached hereto as Exhibit F and incorporated herein by reference.

2. Appointment and Acceptance of Escrow Agent. By execution of this Agreement, Seller and Buyer hereby appoint and engage Escrow Agent, and Escrow Agent hereby accepts such appointment and engagement, to serve as Escrow Agent and to perform the duties set forth herein, subject to the terms and conditions of this Agreement.

3. WWTP Escrow Funds. Seller agrees to deliver to Escrow Agent at Closing the sum of the WWTP Escrow Amount, which shall be held and distributed by Escrow Agent subject to the conditions set forth herein. The monies held by Escrow Agent pursuant to this Agreement from time to time are sometimes referred to as the “WWTP Escrow Funds”. At such time(s) as Buyer deposits the Final On-Site WWTP Escrow Funds pursuant to Section 4(c)(ii) of the Twelfth Amendment (including any amounts determined through the dispute resolution process concerning the Final On-Site WWTP Estimate referenced therein and Section 5(d) hereof), such funds shall become part of the WWTP Escrow Funds for all purposes under this Agreement and the Development Agreement.

4. Disbursement of the WWTP Escrow Funds. The WWTP Escrow Funds shall be released to, and upon the following:

(a) Disbursement to Buyer. The WWTP Escrow Funds shall be disbursed to Buyer, in whole or in part, at any time and from time to time, in accordance with the following procedures:

(i) Buyer’s WWTP Damages Requisitions; Seller Objection Notices. Buyer may, from time to time and in accordance with applicable terms of the Development Agreement, submit to Escrow Agent and Seller a written request for disbursement of the WWTP Escrow Funds in the form of a Buyer’s WWTP Damages Requisition for the payment of Buyer’s WWTP Damages actually incurred or sustained by Buyer pursuant to the terms of the Development Agreement. Buyer shall provide to Seller and Escrow Agent copies of any and all supporting documentation (if

any) contemplated by the applicable Buyer's WWTP Damages Requisition form attached hereto (such supporting documentation, along with any supporting documentation contemplated by Exhibit H attached hereto in connection with a Seller's WWTP Escrow Release Requisition made pursuant to Section 4(b) below, as applicable, "Supporting Documentation"). Seller shall have ten (10) business days after receipt of a Buyer's WWTP Damages Requisition to object to any Buyer's WWTP Damages Requisition by written notice to Escrow Agent and Buyer in substantially the form of Exhibit G attached hereto (a "Seller Objection Notice"); *provided, however*, that Seller acknowledges and agrees that Seller shall only have the right to object to a particular Buyer's WWTP Damages Requisition (i) if the requisition does not contain sufficient Supporting Documentation (it being acknowledged by Seller that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Seller, in good faith, reasonably believes that the Buyer's WWTP Damages Requisition (or the Buyer's WWTP Damages that are the subject to the Buyer's WWTP Damages Requisition) are inaccurate, erroneous, or not consistent with the terms and provisions of the Development Agreement, or (iii) if Seller in good faith disputes the allegation of the occurrence (or the extent of the occurrence) of a Seller Event of Default or Buyer's Project Delay, if alleged in Buyer's WWTP Damages Requisition. If a Seller Objection Notice is not received by Escrow Agent within such 10-business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Buyer's payment instructions contained in the Buyer's WWTP Damages Requisition. If, however, Seller timely serves a Seller Objection Notice to Escrow Agent and Buyer with respect to a Buyer's WWTP Damages Requisition, then Section 5 hereof shall apply.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Buyer's WWTP Damages Requisition provided hereunder. Escrow Agent shall rely only on the objection of Seller or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Buyer's WWTP Damages Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Buyer's WWTP Damages Requisition.

(b) Disbursement to Seller. The WWTP Escrow Funds (or applicable portions thereof) shall be disbursed to Seller in accordance with the following procedures:

(i) Seller's WWTP Escrow Release Requisitions; Buyer Objection Notices. Upon achievement of an applicable Seller's WWTP Work Milestone, but subject to the terms of Section 2(c) of the Development Agreement, Seller may submit to Escrow Agent and Buyer a Seller's WWTP Escrow Release Requisition for disbursement to Seller of the applicable Release Amount pursuant to the terms of the Development Agreement. Seller shall provide to Buyer and Escrow Agent copies of any and all Supporting Documentation contemplated by the applicable Seller's WWTP Escrow Release Requisition. Buyer shall have ten (10) business days after receipt of a Seller's WWTP Escrow Release Requisition to object to any Seller's WWTP Escrow Release Requisition by written notice to Escrow Agent and Seller in substantially the form of Exhibit H attached hereto (a "Buyer Objection Notice"). Buyer shall only have the right to object to a particular Seller's WWTP Escrow Release Requisition (i) if the requisition does not contain the applicable Supporting Documentation (it being acknowledged by Buyer that its objection right under this clause (i) is limited only to the existence (or lack thereof) of the Supporting Documentation), or (ii) Buyer, in good faith, reasonably believes that Seller's WWTP Escrow

Release Requisition is inaccurate, erroneous, and/or not consistent with the terms and provisions of the Development Agreement. If a Buyer Objection Notice is not received by Escrow Agent within such ten (10) business day period, then Escrow Agent shall disburse promptly the portion of the WWTP Escrow Funds requested in accordance with Seller's payment instructions contained in the Seller's WWTP Escrow Release Requisition. If, however, Buyer timely serves a Buyer Objection Notice to Escrow Agent and Seller with respect to a Seller's WWTP Escrow Release Requisition, then Section 5 hereof shall apply. For the avoidance of doubt, and notwithstanding anything in this Agreement to the contrary, Escrow Agent shall release to Seller, and Buyer shall not have the right to interpose any objection or dispute with respect to the release of, the Building Permit Fee from escrow, upon Escrow Agent's receipt of a Seller's WWTP Escrow Release Requisition for such Building Permit Fee on or after June 24, 2021.

(ii) Escrow Agent Review. Escrow Agent shall not be required to review any documentation provided in connection with any Seller's WWTP Escrow Release Requisition provided hereunder. Escrow Agent shall rely only on the objection of Buyer or absence of objection. In fact, Escrow Agent shall not withhold a disbursement based on a belief that the disbursement requested is incomplete.

(iii) Joint Disbursement Instructions. If Seller and Buyer jointly submit a Seller's WWTP Escrow Release Requisition, Escrow Agent shall disburse the requested amounts promptly from the WWTP Escrow Funds pursuant to the directions set forth in such joint Seller's WWTP Escrow Release Requisition.

(iv) Final Disbursement. The remaining portion of the WWTP Escrow Funds, if any, that has not been disbursed to Buyer and is not the subject of a pending claim for disbursement to Buyer pursuant to Section 4(a) above shall be released by Escrow Agent to Seller within two (2) business days after the expiration of the Escrow Period.

5. Objection Notice Procedure; Expedited Dispute Resolution. If either party provides an Objection Notice in accordance with Section 4 above (such objecting party being referred to for the purposes of this Section 5 as the "Objecting Party," and each party receiving the objection being referred to for the purposes of this Section 5 as the "Non-Objecting Party"), then the following shall apply:

(a) Escrow Agent shall not disburse the portion of the WWTP Escrow Funds in dispute until either (i) Seller and Buyer (or their respective counsel) jointly instruct Escrow Agent to disburse funds in accordance with the applicable request for disbursement from the Non-Objecting Party, or (ii) the dispute has been resolved (including pursuant to the terms of Section 5(c) below).

(b) Seller and Buyer shall direct Escrow Agent to disburse any portion of the proposed disbursement as to which no objection is made. For example, if Buyer requests in a Buyer's WWTP Damages Requisition that \$50,000 be disbursed to Buyer, but Seller claims in a Seller Objection Notice that Buyer is only entitled to \$40,000, then Escrow Agent shall disburse \$40,000 to Buyer pursuant to the instructions set forth in the Buyer's WWTP Damages Requisition (without prejudice to the rights of Buyer as to the remaining unfunded WWTP Escrow Funds), and the remaining \$10,000 shall be subject to Section 5(a) above.

(c) In the event the Parties cannot resolve a dispute over a particular disbursement hereunder within ten (10) business days after delivery of an Objection Notice (as evidenced by a joint instruction to the Escrow Agent to disburse or hold the applicable WWTP Escrow Funds as instructed by Seller and Buyer), either Seller or Buyer shall thereafter have the right, in lieu of pursuing recourse through the courts,

to assert that a “Disbursement Dispute” exists on the terms hereof, in which case the following provisions shall apply:

(1) If Seller or Buyer asserts that a Disbursement Dispute has arisen, such asserting party shall give prompt written notice thereof to the other party, the Escrow Agent and to the Disbursement Dispute Arbitrator (defined in subsection (4) below). The Disbursement Dispute Arbitrator shall, no later than five (5) business days after receipt of such notice, hold a preliminary, informal mediation meeting with both Buyer and Seller in an attempt to mediate such Disbursement Dispute. The Disbursement Dispute Arbitrator shall be instructed to give due regard to the language of this Agreement, the LDA, and the Development Agreement when determining the merits of the applicable Objection Notice which is the subject of a Disbursement Dispute. If such Disbursement Dispute shall not be resolved at that mediation meeting, the Disbursement Dispute Arbitrator shall, at such informal mediation meeting, establish a date, not earlier than ten (10) business days after such informal mediation meeting nor later than thirty (30) days after such informal mediation meeting, for a hearing (a “Hearing”) to be held in accordance with this Agreement to resolve such Disbursement Dispute. Notwithstanding the foregoing, upon the existence of a prior commitment on the part of the Disbursement Dispute Arbitrator, or upon reasonable cause shown by Buyer or Seller (or both), the Disbursement Dispute Arbitrator may make a reasonable extension to one or both time periods set forth in this Section 5(c).

(2) Buyer and Seller shall have the right to make one (1) written submission to the Disbursement Dispute Arbitrator prior to the Hearing. Such submission shall be received by the Disbursement Dispute Arbitrator and the other party not later than two (2) Business days prior to the Hearing date. Buyer and Seller hereby agree that all Hearings shall have a mutually agreeable scope of discovery and exchange of information reasonably necessary for the parties to evaluate and resolve the Disbursement Dispute. The Hearing shall be conducted by the Disbursement Dispute Arbitrator. It is the intention of the parties hereto that the Hearing shall be conducted in an informal and expeditious manner. No transcript or recording shall be made. Buyer and Seller shall have the opportunity to make a brief statement and to present documentary and other support for its position, which may include the testimony of not more than two (2) individuals, one (1) of whom may be outside experts. There shall be no presumption in favor of either party’s position.

(3) The Disbursement Dispute Arbitrator shall render a decision, in writing, as to any Disbursement Dispute not later than five (5) business days following the conclusion of the Hearing regarding such Disbursement Dispute (the “DD Decision”) and shall provide a brief written basis for its decision not later than five (5) business days after the issuance of the DD Decision. The Disbursement Dispute Arbitrator may not award any other or different relief. The DD Decision shall be final and binding on Seller and Buyer for all purposes and may be entered in any court of competent jurisdiction. Seller and Buyer hereby authorize and direct Escrow Agent to disburse (or hold) the WWTP Escrow Funds which are the subject of a particular Disbursement Dispute in accordance with the DD Decision.

(4) Following the Closing, Buyer and Seller hereby agree to work expeditiously to engage Wally McDonough of ELK Consulting Services LLC as the Disbursement Dispute Arbitrator with regard to all Disbursement Disputes that may arise. If for any reason, within thirty (30) days after Closing, (a) such individual shall be unwilling or unable to act as Disbursement Dispute Arbitrator and the parties cannot agree on a replacement or (b) the parties are unable to agree on the engagement terms of the Disbursement Dispute Arbitrator, and the parties, within forty-five (45) days after the Closing, are unable to agree on a mutually acceptable Disbursement Dispute Arbitrator as an alternative to Mr. McDonough, then any party may ask the AAA Boston, Massachusetts office to select a substitute with such qualifications and experience who will act as Disbursement Dispute Arbitrator. The actual party designated pursuant to this Section 5(c) shall be the “Disbursement Dispute Arbitrator”. The fees and costs of the Disbursement

Dispute Arbitrator and the AAA shall be borne by the non-prevailing party in the applicable Disbursement Dispute at issue.

(d) In addition to its role adjudicating Disbursement Disputes, the Disbursement Dispute Arbitrator shall also act in accordance with the rules and procedures set forth in this Section 5 with respect to any dispute between Seller and Buyer regarding the Final On-Site WWTP Estimate, as more particularly described in Section 4(c)(ii) of the Twelfth Amendment

6. Dispute and Litigation Generally. If prior to the delivery of all or any part of the WWTP Escrow Funds described herein, Seller or Buyer shall have brought a suit to enjoin said delivery or for declaratory judgment with respect to an alleged breach and have served Escrow Agent with a summons making it a party to such action (provided that neither party shall be entitled to bring such a suit with respect to WWTP Escrow Funds that are the subject of a Disbursement Dispute pursuant to Section 5(c) above, in which case the terms of Section 5(c) shall govern the treatment of the applicable WWTP Escrow Funds upon the resolution of such Disbursement Dispute), Escrow Agent shall have the right in its sole discretion to either retain the money until the court directs the proper disposition thereof, or to deposit the same with the court. Further, if prior to the delivery of the WWTP Escrow Funds, Escrow Agent has been notified in writing by Seller or Buyer that a dispute exists with respect to the disposition of the WWTP Escrow Funds, then Escrow Agent shall retain such funds until the dispute is resolved. If Seller and Buyer do not notify Escrow Agent in writing within ten (10) business days from the notice of such dispute that such dispute has been resolved, then the Escrow Agent may file a bill of interpleader and deposit the WWTP Escrow Funds with the court; *provided, however*, if Escrow Agent shall have received notice of a Disbursement Dispute with respect to such dispute pursuant to Section 5(c) above, Escrow Agent shall hold and disburse the WWTP Escrow Funds which are the subject of such dispute in accordance with said Section 5(c). Seller and Buyer shall be jointly and severally liable to Escrow Agent for all reasonable expenses of any such suit for injunctive relief, declaratory judgment, or interpleader, including but not limited to reasonable attorneys' fees and costs. As between Seller and Buyer, such expenses shall be the responsibility of the non-prevailing party, excluding the Escrow Agent. The parties agree that if Escrow Agent is made a party to any litigation under this Agreement (other than a suit against Escrow Agent for willful neglect, intentional misconduct or breach of trust), upon the deposit by Escrow Agent of the WWTP Escrow Funds in the registry of the court, it shall be dropped from the litigation as a party and both parties shall agree that Escrow Agent has, in so doing, fully discharged its obligations under this Agreement and this Agreement shall be terminated as to Escrow Agent. In the event of any litigation between the Seller and Buyer to enforce any provision and right hereunder, the unsuccessful party to such litigation covenants and agrees to pay the successful party therein all costs and expenses, expressly including, but not limited to, reasonable attorneys' fees actually incurred therein by such successful party (including through any appeal), which costs, expenses and reasonable attorneys' fees shall be included in and as a part of any judgment rendered in such litigation.

7. Liability of Escrow Agent. Escrow Agent shall not be liable for the failure of any of the conditions of this escrow, or for damages caused or omission done in good faith, or for any claim or loss, claimed or suffered by any party hereto by the exercise of Escrow Agent's discretion, or for any reason whatsoever, except for intentional misconduct or willful neglect or breach of trust. Escrow Agent shall not be deemed to have notice or knowledge of any fact hereunder unless written notice thereof has been given to it pursuant to Section 10 below. Further, Escrow Agent shall not incur liability to any party for damages, losses or expenses, except for such arising out of its intentional misconduct or willful neglect or breach of trust. Seller's federal taxpayer identification (FEIN) number is 046001341 for purposes of tax reporting requirements.

8. Miscellaneous.

(a) Escrow Agent may act in reliance upon any instruction or signature reasonably believed by it to be genuine and may assume that any person purporting to give any writing, notice, instruction or direction in accordance with the provisions hereof has been duly authorized to do so.

(b) Escrow Agent may consult with and obtain advice from legal counsel, auditors and other experts in connection with this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in good faith in accordance with the written opinions and instructions of such counsel, auditors or other experts rendered within the areas of their respective expertise.

(c) Escrow Agent may execute any of its powers or responsibilities hereunder and exercise any rights hereunder either directly or by or through its agents or attorneys.

9. Investment of Escrow Funds. Escrow Agent shall invest the WWTP Escrow Funds in an interest-bearing account maintained by Escrow Agent in a bank or savings and loan association, or in some other financial institution or brokerage house, that is FDIC insured. Interest, dividends, capital gains and other earnings (collectively "Earnings") on the WWTP Escrow Funds shall be added to and become a part of the WWTP Escrow Funds. Seller shall be responsible for all income taxes, if any, imposed upon the Earnings.

10. Notices. Wherever in this Agreement it shall be required or permitted that notice, request, consent, or demand be given by any party to this Agreement to or on the other (hereafter collectively "Notice" for the purpose of this paragraph), such Notice shall not be deemed to have been duly given unless in writing, and either personally delivered, mailed by certified mail, return receipt requested, e-mail of a letter in "pdf" format (with Request for Delivery Receipt (or similar function) activated) or sent via commonly accepted overnight delivery service as follows:

Buyer: c/o Wood Partners  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

With copies to: c/o Wood Partners  
636 W. Yale Street  
Orlando, Florida 32804  
Attention: Sean Reynolds  
Telephone: (407) 982-2517  
E-mail: sean.reynolds@woodpartners.com

And

Alston & Bird LLP  
One Atlantic Center  
1201 W. Peachtree Street  
Atlanta, Georgia 30309  
Attention: Drew Allen  
Telephone: (404) 881-4522  
E-mail: drew.allen@alston.com



SELLER:

Louise L.E. Miller, J.D.  
Town Administrator  
Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

With copies to:

Katharine Lord Klein  
KP | LAW  
101 Arch Street, 12<sup>TH</sup> Floor  
Boston, MA 02110  
Telephone: (617) 654 1834  
Email: [kklein@k-plaw.com](mailto:kklein@k-plaw.com)

And

David L. Wiener  
Anderson & Kreiger LLP  
50 Milk Street, 21<sup>st</sup> floor  
Boston, MA 02109  
Telephone: (617) 621-6570  
Email: [dwiener@andersonkreiger.com](mailto:dwiener@andersonkreiger.com)

Escrow Agent:

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: [juhlir@firstam.com](mailto:juhlir@firstam.com)

Counsel for the parties set forth herein may deliver notice on behalf of the parties.

All Notices shall be deemed delivered only upon actual delivery at the address (or e-mail address) set forth herein. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day shall be regarded as delivered on the next business day. Saturdays, Sundays and legal holidays of the United States government shall not be regarded as business days.

If any time for giving Notice or other time period contained in this Agreement would otherwise expire on a non-business day, the Notice period or time period shall be extended to the next succeeding business day. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in address or addresses by written Notice in accordance herewith to the parties and addressees set forth herein.

11. Severability. The invalidity or unenforceability of a specific provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

12. Modification. No additions, alterations or variations to the terms of this Agreement shall be valid nor can the provisions or the terms of this Agreement be waived by either party unless such additions, alterations, variations or waivers are expressly set forth in writing and signed by the parties hereto.

13. Waiver. The failure of any party hereto in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereof, or to exercise any remedy, privilege, or option herein conferred upon or served to such party, shall not operate and not be construed as a relinquishment or waiver for the future of such covenant or condition of or the right to enforce the same or to exercise such privilege, option, or remedy, but the same shall continue in full force and effect.

14. Venue and Applicable Law. In the event that legal action is instituted under, or to enforce any provision of, this agreement, the parties hereto submit themselves to the jurisdiction of the courts of the Commonwealth of Massachusetts, and, notwithstanding the place of residence of any of them or the place of execution of this instrument, such litigation shall be brought in Middlesex County, Massachusetts. This Agreement shall be controlled, construed and interpreted according to the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws rules of such State.

15. Persons Bound; Permitted Assignments. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. This Agreement shall not be assigned by Seller, Escrow Agent or Buyer without the written consent of the other parties to this Agreement; *provided, however*, that Seller or Buyer may assign this Agreement in connection with an assignment permitted under the Development Agreement (including any permitted collateral assignments in connection with Buyer's financing of the Buyer's Project as set forth therein).

16. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters contained herein, and supersedes all previous agreements or representations, either verbal or written heretofore in effect between the parties made with respect to the matters contained herein.

17. Term/Termination. The "Escrow Period" for the purposes hereof shall mean the period commencing on the Effective Date and continuing until the date which is the earlier to occur of (i) the five (5) year anniversary of the Effective Date, provided that if Buyer has delivered a Buyer's WWTP Damages Requisition or Seller has delivered a Seller's WWTP Escrow Release Requisition prior to such anniversary, the Escrow Period shall continue until payment is made on such requisition and/or any disputes surrounding such requisition are resolved pursuant to this Agreement; (ii) full disbursement of the WWTP Escrow Funds in accordance with the provisions of this Agreement; and (iii) Buyer providing notice to Escrow Agent and Seller that Seller's WWTP Improvements are completed and all applicable Buyer's WWTP Damages (if any) have been accounted for and paid. Upon expiration of the Escrow Period, this Agreement will terminate and be of no further force and effect.

18. Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all such counterparts shall constitute one instrument. Signatures to this Agreement transmitted by e-mail or .pdf file shall be valid and effective to bind the party so signing.

19. WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON OR ARISING OUT OF THIS AGREEMENT, THE TRANSACTIONS CONTEMPLATED HEREBY, AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THIS AGREEMENT.

[Signatures appear on following page]

IN WITNESS WHEREOF, Seller, Buyer and Escrow Agent have entered into this Agreement on the Effective Date.

**BUYER:**

**ALTA RIVER'S EDGE, LLC,**  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

[signatures continue on following page]

**SELLER:**

**TOWN OF WAYLAND,**  
By its Board of Selectmen

---

Cherry C. Karlson, Chair

---

David V. Watkins

---

Thomas J. Fay

---

Mary M. Antes

---

Lea T. Anderson

[signatures continue on following page]

**ESCROW AGENT:**

**FIRST AMERICAN TITLE INSURANCE  
COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S INCREASED PROJECT COSTS REQUISITION**

**BUYER'S INCREASED PROJECT COSTS REQUISITION**

REQUISITION NOTICE #[\_\_\_]

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhlir  
Email: juhli@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Increased Project Costs on account of the Seller Event of Default [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Increased Project Costs on account of such Seller Event of Default; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's Increased Project Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT B**

Reserved



**EXHIBIT C**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S PROJECT DELAY LD REQUISITION**

**BUYER'S PROJECT DELAY LD REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) claims a period of \_\_\_ days of Buyer's Project Delay on account of the Seller Event of Default, based on the updated Buyer's Construction Schedule enclosed with this Buyer's Project Delay LD Requisition [ENCLOSE UPDATED BUYER'S CONSTRUCTION SCHEDULE]; and
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Project Delay Liquidated Damages on account of the Buyer's Project Delay.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware  
limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT D**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**BUYER'S SELF-CONTAINED WWTP WORK COSTS REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a [Seller Event of Default][Buyer O/M Failure Event] exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT OR BUYER O/M FAILURE EVENT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's Self-Contained WWTP Work Costs on account of the [Seller Event of Default] [Buyer O/M Failure Event] which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for Buyer's Self-Contained WWTP Work Costs on

account of such [Seller Event of Default][Buyer O/M Failure Event] which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's Self-Contained WWTP Work Costs which exceed the Buyer's Self-Contained WWTP Work Costs Requisition Threshold pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT E**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYER'S WWTP SELF-HELP REQUISITION**

**BUYER'S WWTP SELF-HELP REQUISITION**

**REQUISITION NOTICE #[\_\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: juhler@firstam.com

Town of Wayland  
41 Cochituate Road  
Wayland, MA 01778  
Telephone: (508) 358-3620  
Attn: Town Administrator  
Email: [lmiller@wayland.ma.us](mailto:lmiller@wayland.ma.us)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Seller and Escrow Agent:

Pursuant to Section 5.2 of the Development Agreement and Section 4 of the Escrow Agreement, Buyer hereby:

- (i) asserts that a Seller Event of Default exists under the Development Agreement, which is characterized by the following: [DESCRIBE SELLER EVENT OF DEFAULT];
- (ii) encloses invoices and/or other supporting documents relating to Buyer's WWTP Self-Help Costs incurred in connection with Buyer's exercise of the Self-Help Remedy pursuant to Section 5.2(d) of the Development Agreement [ENCLOSE SUPPORTING DOCUMENTATION];
- (iii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds to pay for such Buyer's WWTP Self-Help Costs; and

- (iv) certifies to Seller and Escrow Agent that the Disbursement Amount is being used to pay for Buyer's WWTP Self-Help Costs pursuant to the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]

**EXHIBIT F**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER'S WWTP ESCROW RELEASE REQUISITION**

**SELLER'S WWTP ESCROW RELEASE REQUISITION**

**REQUISITION NOTICE #[\_\_]**

\_\_\_\_\_, 20\_\_

First American Title Insurance Company  
National Commercial Services  
3455 Peachtree Road NE, Suite 675  
Atlanta, Georgia 30326  
Attn: Jon Uhler  
Email: [juhler@firstam.com](mailto:juhler@firstam.com)

Alta River's Edge, LLC  
91 Hartwell Avenue  
Lexington, MA 02421  
Attn: Jim Lambert, Director  
Email: [Jim.Lambert@woodpartners.com](mailto:Jim.Lambert@woodpartners.com)

Re: WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

Dear Buyer and Escrow Agent:

Pursuant to Section 2(c) of the Development Agreement and Section 4(b) of the Escrow Agreement, Seller hereby:

- (i) encloses the Seller's WWTP Work Milestone Achievement Evidence relating to the following Seller's WWTP Work Milestone(s) (the "**Applicable Seller Milestone**"): [SELLER TO INSERT APPLICABLE MILESTONE(S) FROM DEVELOPMENT AGREEMENT AND ENCLOSE EVIDENCE OF MILESTONE ACHIEVEMENT];
- (ii) directs Escrow Agent to disburse \$\_\_\_\_\_ (the "**Disbursement Amount**") from the WWTP Escrow Funds, which is the Release Amount(s) for the Applicable Seller Milestone(s) as provided in Section 2(c) of the Development Agreement; and
- (iii) certifies to Buyer and Escrow Agent that the Disbursement Amount constitutes the correct Release Amount pursuant to the terms of the Development Agreement.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator



**EXHIBIT G**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF SELLER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR BUYER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Buyer and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the “**Escrow Agreement**”) by and among First American Title Insurance Company (“**Escrow Agent**”), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter “**Seller**”), a Massachusetts municipal corporation, and ALTA RIVER’S EDGE, LLC, a Delaware limited liability company (“**Buyer**”). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Buyer’s WWTP Damages Requisition, dated \_\_\_\_\_ (the “**Subject Buyer’s WWTP Damages Requisition**”), submitted by Buyer under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Buyer in the Subject Buyer’s WWTP Damages Requisition, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Buyer’s WWTP Damages Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested, Seller hereby certifying that it is entitled to object to such amount pursuant to the Development Agreement and Escrow Agreement based on the following: \_\_\_\_\_..

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

Very truly yours,

TOWN OF WAYLAND

By: \_\_\_\_\_

Name:

Title: Town Administrator

**EXHIBIT H**  
**TO**  
**WWTP ESCROW AGREEMENT**

**FORM OF BUYTER OBJECTION NOTICE**

[Date]

[INSERT CONTACT INFO FOR SELLER AND TITLE COMPANY FROM ESCROW AGREEMENT]

Dear Seller and Escrow Agent:

Reference is made to that certain WWTP Escrow Agreement dated \_\_\_\_\_, 2021 (as the same may be amended from time to time, the "**Escrow Agreement**") by and among First American Title Insurance Company ("**Escrow Agent**"), TOWN OF WAYLAND, acting by and through its Board of Selectmen (hereinafter "**Seller**"), a Massachusetts municipal corporation, and ALTA RIVER'S EDGE, LLC, a Delaware limited liability company ("**Buyer**"). Capitalized terms used herein shall have the meanings ascribed thereto in the Escrow Agreement.

We have received and reviewed the Seller's WWTP Escrow Release Requisition, dated \_\_\_\_\_ (the "**Subject Seller's WWTP Escrow Release Requisition**"), submitted by Seller under the Escrow Agreement. We hereby take the following action:

- Object to the disbursement in the amount of \$ \_\_\_\_\_ requested by Seller in the Subject Seller's WWTP Escrow Release Requisition based on the following facts:  
\_\_\_\_\_.
- Approve disbursement of \$ \_\_\_\_\_ of the amount requested in the Subject Seller's WWTP Escrow Release Requisition and object to disbursement of the remaining \$ \_\_\_\_\_ so requested.

This letter may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. Furthermore, an electronically transmitted signature of any of the parties hereto on any counterpart may be relied upon as an original signature.

[signature on following page]

Very truly yours,

ALTA RIVER'S EDGE, LLC,  
a Delaware limited liability company

By: Alta River's Edge Venture, LLC, a Delaware  
limited liability company, its sole member

By: WS River's Edge, LLC, a Delaware limited  
liability company, its Managing Member

By: WP Massachusetts, LLC, a Delaware limited  
liability company, its sole member and manager

By: \_\_\_\_\_  
Name: Jim Lambert  
Title: Vice President

cc:

[SEND COPY TO SANTANDER PURSUANT TO LOAN DOCUMENTS]